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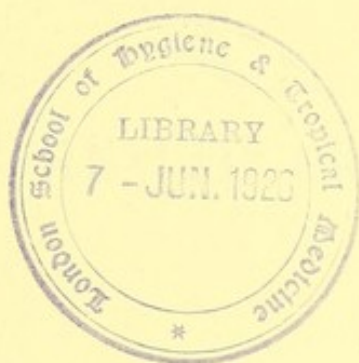








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Gibraltar

1088

LAWS OF GIBRALTAR

433

1070  
not

50

No. 10 of 1907.

ORDINANCE



## PUBLIC HEALTH ORDINANCE.

4387

No. 10 of 1907.

## ORDINANCE

TO CONSOLIDATE "THE SANITARY ORDER IN COUNCIL, GIBRALTAR, 1883," AND ALL OTHER ENACTMENTS RELATING THERETO, AND TO AMEND THE SAME.

1st October, 1907.

## PART I.

## PRELIMINARY.

Short title.  
38 & 39 Vic.  
c. 55. s. 1.

1. This Ordinance may be cited as "The Public Health Ordinance, 1907."

Definitions.  
Do. do. s. 4.

2. In this Ordinance, if not inconsistent with the context, the following words and expressions have the meanings hereinafter respectively assigned to them, that is to say:—

"Commissioners."

"Commissioners" means the Sanitary Commissioners of Gibraltar for the time being under this Ordinance.

"Representative Commissioners."

"Representative Commissioners" means the Principal Medical Officer for the time being of the troops of Gibraltar, and such other persons as may from time to time be appointed by the Governor in manner provided by Section 5 of this Ordinance.

"Capital."

"Capital" means and includes—

(1) Every sum of money which the Commissioners may be authorised to raise for any public purpose.

(2) All moneys which under any enactment hereby repealed have been granted or which at any time hereafter may be granted to the Commissioners for any public purpose out of moneys provided by Parliament, or from His Majesty's local revenues of Gibraltar, and all other moneys which shall be payable to them, or come into their hands, and be applicable to the same purposes as capital which they may be authorised to raise.

"Establishment charges."

"Establishment charges" means and includes all the expenses, disbursements and liabilities of the Commissioners which they are not authorised to pay and defray out of capital, and which may relate to the transaction of their general business.

"Expenses."

"Expenses" means and includes costs and charges.

"Northern district of Gibraltar."

"Northern district of Gibraltar" means and includes all premises whatsoever situate to the north and east of the City of Gibraltar outside the Gates on the north side thereof, and Catalan Bay.

"Central district of Gibraltar."

"Central district of Gibraltar" means and includes all premises situate between the northern district of Gibraltar and the lines of walls known as Charles V. Wall, and a line extended from Charles V. Wall to the Sea.

"Southern district of Gibraltar."

"Southern district of Gibraltar" means and includes all premises situate to the south of the wall known as Charles V. Wall, and a line extended from the said wall in an easterly direction to the Sea.



"Imperial government premises" means and includes—

(1) All lands, tenements, and premises, being the property or in the possession of His Majesty's War Department.

(2) The royal naval dockyard.

(3) The royal naval storehouses and warehouses, and all quarters occupied by naval officers and servants.

(4) All other such premises, if any, as may from time to time be mentioned and included in the appointment of the officer for rates and expenses charged upon national revenue.

"Imperial government premises."

"Local government premises" means and includes—

(1) All lands, tenements and premises being the property of the local government.

(2) All other such premises, if any, as may from time to time be mentioned and included in the appointment of the officer for rates and expenses charged upon local revenue.

"Local government premises."

"Net annual value" means the rent at which premises might reasonably be expected to let from year to year free of all rates and taxes and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses, if any, necessary to maintain them in a condition to command such rent.

"Net annual value."

"Rated inhabitant" means and includes every person assessed in the general sanitary purposes rates then last made as the occupier or otherwise in respect of any premises therein described.

"Rated inhabitant."

"Valuator" means and includes any person appointed by the Commissioners under this Ordinance to ascertain the annual value of premises in Gibraltar.

"Valuator."

"To construct" with all the moods, conjunctions and tenses thereof means and includes in addition to its ordinary signification to build, execute, erect, place, lay, fix, fit, provide, enlarge, deepen, vary, alter, renew, supply and complete.

"To construct."

"Specification" means and includes, beside a general professional description of the materials of which any house or building, or rebuilding, is to be composed, complete plans drawn to a scale of not less than ten feet to an inch of each floor, and a sufficient number of sectional drawings to show the construction of the proposed house or building, and the relative levels of such house or building, and the street or highway or ground adjoining.

"Specification."

"Lands" and "Premises" include messuages, buildings, lands, easements and hereditaments of any tenure, whether the property of His Majesty, his heirs or successors or of any person whomsoever, whether built on or not, and whether public or private, inclosed or uninclosed.

"Lands" and "Premises."  
38 & 39 Vic. c. 55  
s. 4.

"House" means and includes every messuage, part of a messuage, house, part of a house, building and construction whatsoever, including military guard rooms, whether wholly or in part above or below the surface of the ground, inhabited or occupied either by day or by night by man, whether beneficially or otherwise, or intended to be so inhabited or occupied; and every store, cellar, vault, shop, warehouse, stable, coach-house, goatshed, tenement or other hereditament or premises whatsoever.

"House."  
Do. do.

"Bakehouse" means any place in which is baked bread, biscuits or confectionery from the baking or selling of which a profit is derived.

"Bakehouse."  
1 Edw. 7. c. 22.  
s. 23.



"Waterworks."  
38 & 39 Vic. c. 55  
s. 4.

"Sanitary  
convenience."  
53 & 54 Vic. c.  
59. s. 11 (3).

"Ashpit."  
Do. do. (1)

"Daily penalty."  
Do. do. (3)

"Sanitary  
auditor."

"Officer for rates  
and expenses."

"Officer for rates,  
&c., charged upon  
national revenue."

"Officer for  
rates, &c., charged  
upon local  
revenue."

"Public works."

"Public purpose."

"Public  
highways."

"Waterworks" includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, catchments, cuts, sluices, mains, pipes, culverts, engines, and all machinery, lands, buildings, and things for supplying or used for the supply of water.

"Sanitary convenience" includes urinals, waterclosets, earthclosets, privies, cesspools, ashpits, and any similar convenience.

"Ashpit" includes any ashtub or other receptacle for the deposit of ashes, fœcal matter, or refuse.

"Daily penalty" means a penalty for each day on which any offence is continued after conviction therefor.

"Sanitary auditor" means and includes any person appointed to examine, audit, allow or disallow the accounts of the Commissioners under the provisions of this Ordinance.

"Officer for rates and expenses" means and includes every officer for rates and expenses charged upon national revenue, and every officer for rates and expenses charged upon local public revenue.

"Officer for rates and expenses charged upon national revenue" means the person duly appointed to be officer for all premises herein described as "imperial government premises."

"Officer for rates and expenses charged upon local revenue" means the person duly appointed to be officer for all premises herein described as "local government premises."

"Public works" means and includes all existing works, buildings and other constructions which are by this Ordinance vested in the Commissioners, and all works, buildings and other constructions which they may be authorised by this Ordinance to construct and provide.

"Public purpose" includes every purpose which the Commissioners are authorised to effect, the cost of effecting which is chargeable, wholly or in part, against capital or against the general sanitary purposes rates, or against any rates, tolls, rents, dues or other moneys which the Commissioners may be authorised or enabled to levy, take, have, receive or recover.

"Public highways" means and includes—

All the streets, ramps, roads, lanes, passages, alleys, steps, stairs, and public places included in the following Schedule and coloured green on the four sheets of the map or plan delineated or drawn in Schedule B to this Ordinance:—

(1) The "British Lines Road" bordering the Neutral Ground and extending parallel with the English Lines between the Watering Jetty and the Eastern extremity of the English Lines.

(2) The "Eastern Beach Road," the carriage-way only of this road which is more or less parallel with the Eastern Beach between the Eastern extremity of the English Lines and Devil's Tower Road.

(3) The curved road between the latter road and Devil's Tower Road passing to the Northward of the Devil's Tower.

(4) (a) "Devil's Tower Road" and (b) "Catalan Bay Road" between the Refuse Shoot on Catalan Bay Road and the Road to Spain at Bayside.



(5) The "Road to Spain" between the English Lines and Bay-side, including the entrance to the Stone Jetty.

(6) "Inundation Road" between Bayside and the foot of the Glacis.

(7) The road between the Inundation Road passing (a) the West Place of Arms (b) through Market Square and (c) Grand Casemates Square, to Main Street, including (d) the parallel road leading out of the fortress over the bridge, and (e) the footpath leading under the bridge from the ditch of the North Bastion to the Inundation Road.

(8) (a) "Fish Market Road" between Market Square and Cooperage Lane, including (b) the Steps between the South East end of Fish Market Road and Line Wall Road.

(9) "Main Street" between Grand Casemate Square and Southport Gate.

(10) (a) "Cooperage Lane," (b) "Irish Town" and (c) "Market Street," between Main Street and Commercial Square.

(11) "Line Wall Road" between The Grand Casemate Square and the Northern extremity of Line Wall House.

(12) (a) "Parliament Lane," (b) "Tuckey's Lane" and (c) "Market Lane" between Main Street and Irish Town, including (d) "Parliament Ramp," a cul-de-sac on the West side of Irish Town.

(13) "Bedlam Court" leading off from Main Street and forming a cul-de-sac.

(14) (a) "Bedlam Ramp," (b) "Cloister Ramp" and (c) "Fountain Ramp" between Irish Town and Line Wall Road.

(15) (a) "Commercial Square" and the roads adjacent thereto on (b) the North, (c) the South and (d) the West sides thereof, respectively between Main Street and Line Wall Road.

(16) (a) "College Lane" and (b) "King Street" between Main Street and Line Wall Road.

(17) "Giro's Passage" between Main Street and King Street.

(18) (a) "Bomb House Lane" between Main Street and Line Wall Road including (b) the Road between Bomb House and Cathedral Square.

(19) "Baker's Passage" a cul-de-sac on the West side of Main Street.

(a) "Cathedral Square" including the roads on (b) the North, (c) the South, (d) the East and (e) the West sides of the Cathedral, between Main Street and Line Wall Road.

(20) "Secretary's Lane" between Cathedral Square and the Military Road forming a continuation of Line Wall Road to the Southward thereof.

(21) "Governor's Lane" between Main Street and Secretary's Lane.

(22) "Convent Ramp" between Main Street and the Military Road forming a continuation of Line Wall Road to the Southward thereof.



(23) (a) "Crutchett's Ramp" between the North end of Main Street, and The Road to the Lines including (b) steps between Crutchett's Ramp and Crown Property Nos. 23 and 24.

(24) (a) "Demaya's Ramp" between Crutchett's Ramp and The Road to the Lines including (b) and (c) two passages forming culs-de-sac on the South side of Demaya's Ramp.

(25) "The Road to the Lines" between Crutchett's Ramp and Castle Ramp.

(26) "Castle Row" between The Road to the Lines and Castle Ramp.

(27) "Lynch's Lane" between Main Street and the remains of the Castle Wall.

(28) "Turnbull's Lane" between Lynch's Lane and Main Street.

(29) (a) "Engineer Lane," (b) "Cornwall's Parade," (c) "Governor's Street," (d) "Governor's Parade," (e) "Town Range" and (f) "Queen Street," between Main Street and Prince Edward's Road near Prince Edward's Gate.

(30) "Bell Lane" between Main Street and Cornwall's Parade.

(31) "City Mill Lane" between Main Street and Governor's Street.

(32) "Cornwall's Lane" between Cornwall's Parade and City Mill Lane.

(33) "Horse Barrack Lane" between Main Street and Cornwall's Lane.

(34) "Pitman's Alley" leading off from Main Street and forming a cul-de-sac.

(35) "Church Lane" between Main Street and Governor's Street crossing the North side of Governor's Parade in front of the Theatre Royal.

(36) "Cannon Lane" between Main Street and Church Lane.

(37) "Library Street" between Main Street and Governor's Parade.

(38) "Gunnery Lane" between Church Lane and Library Street.

(39) "George's Lane" between Main Street and Town Range.

(40) "Mess House Lane" between George's Lane and Governor's Parade.

(41) (a) "Convent Place" between Main Street and Town Range including (b) the open space between the Convent and the Convent Guard House.

(42) (a) "Victualling Office Lane" (b) "King's Yard Lane" between Main Street and Queen Street.

(43) (a) "Castle Ramp" (b) "Civil Hospital Street" and (c) "Civil Hospital Ramp" between the Road to the Lines and Prince Edward's Ramp including (d) "Civil Hospital Hill" between the Civil Hospital and Castle Road, and also including (e) and (f) two open spaces on the West Front of the Hospital.



(44) "Carrera's Passage" on the East side of Engineer Lane forming a cul-de-sac extending for about 140 feet more or less.

(45) "Serfaty's Passage" on the East side of Engineer Lane forming a cul-de-sac.

(46) "Castle Street" between Cornwall's Parade and Civil Hospital Street.

(47) "Rodger's Ramp" (the upper portion of which is a cul-de-sac) on the East side of Governor's Street.

(48) "Serruya's Lane" between Castle Street and Rodger's Ramp.

(49) "Benzimbra's Alley" a cul-de-sac on the East side of Cornwall's Parade.

(50) "Boschetti's Ramp" between Governor's Street and Serruya's Lane.

(51) "Pezzi's Steps" between Serruya's Lane and Civil Hospital Street.

(52) An unnamed cul-de-sac on the East side of Serruya's Lane about 90 feet on the North side of Rodger's Ramp, extending for about 40 feet, more or less.

(53) "New Street" between Rodger's Ramp and Civil Hospital Ramp.

(54) (a) "Prince Edward's Ramp" and (b) "Prince Edward's Road" between Governor's Street and Prince Edward's Gate, including (c) a cul-de-sac on the West side of Prince Edward's Road opposite the R.E. infants school.

(55) "Library Ramp" between Governor's Parade and Prince Edward's Ramp.

(56) "Forty Steps" between Town Range and Prince Edward's Road.

(57) (a) "Lower Castle Road" (including the Steps at the North end thereof) and (b) "Castle Road" between Castle Ramp and Prince Edward's Ramp.

(58) (a) "Parody's Passage" and (b) and (c) two unnamed passages, culs-de-sac between Castle Ramp and Lower Castle Road.

(59) (a) "Lower Castle Gully" and (b) "Lower Castle Gully Steps" between Civil Hospital Street and Castle Road.

(60) (a) "Ansaldo's Passage" and (b) "McPhail's Passage" culs-de-sac on the North side of Lower Castle Gully Steps.

(61) (a) "Abecasis' Passage," (b) "Chicardo's Steps," (c) "Chicardo's Passage" and (d) "Chicardo's Lane" between Civil Hospital Street, Castle Road and Lower Castle Gully Steps.

(62) "Fraser's Ramp" between Prince Edward's Ramp and Castle Road.

(63) "Shakery's Passage" (or "Benoliel's Passage") between Civil Hospital Ramp and Fraser's Ramp.

(64) "Benoliel's Passage" a cul-de-sac on the North side of Fraser's Ramp.



(65) "Arengo's Lane" to the Eastward of and parallel with Benoliel's Passage between Civil Hospital Hill and Fraser's Ramp.

(66) "Johnstone's Passage" on the East side of Prince Edward's Ramp.

(67) (a) "Johnstone's Court" a cul-de-sac on the West side of Castle Road and (b) an unnamed passage forming a cul-de-sac on the South East side of Castle Road, approach to Crown property No. 816.

(68) (a) "Willis's Road" between Demias' Ramp and Castle Road including (b) the terrace forming the approach to Danino's Buildings.

(69) "Upper Castle Road" commencing on the North end 150 feet more or less from the entrance to the Moorish Castle and extending therefrom in a Southerly direction to Lower Castle Road.

(70) (a) "Castle Tank Ramp" between Upper Castle Road and Willis's Road including (b) an unnamed passage between the top of Upper Castle Gully and the top of Castle Tank Ramp.

(71) (a) "Upper Castle Gully" and (b) "Upper Castle Gully Steps" between Castle Road and Willis's Road.

(72) (a) "Richardson's Passage" and (b), (c), (d), unnamed steps and passages about 340 feet in length more or less between Castle Tank Ramp and Upper Castle Gully Steps.

(73) A cul-de-sac on the South side of Upper Castle Gully Steps leading to Crown Property No. 897.

(74) "Paradise Ramp" between Castle Road and Willis's Road.

(75) "Flat Bastion Road" between Prince Edward's Road and Charles V. Wall.

(76) (a) "Booth's Passage," (b) "Morello's Ramp," (c) "Hargraves Lane," (d) "Charles V. Ramp," (e) "Kavanagh's Court," (f) "Gowland's Ramp," (g) "Wilson's Ramp," and (h) a cul-de-sac on the North side of Wilson's Ramp, between Prince Edward's Road and Flat Bastion Road.

(77) "Devil's Gap Road" between Flat Bastion Road and the Southern extremity of the premises therein which are known as D. 25, H. 42.

(78) "Baca's Passage" between Devil's Gap Road and Flat Bastion Road.

(79) "Lime Kiln Road" between Castle Road and Devil's Gap Road.

(80) "Lopez's Ramp" a cul-de-sac on the East side of Devil's Gap Road.

(81) An unnamed cul-de-sac about 90 feet in length, more or less, on the East side of Lime Kiln Road.

(82) "Lime Kiln Gully Steps" a cul-de-sac on the East side of Lime Kiln Road.

(83) "Bruce's Gully" a cul-de-sac on the East side of Castle Road.

(84) "Palace Gully" a cul-de-sac on the East side of Castle Road.



(85) (a) "Danino's Ramp" (b) "Ansaldo's Ramp" and (c) "Willis's Passage" situate on the East side of Willis's Road.

(86) "Demia's Ramp" a cul-de-sac on the East side of Willis's Road and between that road and the Northern extremity of Calpe Battery but on the lower level than Calpe Battery.

(87) "Road to Calpe Married Quarters" situate on the South side of Demia's Ramp and on the West side of certain Crown Properties numbered 944, 945, and 946 in the General Plan of Gibraltar extending about 120 feet more or less to the Southward of Demia's Ramp.

(88) "Europa Main Road" extending from Prince Edward's Gate to Europa Pass Gate.

(89) (a) "South Barrack Road" extending from a point on the Europa Main Road about 400 feet to the Southward of the Europa Main Road Reservoirs, to a point more or less in front of the Southern entrance to The Mount, including (b) a ramp from the South end of South Barrack Road leading in a Northerly direction to Europa Main Road.

(90) (a) "Naval Hospital Road," and (b) "Hospital Hill Road" situate between the South-eastern extremity of South Barracks and Europa Main Road, (c) "Buena Vista Road," between Europa Main Road and Naval Hospital Hill.

(91) "Sunnyside Steps" between South Barrack Road and the Northern extremity of Naval Hospital Road.

(92) (a) "Rosia Steps" between Naval Hospital Road and Rosia Parade and (b) "Rosia Ramp" between Rosia Steps and Rosia Parade.

(93) "Rosia Lane" between the South Pavilion of the South Barracks on the North-east end and about 90 feet from Rosia Main Road on the South end.

(94) (a) "North Pavilion Road" and (b) "Centre Pavilion Road" the roads between Rosia Main Road and South Barracks extending on the East to the Military Road known as South Pavilion Road.

(95) (a) "Rosia Main Road" extending from Southport Gate to the Northern extremity of Rosia Parade, and (b) the road leading from Rosia Main Road to the Ragged Staff Gate.

(96) (a) "Witham's Road" extending from Rosia Main Road to Rodger's Road including (b) and (c) two approaches from Rosia Main Road.

(97) "Scud Hill" extending from Rosia Main Road to the top of Cumberland Steps.

(98) "South Barrack Ramp" between the top of Cumberland Steps and South Barrack Road.

(99) "Rodger's Road" extending from Witham's Road to South Barrack Ramp.

(100) "Cumberland Road" running parallel with a portion of Rosia Main Road between Scud Hill and New Mole Parade.

(101) "Cumberland Steps" between Cumberland Road and the top of Scud Hill.



(102) "Cumberland Terrace" a raised Terrace parallel with Cumberland Road.

(103) "South Sheds Place" an open space at the bottom of Scud Hill.

(104) An unnamed Road between South Barrack Ramp and South Barrack Road.

(105) "Armstrong's Steps" between Witham's Road and Rosia Main Road.

(106) Unnamed steps between Scud Hill and Rodger's Road.

(107) Unnamed steps between Scud Hill and Cumberland Road.

(108) Unnamed steps between Cumberland Road and Rosia Main Road.

(109) Unnamed steps between Witham's Road and South Barrack Road.

(110) Unnamed steps, a cul-de-sac out of Witham's Road leading to the entrance to Crown Property Nos. 1044 and 1045.

Provided always and excepted that the said expression "Public highways" shall not mean nor include any military parade or place d'armes, except Governor's Parade, Commercial Square, and Cornwall's Parade, nor mean nor include any such road, street, ramp, lane, passage, alley, steps, stairs, or open place, or any part thereof, as is situate within the curtilage of any barrack or other military building, or which may form part of the defences of Gibraltar or be reserved for military purposes, or may be declared by the Governor, by notice to be a military parade or place d'armes, or to be so situated as aforesaid, or to form part of such military defences or to be reserved for military purposes, nor mean nor include any of the roads, paths and ways within the Public Gardens known as the Alameda Gardens.

Provided also that wherever in any Ordinance or Regulation in force in Gibraltar, the words "Waterport Street," "Church Street," or "Southport Street" occur, the words "Main Street" shall be substituted therefor.

"Reserved and military ways."

"Reserved and military ways" means and includes all other His Majesty's streets, roads, ramps, ways, military parades, or open spaces not being public highways within the meaning of this Ordinance.

"Street."  
38 & 39 Vic. c. 55.  
s. 4.

"Street" includes any public highway, and any public bridge, and any road, lane, footway, square, court, alley, or passage whether a thoroughfare or not.

"Justice" and  
"Court of  
Summary  
Jurisdiction."

"Justice" and "Court of Summary Jurisdiction" have the same meanings as in "The Justices Ordinance, 1890."

## PART II.

### AUTHORITIES FOR EXECUTION OF ORDINANCE.

Sanitary  
Commissioners.

3. The Commissioners shall be entitled to sue and be sued and shall be described in all legal proceedings and private instruments as "The Sanitary Commissioners of Gibraltar," and shall have a common seal.

Board of  
Commissioners.

4. The Board of Commissioners shall consist of the Principal Medical Officer for the time being of the troops at Gibraltar, and eight other persons to be appointed in manner hereinafter provided.



5. The Governor shall appoint two Commissioners to represent the Government of Gibraltar, one to represent His Majesty's Principal Secretary of State for War, and one to represent the Lords Commissioners of the Admiralty, and may remove them, and appoint other Commissioners in their place. Notice of every such appointment shall be published in the *Official Gazette*.

Appointment of  
representative  
Commissioners.

6. An extraordinary Special Sessions of the Supreme Court shall in every year between the 6th day of January and the 1st day of December, both inclusive, be held before the Chief Justice for the purpose of presenting a panel of duly qualified persons out of which the Commissioners to be appointed by the Governor, other than the Representative Commissioners, shall be chosen by him, and for that purpose the Chief Justice is hereby authorised and required to hold such Sessions, and to cause to come before him the Grand Jury of Gibraltar on the day and at the place appointed for holding such Sessions.

Extraordinary  
Special Sessions of  
the Court to be  
held.

7. Immediately upon the appearance of the Grand Jury, and before the making of any such presentment, the Grand Jury shall, in open Court, make the following oath or affirmation before the Chief Justice:—

Grand Jury to be  
sworn and to  
make due  
presentment.

I, A. B., of                      make oath and say (or, declare that I conscientiously believe that the taking of any such oath is unlawful, and that I affirm) that I will, to the best of my knowledge and ability, and without partiality, fear, favour or affection due presentment make in open Court of persons duly qualified to act as Sanitary Commissioners of Gibraltar in manner and form required by law.

8. The Grand Jury shall thereupon, by presentment in open Court, present themselves by name, and also eight other persons duly qualified to act as Commissioners by name, and also without naming them, the Commissioners appointed to retire from office on the 31st December then next, as a panel out of which the Commissioners to be nominated and appointed by the Governor, other than the Representative Commissioners, shall be chosen by him.

Grand Jury to  
present a panel  
of qualified  
persons.

9. The Registrar of the Supreme Court shall immediately upon such presentment being made cause the same and the said panel to be enrolled amongst the records of the Supreme Court, and shall immediately transmit a copy thereof, under his hand and the seal of the said Court, to the Governor.

Panel to be  
enrolled and a  
copy transmitted  
to the Governor.

10. Nothing herein contained shall be deemed to prevent a Criminal Sessions of the Supreme Court from being held upon the day appointed for any such extraordinary special Sessions, provided that no such Criminal Sessions shall be held until after such extraordinary special Sessions shall have been determined.

Criminal Sessions  
may be held on  
the same day.

11. Every such presentment and every such panel shall come into force when the same shall have been duly enrolled and recorded and a copy thereof transmitted to the Governor, and shall remain in force until a like presentment and like panel shall be duly made, enrolled and recorded, and a copy thereof transmitted to the Governor.

Panel to remain  
in force till  
another made.



Commissioners to retire from office by rotation.

**12.** All the Commissioners in office at the coming into operation of this Ordinance shall continue to hold office, and on the 31st December in every year two of the Commissioners, other than the Representative Commissioners, being those longest in office, shall retire from office.

Commissioners retiring to be certified to Governor.

**13.** The Commissioners shall, on or before the last day of November in every year, certify to the Governor in writing the names of the Commissioners retiring from office by rotation on the 31st day of December following.

Future vacancies how to be supplied.

**14.** The Governor shall, on or before the 14th day of December in every year, appoint from the panel then in force, two persons to supply the places of Commissioners retiring from office by rotation, and notice of such appointment shall be transmitted to the Registrar of the Supreme Court who shall forthwith enrol the same in the rolls of the said Court, and notice of such appointment shall also be published in the *Official Gazette* on or before the 17th day of December in every year: Provided nevertheless that every Commissioner on retiring from office may, if otherwise duly qualified, be re-appointed immediately, or at any future time, and after such re-appointment shall, with reference to the retiring from office by rotation, but not otherwise, be considered as a new Commissioner.

Vacancies among Commissioners how supplied.

**15.** Every vacancy among the Commissioners, other than the Representative Commissioners, occurring after the coming into operation of this Ordinance, occasioned by resignation, death, removal for misbehaviour, want of qualification, or by any cause other than that of retiring from office by rotation, shall with all convenient speed be certified by the Commissioners to the Governor, who shall appoint in manner aforesaid a person from and out of the panel then in force to fill such vacancy, and the person so appointed to fill any such vacancy shall continue in office as a Commissioner so long only as the person in whose stead he shall have been appointed would have been entitled to continue if he had remained in office.

Commissioners how removed for misbehaviour.

**16.** The Governor upon complaint or the Supreme Court upon application may remove any Commissioner, other than the Representative Commissioners, who shall be guilty of misbehaviour, provided that the nature of such misbehaviour be clearly set forth in such complaint or application and in the order of removal.

Qualification of Commissioners.

**17.** No person shall be qualified to act as a Commissioner, except the Representative Commissioners, unless he shall occupy as owner or as tenant from month to month, or for some longer term, premises liable to be rated and assessed for the purposes of this Ordinance of the net annual value of twenty pounds, nor unless he shall be personally liable to pay all rates made and assessed upon such premises. Nor shall any person not being a Commissioner at the time of the coming into operation of this Ordinance be qualified to act as a Commissioner, except as aforesaid, unless either his name has been returned in the panel of the Grand Jury at a Criminal Sessions of the Supreme Court within three years next before the date of his appointment, or he shall be seized or possessed



of an estate of freehold, or for a term of years of which not less than three years are unexpired in lands of the annual value of one thousand pounds. A person shall be disqualified to act as a Commissioner, except as aforesaid, who shall be a bankrupt, and shall not have obtained his certificate, or who shall hold any commission, office or place incompatible or inconsistent with the duties of a Commissioner.

**18.** Any person not duly qualified who shall wilfully against the provisions of this Ordinance act as Commissioner, shall be liable to pay a penalty not exceeding fifty pounds for every day on which he shall so act, and the appointment of any person who shall not be duly qualified or who shall become disqualified, shall be void to all intents and purposes: Provided always that no such acting shall prejudice or avoid the acts of the Commissioners duly appointed and legally qualified, and provided also that no person duly appointed a Commissioner shall be disqualified to act or to be re-appointed immediately upon going out of office by rotation by reason that at any time since he was so appointed his name has been omitted from the panel of the Grand Jury.

Penalty on  
disqualified  
persons acting.

**19.** The Commissioners shall meet for the despatch of business not required to be done at any extraordinary or special meeting as often as they shall think fit, being not less than once a month.

Commissioners to  
hold ordinary  
meetings.

**20.** The Commissioners shall also meet for the despatch of any special business whenever they shall think fit or shall be required to do so by the Governor in writing. Every such meeting shall be called an extraordinary or special meeting: Provided always that no such extraordinary or special meeting shall be held unless four days' notice of such meeting shall have been previously published by the Commissioners, or by the Governor, as the case may be, in the *Official Gazette*, in which notice the special business for which such meeting is intended to be held shall be stated.

and extraordinary  
meetings.

**21.** The Chairman shall be entitled to receive the sum of one pound and every other Commissioner the sum of ten shillings to be paid out of the general sanitary purposes rates for each and every sitting of the Commissioners at which they shall attend and sit throughout the meeting.

Remuneration of  
Commissioners.

**22.** The Commissioners, at their first meeting in every year, shall appoint one of their number to be Chairman for one year, and if the Chairman so appointed dies, resigns, or becomes incapable of acting, another member shall be appointed to be Chairman for the period during which the person so dying, resigning, or becoming incapable would have been entitled to continue in office, and no longer; and if the Chairman is absent from any meeting at the time appointed for holding the same, the members present shall appoint one of their number to act as Chairman thereat.

Appointment of  
Chairman.  
38 & 39 Vic. c. 55.  
Schedule I.  
Rules 3, 4, 5.

**23.** At every meeting of the Commissioners four members of the Board shall form a quorum. Every question shall be decided by the votes of a majority of those present and voting on that question, and in case of an equal division of votes the Chairman shall have a second or casting vote. The Commissioners shall enter all their proceedings in a book to be by them kept for that purpose, and such proceedings shall at every meeting be signed by the Chairman.

How to proceed  
at meetings.  
Do. do. Rule 6.



Board not disqualified by reason of vacancies. 38 & 39 Vic. c. 55, Schedule I. Rule 9.

Appointment of Committee from among Commissioners.

**24.** The Board of Commissioners shall not be disqualified for the transaction of business by reason of any vacancy among the Commissioners.

**25.** The Commissioners may appoint from among themselves a committee consisting of not less than one-third of their own number, of whom the Chairman shall always be one. Every such committee shall have power, until the first day of January then next, or such sooner day as the Commissioners may determine, to transact the ordinary business for which they may be appointed: Provided always that it shall not be lawful for any committee—

To make any rate or assessment;

To make or enter into any contract hereby, or by any law in force in Gibraltar, required to be in writing;

To appoint or to remove any officer or servant employed by the Commissioners;

To make or to revoke any bye-law;

To commence any suit or action or other proceeding in the Supreme Court, or to give notice of appeal;

To make or to revoke any order appointing an officer to be rated and assessed, by the name of his office;

To do any act which under the provisions of this Ordinance is required to be done at any extraordinary or special meeting of the Commissioners.

How Committee may proceed.

**26.** At every meeting of a committee two of their number shall be a quorum. Every question shall be decided in like manner as at a meeting of the Commissioners, except that every question as to which the voices are equal shall be deemed to be passed in the negative. They shall enter all their proceedings in a book, which shall be kept and signed in like manner as that relating to the proceedings of the Commissioners and shall submit their proceedings to the Commissioners at every meeting next thereafter.

No Commissioner or his partner to enter into contract with Commissioners.

**27.** No Commissioner and no person being in partnership with a Commissioner shall be capable of entering into any contract for the supply of any goods to the Commissioners, or for the execution of any works hereby authorised.

Penalty for so doing.

**28.** If any Commissioner, or any partner of any Commissioner, shall wilfully enter into any contract for the supply of any goods to the Commissioners, or for the execution of any works hereby authorised, he shall be liable to pay a penalty not exceeding £50 for every day on which he shall so wilfully enter into any such contract, or during which any such contract, if so entered into, shall subsist: Provided always, that nothing herein contained shall be deemed or taken to prohibit any Commissioner, or the partner of any Commissioner, from entering into a contract with the Commissioners for the removal of dung or manure from any stable, cowshed, goatshed, or other like building in the occupation of such Commissioner or partner of any Commissioner, or from any yard adjoining thereto, and occupied therewith, or impose any penalty on any Commissioner, or any partner of any Commissioner, for entering into any such contract.



**29.** The Commissioners may purchase, hire or possess carts, carriages, and other machines, and all necessary implements, horses, mules and other animals of draught, and subject to the proviso hereinafter mentioned may appoint, employ, and fix the salaries of all such persons, except the Sanitary Auditor and Medical Officer of Health, as may be necessary to enable them to exercise and carry into effect the powers and authorities created by this Ordinance: Provided always that whenever the salary proposed to be attached to any appointment shall exceed £200 per annum, such appointment shall be subject to the approval and confirmation in writing of the Governor, who shall also approve the amount of the salary to be attached thereto.

Commissioners may purchase carts, mules, &c., and appoint officers and servants, subject to Governor's approval.  
38 & 39 Vic. c. 55. s. 189.

**30.** In case of sickness, temporary absence, or other inability of any officer or servant of the Commissioners, or other person charged with the performance of any duty under this Ordinance, the Commissioners may appoint a deputy in the place of such officer, servant or other person, and every such deputy shall perform all the duties, and be subject to all the liabilities of the officer, servant, or other person in whose place he may be appointed.

When deputy may be appointed by the Commissioners.

**31.** (1) The Commissioners may, with the consent in writing of the Governor, grant to any of their officers, who shall resign, or otherwise cease to hold their offices, superannuation, or, in cases of abolition of office, compensation allowances, and all allowances so granted shall be paid out of the general sanitary purposes rates.

Superannuation and compensation allowance.

(2) The Commissioners may also, with the like consent, grant compensation to the next of kin of or any relatives dependent upon any servant or employé of the Commissioners who may lose his life as the result of an accident in the execution of his work or duty while in the employment of the Commissioners and to any workman in the employ of the Commissioners who by reason of old age, infirmity for work, or other reasonable cause may retire or be compelled to retire from the service of the Commissioners.

Power to grant compensation to relatives of employé dying from accident.

**32.** The Commissioners shall on or before the 31st day of January in every year, and at such other times as may be required by the Governor, make a true and correct return to the Governor, of every proceeding taken under this Ordinance since the making of any previous like return, together with all such remarks relating to each such proceeding, as they may think fit to make.

Commissioners to make annual return of proceedings.

**33.** If any Commissioner shall sign any declaration required to be signed by him by virtue of this Ordinance which shall be wilfully untrue he shall be guilty of a misdemeanour.

Misdemeanour if declaration wilfully false.

**34.** All lands and buildings and all public highways and all other estate both real and personal, of what nature or kind soever and where-soever situate, which are now vested in the Commissioners, shall, for the purpose of enabling the Commissioners to carry this Ordinance into execution, continue to be vested in the Commissioners in like manner as if this Ordinance had not been made. And all persons who now owe or are subject to any liability to pay any rates, debts, or other moneys to the Commissioners, shall pay the same with all interest (if any) due or to accrue due thereon, to the Commissioners upon the trusts, and for

Property now vested in Commissioners to continue to be vested in them.  
Do. do. s. 12.



the purposes of carrying into execution the powers and authorities hereby vested in them, and if not duly paid the same may be recovered by the Commissioners in a summary manner under this Ordinance, subject nevertheless to such rules as may for military purposes and for military reasons, be made by the Governor, and subject also as to the said public highways to all such rules as may be made by the Governor for the preservation of the peace, order, and good government of Gibraltar.

Order, &c., of  
Commissioners  
how made.

**35.** Every order and certificate to be made by the Commissioners under this Ordinance shall be in writing under their common seal and the hand of their Chairman, and every return, report and recommendation shall be in writing, and signed by the secretary by order of the Commissioners.

Appointment of  
engineer to the  
Commissioners.  
Supervision of  
works the cost  
of which is partly  
provided for from  
imperial funds or  
from the revenue  
of Gibraltar.

**36.** The Commissioners shall appoint an engineer, and, subject to the provisions of this Ordinance, may pay him such salary as they may think proper out of the general sanitary purposes rates: Provided that the Governor may require that the execution of any works undertaken by the Commissioners of which the cost is partly provided for from imperial funds or from the revenue of Gibraltar, or from both of those sources, shall be carried out under the supervision of the Government Engineer or of some other engineer, not being the engineer of the Commissioners, but the sanitary rates of Gibraltar shall not be charged with any remuneration payable in respect of such supervision to the Government Engineer or to any other engineer so specially nominated.

Appointment of  
Treasurer to the  
Commissioners  
and his duties.  
38 & 39 Vic.  
c. 55. s. 189.

**37.** The duties of Treasurer to the Commissioners shall be carried out by such person as the Commissioners may, with the approval of the Governor, appoint to be Sanitary Treasurer; and such person shall receive such remuneration for his services as the Governor may fix and determine.

Account opened  
with a Bank and  
moneys to be paid  
into Bank.

**38.** An account shall be opened and kept by the Commissioners with a Bank to be selected by the Governor, and all moneys received by the Commissioners shall be paid into such Bank.

Medical Officer  
of Health how  
appointed.  
Do. ss. 189. 191.

**39.** The Governor shall appoint and may remove a legally qualified medical practitioner to be Medical Officer of Health, who shall execute all the duties of an Officer of Health and such other similar duties as may be required of him by the Governor or by the Commissioners with the written approbation of the Governor. He shall be entitled to be paid by the Commissioners such salary as shall be recommended by them to the Governor and be sanctioned in writing by the Governor.

Auditor of the  
Commissioners'  
accounts who to  
be and how to  
be named.  
42 & 43 Vic. c. 6.

**40.** The Local Auditor of Gibraltar for the time being shall be Auditor of the Commissioners' accounts, and in all legal or official proceedings, correspondence or written instruments he may be described as the Sanitary Auditor without naming him, except in any legal or official proceedings had or taken by or against him, or in any instrument to which he shall be a party.

Remuneration  
to Auditor.

**41.** The Local Auditor shall be entitled to receive such remuneration for his services as the Governor shall fix and determine, and such remuneration shall be payable out of the general sanitary purposes rates.



**42.** The Commissioners shall appoint, during pleasure, the consent in writing of the Governor being first obtained, constables, or in the absence of such consent then some other persons to be sanitary inspectors, and every sanitary inspector shall by virtue of his office be and exercise the powers of a constable under the orders and direction of the Commissioners.

Appointment of  
sanitary inspectors  
who shall be  
constables.  
38 & 39 Vic.  
c. 55. s. 189.

**43.** The Commissioners shall appoint, and may remove, collectors who shall be authorised to levy and collect the rates and other moneys which the Commissioners are authorised to receive, and who shall be entitled to such salary or other remuneration as the Commissioners may fix and determine.

Appointment of  
collectors.  
Do. do. do.

**44.** The Commissioners shall as often as occasion may require appoint a valuator to revise the annual value of the several premises in Gibraltar.

Appointment of  
valuator.  
25 & 26 Vic. c.103.  
27 & 28 Vic.  
c. 39 s. 4.

**45.** No person shall be capable of being appointed to be the valuator who shall hold any office or place or profit under the Crown, or who shall have been a Commissioner under the provisions of this Ordinance, or any enactment hereby repealed, at any time within three years previously; nor shall any person who may be appointed to be the valuator be capable of being appointed a Commissioner while being, or within three years after having been, such valuator.

Qualifications of  
valuator.

**46.** No appointment of any person to be the valuator shall have any force or effect until the expiration of four days next after a notice of such appointment shall have been transmitted to the Governor, nor until the determination of any appeal, if any, against such appointment under the provisions of this Ordinance, unless such appeal shall cease to be prosecuted, nor until such person shall have taken and subscribed the oath or affirmation hereinafter mentioned, nor until notice of such appointment and that the person therein mentioned has made and subscribed the said oath or affirmation shall have been published in the *Official Gazette*.

Appointment of  
valuator must be  
published.

**47.** Every person appointed to be the valuator shall, within three days after the expiration of such period of four days, if no appeal against such appointment shall have been duly made to the Supreme Court, or if any such appeal shall have been made and shall have been dismissed then within three days next after such dismissal, make and subscribe the following oath or affirmation before the Chief Justice:—

Oath of valuator.

I, A. B., of                      make oath and say [or declare that I conscientiously believe that the taking of any oath is unlawful, and that I affirm]:—

1. That I am duly qualified to be appointed the valuator of premises in Gibraltar under the provisions of the Public Health Ordinance, 1907.

2. That I will truly, honestly, and to the best of my ability, execute and discharge my duty as such valuator, without partiality, fear, favour, or affection.

So help me God.

Sworn [or affirmed] and subscribed, &c.

Every such oath [or affirmation] so subscribed shall be filed in the Supreme Court.



Valuator to be paid salary and expenses.

**48.** The valuator shall be entitled to be paid remuneration for his services at a rate not exceeding £1 for every entire day during which he shall be employed in the performance of his duties under this Ordinance, together with all reasonable expenses necessarily incurred by him in the performance of his said duties.

If appointment quashed on appeal another person to be appointed.

**49.** When an appointment of a valuator shall be quashed on appeal, the Court shall order the Commissioners to appoint some other person to be valuator.

Officers not to contract with the Commissioners.  
38 & 39 Vic.  
c. 55. s. 193.

**50.** Officers or servants appointed or employed under this Ordinance by the Commissioners shall not in anywise be concerned or interested in any bargain or contract made with the Commissioners for any of the purposes of this Ordinance.

If any such officer or servant is so concerned or interested, or, under colour of his office or employment, exacts or accepts any fee or reward whatsoever other than his proper salary, wages and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Ordinance, and shall forfeit and pay the sum of £50, which may be recovered by any person, with full costs of suit, by action of debt.

Officers intrusted with money to give security.  
Do. do. s. 194.

**51.** Before any officer or servant of the Commissioners enters on any office or employment under this Ordinance by reason whereof he will or may be intrusted with the custody or control of money, the Commissioners shall take from him sufficient security for the faithful execution of such office or employment, and for duly accounting for all moneys, which may be intrusted to him by reason thereof, in such amount and with such sureties as the Governor shall in writing direct.

Officers to account.  
Do. do. s. 195.

**52.** Every officer and servant appointed or employed under this Ordinance by the Commissioners shall, when and in such manner as may be required by the Commissioners, make out and deliver to them, a true and perfect account in writing of all moneys received by him for the purposes of this Ordinance, stating how, and to whom, and for what purpose such moneys have been disposed of, and shall, together with such account, deliver the vouchers or receipts for all payments made by him, and pay over to the Commissioners all moneys owing by him on the balance of accounts.

And every such officer or servant employed in the collection of any rate made under this Ordinance shall, within seven days after he has received any moneys on account of any such rate, pay over the same to the Commissioners, and shall, as and when the Commissioners may direct, deliver a list signed by him and containing the names of all persons who have neglected or refused to pay any such rate, and the sums respectively due from them.

Summary proceedings against defaulting officers.  
Do. do. s. 196.

**53.** If any officer or servant appointed or employed under this Ordinance by the Commissioners—

Fails to render accounts, or to produce and deliver up vouchers and receipts, or to pay over any moneys as and when required by this Ordinance, or



Fails within twenty-four hours after written notice in that behalf from the Commissioners to deliver up to the Commissioners all books, papers, writings, property and things in his possession or power, relating to the execution of this Ordinance, or belonging to the Commissioners,

the Commissioners may complain to any Justice, and such Justice shall thereupon summon the party charged to appear before a Court of Summary Jurisdiction.

On the appearance of the party charged, or on proof that the summons was personally served on him, or left at his last known place of abode or business, if it appears to the Court that he has failed to render any such accounts, or to pay over such moneys, or to produce and deliver up any such vouchers or receipts, books, papers, writings, property, or things as aforesaid in accordance with the provisions of this Ordinance, and that he still fails or refuses so to do, the Court may commit the offender to gaol, there to remain without bail until he has rendered such accounts, paid over such moneys, and produced and delivered up all such vouchers, receipts, books, papers, writings, property and things in respect of which the charge was made: Provided that a person shall not be imprisoned under this section for a period exceeding six months.

No proceeding under this section shall be construed to relieve or discharge any surety of the offender from any liability whatever.

**54.** The officers and servants of the Commissioners at the coming into operation of this Ordinance shall continue to hold their several offices and employments on the same terms and subject to the same conditions as to the duties, remuneration and otherwise, as they would have held them if this Ordinance had not been passed.

Officers and servants holding office to continue in office.

**55.** The Commissioners may make bye-laws—

(1) For regulating the duties and conduct of the Medical Officer of Health and of the Valuator, and every officer and servant appointed or employed by them, or in the execution of any duties created by this Ordinance, except the Sanitary Auditor.

Bye-laws as to the duties of their officers, &c., and their own procedure.  
38 & 39 Vic. c. 55.  
Schedule I. Rule 1.

(2) For regulating the duties of their Chairman, and of their own committees, and of their own procedure, and the forms to be used by them or on their behalf for the purposes of this Ordinance, and generally for carrying into effect the powers and duties vested in, or imposed upon the Commissioners.

### PART III.

#### SANITARY PROVISIONS.

##### *Sewerage and Drainage.*

**56.** The Commissioners shall keep in repair all sewers and drains belonging to them, and may with the consent in writing of the Governor, construct all such extensions to the existing and future sewers and drains with all buildings, works, materials and things appertaining thereto, or otherwise improve the same as they may determine to be necessary for the more perfect sewerage and drainage of Gibraltar, and all such sewers and drains shall vest in and be under the control of the Commissioners.

Sewers and drains—extensions and vesting thereof.  
Do. do.  
s. s. 13. 15. 18.



Powers for making  
sewers and drains.  
38 & 39 Vic.  
c. 55. s. 16.

**57.** The Commissioners may carry any sewer or drain through, across or under any street or under any cellar or vault which may be under the pavement or carriageway of any street, and after giving reasonable notice in writing to the owner or occupier (if on the report of the surveyor it appears necessary), into, through or under any lands whatsoever in Gibraltar, and, if necessary, it shall be lawful for a Court of Summary Jurisdiction to make an order authorising such entry.

Cleansing drains  
and sewers.  
Do. do. s. 19.

**58.** The Commissioners shall cause the sewers and drains belonging to them to be constructed, covered, ventilated and kept so as not to be a nuisance or injurious to health, and to be properly cleansed and emptied.

Power to construct  
ventilators against  
houses

For the purpose of ventilation they may, with the consent of the Police Magistrate previously obtained, construct such ventilators and ventilating shafts on, against, or in, any premises whatsoever in Gibraltar, as they may determine to be necessary for effectually ventilating any sewer or drain.

Rain water pipe  
not to be used as  
soil pipes.  
7 Edw. 7. c. 53.  
s. 36.

**59.** No pipe used for the carrying off of rain water from any roof shall be used for the purpose of carrying off the soil or drainage from any privy or water closet. Any person who shall offend against this section shall be liable to a penalty not exceeding £5, and to a daily penalty not exceeding 40 shillings.

Water or stack  
pipes not to be  
used as ventilating  
shafts.  
Do. to. s. 37.

**60.** No water pipe, stack pipe, or down spout in existence on the 5th day of August, 1913, used for conveying surface water from any premises shall be used or permitted to serve or to act as a ventilating shaft to any drain. Any person who shall offend against this section after fourteen days from the service upon him by or on behalf of the Commissioners of notice of such offence shall be liable to a penalty not exceeding 40 shillings and to a daily penalty not exceeding 20 shillings.

Notice to construct  
branch drains, &c.  
38 & 39 Vic.  
c. 55. s. 23.

**61.** The Commissioners may by written notice require the owner or occupier of any premises within a reasonable time therein specified to construct a branch drain from such premises to communicate with the sewers or drains of the Commissioners, or if no such means of drainage are available then emptying into such covered cesspool or other place not being under any house as the Commissioners direct.

If such notice is not complied with, the Commissioners may, after the expiration of the time specified in the notice or any extension thereof authorised by them in writing, do the work required, and may recover in a summary manner the expenses incurred by them in so doing from the owner.

Construction of  
branch drains  
by owners and  
occupiers.  
Do. do. s. 21.

**62.** The owner or occupier of any premises, upon giving one clear day's notice in writing to the Commissioners, may construct a branch drain from such premises to communicate with any sewer or drain of the Commissioners: Provided that such person shall not be in default by reason of neglect or omission to comply with any of the provisions of this Ordinance.



**63.** Before any drain existing on the 5th day of August, 1913, and then not communicating with any sewer of the Commissioners shall be made to communicate with any such sewer, the Commissioners may require the same to be laid open for examination by the Medical Officer of Health, and no such communication shall be made until the Medical Officer of Health shall certify that such drain may properly be made to communicate with such sewer.

Commissioners may require old drains to be laid open.  
7 Edw. 7. c. 53.  
s. 38.

**64.** All branch drains made to communicate with any sewer or drain of the Commissioners situated under any public highway, or any other place of public or general resort, shall become the property of the Commissioners and be under their control and management, but all expenses necessarily incurred by the Commissioners in maintaining in good condition all such branch drains shall be paid by and be recoverable in a summary manner from the owner of the premises.

Branch drains under public highways vested in Commissioners and under other premises in owners.

**65.** The person required or authorised under any of the provisions of this Ordinance to construct a branch drain may, upon tendering or paying in advance to the Commissioners reasonable compensation (unless the Commissioners shall waive all claim to the same, which they are hereby authorised to waive by notice in writing) open or break up, and relay so much of the streets, or open space as shall lie between the premises and the nearest sewer or drain of the Commissioners, and if necessary any other place or premises, upon tendering or paying in advance reasonable compensation to every other person to whom any damage may result therefrom, unless such other person shall have waived all claim to the same.

Power to break up streets, &c., for purpose of constructing branch drains.

**66.** The amount of compensation payable may be agreed between the Commissioners, or between such other person entitled to such compensation, and the person by whom such compensation is to be paid, and if not so agreed such person may tender a reasonable sum, and if such sum shall be refused, such person may make complaint to a Justice, which complaint shall be heard and determined by two Justices, who shall by their order adjudge whether such tender has been made or not, and whether the sum tendered, if any, is reasonable or not, and if not reasonable, or if no such tender has been made, they shall adjudge and order the sum which shall be paid; and if no such tender has been made they shall make no order as to costs, but if a tender of a reasonable sum has been made and refused, they shall adjudge and order that the Commissioners or person by whom the same has been refused, shall pay to the complainant his costs of and occasioned by the said complaint, and the hearing and adjudication thereof, and if a sum has been tendered and offered, but the same shall not be reasonable, the cost shall be in the discretion of the Justices.

Amount of compensation how ascertained.

**67.** Any person who shall open or break up, without having tendered or paid compensation (which shall not have been waived as aforesaid), or who shall neglect to relay any such street or open space, or other place or premises, or who shall do, or cause, any other or greater damage than that for which compensation shall have been paid or tendered as aforesaid, and shall on demand, neglect or refuse to pay compensation for the same, shall be liable to a penalty not exceeding £5 together with full compensation to the Commissioners or other party aggrieved.

Penalty for not paying compensation.



When further compensation recoverable.

Works to be constructed according to bye-laws and under superintendence of Commissioners. 38 & 39 Vic. c. 55. s. 21.

Penalty for construction of unauthorised works.

Do. do.

Commissioners may agree to construct branch drains. 53 & 54 Vic. c. 59. s. 18.

Bye-laws as to branch drains.

Injurious matter not to pass into sewers, &c.  
Do. do. s. 16.

Chemical refuse, steam, &c., not to be turned into sewers, &c.  
Do. do. s. 17.

**68.** If any such person shall do any other or greater damage than shall have been provided for by any such agreement, or any such order of Justices, compensation shall be paid by him to the Commissioners or other party aggrieved, and the amount thereof may be ascertained and recovered in a summary manner under this Ordinance.

**69.** All branch drains shall be constructed in accordance with any bye-law in that behalf for the time being in force and under the superintendence and according to the directions of the Commissioners or their surveyor, and for such purpose it shall be lawful for the Commissioners and their officers at all reasonable times of the day to enter and remain on the premises as long as shall be necessary.

**70.** If any person shall construct, or shall commence to construct, any branch drain to communicate with any of the sewers or drains of the Commissioners without complying with the provisions of this Ordinance, he shall be liable to a penalty not exceeding £20, and the Justices shall order such person within a time to be by them limited, or the Commissioners, to remove such branch drain, or so much thereof as shall have been commenced to be constructed, and the expenses of the Commissioners in carrying such order of Justices into effect shall be recoverable in a summary manner from the person so offending.

**71.** The Commissioners may agree to construct any branch drain to communicate with any sewer or drain of the Commissioners upon the cost thereof, if it exceeds £100, being paid in advance by monthly instalments including departmental charges and the balance, if any, on completion of the work on the certificate of the officer in charge of the work, and in all other cases in such manner as to payment as they may direct, and the Commissioners shall thereupon execute all works necessary for that purpose.

**72.** The Commissioners may make bye-laws for regulating the position and places in which, the level at which, the fall, and the materials of which the branch drains required or authorised by this Ordinance shall be constructed, the size, shape, and dimensions thereof, and the manner and form in which the same shall be made to communicate with the proper sewer or drain of the Commissioners.

**73.** (1) It shall not be lawful for any person to throw, or suffer to be thrown, or to pass into any sewer or drain of the Commissioners, or any branch drain communicating therewith, any matter or substance by which the free flow of the sewage or surface or storm water may be interfered with, or by which any such sewer or drain may be injured.

(2) Every person offending against this enactment shall be liable to a penalty not exceeding £10, and to a daily penalty not exceeding 20 shillings.

**74.** (1) Every person who turns or permits to enter into any sewer or drain or any branch drain communicating therewith—

(a) Any chemical refuse, or

(b) Any waste steam, condensing water, heated water, or other liquid (such water or other liquid being of a higher temperature than one hundred and ten degrees of Fahrenheit)



which, either alone or in combination with the sewage, causes a nuisance or is dangerous or injurious to health, shall be liable to a penalty not exceeding £10, and to a daily penalty not exceeding £5.

(2) The Commissioners by any of their officers either generally or specially authorised in that behalf in writing, may enter any premises for the purpose of examining whether the provisions of this section are being contravened, and if such entry be refused, any Justice, on complaint on oath by such officer, made after reasonable notice in writing of such intended complaint has been given to the person having custody of the premises, may by order under his hand require such person to admit the officer into the premises, and if it be found that any offence under this section has been or is being committed in respect of the premises, the order shall continue in force until the offence shall have ceased or the work necessary to prevent the recurrence thereof shall have been executed.

(3) A person shall not be liable to a penalty for an offence against this section until the Commissioners have given him notice of the provisions of this section, nor for an offence committed before the expiration of seven days from the service of such notice, provided that the Commissioners shall not be required to give the same person notice more than once.

#### *Sanitary Conveniences.*

**75.** The Commissioners may with the consent in writing of the Governor provide and maintain for public accommodation in proper and convenient situations sanitary conveniences, and may make bye-laws for regulating the management thereof and the decent conduct of persons using the same and the fees to be charged for use of any water-closets provided by them as they may think proper, and generally for the cleansing of sanitary conveniences.

Sanitary  
conveniences  
for public  
accommodation.  
38 & 39 Vic. c. 55.  
s. 39.  
53 & 54 Vic. c. 59.  
s. 20.  
Bye-laws.

**76.** (1) In this section, unless the context otherwise requires:—

The expression "closet accommodation" includes a receptacle for human excreta, together with the structure comprising such receptacle and the fittings and apparatus connected therewith.

The expression "water closet" means closet accommodation used or adapted or intended to be used in connection with the water carriage system, and comprising provision for the flushing of the receptacle by means of a water supply, and having proper communication with a sewer.

The expression "a sufficient water supply and sewer" means a water supply and a sewer which are sufficient and reasonably available for use in, or in connection with, the efficient flushing and cleansing of, and the efficient removal of excreta from such number of proper and sufficient water closets as, in pursuance of this section, may be required to be provided in any particular case.

Closet  
accommodation.  
7 Edw. 7. c. 53.  
s. 39.

Water closet.

Sufficient water  
supply and sewer.

(2) Within one month after the deposit of any plan by a person intending to erect a new building, the Commissioners, where there are a sufficient water supply and sewer, may, by written notice to that person, require the new building to be provided with such number of proper and sufficient water closets as the circumstances of the case may render

Supply of water  
closets.



necessary. Any person who fails to comply with any requirement of the Commissioners under this sub-section shall be liable to a penalty not exceeding £5 and to a daily penalty not exceeding 40 shillings.

Insufficient supply  
of closets.

(3) If, on the report of the Medical Officer of Health or the Sanitary Inspector, the Commissioners are satisfied that sufficient closet accommodation has not been provided at or in connection with a building, and the case is not one in which sufficient closet accommodation can be provided by the alteration of any existing closet accommodation in pursuance of this section, the Commissioners, where there are a sufficient water supply and sewer, may by written notice to the owner or owners of the building require the building to be provided with such number of proper and sufficient water closets as the circumstances of the case may render necessary. If the owner or owners of the building fail to comply with any requirement of the Commissioners under this sub-section, the Commissioners may, at the expiration of a time which shall be specified in the notice and shall be not less than fourteen days after the service of the notice, do the work required by the notice, and may recover summarily as a civil debt, or under Section 496 of this Ordinance, from the owner or owners the expenses incurred by the Commissioners in so doing.

Conversion of  
closet accommo-  
dation.

(4) The Commissioners, where there are a sufficient water supply and sewer, may by written notice to the owner or owners of a building require any existing closet accommodation provided at or in connection with the building to be altered so as to be converted into a water closet.

If the owner or owners of the building fail to comply with any requirement of the Commissioners under this sub-section, the Commissioners may, at the expiration of the time which shall be specified in the notice and shall not be less than fourteen days after the service of the notice, do the work required by the notice.

Where in pursuance of this sub-section any work of alteration is done by the Commissioners in default of the owner or owners in respect of any existing closet accommodation, the expenses of the work shall be borne by the owner or owners and shall be recoverable summarily as a civil debt or under Section 496 of this Ordinance.

Every notice in pursuance of this sub-section shall state the effect of the sub-section.

Power of  
Commissioners  
to enforce  
provisions of  
sanitary  
conveniences  
for houses.  
38 & 39 Vic.  
c. 55. s. 36.

**77.** If a house appears to the Commissioners by the report of the Medical Officer of Health or any of their Sanitary Inspectors to be without sufficient sanitary conveniences the Commissioners shall, by written notice, require the owner or occupier of the house, within a reasonable time therein specified, to provide the same as the case may require.

If such notice is not complied with the Commissioners may, at the expiration of the time specified in the notice, do the work thereby required to be done and may recover in a summary manner from the owner the expenses incurred by them in so doing: Provided that where sanitary conveniences are used in common by the inmates of two or more houses, or if in the opinion of the Commissioners they may be so used, they need not require the same to be provided for each house.



**78.** With respect to any sanitary convenience used in common by the occupiers of two or more separate dwelling-houses, or by other persons, the following provisions shall have effect:—

(1) If any person injures or improperly fouls any such sanitary convenience, or anything used in connection therewith, he shall for every such offence be liable to a penalty not exceeding 10 shillings :

(2) If any sanitary convenience or the approaches thereto, or the walls, floors, seats, or fittings thereof is or are in the opinion of the Commissioners or the Medical Officer of Health in such a state or condition as to be a nuisance or annoyance to any inhabitant of the neighbourhood for want of the proper cleansing thereof, such of the persons having the use thereof in common as aforesaid 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 penalty not exceeding ten shillings, and to a daily penalty not exceeding five shillings.

**79.** (1) Every building, used as a workshop or manufactory, or where persons are employed or intended to be employed in any trade or business, shall be provided with sufficient and suitable accommodation in the way of sanitary conveniences, having regard to the number of persons employed in or in attendance at such building, and also where persons of both sexes are employed, or intended to be employed, or in attendance, with proper separate accommodation for persons of each sex.

(2) Where it appears to the Commissioners on the report of the Medical Officer of Health that the provisions of this section are not complied with in the case of any building, the Commissioners may, if they think fit, by written notice, require the owner or occupier of any such building to make such alterations and additions therein as may be required to give such sufficient, suitable, and proper accommodation as aforesaid.

(3) Any person who neglects or refuses to comply with any such notice shall be liable for each default to a penalty not exceeding £20, and to a daily penalty not exceeding 40 shillings.

**80.** The Commissioners shall provide that all drains and sanitary conveniences be constructed and kept so as not to be a nuisance or injurious to health.

**81.** (1) If the Medical Officer of Health or the Sanitary Inspector reports to the Commissioners that he has reasonable grounds for believing that any drains of any building are so defective as to be injurious or dangerous to health, the Commissioners may authorise the Medical Officer of Health or Sanitary Inspector to apply the smoke or coloured water test, or other similar test (not including a test by water under pressure), to the drains, subject to the condition that either the consent of the owner or occupier of the building must be given to the application of the test, or an order of a Court of Summary Jurisdiction must be obtained authorising the application of the test.

(2) If on the application of the test the drains are found to be defective, then the Commissioners shall act in manner prescribed by

Sanitary convenience used in common.  
53 & 54 Vic.  
c. 59. s. 21.

Sanitary conveniences for manufactories, &c.  
Do. do. s. 22.

Sanitary conveniences to be properly kept.  
38 & 39 Vic.  
c. 55. s. 40.

Testing of drains on report of defects.  
7 Edw. 7. c. 53.  
s. 45.

Notice specifying defects.



Section 82 of this Ordinance, and with the same powers therein conferred on them, and the person failing to comply with the notice therein mentioned shall be liable to the penalty therein provided.

Facilities to be given for applying test.

(3) The owner and occupier of any building shall give all reasonable facilities for the application of any test which has been consented to or authorised in pursuance of this section, and, if the owner or occupier fails to do so, he shall be liable in respect of each offence to a penalty not exceeding 40 shillings and to a daily penalty not exceeding 20 shillings.

Examination of sanitary conveniences on complaint of nuisance. Suspicion of nuisance. 38 & 39 Vic. c. 55. s. 41. 7 Edw. 7. c. 53. s. 34.

**82.** On the written application of any person to the Commissioners stating that any drain or sanitary conveniences belonging to any premises are a nuisance or injurious to health, or where on the report in writing of the Medical Officer of Health or the Sanitary Inspector the Commissioners have reason to suspect that any such drain or such sanitary conveniences is or are a nuisance, or injurious to health, the Commissioners may by writing empower any of their officers after twenty-four hours written notice to the occupier of such premises, or in case of emergency without notice, to enter such premises, with or without assistants, and cause the ground to be opened, and examine such drain or sanitary conveniences. If the drain or sanitary conveniences on examination are found to be in a proper condition, he shall cause the ground to be closed, and any damage done to be made good as soon as can be, and the expenses of the works shall be defrayed by the Commissioners. If the drain or sanitary conveniences on examination shall appear to be in bad condition, or to require alteration or amendment, the Commissioners shall forthwith cause notice in writing to be given to the owner or occupier of the premises requiring him forthwith or within a reasonable time therein specified to do the necessary works; and if such notice is not complied with, the person to whom it is given shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default, and the Commissioners may, if they think fit, execute such works and may recover in a summary manner from the owner the expenses incurred by them in so doing.

Summary power to provide sinks and drains for buildings. 7 Edw. 7. 53. s. 49.

**83.** In addition to all other powers vested in the Commissioners, the Commissioners, if it shall appear to them on the report of the Medical Officer of Health or the Sanitary Inspector that any building built before or after the coming into operation of this Ordinance is not provided with a proper sink or drain or other necessary appliances for carrying off refuse water from such building, may give notice in writing to the owner or occupier of such building requiring him in the manner and within the time to be specified in such notice, not being less than twenty-eight days, to provide such sink, drain, or other appliances. If the owner or occupier makes default in complying with such requirement to the satisfaction of the Commissioners within the time specified in such notice, he shall be liable to a penalty not exceeding £5, and to a daily penalty not exceeding 40 shillings, and in case of default the Commissioners may, if they think fit, themselves provide such sink, drain, or other appliances, and the expenses incurred by them in so doing shall be repaid to them by such owner or occupier, and may be summarily recovered by the Commissioners.



**84.** Where two or more houses belonging to different owners are connected with any sewer or drain of the Commissioners by a single branch drain an application may be made under the preceding section, and the Commissioners may recover any expenses incurred by them in executing any works under the powers conferred on them by that section from the owners of the houses in such shares and proportions as shall be settled by them or (in case of dispute) by a Court of Summary Jurisdiction.

Extension of preceding section, 53 & 54 Vic. c. 59, s. 19.

*Scavenging and Cleansing.*

**85.** The Commissioners shall themselves undertake or contract for—

The removal of house refuse from premises;

The cleansing of sanitary conveniences;

The proper cleansing of streets, and may also themselves undertake the proper watering of streets.

Cleansing and watering of streets, cleansing of sanitary conveniences and removal of refuse. 38 & 39 Vic. c. 55, s. 42, 53 & 54 Vic. c. 59, s. 11 (3).

All matters collected by the Commissioners or contractor in pursuance of this section may be sold or otherwise disposed of, and any profits thus made by the Commissioners shall be carried to the account of the general sanitary purposes rates.

If any person removes or obstructs the Commissioners or contractor in removing any matters by this section authorised to be removed by the Commissioners, he shall for each offence be liable to a penalty not exceeding £5: Provided that the occupier of a house shall not be liable to such penalty in respect of any such matters which are produced on his own premises and are intended to be removed for sale or for his own use, and are in the meantime kept so as not to be a nuisance.

**86.** Nothing hereinbefore contained shall authorise the removal of the manure of any horse or other animal, but the Commissioners, upon payment or tender to them of a reasonable sum for their expenses by the occupier of any stable, or like building in which he shall keep any horse or other animal, shall cause to be taken and carried away from such stable, or like building, or from any yard adjoining thereto and used therewith, the manure or dung of every such horse, or other animal, and for that purpose may agree with such occupier for the taking and carrying away of such manure or dung, and if any difference shall arise between the Commissioners and any such occupier, the same shall be decided in a summary manner under this Ordinance.

Removal of manure from stables, &c.

**87.** The Commissioners shall not be required to do, execute, carry out or perform any drainage, emptying of earth closets, collecting house refuse, scavenging or any other duty or work of the like nature within the area of land delineated in the plan in Schedule C to this Ordinance, anything in this Ordinance to the contrary notwithstanding, but the Commissioners shall continue to destroy house refuse of the description usually removed by them from houses in Gibraltar brought from the said area to the Commissioners' destructor at the northern district of Gibraltar. Provided also that the Commissioners and their duly appointed officers shall at all reasonable times be allowed the right to inspect those portions of the Upper Rock from which contamination of the water collecting areas is possible and with their employés to visit the said areas and execute all such works as may from time to time be

Exemption of Commissioners from scavenging and cleansing duties, &c., and provision regarding water collecting areas.



deemed necessary, and the War Department shall take all reasonable precautions required by the Commissioners to prevent the pollution of such areas.

Bye-laws for  
removal of  
house refuse.  
53 & 54 Vic.  
c. 59, s. 26 (2).

**88.** Where the Commissioners themselves undertake or contract for the removal of house refuse they may make bye-laws imposing on the occupier of any premises duties in connection with such removal so as to facilitate the work which the Commissioners undertake or contract for.

Removal of  
trade refuse.  
7 Edw. 7. c. 53.  
s. 48.

**89.** If the Commissioners are required by the owner or occupier of any premises to remove any trade refuse (other than sludge), the Commissioners shall do so, and the owner or occupier shall pay to them for so doing a reasonable sum, to be settled in case of dispute by a Court of Summary Jurisdiction; and if any question arises in any case as to what is to be considered as trade refuse, that question may be decided on the complaint of either party by a Court of Summary Jurisdiction whose decision shall be final.

Bye-laws for  
certain sanitary  
purposes.  
53 & 54 Vic.  
c. 59, s. 26 (1).

**90.** The Commissioners may also make bye-laws—

(1) For prescribing the time for the removal or carriage through the streets of any faecal or offensive or noxious matter or liquid.

(2) For providing that the vessel, receptacle, cart or carriage used therefor shall be properly constructed and covered so as to prevent the escape of any such matter or liquid or any gas emanating therefrom.

(3) For compelling the cleansing of any place whereon such matter or liquid shall have been dropped or spilt in such removal or carriage.

(4) For the prevention of nuisances arising from filth, dust, ashes and rubbish.

(5) For the prevention of the keeping of animals on any premises so as to be injurious to health.

(6) For preventing the deposit or accumulation within any market or within any place used as a market in Gibraltar, of any filth, refuse or other matter or thing whereby the health of any person may be likely, in their opinion, to be endangered or prejudicially affected.

(7) For providing for the removal in special carts to be provided by the Commissioners, or otherwise, of dead animals, and the payment of the expenses of such removal by the owner of such dead animals, or by the occupier or any of the occupiers of the premises where such dead animals may be found.

Power to remove  
dead animals.

Power to provide  
receptacles for  
deposit of  
rubbish.  
38 & 39 Vic.  
c. 55, s. 45.

**91.** The Commissioners may, if they think fit, provide in proper and convenient situations receptacles for the temporary deposit and collection of dust, ashes and rubbish; they may also provide fit buildings and places for the deposit of any matters collected by them in pursuance of this Ordinance.

When Commis-  
sioners may require  
houses to be white-  
washed, purified,  
&c.  
Do, do, s. 46.

**92.** Where, on the certificate of the Medical Officer of Health or of any two medical practitioners, it appears to the Commissioners that any house or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing, cleansing or purifying of any house or part thereof would



tend to prevent or check infectious disease, the Commissioners shall give notice in writing to the owner or occupier of such house or part thereof to whitewash, cleanse or purify the same, as the case may require.

If the person to whom notice is so given fails to comply therewith within the time therein specified, he shall be liable to a penalty not exceeding 10 shillings for every day during which he continues to make default; and the Commissioners may, if they think fit, cause such house or part thereof to be whitewashed, cleansed or purified, and may recover in a summary manner the expenses incurred by them in so doing from the person in default.

**93. Any person who—**

(1) Keeps any swine or pigstye in any dwelling-house, or so as to be a nuisance to any person; or

(2) Suffers any waste or stagnant water to remain in any cellar or place within any dwelling-house for twenty-four hours after written notice to him from the Commissioners to remove the same; or

(3) Allows the contents of any water-closet, privy or cesspool to overflow or soak therefrom,

shall for every such offence be liable to a penalty not exceeding 40 shillings, and to a daily penalty not exceeding 5 shillings, and the Commissioners shall abate or cause to be abated every such nuisance, and may recover in a summary manner the expenses incurred by them in so doing from the occupier of the premises on which the nuisance exists.

**94.** Where, on the certificate of the Medical Officer of Health, it appears to the Commissioners that any accumulation of manure, dung, soil or filth, or other offensive or noxious matter ought to be removed, the Commissioners shall give notice to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove the same; and if such notice is not complied with within twenty-four hours from the service thereof, the Commissioners and their officers may enter the premises and remove the offensive matter, and the manure, dung, soil or filth or matter referred to shall be vested in and be sold or disposed of by the Commissioners and the proceeds thereof shall be applied in payment of the expenses incurred by them in the execution of this section; and the surplus (if any) shall be paid on demand to the owner of the matter removed.

The expenses of removal by the Commissioners of any such accumulation, if and so far as they are not covered by the sale thereof, may be recovered by the Commissioners in a summary manner from the person to whom the accumulation belongs, or from the occupier of the premises, or (where there is no occupier) from the owner.

**95.** Notice may be given by the Commissioners (by notice in the *Official Gazette* or otherwise) for the periodical removal of manure or other refuse matter from mews, stables or other premises; and where any such notice has been given any person to whom the manure or other refuse matter belongs who fails so to remove the same, or permits a further accumulation, and does not continue such periodical removal at

Penalty in respect of certain nuisances on premises.  
38 & 39 Vic.  
c. 55, s. 47.

Removal of filth on certificate of Officer of Health.  
Do. do. s. 49.

Periodical removal of manure from mews, stables and other premises.  
Do. do. s. 50.



such intervals as the Commissioners direct, shall be liable without further notice to a penalty not exceeding 20 shillings for each day during which such manure or other refuse matter is permitted to accumulate.

*Water Supply.*

General powers  
for supplying  
Gibraltar with  
water.  
38 & 39 Vic.  
c. 55. s. 51.

**96.** The Commissioners may provide Gibraltar with a supply of potable water for domestic purposes and of brackish water for flushing, cleansing and other purposes (regard being had to the means of such supply vested in or under the control and management of the Commissioners), and for those purposes or any of them may—

(1) With the consent in writing of the Governor construct and maintain waterworks, dig wells, and search for water in any premises the property of His Majesty and take and use the same; and

(2) Do any necessary acts as they or the Supreme Court may determine to be necessary for the purpose of purifying and keeping purified the potable water to be supplied by them; and

(3) Contract with any person for a supply of water.

Supply for other  
than domestic  
purposes.  
26 & 27 Vic.  
c. 93. s. 12.

**97.** A supply of potable water for domestic purposes shall not include a supply of water for baths, horses, cattle, or for washing carriages, or for any trade or business whatsoever, or for watering gardens, or for fountains or for any ornamental purposes, but the Commissioners may agree to supply the water for any of such purposes.

Governor  
may require  
surrender  
of tanks.

**98.** The Governor, with the previous sanction of one of His Majesty's Principal Secretaries of State, may at any time by notice in writing require the Commissioners to surrender and give up possession to such person, and for such purposes as the Governor shall appoint, of the tanks known as the Moorish Castle tank, Europa Main Road tank, and the Landport Ditch tank, or of such portions of any of them as the Governor may require, anything in this Ordinance to the contrary notwithstanding. The Commissioners, whenever such surrender shall be made of any such tanks, or any portion thereof, shall forthwith execute and perform all such works as the Governor may deem necessary, and shall by notice in writing require the Commissioners to perform and execute, to supply the place of any tank or any portion thereof so surrendered as aforesaid, and to maintain the water service of Gibraltar efficiently.

Power of carrying  
water mains.  
38 & 39 Vic.  
c. 55. s. 54.

**99.** The Commissioners shall have the same powers and be subject to the same restrictions for carrying water mains in Gibraltar as they have and are subject to for carrying sewers or drains under this Ordinance.

Commissioners  
to keep works  
in repair.

**100.** The Commissioners shall control and maintain in good condition and repair, and cleanse and reconstruct as often as required all waterworks and all other matters and things whatsoever, which they are by this Ordinance authorised to construct or acquire, or which may otherwise become vested in or under their control and management.

Application of  
money received  
from water  
supply.

**101.** All moneys received by the Commissioners in respect of the supply of water shall be applied by them in payment of their expenses and liabilities in relation to such supply, and the surplus shall be either carried to the credit of all such expenses or to the credit of the general sanitary purposes rates during the ensuing year.



**102.** The Attorney-General and every person whose names shall be entered in the tenement valuation of Gibraltar as the owner or occupier of any premises, may apply to the Supreme Court in a summary way for an order that the works specified and described are necessary for the purpose of purifying and keeping purified the potable water to be supplied by the Commissioners, and thereupon the Chief Justice, upon proof of due notice having been given to the Commissioners, shall hear and determine the said application according to the rules of Court, and shall make such order therein as to him shall seem reasonable and just: Provided always that no proceedings whatsoever shall be had upon any such application if made otherwise than by the Attorney-General, unless the person by whom the same shall be made, shall, before making the same, enter into a recognizance with two sufficient sureties in the sum of £100 to prosecute the same and to pay the costs of the Commissioners if the said Court shall refuse to make the order applied for. All such works as may be ordered by the Chief Justice to be constructed by the Commissioners shall be deemed to be public works and shall be paid for as such under this Ordinance.

Supreme Court  
may order  
Commissioners  
to provide  
such works.

**103.** The Commissioners shall, in the absence of lawful excuse to the contrary, the proof of which shall lie on themselves, keep a constant supply of brackish water of not less than 230,000 gallons in the Moorish Castle tank, and of not less than 300,000 gallons in the Europa Main Road tank, and shall also send to the Governor on the first Monday of every month, or oftener if required by him, a true statement of the available quantity of potable and brackish water then in each of those tanks and in the Willis's Road reservoirs in the Rock certified under the hand of the proper officer in charge thereof.

Quantity of water  
to be kept and  
certified to  
Governor.

**104.** The Commissioners shall keep all drinking and other fountains, and water troughs for animals, and all latrines and urinals vested in them or under their control and management, supplied with water and shall also furnish gratuitously such further supply of water as may be authorised for any purpose by the Governor in writing.

Drinking  
fountains, &c.,  
to be supplied  
gratuitously.

**105.** The Commissioners may fix in any main and other water-pipes, laid down for the supply of water, all such stand cocks or hydrants, and may construct all such tanks, cisterns, and apparatus connected therewith, and in such places as they may determine to be necessary to enable them to supply water otherwise than by means of communication pipes to premises.

Commissioners  
may fix hydrants,  
cisterns, &c.

**106.** Subject to any bye-law under this Ordinance the payment of every charge for the supply of water shall be made monthly in advance, and except in cases in which water is supplied by meter the same shall be payable in advance.

Water charges  
how payable.

**107.** The Commissioners may agree with any person to supply water by measure, and as to the payment to be made in the form of rent or otherwise for every meter provided by them; they shall at all times at their own expense keep all meters and other instruments for measuring water let by them for hire to any person in proper order for correctly registering the supply of water, and in default of their so doing such person shall not be liable to pay rent for the same during

Power to  
supply water  
by measure.  
38 & 39 Vic.  
c. 55, s. 58.



such time as such default continues. The Commissioners shall for the purposes aforesaid have access to and be at liberty at all reasonable times to remove, test, inspect and replace any such meter or other instrument.

Register of  
meter to be  
evidence.  
38 & 39 Vic.  
c. 55. s. 59.

**108.** Where water is supplied by measure by the Commissioners the register of the meter or other instrument for measuring water shall be *prima facie* evidence of the quantity of water consumed; and if the Commissioners and the consumer differ with respect to the quantity consumed, the difference shall be determined, on the application of either party, by a Court of Summary Jurisdiction, and such Court may order by which of the parties the costs of the proceedings before them shall be paid, and its decision shall be final and binding.

Penalty for  
injuring meters.  
Do. do. s. 60.

**109.** If any person wilfully or by culpable negligence injures or suffers to be injured any meter or fittings belonging to the Commissioners, or fraudulently alters the index to any meter, or prevents any meter from duly registering the quantity of water supplied, or fraudulently abstracts or uses water of the Commissioners, he shall (without prejudice to any other right or remedy of the Commissioners) be liable to a penalty not exceeding 40 shillings, and the Commissioners may, in addition thereto, recover the amount of any damage sustained. The existence of artificial means, under the control of the consumer, for causing any such alteration, prevention, abstraction or use shall be evidence that the consumer has fraudulently effected the same.

Recovery of water  
charges, &c.  
Do. do. s. 56.

**110.** The Commissioners shall have the same powers for recovering water charges or other payments accruing in respect of water supplied by them and the same remedies in case of default of payment thereof as they have for recovering rates under this Ordinance.

Public baths  
and wash-houses  
may be supplied  
with water.  
9 & 10 Vic.  
c. 74. s. 28.  
38 & 39 Vic.  
c. 55. s. 65.

**111.** Subject to any bye-laws under this Ordinance, the Commissioners may supply water for public baths and wash-houses and open bathing places, and if such baths and wash-houses shall not be vested in the Commissioners, upon payment for the water supplied, upon such terms and conditions as shall be agreed upon between them and the managers of such public baths and wash-houses.

Duty of  
Commissioners  
to provide  
fire-plugs, &c.  
38 & 39 Vic.  
c. 55. s. 66.

**112.** The Commissioners may cause fire-plugs and all necessary works, machinery and assistance for securing an efficient supply of brackish water in case of fire to be provided and maintained in such places as they may determine to be necessary, or as the Governor may by notice in writing require, and for this purpose shall keep up a supply of water and permit the same to be used; and they shall paint or mark on the buildings and walls within the streets, words or marks near to such fire-plugs to denote the situation thereof, and do such other things for the purposes aforesaid as they may deem expedient.

Bye-laws for  
water supply, &c.

**113.** The Commissioners may make bye-laws with respect to the following matters; (that is to say)

- (1) For regulating the use of public wells, pumps, tanks, cisterns, and reservoirs of the Commissioners.
- (2) For regulating the use of drinking fountains.



(3) For regulating the supply of water by the Commissioners, and determining the time and the quantity of such supply, the manner of such supply, and the purposes for which and the conditions subject to which such supply shall be made.

(4) For regulating the supply of water to ships and vessels.

(5) For regulating the position and places in which, the level at which, and the materials of which the communication pipes required or authorised by this Ordinance shall be constructed, or placed or laid, the size, shape, bore and dimensions thereof, and the manner and form in which the same shall be made to communicate with the proper main pipe.

(6) For regulating the construction of the tanks, cisterns and reservoirs for receiving and holding water supplied by the Commissioners, and of the ball and stop-cocks required to be fixed and of the wells and other tanks, cisterns or reservoirs, required to be provided, or enlarged, deepened, varied or altered, and of the filters, collecting areas, gutters and pipes in this Ordinance in that behalf mentioned, and of all other works and things relating thereto, or otherwise by this Ordinance required or authorised to be constructed.

**114.** The Commissioners may supply to any person willing to contract with them for such supply potable water for the purpose of being used or consumed in Gibraltar on such terms and conditions as may be prescribed by them.

Power to supply  
potable water  
and charge  
for the same.  
38 & 39 Vic.  
c. 55. s. 56.

**115.** The Commissioners may in like manner supply to the Lords of the Admiralty such quantity of potable water as shall be required for the use of Admiralty buildings on shore or any reservoirs provided by the Admiralty, and potable or brackish water for the supply of His Majesty's ships, or any hired transports for the time being in His Majesty's service; and such water, if brackish, shall be conveyed from the mains of the Commissioners by pipes provided and maintained by them into a spot adjoining the Dockyard to be appointed by the Lords of the Admiralty.

Supply of water  
to Admiralty.

**116.** The Commissioners may also in like manner sell potable or brackish water to any ships, boats, hulks, or other vessels moored or being within the port and harbour of Gibraltar and for that purpose may purchase or otherwise acquire all such boats, vessels, and carriages, with all such engines, machinery, matters and things as they may determine to be necessary for the conveyance and delivery of water to any such vessels as aforesaid.

Supply to shipping  
generally

and provide  
water boats, &c.

**117.** The owner of any premises in Gibraltar shall, unless such premises are sufficiently supplied with water by the Commissioners, or unless such premises are of such a nature or description as not to need any such supply, within a reasonable time after being required so to do by the Commissioners by notice in writing, provide a proper well, tank, cistern or reservoir for the purpose of receiving and holding a sufficient supply of potable water to the premises, or enlarge or alter the same in such manner as may be directed by the Commissioners, and shall in like manner and as far as practicable provide, fix and place a proper filter,

Wells, &c., for  
potable water to  
be provided.



or enlarge the same so that such filter shall purify and prevent the water received into any well, tank, cistern or reservoir from being impure or unfit for domestic purposes, or injurious to the health of any person using the same, and shall also as far as practicable provide a sufficient collecting area which shall not be used for any other purpose than for the collection of water, and sufficient gutters and pipes to convey the water from such collecting area through such filter as aforesaid, into any well, tank, cistern or reservoir, and in default thereof shall be liable to a penalty not exceeding £5 for every day on which such default shall be made or shall continue.

Notice to lay  
communication  
pipes.  
38 & 39 Vic.  
c. 55. s. 62.  
41 & 42 Vic.  
c. 25. s. 3.

**118.** The Commissioners may by written notice require the owner of any premises, within the time therein specified, being not less than ten days after the service thereof to place or lay a communication pipe to communicate with the main pipes of the Commissioners for the supply of such premises with potable or brackish water.

Every such person shall comply accordingly with such notice within the time specified or any extension thereof authorised in writing by the Commissioners: Provided always that, if any such notice of objection as is hereinafter mentioned shall be duly given to the Commissioners, no such person shall be required to place or lay such communication pipe, unless the grounds of objection stated in such notice shall be disallowed by the Commissioners, or pending the determination in a summary manner of any complaint of the disallowance of any grounds of objection duly made to any Justice within three days after service of any notice of disallowance, or of revocation and disallowance as hereinafter mentioned.

What objections  
may be made.  
41 & 42 Vic.  
c. 25. s. 4.

**119.** The person upon whom any notice has been served as last aforesaid, may at any time within three days after the service of such notice, deliver to the Commissioners a notice of objection upon the following grounds, that is to say,

(1) That the premises mentioned in such notice are provided with a sufficient collecting area for water, and sufficient gutters and pipes for the collecting and receiving water, and a sufficient well, tank, cistern or reservoir to contain the same, and a sufficient filter to purify and keep purified the same, and all necessary apparatus to flush and cleanse all the drains and water-closets belonging to such premises, and with a sufficient supply of water for that purpose, and for the domestic and other use of the occupiers of such premises, regard being paid to the number of persons usually occupying the same.

(2) That the level and situation of such premises, with reference to the sewers, drains and pipes of the Commissioners, are such as to render it useless to make any such communication pipe.

(3) That the premises are of such a nature and character or used for such purposes only as to render a supply of water thereto, under the provisions of this Ordinance, unnecessary.

Premises of  
persons objecting  
to be examined.

**120.** The Commissioners shall thereupon cause all the premises in respect whereof any such notice of objection shall have been delivered, to be examined by the Medical Officer of Health, the Sanitary Inspector and their Surveyor, or by any two of them.



**121.** The Medical Officer of Health, the Sanitary Inspector and the Surveyor, or such two of them as shall have made such examination, shall make out and deliver to the Commissioners a list signed by them, of all such premises which they shall have examined, and as to which they shall be of opinion that the objections ought to be disallowed, and shall insert the date of examination, and shall also make and deliver a similar list of all premises in respect whereof they shall be of opinion that the objections ought to be allowed.

Report of  
examination to  
be made to  
Commissioners.

**122.** The Commissioners shall disallow the several objections relating to the premises included in any list as to which the Medical Officer of Health, the Sanitary Inspector and the Surveyor, or any two of them, shall be of opinion that the objections ought to be disallowed, and shall, subject to revocation in manner hereinafter mentioned, allow the several objections relating to the premises included in the list, as to which the Medical Officer of Health, the Sanitary Inspector and the Surveyor, or any two of them, shall be of opinion that the objections ought to be allowed, and the Commissioners shall in every case cause a notice of their decision to be served upon the person by whom the notice of objection has been given.

Commissioners  
to allow or  
disallow  
objection.

**123.** The Commissioners may at any time thereafter cause a further examination to be made of any such premises, in respect whereof the Medical Officer of Health, the Sanitary Inspector and the Surveyor, or any two of them, may have certified their opinion that the objections ought to be allowed, and if upon any such subsequent examination the Medical Officer of Health, Sanitary Inspector, and the Surveyor, or any two of them, shall certify to the Commissioners their opinion that the objections ought to be disallowed, the Commissioners shall forthwith serve a further notice upon the person concerned to place or lay the communication pipe mentioned in such notice.

Further  
examination  
authorised.

**124.** The owner or occupier of any premises, upon giving one clear day's notice in writing to the Commissioners, may place or lay a communication pipe to communicate with a main pipe of the Commissioners for the supply of such premises with brackish water: Provided that such person shall not be in default by reason of neglect or omission to comply with any of the provisions of this Ordinance.

Laying of  
communication  
pipes by owners  
and occupiers.  
10 & 11 Vic.  
c 17, s. 48.

**125.** All communication pipes made to communicate with any main pipes of the Commissioners situated under any public highway, or other place of public or general resort shall become the property of the Commissioners, and be under their control and management, but all expenses necessarily incurred by the Commissioners in maintaining in good condition all such communication pipes shall be paid by and be recoverable in a summary manner from the owner of the premises, and every tank, cistern or reservoir provided for the purpose of holding the water supplied by the Commissioners, and all other communication pipes, together with the ball and stop-cock therein, shall not be liable to be taken or distrained for any rent or duty payable to His Majesty or to any person whatsoever.

Communication  
pipes in whom  
vested.

**126.** The provisions hereinbefore contained with respect to the breaking up of streets for the purpose of constructing branch drains and with

Extension of  
provisions of  
sections to



communication  
pipes.  
10 & 11 Vic.  
c. 17. s. 52.

Cisterns, &c.,  
for water  
supplied by the  
Commissioners  
to be provided.  
Do. do. s. 54.

All works to be  
constructed under  
superintendence of  
Commissioners or  
their Surveyor.  
Do. do. s. 49.

Commissioners to  
construct works  
not constructed by  
person required so  
to do and recover  
expenses.

Commissioners  
may agree to place  
communication  
pipes, tanks, &c.,  
and may raise the  
necessary funds.

When entitled  
to water.

respect to the unauthorised construction of branch drains shall apply to communication pipes placed or laid by any person under this Ordinance.

**127.** The owner of any premises shall, within a reasonable time after being required so to do by the Commissioners by notice in writing, provide a proper cistern or reservoir or enlarge the same in such manner as may be directed by the Commissioners, to hold the water supplied by the Commissioners, with a ball and stop-cock in the communication pipe required to be placed or laid under the provisions of this Ordinance for the purpose of bringing to such premises water supplied by the Commissioners, and shall keep such cistern, ball and stop-cock in good repair so as effectually to prevent the water from running to waste, and in default thereof shall be liable to a penalty not exceeding £5 for every day on which such default shall be made or shall continue.

**128.** All communication pipes, wells, tanks, cisterns or reservoirs and all works and things whatsoever relating thereto, shall be constructed in accordance with any bye-law in that behalf for the time being in force and under the superintendence and according to the directions of the Commissioners or their Surveyor, and for such purpose it shall be lawful for the Commissioners and their officers at all reasonable times of the day to enter and remain on the premises as long as shall be necessary.

**129.** If any person omits to construct any communication pipe, tank, cistern or reservoir, or otherwise to perform any requirement of the Commissioners under this Ordinance with reference to the supply of water by the Commissioners to any premises, the Commissioners may forthwith construct such communication pipe, tank, cistern, or reservoir, and all such other works and things whatsoever and may recover in a summary manner from the person in default the expenses incurred in so doing.

**130.** The Commissioners may, upon payment of the cost thereof in advance, if the cost exceeds £100, by monthly instalments including departmental charges and the balance, if any, on completion of the work on the certificate of the officer in charge of the work, and in all other cases in such manner as to payment as they may direct, agree to place or lay a communication pipe to communicate with any main pipe of the Commissioners, and to provide a proper tank, cistern or reservoir to hold water supplied by the Commissioners, and the Commissioners shall thereupon execute all works necessary for that purpose.

**131.** When a communication pipe shall have been duly placed or laid from any premises to communicate with any of the main pipes of the Commissioners, and a proper tank, cistern or reservoir and all other matters and things that may be required by the Commissioners under this Ordinance shall have been duly provided and the expenses, if any, of the Commissioners occasioned by the constructing the same, shall have been paid, and so long as the same shall be maintained in good condition and repair, and the expenses, if any, of the Commissioners occasioned by neglect or omission, on the part of any person, shall have



been paid to the Commissioners, such person shall upon payment or tender to the Commissioners of the water charges payable in respect thereof, be entitled to receive from the Commissioners a sufficient supply of water (regard being had to the means of such supply vested in, or under the control and management of the Commissioners) for the use of such premises, and the cleansing, scouring, and flushing the drains therein, subject, nevertheless, to any bye-law duly enacted under this Ordinance.

**132.** The owner of any premises, and also if such owner shall not be known, or shall not reside or cannot be found in Gibraltar, then every person being the occupier or having the custody of any such premises shall, subject to the provisions for reimbursements and indemnity hereinafter contained, maintain and keep in good condition and repair and cleanse and reconstruct, when necessary, every communication pipe, and also every tank, cistern or reservoir constructed under the provisions of this Ordinance, and all the works and things relating thereto, until the same shall have been declared to be useless and unnecessary under the provisions herein contained, and in default thereof shall be liable to a daily penalty not exceeding £5.

Pipes, &c., to be kept in repair.

**133.** The Commissioners may make complaint to a Justice whenever they shall have reasonable grounds for believing that any communication pipe not hereby authorised has been or is being constructed for the purpose of communicating with any main pipe of the Commissioners, or that any authorised communication pipe, tank, cistern or reservoir or any ball or stop-cock fitted thereto, or any well or any filter or any collecting area for water or any gutter or pipe for water, is not in good condition and repair or kept cleansed, or requires to be reconstructed, or that the same or any bath, or any apparatus whatever connected with the supply of water by the Commissioners to any premises is so constructed, or in such order and condition as to occasion the return of foul air, or of any noisome or impure fluid into any of the pipes of the Commissioners, or that by any means whatsoever the water supplied to the said premises by the Commissioners is or is likely to be wasted or misused, or to be made use of for any purpose other than that for which it was so supplied.

Complaint may be made of unauthorized works, &c.

**134.** Such Justice if he shall be satisfied, by evidence on oath given before him, of the existence of such reasonable grounds, and that due notice (unless such evidence shall satisfy the Justice that the said notice ought not to be given) of the intended application has been given to the occupier or the owner of such premises or, if no occupier or owner can be found thereon, has been left on the premises, may issue his warrant requiring the Commissioners, their officers or servants named therein, to enter and examine the premises at any reasonable hour, and to remain thereon so long as shall be necessary for the purpose of examining all the means of supply of water to, and of consumption of water on the premises, and the state and condition thereof: Provided always that it shall be lawful for such Justice upon such terms and conditions as he may deem fit and proper in such warrant to authorise the Commissioners, their officers and servants, to cause the ground and any erections thereon to be opened for the purpose of such examination.

Justices may thereupon issue warrant to examine.



Upon hearing complaint of non-repair Justice may order Commissioners to repair.

**135.** Upon the hearing of any complaint made by the Commissioners that any person has, contrary to the provisions of this Ordinance, omitted to maintain in good condition and repair, or to cleanse, or to reconstruct any communication pipe, well, tank, cistern, or reservoir, or any works or things relating thereto, the Justices, if the complaint be proved to their satisfaction, may order such person, within a time thereby limited, to maintain in good condition and repair, or to cleanse, or to reconstruct such communication pipe, well, tank, cistern, or reservoir, or any works or things relating thereto, and to pay to the Commissioners the expenses of such complaint, at the hearing and adjudication thereof.

When Commissioners may cut off water from premises.

**136.** The Commissioners may cut off the communication pipe or turn off the water from any premises supplied by them with water in default of payment for water already supplied, and may cease to supply the same with water unless every communication pipe, tank, cistern or reservoir with the appurtenances thereto, shall be maintained and kept cleansed and in good condition and repair.

*Provisions for protection of water.*

Penalty for unlawfully taking water.

**137.** Every person who shall, without the consent of the Commissioners, take or use any water from any public or other works or any appurtenances thereto, or from any receptacles for water vested in the Commissioners or under their control and management, which water shall not have been supplied by them to him, or for which he shall not have paid the Commissioners, or who shall apply water supplied by the Commissioners to any purpose other than that for which the same shall have been supplied, shall be liable to a penalty not exceeding £10.

Penalty for waste, &c., of water by non-repair of pipes, &c.  
26 & 27 Vic.  
c. 93. s. 17.

**138.** Every person supplied with water by the Commissioners who shall cause or suffer any pipe, valve, cock, cistern, bath, water closet, or other apparatus or receptacle to be out of repair or to be so used or contrived that the water supplied is or is likely to be wasted, misused, unduly consumed or contaminated, or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe of the Commissioners, shall for every such offence be liable to a penalty not exceeding £5.

Penalty for causing water to be corrupted by gas washings.  
38 & 39 Vic.  
c. 55. s. 68.

**139.** Any person engaged in the manufacture of gas who—

(1) Causes or suffers to be brought or to flow into any reservoir, aqueduct, pond or place for water, or into any drain or pipe communicating therewith, any washing or other substance produced in washing or supplying gas; or

(2) Wilfully does any act connected with the washing or supplying of gas whereby the water in such reservoir, aqueduct, pond or place for water is fouled,

shall forfeit for every such offence the sum of £200, and, after the expiration of twenty-four hours' notice in writing from the Commissioners or the party aggrieved, to a further sum of £20 for every day during which the offence is continued or during the continuance of the act whereby the water is fouled, and shall also pay compensation for the damage or injury done.



Every such penalty and compensation may be recovered, with full costs of suit, in the Supreme Court by the Commissioners or by the party aggrieved, or in default of proceedings by such person, after notice to him from the Commissioners of their intention to proceed for such penalty and compensation, by the Commissioners, but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it has ceased.

**140.** Every person who shall commit any of the offences next herein-after enumerated shall for every such offence be liable to a penalty not exceeding £5, and shall pay compensation for the damage thereby caused ; (that is to say)

Penalty for causing water to be fouled, &c.  
10 & 11 Vic.  
c. 17. s. 61.

Every person who shall bathe in any reservoir, aqueduct or other waterworks, or wash, throw, or cause to enter therein any dog or other animal ;

Every person who shall throw any rubbish, dirt, filth, or other noisome thing into any such reservoir, aqueduct or other waterworks as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal or any clothes or other thing ;

Every person who shall injure or destroy or attempt to injure or destroy any reservoir, aqueduct or other waterworks, or who shall permit any person to commit any such offence ;

Every person who shall cause the water of any sink, sewer or drain, steam engine, boiler, or other filthy water belonging to him or under his control, to run or be brought into any reservoir, aqueduct or other waterworks as aforesaid, or shall do any other act whereby the water therein shall be fouled.

And every such person shall be liable to a further penalty of 20 shillings for each day (if more than one) that such last mentioned offence shall be committed.

#### REGULATION OF CELLAR DWELLINGS, &C.

##### *Occupation of Cellar Dwellings.*

**141.** It shall not be lawful to let or occupy or suffer to be occupied separately as a dwelling any cellar (including for the purposes of this Ordinance in that expression any vault or underground room) the level of the floor whereof shall be in any part thereof two feet lower than the surface of the street or ground adjoining or nearest the same without the licence in writing of the Governor or of the Commissioners.

Cellars not to be let or occupied as dwellings without permission.  
38 & 39 Vic.  
c. 55. s. 71.

**142.** Such licence may be granted by the Governor for any period therein stated not exceeding at any one time six months when the occupation of any such cellar is temporarily necessary or advisable for military purposes.

Governor may licence for military purposes.

**143.** The Commissioners shall, before they give any such licence, cause such cellar to be examined by the Medical Officer of Health or Sanitary Inspector, and by their Surveyor, who shall personally examine the same, and certify to the Commissioners in writing their opinion whether the same is unfit for human habitation or not, and

Commissioners may licence on certain conditions.



whether or not the same is capable of being rendered fit for human habitation, and by what means or works at the smallest expense, a copy of which certificate the Commissioners shall immediately transmit to such owner; and if it shall be certified that the said cellar, is fit for human habitation, they shall at the same time transmit to such owner their licence that the same may be so let or occupied. And if at any time thereafter the owner of any cellar certified to be unfit for human habitation shall give notice to the Commissioners that he has executed all such works as may have been certified to be necessary to make it fit as aforesaid, the Commissioners shall cause the same to be again examined and certified in manner as aforesaid; and the Commissioners shall, immediately upon the receipt of such certificate, transmit a copy thereof to such owner as aforesaid, and shall transmit to him therewith, if the same cellar room shall be certified to be fit for human habitation, their licence accordingly, but if the same shall not then be certified to be fit for human habitation, the Commissioners shall not cause the same to be again examined for the same purpose, unless the owner thereof shall pay the Commissioners the sum of 4 shillings for such examination, 8 shillings for the next, and 12 shillings for every subsequent examination which they may be required thereafter to cause to be made.

For a limited period and subject to forfeiture.

**144.** Every licence granted by the Commissioners shall be granted and shall be valid until the 1st January then next, and shall be renewed from time to time upon request made by the owner of such cellar, until any order of prohibition shall be made under the provisions of this Ordinance, in which case such licence shall thenceforth be null and void, subject to such order and to the provisions hereof.

Penalty for letting, &c., cellars contrary to the provisions of this Ordinance.  
38 & 39 Vic. c. 55, s. 73.  
Definition of occupying as a dwelling.  
Do. do. s. 74.

**145.** Any person who lets, occupies or knowingly suffers to be occupied for hire or rent any cellar contrary to the provisions of this Ordinance shall be liable for every such offence to a penalty not exceeding £2 and to a daily penalty not exceeding the like amount.

**146.** Any cellar in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this Ordinance.

Power to close cellars in case of two convictions.  
Do. do. s. 75.

**147.** Where two convictions against the provisions of this Ordinance relating to the occupation of a cellar as a separate dwelling place have taken place within three months (whether the person so convicted were or were not the same) a Court of Summary Jurisdiction may direct the closing of the premises so occupied for such time as it may deem necessary, or may empower the Commissioners permanently to close the same, and to defray any expenses incurred by them in the execution of this section.

#### *Common Lodging-houses.*

Register of common lodging-houses to be kept.  
Do. do. s. 76.

**148.** The Commissioners shall keep a register in which shall be entered the names and residences of the keepers of all common lodging-houses in Gibraltar, and the situation of every such house, and the number of lodgers authorised under this Ordinance to be received therein.



A copy of any entry in such register, certified by the Secretary of the Commissioners to be a true copy, shall be received in all Courts and on all occasions as evidence, and shall be sufficient proof of the matter registered, without production of the register or of any document or thing on which the entry is founded; and a certified copy of any such entry shall be supplied gratis by the Commissioners to any person applying at a reasonable time for the same.

**149.** (1) The Commissioners shall keep a register for the purposes of this section, and shall enter therein the name of any person whose name is submitted to them by a common lodging house keeper as his deputy, and who is approved by them for the purpose.

(2) The Commissioners may register more than one deputy for any common lodging house keeper.

(3) The Commissioners, if at any time they are of opinion that any person registered as a deputy of a common lodging house keeper is not a fit person for the purpose, may cancel the registration.

**150.** A person shall not keep a common lodging-house or receive a lodger therein unless the house is registered in accordance with the provisions of this Ordinance; nor unless his name as the keeper thereof is entered in the register kept under this Ordinance: Provided that when the person so registered dies, his widow or any member of his family may keep the house as a common lodging-house for not more than four weeks after his death without being registered as the keeper thereof.

**151.** A house shall not be registered as a common lodging-house until it has been inspected and approved for the purpose by the Medical Officer of Health.

**152.** (1) The Commissioners may at their discretion refuse to register any person as a common lodging-house keeper unless they are satisfied of his character and of his fitness for the position.

(2) The registration of a person as a common lodging-house keeper shall, if that person is newly registered after the 5th day of August, 1913, remain in force only for such time not exceeding one year as may be fixed by the Commissioners, but may be renewed from time to time by them.

**153.** (1) Either the keeper of a common lodging-house or a deputy registered under this Ordinance shall manage and control the lodging-house and exercise supervision over those using it, and either the keeper or the deputy so registered shall be and remain at the lodging-house between the hours of nine in the evening and six in the morning of the following day.

(2) If any provision of this section is not complied with in the case of any common lodging-house the keeper of the house shall, unless he shows to the Court that there was a reasonable excuse for the non-compliance, be liable in respect of each offence to a penalty not exceeding 40 shillings and to a daily penalty not exceeding 20 shillings.

Deputy lodging-house keepers.  
7 Edw. 7. c.  
53. s. 71.

Registration of deputy.

Cancellation of registration.

All common lodging-houses to be registered, and to be kept only by registered keepers.  
38 & 39 Vic. c.  
55. s. 77.

Commissioners may refuse to register houses.  
Do. do. s. 78.

Discretion as to registration of lodging-house keeper.  
7 Edw. 7. c.  
53. s. 69.  
Annual registration.

Obligation to provide for proper control of house.  
Do. do. s. 70.



Notice of  
registration to  
be affixed to  
houses.  
38 & 39 Vic. c.  
55. s. 79.

**154.** The keeper of every common lodging-house shall, if required in writing by the Commissioners so to do, affix and keep undefaced and legible a notice with the words "Registered Common Lodging-house" in some conspicuous place on the outside of such house.

The keeper of any such house who, after requisition in writing from the Commissioners, refuses or neglects to affix or renew such notice, shall be liable to a penalty not exceeding £5, and to a daily penalty of 10 shillings.

Bye-laws as to  
common  
lodging-houses.  
Do. do. s. 80.

**155.** The Commissioners may make bye-laws—

(1) For fixing and from time to time varying the number of lodgers who may be received into a common lodging-house, and for the separation of the sexes therein.

(2) For furnishing to the Commissioners from time to time Schedules signed by the keeper thereof, containing the names of every inmate, distinguishing whether native, alien or otherwise.

(3) For promoting cleanliness and ventilation in such houses.

(4) For the giving of notices and the taking of precautions in the case of any infectious disease.

(5) Generally for the well ordering of such houses.

Power to  
Commissioners  
to require  
supply of water  
to houses.  
Do. do. s. 81.

**156.** Where it appears to the Commissioners that a common lodging-house is without a proper supply of water for the use of the lodgers, the Commissioners may by notice in writing require the owner or keeper of such house, within a time specified therein, to obtain such supply, and to do all works necessary for that purpose; and if the notice be not complied with accordingly, the Commissioners may remove such house from the register until it is complied with.

Provision of  
proper sanitary  
conveniences  
in a common  
lodging-house.  
7 Edw. 7. c.  
53. s. 74.

**157.** (1) Every common lodging house, whether registered before or after the coming into operation of this Ordinance shall be provided:

(a) With sufficient and suitable sanitary conveniences, having regard to the number of persons who may be received in that house, and also, where persons of both sexes are received in the common lodging house, with proper separate accommodation for persons of each sex; and,

(b) with a water supply laid on sufficient for flushing any water closets or urinals which are used in the house.

Notice to keeper.

(2) If it appears to the Commissioners that, in the case of any common lodging house, default is made in any respect in complying with the provisions of this section, the Commissioners may, by notice in writing specifying the default, require the keeper of the common lodging house to remedy the default.

Commissioners  
may do the work  
in default.

(3) If within twenty-eight days of the notice being served the default is not remedied to the satisfaction of the Commissioners, they may themselves do the work required to be done, and may recover in a summary manner or under section 496 of this Ordinance from the keeper of the common lodging house the expenses incurred by them in so doing.



**158.** The keeper of a common lodging-house shall, to the satisfaction of the Commissioners, limewash the walls and ceilings thereof in the first week of each of the months of April and October in every year, and shall if he fails to do so be liable to a penalty not exceeding 40 shillings.

Limewashing  
of houses.  
38 & 39 Vic.  
c. 55, s. 82.

**159.** The keeper of a common lodging-house shall, when a person in such house is ill of fever or any infectious disease, give immediate notice thereof to the Medical Officer of Health.

Keepers to give  
notice of  
fever, &c.,  
therein.

Do. do. s. 84.

**160.** The keeper of a common lodging-house, and every other person having or acting in the care or management thereof, shall, at all times when required by any officer of the Commissioners, give him free access to such house or any part thereof; and any such keeper or person who refuses such access shall be liable to a penalty not exceeding £5.

As to inspection.  
Do. do. s. 85.

**161.** Any keeper of a common lodging-house who—

Offences by  
keepers of  
houses.

Do. do. s. 86.

(1) Receives any lodger in such house without the same being registered under this Ordinance; or

(2) Fails to make a report, after he has been furnished by the Commissioners with Schedules for the purpose in pursuance of this Ordinance, of the persons resorting to such house; or

(3) Fails to give the notices required by this Ordinance where any person has been ill in such house of fever or any infectious disease,

shall be liable to a penalty not exceeding £5, and in the case of a continuing offence to a further penalty not exceeding 40 shillings for every day during which the offence continues.

**162.** In any proceedings under this Ordinance relating to common lodging-houses, if the inmates of any house or part of a house allege that they are members of the same family, the burden of proving such allegation shall lie on the persons making it.

Evidence as to  
family in  
proceedings

Do. do. s. 87.

**163.** Where the keeper of a common lodging-house is convicted of any offence against any provision of this Ordinance relating to common lodging-houses, or of any bye-law made thereunder, the Court before whom he is convicted may cancel his registration as a common lodging-house keeper and he shall cease to be registered accordingly.

Court convicting  
may cancel  
registration.  
7 Edw. 7. c. 53.  
s. 72.

**164.** If a person keeps a common lodging-house, he shall, although he is not registered as a common lodging-house keeper under Section 150 of this Ordinance, be liable to the penalties imposed under Section 161 for the offences named therein.

Penalty for  
unregistered  
person keeping  
lodging-house,  
the same.

Do. do. s. 73.

**165.** For the purposes of this Ordinance the expression "common lodging-house" includes, in any case in which only part of a house is used as a common lodging-house, the part so used of such house.

Interpretation  
of "common  
lodging-house."  
38 & 39 Vic.  
c. 55, s. 89.



*Houses let in Lodgings and in separate tenements.*

Bye-laws for  
houses let in  
lodgings, &c.  
38 & 39 Vic.  
c. 55. s. 90.

**166.** The Commissioners may make bye-laws—

- (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.

*Nuisances.*

Definition of  
nuisances.

Do. do. s. 91.  
7 Edw. 7. c. 53.  
s. 35.

**167.** For the purposes of this Ordinance—

- (1) Any premises in such a state as to be a nuisance or injurious to health.
- (2) Any house or room in such a state as to be unfit for human habitation, and nevertheless used for that purpose.
- (3) Any pool, ditch, gutter, watercourse, drain or sanitary convenience so foul or in such a state as to be a nuisance or injurious to health.
- (4) Any animal so kept as to be a nuisance or injurious to health.
- (5) Any accumulation or deposit which is a nuisance or injurious to health.
- (6) Any house or part of a house so overcrowded or insufficiently ventilated as to be dangerous or injurious to the health of the inmates, whether or not members of the same family.
- (7) Any factory, bakehouse, workshop, or workplace not kept in a cleanly state, or not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust or other impurities generated in the course of the work carried on therein that are a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein.
- (8) Any house not sufficiently supplied with fresh water, regard being had in every case to the nature thereof, the number of persons usually occupying, inhabiting, or using the same, and the means of supply thereto.
- (9) Any house or erection, and any fixture, matter or thing affixed to or placed in or upon any house or erection, in such a state as to be dangerous to any person within, or passing or being near to, such house or erection.



(10) Any tank, cistern or reservoir for water, whether public or private, used for domestic purposes, the water wherein shall be a nuisance, or the use whereof for domestic purposes would be injurious to health.

(11) Any collecting area, filter, gutter, or pipe, whether public or private, for the collecting, purifying, or conveying water for domestic purposes, which shall be in such a state or condition that the water collected thereby, or passing over or through the same, would be a nuisance, or the use whereof for domestic purposes would be injurious to health.

(12) 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

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

(14) Any cistern used for the supply of water for domestic purposes, and any well, pool, channel, barrel, bucket, tub, or other vessel used for the storage of water, so placed, constructed, or kept as to allow the breeding of insects therein, or render the water therein liable to contamination, causing or likely to cause risk to health.

(15) Any gutter, drain, shoot, stack pipe, or downspout of a building which by reason of its insufficiency or its defective condition shall cause damp in any such building or in an adjoining building.

(16) Any deposit of material in or on any building or land which shall cause damp in such building or in an adjoining building so as to be dangerous or injurious to health,

shall be deemed to be nuisances liable to be dealt with summarily in manner provided by this Ordinance: Provided—

First.—That a penalty shall not be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on any business or manufacture if it be proved to the satisfaction of the Court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best available means have been taken for preventing injury thereby to the public health.

Secondly.—That where a person is summoned before any Court in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used in such fireplace or furnace, the Court shall hold that no nuisance is created within the meaning of this Ordinance, and dismiss the complaint, if it is satisfied that such fireplace or furnace is constructed in such manner as to consume as far as practicable, having regard to the nature of the manufacture or trade, all smoke arising therefrom, and that such fireplace or furnace has been carefully attended to by the person having the charge thereof.



Tents, vans, &c.,  
used for human  
habitation.  
48 & 49 Vic.  
c. 72. s. 9.

**168.** (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 to health, or which is so overcrowded as to be injurious to the health of the inmates whether or not of the same family, shall be deemed to be a nuisance within the meaning of this Ordinance, and the provisions herein contained shall apply accordingly.

Bye-laws.

(2) The Commissioners 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 authorised by the Commissioners or by a Justice has reasonable cause to suppose either that there is any contravention of the provisions of this Ordinance or any bye-law made under this Ordinance in any tent, van, shed, or similar structure used for human habitation, or that there is in any such tent, van, shed, or structure any person suffering from infectious disease, he may, on producing (if demanded) either a copy of his authorisation purporting to be certified by the Secretary of the Commissioners or some other sufficient evidence of his being authorised as aforesaid, enter by day such tent, van, shed, or structure, and examine the same and every part thereof in order to ascertain whether in such tent, van, shed, or structure there is any contravention of any such bye-law or a person suffering from infectious disease.

(4) For the purposes of this section "day" means the period between six o'clock in the morning and the succeeding nine o'clock in the evening.

Duty of  
Commissioners  
to inspect for  
detection of  
nuisances.  
38 & 39 Vic.  
c. 55. s. 92.

**169.** It shall be the duty of the Commissioners to cause to be made from time to time inspection with a view to ascertain what nuisances exist calling for abatement under the powers of this Ordinance, and to enforce the provisions of this Ordinance in order to abate the same.

Information of  
nuisances to the  
Commissioners.  
Do. do. s. 93.

**170.** Information of any nuisance under this Ordinance may be given to the Commissioners by any person aggrieved thereby, or by any two inhabitant householders, or by any officer of the Commissioners, or by any constable, or by any qualified medical practitioner.

A Justice  
may authorise  
Commissioners  
to enter premises  
to ascertain  
number of  
occupants.

**171.** Whenever a Sanitary Inspector shall report in writing to the Commissioners that there are good reasons for believing that any premises or any part thereof are overcrowded at night by tenants or occupiers thereof, to such an extent as to render such premises a nuisance within the meaning of this Ordinance, or likely to become such, any Justice on complaint thereof on oath by any officer of the Commissioners, may, by warrant under his hand and seal, authorise the Commissioners, their officers and servants, to enter any such premises or any part thereof, at any time mentioned in such warrant, and, if necessary, to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise, and then and there to inspect such premises, or any part thereof, for the purpose of ascertaining the number of occupants therein, and whether any nuisance exists or is likely to arise from overcrowding thereof.



**172.** On the receipt of any information respecting the existence of a nuisance the Commissioners 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 cannot be found, on the owner or occupier of the premises on which the nuisance arises, requiring him to abate the same within a time to be specified in the notice, and to execute such works and do such things as may be necessary for that purpose: Provided—

First.—That where the nuisance arises from the want or defective construction of any structural convenience, or where there is no occupier of the premises, notice under this section shall be served on the owner.

Secondly.—That where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act, default or sufferance of the owner or occupier of the premises, the Commissioners may themselves abate the same without further order.

**173.** If the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the notice is, in the opinion of the Commissioners, likely to recur on the same premises, the Commissioners shall cause a complaint relating to such nuisance to be made before a Justice, and such Justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before a Court of Summary Jurisdiction.

**174.** If a Court of Summary Jurisdiction is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, the Court shall make an order on such person requiring him to comply with all or any of the requisitions of the notice, or otherwise to abate the nuisance within a time specified in the order, and to do any works necessary for that purpose; or an order prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence; or an order both requiring abatement and prohibiting the recurrence of the nuisance.

The Court may by their order impose a penalty not exceeding £5 on the person on whom the order is made, and shall also give directions as to the payment of all costs incurred up to the time of the hearing or making the order for abatement or prohibition of the nuisance.

**175.** Where the nuisance proved to exist is such as to render a house or building, in the judgment of a Court of Summary Jurisdiction, unfit for human habitation, the Court may prohibit the using thereof for that purpose until, in its judgment, the house or building is rendered fit for that purpose; and on the Court being satisfied that it has been rendered fit for that purpose the Court may determine its previous order by another, declaring the house or building habitable, and from the date thereof such house or building may be let or inhabited.

**176.** Any person not obeying an order to comply with the requisitions of the Commissioners or otherwise to abate the nuisance, shall, if he fails to satisfy the Court that he has used all due diligence to carry out

Commissioners to serve notice requiring abatement of nuisance.  
38 & 39 Vic. c. 55. s. 94.

On non-compliance with notice complaint to be made to Justice.  
Do. do. s. 95.

Power of Court of Summary Jurisdiction to make order dealing with nuisance.  
Do. do. s. 96.

Order of prohibition in case of house unfit for human habitation.  
Do. do. s. 97.

Penalty for contravention of order of Court.  
Do. do. s. 98.



such order, be liable to a penalty not exceeding £5 per day during his default; and any person knowingly and wilfully acting contrary to an order of prohibition shall be liable to a penalty not exceeding 10 shillings per day during such contrary action; moreover, the Commissioners may enter the premises to which any order relates and abate the nuisance, and do whatever may be necessary in execution of such order, and recover in a summary manner the expenses incurred by them from the person on whom the order is made.

Owner required to abate nuisance may obtain order for admission to premises.

**177.** Whenever a Court of Summary Jurisdiction shall have adjudged any person to be the owner of any premises, and shall have made any such order as hereinbefore described relating to the sanitary requirements or conditions thereof, and such owner shall not be in the actual occupation of the premises, and shall be hindered or prevented by any person having notice of the said order of Justices from entering the premises for the purpose of obeying the said order and of executing the works ordered, he may complain to any Justice and such Justice shall thereupon summon the party charged to appear before a Court of Summary Jurisdiction, and if such complaint be proved the Court shall order the defendant to permit such owner and his servants and workmen from time to time, until the expiration of the time limited for the execution of such works, at all reasonable hours of the day, to enter and to remain on the premises for the purpose of enabling him and them to obey the said first-mentioned order of the Court: and the said Court by its said order may, if it shall think fit, order the person upon whom the same may be made to pay to such owner the costs of the complaint, and may issue its warrant for the recovery thereof in the usual manner by sale and distress.

Works to be executed under direction of Surveyor.

**178.** Whenever it shall appear to the Commissioners that the execution of structural works is required for the purpose of abating or preventing the recurrence of a nuisance they may direct such works to be carried out under the direction of their Surveyor or other officer appointed by them for that purpose, but in the case of works in premises used or occupied by His Majesty's naval or military forces, or by any person by permission of the Governor, or in premises under the immediate control of the Governor forming part of the defences of Gibraltar, such works shall be carried out under the direction and subject to the approval of the Governor, unless within fifteen days notice of appeal is given as provided in this Ordinance.

Appeal against order.  
38 & 39 Vic.  
c. 55. s. 99.

**179.** Where any person appeals to the Supreme Court no liability to penalty shall arise, nor shall any proceedings be taken or work be done under such order, until after the determination of such appeal, unless such appeal ceases to be prosecuted.

In certain cases order may be made *ex parte* and be addressed to the Commissioners.  
Do. do. s. 100.

**180.** Whenever it appears to the satisfaction of a Court of Summary Jurisdiction that the person by whose act or default the nuisance arises, or the owner or occupier of the premises is not known or cannot be found, then the order of the Court may be made *ex parte* and be addressed to and executed by the Commissioners, and the expenses relating thereto shall in the first instance be defrayed by them out of the general sanitary purposes rates.



**181.** Any matter or thing removed by the Commissioners in abating any nuisance under this Ordinance may be sold by public auction; and the money arising from the sale may be retained by the Commissioners, and applied in payment of the expenses incurred by them with reference to such nuisance, and the surplus (if any) shall be paid, on demand, to the owner of such matter or thing.

Power to sell  
matter or thing  
removed.  
38 & 39 Vic.  
c. 55. s. 191.

**182.** The Commissioners, or any of their officers, shall be admitted into any premises for the purpose of examining as to the existence of any nuisance thereon, or to ascertain the course of a drain or to ascertain if any other works are for sanitary reasons necessary, or for enforcing the provisions of any enactment in force requiring fireplaces and furnaces to consume their own smoke, at any hour between the hours of nine in the forenoon and six in the afternoon, or in the case of a nuisance arising in respect of any business, then at any hour when such business is in progress or is usually carried on.

Power of  
entry of the  
Commissioners.  
Do. do. s. 102.

Where under this Ordinance a nuisance has been ascertained to exist, or an order of abatement or prohibition has been made, the Commissioners or any of their officers shall be admitted from time to time into the premises between the hours aforesaid, until the nuisance is abated, or the works ordered to be done are completed, as the case may be.

Where an order of abatement or prohibition has not been complied with, or has been infringed, the Commissioners or any of their officers, shall be admitted from time to time at all reasonable hours, or at all hours during which business is in progress or is usually carried on, into the premises where the nuisance exists, in order to abate the same.

If admission to premises for any of the purposes of this section is refused, any Justice on complaint thereof on oath by any officer of the Commissioners (made after reasonable notice in writing of the intention to make the same has been given to the person having custody of the premises), may, by order under his hand, require the person having custody of the premises to admit the Commissioners, or their officers, into the premises during the hours aforesaid, and if no person having custody of the premises can be found, the Justice shall, on oath made before him of that fact, by order under his hand authorise the Commissioners or any of their officers to enter such premises during the hours aforesaid.

Any order made by a Justice for the admission of the Commissioners or any of their officers on premises shall continue in force until the nuisance has been abated, or the work for which the entry was necessary has been done.

**183.** Any person who refuses to obey an order of a Justice for admission of the Commissioners or any of their officers on any premises shall be liable to a penalty not exceeding £5.

Penalty for  
disobedience  
of order.  
Do. do. s. 103.

**184.** All reasonable expenses incurred in making a complaint, or giving notice, or in obtaining any order of a Court of Summary Jurisdiction in relation to a nuisance under this Ordinance, or in carrying the same into effect, shall be deemed to be money paid for the use and at the request of the person on whom the order is made; or if the

Expenses of  
execution of  
provisions  
relating to  
nuisances.  
Do. do. s. 104.



order is made on the Commissioners, or if no order is made, but the nuisance is proved to have existed when the complaint was made or the notice given, then of the person by whose act or default the nuisance was caused; and in case of nuisances caused by the act or default of the owner of premises, such expenses may be recovered from any person who is for the time being owner of such premises and the said premises shall be and continue to be chargeable and charged with such expenses and also with the amount of any penalties incurred under this Ordinance by reason of such act or default.

Such expenses, and any penalties incurred in relation to any such nuisance, may be recovered in a summary manner or in the Supreme Court.

Any expenses recoverable under this section by the Commissioners from an owner of premises may be recovered from the occupier for the time being of such premises, and the owner shall allow such occupier to deduct any moneys which he pays under this enactment out of the rent from time to time becoming due in respect of the said premises, as if the same had been actually paid to such owners as part of such rent:

Provided also, that nothing herein contained shall affect any contract between any owner and occupier of any premises whereby it is or may be agreed that the occupier shall pay or discharge all rates, dues and sums of money payable in respect of such premises, or to affect any contract whatsoever between landlord and tenant.

Expenses when declared to be a first charge on premises of owners.

**185.** If any order of Justices shall have been made for the payment of such expenses or other money therein specified, and the same shall remain unpaid for ten days after the date of such order, or in case no such order shall have been made on such owner by reason that he cannot be found in Gibraltar, in every such case the Commissioners may apply to the Supreme Court, in manner hereafter provided, for an order that the amount of such expenses shall be a first charge on the premises of such owner in or upon which such nuisance shall exist or have existed.

Where new local works necessary to abate nuisance.

**186.** Whenever any gutter, drain, watercourse, or ditch used for the conveyance of any water, filth, sewage, or other matter from any house or premises is a nuisance within the meaning of this Ordinance, and whenever the abatement of such nuisance cannot in the opinion of the Commissioners be effected without immediately laying down a local sewer or other structure from the same to communicate with any of the sewers, the Commissioners shall cause an estimate to be prepared of the cost of such sewer or other structure, and shall give notice in the *Official Gazette* that they will on a certain day named in such notice, being not less than seven nor more than twenty-one days after the date thereof, apply to a Court of Summary Jurisdiction for an order to lay down such sewer or other structure, and for that purpose to enter upon all necessary public and private lands, and do all necessary acts there, and shall in the interval before such day republish such notice, once at the least, in the *Official Gazette*, and keep such estimate for public inspection between the hours of 11 a.m. and 3 p.m., and shall on the day named in such notice, or so soon after as a sitting can be held, apply to the Court for such an order.



**187.** The Court shall fully examine and consider the necessity and expediency of making such order, and all the objections, if any, which may be alleged against it, and may for that purpose hear the Commissioners, and all persons objecting thereto, and examine witnesses upon oath, and if it shall be proved to the satisfaction of the Court that it is necessary and expedient to make such order immediately it shall make the same.

Court may make an order.

**188.** The Governor shall, if he approve of such order, and within one month after the making thereof, countersign the same as approved, and the Commissioners shall thereupon lay down the sewer or other structure therein described, and keep the same in good and serviceable repair, for which purposes the Commissioners may enter upon any public or private lands, and do all such acts therein as may be necessary, and paying compensation for all damage which they may do.

Subject to confirmation by Governor.

**189.** If the Commissioners shall do any damage or injury in laying down such sewer or structure, or keeping the same in repair, any Justice shall, upon the application of the party aggrieved, issue a summons requiring the Commissioners to appear before a Court of Summary Jurisdiction; and upon proof of any such damage or injury, the Court shall order the Commissioners to pay such sum of money by way of compensation as it may think reasonable and just, together with all the costs of such application and order, but if it appear to the Court that the application is frivolous or unfounded it may order payment to be made by the complainant to the Commissioners of the expenses occasioned by the said complaint.

And order compensation for damage occasioned by Commissioners.

**190.** The Commissioners shall, for the purpose of defraying the cost of and relating to any such estimate, notice, and order of the Court, and laying down any such local sewer or other structure, rate and assess to the payment of the amount thereof every person liable to be rated and assessed to the general sanitary purposes rate under this Ordinance in respect of any premises for the conveyance of water, filth, sewage, or other matter for which the said gutter, drain, watercourse, or ditch shall have been used, and every such payment may be either immediate, or by quarterly, half-yearly or annual instalments, or may be distributed over a term of years not exceeding four years, as they shall adjudge to be just and reasonable.

Local rate and assessment for construction of local works authorised.

**191.** Every local rate and assessment shall be made and assessed in the same manner as a general sanitary purposes rate, and unless such local rate and assessment shall be so made and assessed, the same shall be of no force or effect.

Such local rate to be made and assessed in same manner as general sanitary purposes rates.

**192.** The Commissioners may, after fourteen days notice left on the premises, levy and collect the amount so assessed in the same manner and with the same remedies in case of default of payment thereof, and with the same right of appeal in the matter of such assessment reserved to the persons assessed as in the case of any general sanitary purposes rate.

Amount assessed how levied and collected.

**193.** The expenses of maintaining and repairing, and otherwise relating to every such gutter, drain, watercourse, ditch, sewer, or other structure after the completion thereof shall be defrayed out of the general sanitary purposes rates.

Expenses of maintaining local drains.



Power of individual to complain to Justice of nuisance.  
38 & 39 Vic.  
c. 55. s. 105.

**194.** Whenever the Commissioners having received notice of any nuisance shall not within six days thereafter have caused complaint to be made before a Justice, complaint may be made to a Justice by any person aggrieved thereby, or by any inhabitant, or by any owner of premises in Gibraltar, and thereupon the like proceedings shall be had with the like incidents and consequences as to making of orders, penalties for disobedience of orders, appeal and otherwise, as in the case of a complaint relating to a nuisance made to a Justice by the Commissioners:

Provided that the Court may, if it thinks fit, adjourn the hearing or further hearing of the summons for an examination of the premises where the nuisance is alleged to exist, and may authorise the entry into such premises of any constable or other person for the purposes of such examination:

Provided also, that the Court may authorise any constable or other person to do all necessary acts for executing an order made under this section, and to recover the expenses from the person on whom the order is made in a summary manner:

Any constable or other person authorised under this section shall have the like powers and be subject to the same restrictions as if he were an officer of the Commissioners authorised under the provisions of this Ordinance relating to nuisances to enter any premises and do any acts thereon.

Commissioners may take proceedings in the Supreme Court for abatement of nuisances.  
Do. do. s. 107.

**195.** The Commissioners may, if in their opinion proceedings before a Court of Summary Jurisdiction would afford an inadequate remedy, cause any proceedings to be taken against any person in the Supreme Court to enforce the abatement or prohibition of any nuisance under this Ordinance, or for the recovery of any penalties from or for the punishment of any persons offending against the provisions of this Ordinance relating to nuisances, and may order the expenses of and incident to all such proceedings to be paid out of the general sanitary purposes rates.

Provision in case of two convictions for overcrowding.  
Do. do. s. 109.

**196.** Where two convictions relating to the overcrowding of a house have taken place within a period of three months (whether the persons convicted were or were not the same) a Court of Summary Jurisdiction may on the application of the Commissioners direct the closing of the house for such period as the Court may deem necessary.

Provision of Ordinance relating to nuisances not to affect other remedies.  
Do. do. s. 111.

**197.** The provisions of this Ordinance relating to nuisances shall be deemed to be in addition to and not to abridge or affect any right, remedy or proceeding under any other provisions of this Ordinance or under any other enactment, or at law or in equity:

Provided that no person shall be punished for the same offence both under the provisions of this Ordinance relating to nuisances and under any other law or enactment.

#### *Offensive Trades.*

Restriction on establishment of offensive trade in Gibraltar.

**198.** Any person who carries on in Gibraltar without the consent in writing of the Commissioners any offensive trade; that is to say, the trade of—



Blood boiler, or  
Bone boiler, or  
Fellmonger, or  
Soap boiler, or  
Tallow melter, or  
Tripe boiler, or

any other trade, business, or manufacture, which the Commissioners declare by order approved by the Governor, and published in the *Official Gazette*, to be an offensive trade,

shall be liable to a penalty not exceeding forty shillings for every day on which the offence is continued.

38 & 39 Vic.  
c. 55, s. 112.  
7 Edw. 7, c. 53.  
s. 51.

**199.** Where any candle-house, melting-house or soap-house, or any slaughter-house, or any building or place for boiling offal or blood, or for boiling, burning or crushing bones, or for salting or otherwise curing fish, or any bakehouse or any manufactory, building or place used for any trade, business, process or manufacture causing effluvia, is certified to the Commissioners by the Medical Officer of Health to be a nuisance or injurious to the health of the inhabitants of the neighbourhood, the Commissioners shall direct complaint to be made before a Justice, who may summon the person by or on whose behalf the trade so complained of is carried on to appear before a Court of Summary Jurisdiction.

Duty of  
Commissioners  
to complain to  
Justice of nuisance  
arising from  
offensive trade.  
Do. do. s. 114.

The Court shall inquire into the complaint, and if it appears to the Court that the business carried on by the person complained of is a nuisance, or causes any effluvia which is a nuisance or injurious to the health of any of the inhabitants of the neighbourhood, and unless it be shown that such person has used the best practicable means for abating such nuisance, or preventing or counteracting such effluvia, the person so offending (being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier) shall be liable to a penalty not exceeding £5 nor less than £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 to be practicable and order to be carried into effect for abating such nuisance, or mitigating or preventing the injurious effects of such effluvia, or if such person gives notice of appeal to the Supreme Court.

The Commissioners may, if they think fit, on such certificate as is in this section mentioned, cause to be taken any proceedings in the Supreme Court against any person in respect of the matters alleged in such certificate.

**200.** The Commissioners may make bye-laws—

(1) With respect to any offensive trades carried on with their consent in order to prevent or diminish the noxious or injurious effects thereof.

(2) For the inspection and regulation on sanitary grounds of laundries, bakehouses, factories, workshops, or workplaces.

(3) For fixing or limiting the hours within which it shall be lawful to employ persons under the age of fourteen years therein.

(4) Authorising measures to be taken for the prevention of danger arising to public health from the importation, preparation,

Bye-laws as to  
offensive trades,  
laundries, food,  
and other matters.  
1 Edw. 7, c. 22.  
s.s. 97-103.  
7 Edw. 7, c. 32.  
s. 1.



storage, and distribution of articles of food or drink, including ice-creams, (other than drugs or water), intended for human consumption. Without prejudice to the generality of powers so conferred, these bye-laws may,

- (a) provide for the examination and taking of samples of any such articles ;
- (b) apply, as respects any matters to be dealt with by the bye-laws, any provision in any enactment in force in Gibraltar dealing with the like matters, with the necessary modifications and adaptations, and as regards ice-creams the provisions of Section 205 of this Ordinance relating to milk, shall be applicable ;
- (c) provide for the recovery of any charges authorised to be made by the bye-laws for the purposes of the bye-laws or any services performed thereunder.

For the purposes of bye-laws made under this section articles commonly used for the food or drink of man shall be deemed to be intended for sale for human consumption unless the contrary is proved.

*Unsound Meat, &c., Food and Drugs.*

Power of  
Commissioners to  
inspect meat, &c.  
38 & 39 Vic.  
c. 55. s. 116.  
53 & 54 Vic.  
c. 59. s. 28.

**201.** The Medical Officer of Health or the Sanitary Inspector may at all reasonable times

(1) inspect and examine any animal in the course of or on its way to slaughtering, dressing, or preparing for sale or for food, or landed from any ship or vessel, or otherwise brought into Gibraltar for food, and all articles, whether solid or liquid, intended for the food of man sold or exposed or being conveyed for sale, or deposited in any place for the purpose of sale, or of preparation for sale ; and

(2) enter any premises and inspect any such animal or article ; the proof that the same was not exposed or being conveyed or deposited for any such purpose, or was not intended for the food of man, resting with the party charged, and if any such animal or article appears to the Medical Officer of Health or the Sanitary Inspector to be diseased or unsound or unwholesome or unfit for the food of man, he may seize and carry away the same, himself or by an assistant, in order to have the same dealt with by a Justice.

Power of  
Justice to order  
destruction of  
unsound meat, &c.  
38 & 39 Vic.  
c. 55. s. 117.  
53 & 54 Vic.  
c. 59. s. 28 (2).

**202.** (1) If it appears to the Justice that any such animal or article which has been seized or is liable to be seized under the preceding 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 to a penalty not exceeding £20 for every animal, carcase, or article or for the parcel of fruit, vegetables, corn, bread or flour, or for the milk so condemned, or, at the discretion of the Court, without the infliction of a fine, to imprisonment for a term not exceeding three months.



(2) Where it is shown that any article liable to be seized under the preceding 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 that section, the person who so sold the same shall be liable to the penalty 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.

Liability of  
previous vendor.

(3) Where a person convicted of an offence under the preceding section has been within twelve months previously convicted of an offence under that section, the Court may, if it thinks fit, and finds that he knowingly and 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 penalty not exceeding £5.

Notice of facts  
to be affixed  
to premises.

(4) 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.

Justice may  
adjudicate  
after having  
condemned  
article.

**203.** 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 Commissioners, specifying the article and containing a sufficient identification of it, request its removal; and the Commissioners shall cause it to be removed, as if it were trade refuse.

Power to require  
Commissioners  
to remove  
unsound food.

**204.** On complaint made on oath by the Medical Officer of Health or by a Sanitary Inspector or other officer of the Commissioners any Justice may grant a warrant to any such officer to enter any building or part of a building in which such officer has reason for believing that there is kept or concealed any animal or article, whether solid or liquid, which is intended for sale for the food of man, and is diseased, unsound or unwholesome, or unfit for the food of man; and to search for, seize and carry away any such animal or other article in order to have the same dealt with by a Justice under the provisions of this Ordinance.

Search warrant  
may be granted  
by a Justice.  
38 & 39 Vic.  
c. 55. s. 119.

Any person who obstructs any such officer in the performance of his duty under such warrant shall, in addition to any other punishment to which he may be subject, be liable to a penalty not exceeding £20.

**205.** The Commissioners may make bye-laws—

(1) For regulating and controlling the introduction into Gibraltar, or the supply or sale in Gibraltar of milk.

Bye-laws as to  
cattle, milk, &c.  
41 & 42 Vic.  
c. 74. s. 34.  
49 & 50 Vic.  
c. 32. s. 9.

(2) For the inspection of cattle or goats in dairies.

(3) For prescribing and regulating the lighting, ventilation, cleansing, drainage, and water supply of dairies in the occupation of persons following the trade of dairymen.

(4) For securing the cleanliness of milk-stores, milk-shops, and of milk-vessels used for containing milk for sale by such persons.

(5) For prescribing precautions to be taken by dairymen and persons selling milk by retail against infection or contamination.



(6) For the limiting of the number of cows and goats kept in any shed or building by all persons carrying on the trade of dairyman.

(7) For prescribing and regulating the seizure, detention, isolation, destruction, burial, or disposal of cattle or animals kept in dairies or any other place or premises, which may be diseased or suspected of being diseased, and the carcasses thereof, and generally for the purpose of in any manner preventing the spread of disease amongst animals in dairies or elsewhere.

(8) For prescribing and regulating the notice to be given to or by any person in case of any particular disease or illness of cattle or animals kept in dairies or elsewhere, and the form and mode of service and delivery of such notices.

(9) For the registration with the Commissioners of dairies and dairymen, including the inspection and taking copies of, and making extracts from, the registers, and the fees to be charged in respect of any such matters.

(10) For the inspection and examination of dairies.

(11) For prescribing and regulating the floor space, air space, and construction of floors of dairies.

(12) For prescribing and regulating the introduction of cows and goats into Gibraltar.

(13) As to the form of orders to be made by the Commissioners and the Medical Officer of Health under the bye-laws made under this section.

53 & 54 Vic.  
c. 34. s. 2.

For the purposes of this section, unless the context otherwise requires, the expression "dairy" shall include any farm, farmhouse, cowshed, goatshed, milk-store, milk-shop, or other place from which milk is supplied, or in which milk is kept for purposes of sale, and the expression "dairyman" shall include any cowkeeper, goatkeeper, purveyor of milk, or occupier of a dairy.

Certificate of  
Medical Officer  
of Health as to  
disease to be final.

**206.** The certificate of the Medical Officer of Health that any animal kept in a dairy or elsewhere is diseased, or suspected, or has the appearance of being diseased, shall be accepted as good, valid, and effectual, to all intents and purposes in any proceedings under this Ordinance.

Power of entry by  
Commissioners and  
their Officers.

**207.** The Commissioners and their officers shall, for the purpose of enforcing the bye-laws made under Section 205 of this Ordinance, have the same right to be admitted to any premises as the Commissioners and their officers have under Section 182 of this Ordinance for the purpose of examining as to the existence of any nuisance therein; and if such admission is refused the like proceedings may be taken, with the like consequences as to orders for admission, penalties, costs, expenses, and otherwise, as in the case of a refusal to admit to premises for any of the purposes of the said Section 182.

Power for the  
Governor to make  
rules.

**208.** The Governor may make rules,

(1) For prescribing and regulating the mode of ascertaining the value of any such diseased or suspected cattle or animals



slaughtered or liable to be slaughtered by order of the Commissioners, and for regulating applications for, and the mode of payment of, compensation to be paid by the Commissioners.

(2) For extending for all or any of the purposes of the bye-laws to be made under Section 205 (7) the definition of "disease," so that it may comprise any disease other than those mentioned in Section 209 of this Ordinance.

(3) For extending for all or any of the purposes of Sections 205 to 208 inclusive, the definition of the word "animal," so that the same shall, for such purposes, include any kind of quadruped in addition to the animals specified as included under Section 209 of this Ordinance.

**209.** For the purposes of Sections 205 to 208 inclusive the following expressions shall have the meanings attached to them respectively, as follows:—

"Cattle" shall include bulls, cows, oxen, heifers, and calves.

"Animal" shall mean any animal included in the term "cattle," a sheep, goat, or other ruminating animal, or a pig, boar, or sow.

"Disease" shall mean any disease liable to be communicated to, and prejudicial to the health of human beings; in the case of cows it shall include tuberculosis, or the appearance of tuberculosis, of the udder, induration of the udder, or other chronic disease of the udder; in the case of any cattle it shall include emaciation from tuberculosis, or the appearance of emaciation from tuberculosis; in the case of goats it shall include Malta fever or the appearance of such fever.

"Diseased" shall mean suffering from any such disease.

"Suspected" shall mean certified by the Medical Officer of Health to be suspected by him.

"Carcase" shall in addition to its ordinary meaning include part of a carcase, and the meat, bones, hide, hoofs, horns, offal, or any other portion of an animal.

**210.** The Commissioners may, whenever they shall deem necessary, appoint some fit and competent person as analyst, and shall pay to such analyst such remuneration as they shall determine.

**211.** In the following sections relating to food and drugs, unless the context otherwise requires—

The expression "food" includes every article used for food or drink by man, other than drugs or water and any article which ordinarily enters into or is used in the composition or preparation of human food; and also includes flavouring matters and condiments.

The expression "drug" includes medicine for internal or external use.

The expression "butter" means the substance usually known as butter, made exclusively from milk or cream, or both, with or without salt or other preservative and with or without the addition of colouring matter.

The expression "margarine" means any article of food, whether mixed with butter or not, which resembles butter, and is not milk-blended butter.

Definitions.

"Cattle."

"Animal."

"Disease."

"Diseased."

"Suspected."

"Carcase."

Appointment  
of analyst.  
38 & 39 Vic.  
c. 63. s. 10.

Interpretation  
of terms.

62 & 63 Vic.  
c. 51. s. 26.

38 & 39 Vic.  
c. 63. s. 2.  
50 & 51 Vic.  
c. 29. s. 3.

7 Edw. 7. c. 21.  
s. 13.



62 & 63 Vic.  
c. 51. s. 25.

Do. do. do.

7 Edw. 7. c. 21.  
s. 1.

Power of Governor  
to make rules as  
to analysis of  
milk, butter, &c.  
62 & 63 Vic.  
c. 51. s. 4.  
7 Edw. 7. c. 21.  
s. 6.

Marking of cases.  
50 & 51 Vic.  
c. 29. ss. 4 & 6.

62 & 63 Vic.  
c. 51. ss. 5 & 6.

Presumption  
against vendor.  
50 & 51 Vic.  
c. 29. s. 7.  
62 & 63 Vic.  
c. 51. s. 5.

The expression "cheese" means the substance usually known as cheese containing no fat derived otherwise than from milk.

The expression "margarine cheese" means any substance, whether compound or otherwise, which is prepared in imitation of cheese and contains fat not derived from milk.

The expression "milk-blended butter" means any mixture produced by mixing or blending butter with milk or cream other than condensed milk or cream.

**212.** The Governor may make rules for determining what deficiency in any of the normal constituents of genuine milk, cream, butter or cheese, or what addition of extraneous matter or proportion of water, in any sample of milk (including condensed milk), cream, butter, or cheese, and what proportion of any milk-solid other than milk-fat in any sample of butter or milk-blended butter, shall for the purposes of this Ordinance raise a presumption, until the contrary is proved, that the milk, cream, butter, or cheese is not genuine or is injurious to health, and an analyst shall have regard to such rules in certifying the result of an analysis under this Ordinance.

**213.** (1) Every person dealing in margarine or margarine cheese, whether wholesale or retail, whether a manufacturer, importer, or as consignor or consignee, or as commission agent or otherwise, shall conform to the following regulations:—

Every package, whether open or closed, and containing margarine or margarine cheese, shall be branded or durably marked "margarine" or "margarine cheese," as the case may require, on the top, bottom, and sides, in printed capital letters not less than three quarters of an inch square; and if such margarine or margarine cheese be exposed for sale, by retail, there shall be attached to each parcel thereof so exposed, and in such manner as to be clearly visible to the purchaser, a label marked in printed capital letters not less than one and a half inches square, "margarine" or "margarine cheese" as the case may be; and every person selling margarine or margarine cheese by retail, save in a package duly branded or durably marked as aforesaid, shall in every case deliver the same to the purchaser in a paper wrapper, on which shall be printed in capital block-letters not less than half an inch long, and distinctly legible "margarine" or "margarine cheese" as the case may require, and no other printed matter shall appear on the wrapper; and all margarine cheese sold or dealt with otherwise than by retail shall be either enclosed in packages marked in accordance with the foregoing regulations, or be itself conspicuously branded with the words "margarine cheese."

(2) When under this section it is required that any package containing margarine or margarine cheese shall be branded or marked, the brand or mark shall be on the package itself, and not solely on a label, ticket, or other thing attached thereto.

**214.** (1) Every person dealing with, selling, or exposing, or offering for sale, or having in his possession for the purpose of sale, or importing, any quantity of margarine or margarine cheese contrary to the provisions of the preceding section shall be guilty of an offence under this section.



(2) Where an employer is charged with an offence under this section, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for the hearing of the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court that he had used due diligence to enforce the execution of the preceding section, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the employer shall be exempt from any penalty.

50 & 51 Vic.  
c. 29. s. 5.

**215.** If in any wrapper enclosing margarine, or on any package containing margarine, or on any label attached to a parcel of margarine, or in any advertisement or invoice of margarine, a person dealing in margarine describes it by any name other than either "margarine" or a name combining the word "margarine" with a fancy or other descriptive name approved by the Governor by rule, and printed in type not larger than, and in the same colour as the word "margarine," he shall be guilty of an offence under this section.

Marking of  
wrappers in which  
margarine is sold.  
7 Edw. 7. c. 21.  
s. 8.

**216.** (1) Milk-blended butter shall be dealt with under such name or names as the Governor may by rule approve, and under the conditions applicable to the sale or description of margarine, with the substitution of the name so approved for the word "margarine," and with this modification, that, in any case where, in order to comply with these conditions, the article is delivered to the purchaser in a wrapper, there shall, in addition to the approved name, be printed on the wrapper in such manner as the Governor may by rule approve, such description of the article, setting out the percentage of moisture or water contained therein, as may be approved by the Governor.

Sale of milk-  
blended butter.  
Do. do. s. 9.

(2) A name shall not be approved by the Governor for use in connection with margarine or milk-blended butter if it refers to or is suggestive of butter or anything connected with the dairy interest.

Name of  
Margarine, &c.  
Do. do. s. 10.

**217.** (1) It shall be unlawful to manufacture, sell, or expose or offer for sale, or import as owner, consignor, consignee, agent, or broker, or for any person to have in his possession for the purpose of sale, any of the following articles, namely:—

Precautions against  
manufacture, sale,  
or importation  
of products  
insufficiently  
marked, &c.  
62 & 63 Vic.  
c. 51. s. 1.

- (a) Margarine or margarine cheese, except in packages conspicuously marked "margarine" or "margarine cheese" in accordance with the provisions of section 213 of this Ordinance; or,
- (b) Adulterated or impoverished milk or cream, except in packages or cases conspicuously marked with a name or description indicating that the milk or cream has been so treated; or,
- (c) Condensed, separated or skimmed milk, except in tins or other receptacles which bear a label whereon the words "machine skimmed milk," or "skimmed milk," as the case may require, are printed in large and legible type; or,



- (d) Any adulterated or impoverished article of food to which the Governor may by Proclamation direct that this section shall be applied, unless the same be imported in packages or receptacles conspicuously marked with a name or description indicating that the article has been so treated; or,
- 7 Edw. 7. c. 21.  
s. 5. (e) Butter containing more than sixteen per cent. of water; or
- (f) Margarine containing more than sixteen per cent. of water, or more than ten per cent. of butter fat; or,
- Do do. s. 4. (g) Milk-blended butter containing more than twenty-four per cent. of water; or,
- (h) Milk-blended butter, except in packages conspicuously marked with such name as may be approved by the Governor; or,
- (i) Butter, margarine, or milk-blended butter which contains a preservative prohibited by any rule made under this Ordinance, or an amount of preservative in excess of the limit allowed by any such rule.

62 & 63 Vic.  
c. 51. s. 1.

(2) For the purpose of this section an article of food shall be deemed to be adulterated or impoverished if it has been mixed with any other substance, or if any part of it has been abstracted so as in either case to affect injuriously its quality, substance, or nature. Provided that an article of food shall not be deemed to be adulterated by reason only of the addition of any preservative or colouring matter of such a nature and in such quantity as not to render the article injurious to health.

Governor may  
make rules as to  
preservatives.  
7 Edw. 7. c. 21.  
s. 7.

**218.** The Governor may make rules for prohibiting the use as a preservative of any substance specified in such rules in the manufacture or preparation for sale of butter, margarine, or milk-blended butter, or for limiting the extent to which, either generally or as regards any particular substance or substances, preservatives may be used in the manufacture or preparation for sale of butter, margarine, or milk-blended butter.

Any person who manufactures, sells, or exposes or offers for sale, or has in his possession for the purpose of sale, or imports as owner, consignor, consignee, agent or broker, any butter, margarine, or milk-blended butter which contains a preservative prohibited by a rule made under this section, or an amount of a preservative in excess of the limit allowed by any such rule, shall be guilty of an offence under this section.

Penalties.  
7 Edw. 7. c. 21.  
s. 11.

**219.** Any person guilty of an offence under any one of the preceding Sections 213 to 218 inclusive shall be liable on summary conviction to a fine not exceeding £20.

Inspection of  
stores, &c.  
Do. do. s. 2.

**220.** The Medical Officer of Health or the Sanitary Inspector shall have power to enter at all reasonable times any store, warehouse, or shop, wherein any butter, margarine, margarine cheese, or milk-blended butter, is stored, kept, exposed or offered for sale, whether wholesale or retail, for the purpose of taking samples for analysis of any such butter, margarine, margarine cheese, or milk-blended butter.



**221.** No person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any article of food with any ingredient or material so as to render the article injurious to health, with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained, or powdered, under a penalty in each case not exceeding £50 for the first offence; and every offence, after a conviction for a first offence, shall be a misdemeanor.

Mixing injurious ingredients with food.  
38 & 39 Vic.  
c. 63. s. 3.

**222.** No person shall, except for the purpose of compounding as hereinafter described, mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any drug with any ingredient or material so as to affect injuriously the quality or potency of such drug, with intent that the same may be sold in that state, and no person shall sell any such drug so mixed, coloured, stained, or powdered, under the same penalty in each case respectively as in the preceding section for a first and subsequent offence.

Mixing drugs with injurious ingredients.  
Do. do. s. 4.

**223.** Provided that no person shall be liable to be convicted under either of the two last foregoing sections in respect of the sale of any article of food, or of any drug, if he shows to the satisfaction of the Justices or Court before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, coloured, stained, or powdered as in either of those sections mentioned, and that he could not with reasonable diligence have obtained that knowledge.

Proof of absence of knowledge.  
Do. do. s. 5.

**224.** No person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, under a penalty not exceeding £20; provided that an offence shall not be deemed to be committed under this section in the following cases; that is to say,

Sale of articles of food and of drugs not of the proper nature, substance, and quality.  
Do. do. s. 6.

(1) Where any matter or ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the food or drug, or conceal the inferior quality thereof:

(2) Where the drug or food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent:

(3) Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.

**225.** In any prosecution under the preceding section it shall be no defence to allege that the purchaser, having bought only for analysis, was not prejudiced by such sale. Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature or in substance or in quality, was not defective in all three respects.

In sale of adulterated articles no defence to allege purchase for analysis.  
42 & 43 Vic.  
c. 30. s. 2.

**226.** In determining whether an offence has been committed by selling, to the prejudice of the purchaser, spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove

Reduction of spirit allowed.  
Do. do. s. 6.



that such admixture has not reduced the spirit more than twenty-five degrees under proof for brandy, whisky or rum, or thirty-five degrees under proof for gin.

Restriction on  
amount of butter  
fat in margarine.  
50 & 51 Vic.  
c. 29 s. 4.  
62 & 63 Vic.  
c. 51. ss. 8 & 1 (2).

**227.** It shall be unlawful to manufacture, sell, expose for sale, or import, as owner, consignor, or consignee, agent or broker, any margarine, the fat of which contains more than ten per cent. of butter fat, and every person who manufactures, sells, exposes for sale, or imports any margarine which contains more than that percentage, shall be liable to a penalty not exceeding £20.

Compound articles  
of food and  
compounded drugs.  
38 & 39 Vic.  
c. 63. s. 7.

**228.** No person shall sell any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser, under a penalty not exceeding £20.

Protection from  
offences by giving  
label.

Do. do. s. 8.  
62 & 63 Vic.  
c. 51. s. 12.

**229.** Provided that no person shall be guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended fraudulently to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article or drug he shall supply to the person receiving the same a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that the same is mixed, and provided that the notice of mixture given by the label is not obscured by other matter on the label.

Abstraction of  
part of an article  
of food before sale.  
38 & 39 Vic.  
c. 63. s. 9.

**230.** No person shall, with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making disclosure of the alteration, under a penalty in each case not exceeding £20.

Provision as to  
name and address  
of person selling  
milk or cream in  
a public place.  
62 & 63 Vic.  
c. 51. s. 9.

**231.** Every person who, himself or by his servant, in any public highway or place of public resort sells milk or cream from a vehicle or from a can or other receptacle shall have conspicuously inscribed on the vehicle or receptacle his name and address, and in default shall be liable to a penalty not exceeding 40 shillings.

Officer named to  
obtain samples of  
food or drug and  
of milk and other  
articles of food  
38 & 39 Vic.  
c. 63. s. 13.  
42 & 43 Vic.  
c. 30. s. 3.  
62 & 63 Vic.  
c. 51. s. 14.  
and of butter.  
50 & 51 Vic.  
c. 29. s. 10.

**232.** The Medical Officer of Health or the Sanitary Inspector may—

(1) Procure any sample of food or drugs; and

(2) Procure at the place of delivery any sample of any milk, and upon the request or with the consent of the purchaser or consignee, of every other article of food in course of delivery to the purchaser or consignee in pursuance of any contract for the sale thereof to such purchaser or consignee; and

(3) Without going through the form of purchase, take samples of any butter, or substances purporting to be butter, which are exposed for sale, and are not marked margarine, and any such substance not being so marked shall be presumed to be exposed for sale as butter:

and such officer or inspector, if he suspects the same to have been sold or exposed for sale, as the case may require, contrary to any provision



of this Ordinance, shall submit the same to be analysed by the analyst of the Commissioners and such analyst shall with all convenient speed analyse the same and give a certificate to the Commissioners wherein he shall specify the result of the analysis.

**233.** The person purchasing any article or taking samples of any butter or substances purporting to be butter with the intention of submitting the same to analysis shall, after the purchase shall have been completed or the samples taken, forthwith notify to the seller or his agent selling the article or to the person from whom the samples shall have been taken his intention to have the same analysed, and shall divide the article into three parts to be then and there separated, and each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall, if required to do so, deliver one of the parts to the seller or his agent or to the person from whom the samples shall have been taken.

He shall afterwards retain one of the said parts for future comparison, and submit the third part, if he deems it right to have the article analysed, to the analyst.

**234.** Any purchaser of an article of food or of a drug shall be entitled, on payment to the analyst of the Commissioners of such sum as may be prescribed by the Commissioners, to have such article analysed by such analyst, and to receive from him a certificate of the result of his analysis.

**235.** If the Medical Officer of Health or the Sanitary Inspector shall apply to purchase any article of food or any drug, or take samples of any butter or substances purporting to be butter exposed to sale, or on sale by retail on any premises or in any shop or stores, or in any street or open place of public resort, and shall tender the price for the quantity which he shall require for the purpose of analysis, not more than shall be reasonably requisite, and the person exposing the same for sale shall refuse to sell the same to such officer or inspector, or to allow him to take the samples required by him for the purpose of analysis, and if the seller or consignor or any person or persons entrusted by him for the time being with the charge of milk or other article of food in course of delivery, shall refuse to allow such officer or inspector to take the quantity which such officer or inspector shall require for the purpose of analysis, the person so offending shall be liable to a penalty not exceeding £10: Provided that where any article of food or drug is exposed for sale in an unopened tin or packet duly labelled, no person shall be required to sell it except in the unopened tin or packet in which it is contained.

**236.** The certificate of the analysis shall be in the form in Schedule A., Form No. 10 to this Ordinance, or to the like effect.

**237.** (1) When the analyst of the Commissioners having analysed any article shall have given his certificate of the result, from which it may appear that an offence against some one of the provisions of this Ordinance has been committed, the person causing the analysis to be made may take proceedings for the recovery in a summary manner of the penalty herein imposed for such offence.

Provision for dealing with samples.

38 & 39 Vic.  
c. 63, s. 14.  
50 & 51 Vic.  
c. 29, s. 10.  
62 & 63 Vic.  
c. 51, ss. 13 & 27.

Power of purchaser of article of food to have it analysed.

38 & 39 Vic.  
c. 63, s. 12.

Person refusing to sell or to allow samples to be taken liable to penalty.

38 & 39 Vic.  
c. 63, s. 17.  
50 & 51 Vic.  
c. 29, s. 12.  
42 & 43 Vic.  
c. 30, ss. 4 & 5.  
62 & 63 Vic.  
c. 51, ss. 14 & 18.

Form of certificate.

38 & 39 Vic.  
c. 63, s. 18.

Proceedings against offenders.

Do. do. s. 20.



Time for  
proceeding.  
62 & 63 Vic.  
c. 51. s. 19.

Regulations  
as to summons.

(2) The prosecution in respect of any article of food or drug purchased from any person for test purposes shall not be instituted after the expiration of twenty-eight days from the time of the purchase.

(3) The summons shall state particulars of the offence or offences alleged, and also the name of the prosecutor, and shall not be made returnable in less than fourteen days from the day on which it is served, and there must be served therewith a copy of the analyst's certificate obtained on behalf of the prosecutor: Provided always that the Court may direct the summons to be made returnable forthwith, and may grant such summons notwithstanding that the analyst's certificate is not produced or is not in existence at the time, but such certificate shall be produced afterwards at the hearing and before adjudication, unless dispensed with as hereinafter provided.

Certificate of  
analyst *prima*  
*facie* evidence.  
38 & 39 Vic.  
c. 63. s. 21.  
62 & 63 Vic.  
c. 51. s. 23.

**238.** (1) The production at the hearing of a certificate of analysis by the analyst of the Commissioners, or by a public analyst if produced by the defendant, shall be sufficient evidence of the facts therein stated, unless the prosecutor or the defendant shall require that the analyst be called as a witness, and the part of the articles retained by the person who purchased the article shall be produced, unless the Court upon good cause shown dispenses with the production.

(2) A copy of every such certificate shall be sent to the prosecutor at least three clear days before the return day, and if it be not so sent the Court may, if it thinks fit, adjourn the hearing on such terms as may seem proper.

Proof by defendant  
of exception or  
provision.  
38 & 39 Vic.  
c. 63. s. 24.

**239.** In any prosecution under this Ordinance, where the fact of an article having been sold in a mixed state has been proved, if the defendant shall desire to rely upon any exception or provision contained in this Ordinance, it shall be incumbent upon him to prove the same.

Defendant to be  
discharged if he  
prove that he  
bought the article  
in the same state  
as sold, and with  
a warranty.  
Do. do. s. 25.

**240.** (1) If the defendant in any prosecution under the provisions of this Ordinance, other than in respect of milk, prove to the satisfaction of the Court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the prosecutor, and with a written warranty to that effect, that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as when he purchased it, he shall be discharged from the prosecution.

62 & 63 Vic.  
c. 51. s. 20.

(2) A warranty or invoice shall not be available as a defence unless the defendant has, within seven days after service of the summons, or if the return of the summons does not allow of such period then within such time as the Court may direct, sent to the purchaser a copy of such warranty or invoice with a written notice stating that he intends to rely on the warranty or invoice, and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to such person if he resides in Gibraltar.

(3) The person by whom such warranty or invoice is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the Court may, if it thinks fit, adjourn the hearing to enable him to do so.



(4) A warranty or invoice given by a person resident outside Gibraltar shall not be available as a defence, unless the defendant proves that he had taken reasonable steps to ascertain and did in fact believe in the accuracy of the statement contained in the warranty or invoice.

(5) Where the defendant is a servant of the person who purchased the article under a warranty or invoice he shall be entitled to rely on the defence in this section mentioned, in the same way as his employer or master would have been entitled to do if he had been the defendant, provided that the servant further proves that he had no reason to believe that the article was otherwise than that demanded by the prosecutor.

(6) Where the defendant has been discharged, proceedings for giving the warranty relied on by the defendant may be taken before a Court of Summary Jurisdiction.

(7) Every person who, in respect of an article of food or drug sold by him as principal or agent, gives to the purchaser a false warranty in writing, shall be liable to a penalty not exceeding £20, unless he proves to the satisfaction of the Court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true.

**241.** Any person who shall forge, or shall utter, knowing it to be forged for the purposes of this Ordinance, any certificate or any writing purporting to contain a warranty, shall be guilty of a misdemeanor.

Forging certificate  
or warranty.  
38 & 39 Vic.  
c. 63. s. 27.

Every person who shall wilfully apply to an article of food, or a drug, in any proceedings under this Ordinance, a certificate or warranty given in relation to any other article or drug, shall be liable to a penalty not exceeding £20.

Wilful  
misapplication  
of warranty.

And every person who shall wilfully give a label with any article sold by him which shall falsely describe the article sold, shall be liable to a penalty not exceeding £20.

False label.

**242.** Any person who wilfully obstructs or impedes the Medical Officer of Health or any other officer of the Commissioners in the course of his duties relating to food and drugs, or by any gratuity, bribe, promise, or other inducement prevents, or attempts to prevent, the due execution by such officers of their duty under the provisions hereinbefore contained, shall be liable to a penalty not exceeding £20.

Obstruction of  
officer in discharge  
of his duties.  
62 & 63 Vic.  
c. 51. s. 16.

**243.** (1) Where, under the provisions of any section of this Ordinance relating to food and drugs, a person guilty of an offence is liable to a fine which may extend to £20 as a maximum, he shall be liable for a second offence under the same provision to a fine not exceeding £50, and for any subsequent offence to a fine not exceeding £100.

Penalties for  
second and  
subsequent  
offences.  
Do. do. s. 17.

(2) Where under the provisions of this section, or of any section of this Ordinance relating to food and drugs, a person guilty of an offence is liable to a fine exceeding £50, and the offence, in the opinion of the Court, was committed by the personal act, default, or culpable negligence, of the person accused, that person shall be liable (if the Court is of opinion that a fine will not meet the circumstances of the case) to imprisonment, with or without hard labour, for a period not exceeding three months.



## INFECTIOUS DISEASES.

*Provisions against infection.*

Definition of  
"Infectious  
Disease."  
52 & 53 Vic.  
c. 72. s. 6.

**244.** In this Ordinance the expression "infectious disease" means any of the following diseases, namely, small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, measles, chicken-pox, venereal diseases, and the fevers known by any of the following names, typhus, typhoid, enteric, relapsing, continued, or puerperal, mediterranean fever, and includes any infectious disease to which this Ordinance has been applied by the Governor in the manner provided by the following section.

Power of Governor  
to extend definition  
of infectious  
disease.  
Do. do. s. 7.

**245.** (1) The Governor may, from time to time, order that this Ordinance or any portion of this Ordinance shall apply to any infectious disease other than a disease specifically mentioned in this Ordinance, and may revoke or vary any such order.

(2) The order shall be published in the *Official Gazette*, and shall come into operation at a date not earlier than three clear days after the publication, and during the continuance thereof an infectious disease mentioned in such order shall be an infectious disease to which this Ordinance or the portion of this Ordinance specified in the said order applies.

Notification of  
infectious disease.  
Do. do. s. 3.

**246.** (1) Where an inmate of any building used for human habitation is suffering from any infectious disease, then, unless such building is a hospital in which persons suffering from an infectious disease are received, the following provisions shall have effect, that is to say:—

(a) The head of the family to which such inmate belongs, and in his default the nearest relative of the patient present in the building or being in attendance on the patient, and in default of such relatives every person in charge of or in attendance on the patient, and in default of any such person the occupier of the building, shall, as soon as he becomes aware that the patient is suffering from an infectious disease, send notice thereof to the Commissioners.

Do. do. s. 4 (2).

(b) Every medical practitioner attending on or called to visit the patient shall forthwith, on becoming aware that the patient is suffering from an infectious disease, send to the Commissioners a certificate stating the name of the patient, the situation of the building, and the infectious disease from which, in the opinion of such medical practitioner, the patient is suffering. The Commissioners shall pay to every medical practitioner for each certificate duly sent by him, in the form prescribed in Schedule A, Form No. 11 to this Ordinance, a fee of two shillings and sixpence if the case occurs in his private practice.

(2) Every person required by this section to give a notice or certificate who fails to give the same shall be liable to a penalty not exceeding £5.



Provided that if a person is not required to give notice in the first instance but only in default of some other person, he shall not be liable to any penalty if he satisfies the Court that he had reasonable cause to suppose that the notice had been duly given.

Provided also that this section shall not apply where a person suffering from venereal disease is under specific and adequate treatment, and by reason of habits, conditions of life and residence is unlikely to spread the disease.

**247. Any person who—**

(1) While suffering from any infectious disease wilfully exposes himself without proper precautions against the spread of the said disease in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner or driver thereof that he is so suffering; or

Penalty on exposure of infected persons or things.  
38 & 39 Vic.  
c. 55. s. 126.  
7 Edw. 7.  
c. 53. s. 62.

(2) Being in charge of any person so suffering, so exposes such sufferer or causes or permits such sufferer to be exposed; or

(3) Hires or uses a public conveyance other than a hearse for the conveyance of the body of a person who has died from any infectious disease, without previously notifying to the owner or driver of such public conveyance that the person whose body is or is intended to be so conveyed has died from infectious disease; or

53 & 54 Vic.  
c. 34. s. 11.

(4) Gives, lends, sells, transmits or exposes without previous disinfection any bedding, clothing, rags, or other things which have been exposed to infection from any such disease,

38 & 39 Vic.  
c. 55. s. 126.

shall be liable to a penalty not exceeding £5.

(5) A person who while suffering from any such disease enters any public conveyance, and every person who hires or uses the same for the conveyance of the body of a person who has died from any such disease without previously notifying to the owner or driver thereof that he is so suffering or that the person whose body is or is intended to be so conveyed has died from infectious disease, as the case may be, shall in addition be ordered by the Court to pay such owner and driver the amount of any loss and expense they may incur in carrying into effect the provisions of this Ordinance with respect to disinfection of the conveyance.

53 & 54 Vic.  
c. 34. s. 11.

(6) If any person knows that he is suffering from an infectious disease, he shall not engage in any occupation or carry on any trade or business, unless he can do so without risk of spreading the infectious disease; and any person acting in contravention of this provision shall be liable in respect of each offence to a penalty not exceeding 40 shillings.

Infected person not to carry on occupation.  
7 Edw. 7. c. 53.  
s. 52.

Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags or other things for the purpose of having the same disinfected.

Subsections (1), (2), (3) and (5) of this section, and Sections 248 to 258 both inclusive, shall not apply to cases of venereal disease.



Infected persons  
not to be conveyed  
in omnibus,  
tramcar, &c.  
7 Edw. 7.  
c. 53, s. 63.

**248.** The owner or driver of a public vehicle used for the carrying of passengers at separate fares shall not knowingly convey, or any other person shall not knowingly place, in any such public vehicle a person suffering from any infectious disease, or a person suffering from any such disease shall not enter any such vehicle; and every person who shall act in contravention of the provisions of this section shall be liable to a penalty not exceeding 40 shillings.

Driver of infected  
person to give  
notice.  
Do. do. s. 64.

**249.** (1) If any person suffering from any infectious disease, or the body of any person who has died from an infectious disease, is conveyed in any public vehicle, the owner or driver thereof, as soon as it comes to his knowledge, shall give notice to the Medical Officer of Health, and shall cause such vehicle to be disinfected, and if he fails to do so, he shall be liable to a penalty not exceeding £5; and the owner or driver of such vehicle shall be entitled to recover in a summary manner from the person so conveyed, or the person causing such person or body to be so conveyed, a sufficient sum to cover any loss and expense incurred by him in connection with such disinfection.

Provided always that no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying out the provisions of this section.

Expenses of  
disinfecting  
carriage.

(2) It shall be the duty of the Commissioners, when so requested by the owner or driver of such public vehicle, to provide for the disinfection of the same, free of charge, except where the owner or driver conveyed a person knowing that he was suffering from infectious disease.

Prohibition of  
children's  
attendance at  
school in cases  
of infectious  
disease.

**250.** Where any child is the inmate of a house in which any infectious disease prevails, the Medical Officer of Health shall give to the parents or guardians of such child, and to the master or person in charge of any school attended by such child, a notice prohibiting the attendance at school of such child, and any person wilfully disregarding a notice of prohibition so given shall be liable to a penalty not exceeding £10.

Child without  
certificate not  
to attend after  
prohibition.  
Do. do. s. 57.

**251.** (1) No person being the parent or having the care or charge of a child who is or has been suffering from infectious disease, or has been exposed to infection, shall, after the notice of prohibition prescribed by the preceding section shall have been given to such person, permit such child to again attend school without having procured from the Medical Officer of Health a certificate (which shall be granted free of charge upon application) that in his opinion such child may again attend without undue risk of communicating such disease to others.

(2) Any person who shall offend against this section shall for every such offence be liable to a penalty not exceeding 40 shillings.

Removal of  
infected person  
without proper  
lodging to hospital  
by order of  
Justice.  
38 & 39 Vic.  
c. 55, s. 124.

**252.** Any person who is suffering from any infectious disease, and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, may on a certificate signed by the Medical Officer of Health, and with the consent of the superintending body of the hospital or place provided for the treatment of such cases, be removed, by order of any Justice, to such hospital or place at the cost



of the Commissioners; and any person so suffering who is lodged in any common lodging-house, may, with the like consent and on a like certificate, be so removed by the Commissioners.

An order under this section may be addressed to such constable or officer of the Commissioners as the Justice or Commissioners making the same may think expedient; and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding £10.

**253.** Any Justice upon proper cause shown to him, may make an order directing the detention in such hospital or place as aforesaid at the cost of the Commissioners of any person suffering from any infectious disease, who is then in such hospital or place and would not on leaving it be provided with lodging or accommodation in which proper precautions could be taken to prevent the spreading of the disorder by such person. Any order so to be made by any such Justice may be limited to some specific time, but with full power to any Justice to enlarge such time as often as may appear to him to be necessary. It shall be lawful for any officer of the Commissioners or for any constable, or for any officer of such hospital or place on any such order being made to take all necessary measures and do all necessary acts for enforcing the execution thereof.

Detention of infected person without proper lodging in hospital by order of Justice.  
53 & 54 Vic.  
c. 34. s. 12.

**254.** The Commissioners may make bye-laws for removing to any hospital or place to which they may remove patients, and for keeping in such hospital so long as may be necessary, any persons landing in Gibraltar from any ship, boat, hulk or other vessel who are suffering from any infectious disease.

Bye-laws for removal to hospital of infected person landing from ship.  
38 & 39 Vic.  
c. 55. s. 125.

**255.** Any person who knowingly lets for hire any house, room, or part of a house, in which any person has been suffering from infectious disease, without having such house, room, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of the Commissioners, as testified by a certificate signed by the Medical Officer of Health, shall be liable to a penalty not exceeding £20.

Penalty on letting houses in which infected persons have been lodging.  
Do. do. s. 128.

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.

**256.** Any person letting for hire or showing for the purpose of letting for hire any house or part of a house, who on being questioned by any person negotiating for the hire of such house or part of a house as to the fact of there being or within six weeks previously having been therein any person suffering from an infectious disease, knowingly makes a false answer to such question, shall be liable, at the discretion of the Court, to a penalty not exceeding £20, or to imprisonment, with or without hard labour, for a period not exceeding one month.

Penalty on persons letting houses making false statements as to infectious disease.  
Do. do. s. 129.

**257.** Every person who shall cease to occupy any house, room, or part of a house in which any person has within six weeks previously been suffering from an infectious disease without having such house, room, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of the Medical Officer of Health, as

Penalty on person ceasing to occupy houses without previous disinfection or



giving notice to owner, or person making false answers.  
53 & 54 Vic.  
c. 34. s. 7.

testified by a certificate signed by him, or without giving to the owner of such house, room, or part of a house, notice of the previous existence of such disease, and every person ceasing to occupy any house, room, or part of a house, and who on being questioned by the owner thereof, or by any person negotiating for the hire of such house, room, or part of a house as to the fact of there having within six weeks previously been therein any person suffering from any infectious disease knowingly makes a false answer to such question shall be liable to a penalty not exceeding £10.

When Medical Officer of Health may enter premises.  
Do. do. s. 17.

**258.** The Medical Officer of Health shall have power to enter on any premises in which any case of infectious disease is reported to have occurred for the purpose of ascertaining and reporting to the Commissioners whether all necessary and proper precautions are being taken for preventing the spread of such disease to the community and generally for carrying into effect the provisions of the next section.

Duty of Commissioners to cause premises to be cleansed and disinfected.  
Do. do. s. 5.

**259.** Where the Medical Officer of Health or any other registered medical practitioner certifies that the cleansing and disinfecting of any house or part thereof and of any articles therein likely to retain infection would tend to prevent or check infectious disease, the Commissioners shall give notice in writing to the owner or occupier of such house or part thereof, that the same and any such articles therein will be cleansed and disinfected by the Commissioners at the cost of such owner or occupier, unless he informs the Commissioners within twenty-four hours from the receipt of the notice that he will cleanse and disinfect the house or part thereof and any such articles therein to the satisfaction of the Medical Officer of Health within a time fixed in the notice.

If within twenty-four hours from the receipt of the notice the person to whom the notice is given does not inform the Commissioners as aforesaid, or if, having so informed the Commissioners he fails to have the house or part thereof and any such articles therein disinfected as aforesaid within the time fixed in the notice, the house or part thereof and articles shall be cleansed and disinfected by the officers of the Commissioners under the superintendence of the Medical Officer of Health, and the expenses incurred may be recovered from the owner or occupier in a summary manner: Provided that where the owner or occupier of any such house or part thereof is unable, in the opinion of the Commissioners or of the Medical Officer of Health, effectually to cleanse and disinfect such house or part thereof, and any article therein likely to retain infection, the same may without any such notice being given as aforesaid, but with the consent of such owner or occupier, be cleansed and disinfected by the officers of and at the cost of the Commissioners.

Removal of persons from infected premises to temporary shelter.  
53 & 54 Vic.  
c. 34. s. 15.  
7 Edw. 7.  
c. 53. s. 61.

**260.** (1) The Commissioners may from time to time provide, free of charge, temporary shelter or house accommodation, with any necessary attendants, for any person or the members of any family in which any infectious disease has appeared, who leaves or leave his or their dwellings for the purpose of enabling such dwellings to be disinfected by the Commissioners, and the Commissioners may borrow, subject to the provisions of this Ordinance, for the purpose of providing shelter or house accommodation under this section, or they may pay and defray the expenses of providing such shelter or house accommodation out of the general sanitary purposes rate leviable by them under this Ordinance.



Where the Commissioners, in pursuance of the aforesaid powers, have provided a temporary shelter or house accommodation, they may, on the appearance of any infectious disease in a house, and on the certificate of the Medical Officer of Health, cause any person who is not himself sick, and who consents to leave the house, or whose parent or guardian (where the person is a child) consents to his leaving the house, to be removed therefrom to any such temporary shelter or house accommodation, and in the like case on the like certificate may cause any such person who does not consent to leave the house to be removed therefrom to any such temporary shelter or house accommodation, where the Police Magistrate, on the application of the Commissioners, and on being satisfied of the necessity of the removal, shall make an order for the removal, subject to such conditions, if any, as are imposed by the order.

The Commissioners shall in every case cause the removal to be effected and the conditions of any order to be satisfied without charge to the person removed or to the parent or guardian of that person.

(2) Any person who wilfully disobeys or obstructs the execution of an order under this section shall be liable to a penalty not exceeding £5.

(3) For the purpose of this section the word "house" includes any tent, shed, or similar structure used for human habitation, or any boat, lighter, or ship, lying in the Bay or Harbour of Gibraltar, and used for the like purpose.

**261.** (1) A person shall not take or send to any public wash-house or to any laundry, for the purpose of being washed, any bedding, clothes, or other things, which he knows to have been exposed to infection from any infectious disease, unless they have been disinfected by or to the satisfaction of the Commissioners or the Medical Officer of Health, or are sent to a laundry with proper precautions for the purpose of disinfection, with notice that they have been exposed to infection.

(2) If any person acts in contravention of the preceding sub-section he shall be liable in respect of each offence to a penalty not exceeding 40 shillings.

(3) The Commissioners may, on the application of any person, pay the expenses of the disinfection of any such bedding, clothes, or other things, if carried out by them or under their supervision.

**262.** The Commissioners may direct the destruction of any bedding, clothing or other articles which have been exposed to infection from any infectious disease, and may give compensation for the same.

**263.** The Commissioners may by notice in writing require the owner of any bedding, clothing or other articles which have been exposed to the infection of any infectious disease to cause the same to be delivered over to an officer of the Commissioners for removal for the purpose of disinfection; and any person who fails to comply with such a requirement shall be liable to a penalty not exceeding £10.

**264.** Where the Commissioners, on the certificate of the Medical Officer of Health, are satisfied that the cleansing, purification, or destruction, of any article in a dwelling house is, by reason of the filthy condition of the article, necessary to prevent injury, or to remove or

Removal of person  
not sick by  
consent.

Infected clothes  
not to be sent  
to laundry.  
Do. do. s. 55.

Destruction of  
infected bedding,  
&c.  
38 & 39 Vic.  
c. 55. s. 121.

Disinfection of  
bedding, &c.  
53 & 54 Vic.  
c. 34. s. 6.

Filthy or dangerous  
articles to be  
purified or  
destroyed.  
7 Edw. 7.  
c. 53. s. 56.



obviate risk of injury to the health of any person in the dwelling house, the Commissioners may cause the article to be cleansed, purified, or destroyed at their expense.

Where a person sustains damage in consequence of the exercise by the Commissioners of their powers under this section, and the condition of the article with respect to which those powers have been exercised is not attributable to his act or default, the Commissioners shall make reasonable compensation to that person, and the amount of such compensation, in the absence of any agreement between the Commissioners and the person entitled thereto, shall be assessed in the manner provided for compensation for damage caused by the laying of drain pipes by Section 66 of this Ordinance.

The bedding, clothing, and articles shall be disinfected by the Commissioners and shall be brought back and delivered to the owner free of charge, and if any of them suffer any unnecessary damage the Commissioners shall compensate the owner for the same and the amount of compensation shall be recoverable in, and in case of dispute shall be settled by, a Court of Summary Jurisdiction.

Provision of means  
of disinfection.  
38 & 39 Vic.  
c. 55. s. 121.

**265.** The Commissioners may provide a proper place with all necessary apparatus and attendance, for the disinfection of carriages, bedding, clothing or other articles which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge, or otherwise as they shall order, and may recover their expenses in that behalf in a summary manner under this Ordinance.

Vehicles for  
conveyance of  
infected persons.  
Do. do. s. 123.

**266.** The Commissioners may provide and maintain suitable carriages for the conveyance of persons suffering under any infectious disease, and may pay the expense of conveying therein any person so suffering to a hospital or place for the reception of the sick, or other place of destination.

Inspection of  
dairies in  
certain cases:  
power to prohibit  
supply of milk.  
53 & 54 Vic.  
c. 34 s. 4.

**267.** In case the Medical Officer of Health is in possession of evidence that any person in Gibraltar is suffering from infectious disease attributable to milk supplied in Gibraltar from any dairy, or that the consumption of milk from such dairy is likely to cause infectious disease to any person residing in Gibraltar, such Medical Officer shall, if authorised in that behalf by an order of a Justice, have power to inspect such dairy, and to inspect the animals therein, and if on such inspection the Medical Officer of Health shall be of opinion that infectious disease is caused from consumption of the milk supplied therefrom, he shall report thereon to the Commissioners and the Commissioners may thereupon give notice to the dairyman 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 in Gibraltar until such order has been withdrawn by the Commissioners, and if, in the opinion of the Commissioners, he fails to show such cause, then the Commissioners may make such order as aforesaid. An order made by the Commissioners in pursuance of this section shall be forthwith withdrawn on the Commissioners or the Medical Officer of Health on its behalf being satisfied that the milk supply has been changed, or that the cause



of the infection has been removed. Any person refusing to permit the Medical Officer of Health on the production of such order as aforesaid to inspect any dairy, to inspect the animals kept there, or, after any such order not to supply milk as aforesaid has been given, supplying any milk in Gibraltar in contravention of such order, or selling it for consumption therein, shall be liable to a penalty not exceeding £5 and if the offence is a continuing one, to a daily penalty not exceeding 40 shillings: Provided always, that no dairyman shall be liable to an action for breach of contract if the breach be due to an order from the Commissioners under this Ordinance.

The expressions "dairy" and "dairyman" shall have the same meanings as in Section 205 of this Ordinance.

**268.** Any person who shall knowingly cast, or cause or permit to be cast, into any ash-pit any infectious rubbish without previous disinfection, shall be liable to a penalty not exceeding £5.

**269.** The provisions of this Ordinance relating to infectious disease shall apply to every tent, van, shed or similar structure used for human habitation, in like manner as nearly as may be as if it were a building.

**270.** When the Chief of Police has reasonable ground for suspecting that a person in Gibraltar is suffering from any infectious disease he may, by notice in writing, call upon such person to attend at the Colonial Hospital, or such other place as the Governor may appoint for the treatment of such cases, at a time to be specified in the notice, and not to quit it without the permission of the medical officer in charge, unless and until such medical officer is satisfied that such person is not in fact suffering or is no longer suffering from such disease.

Provided that if, having regard to the nature of the disease or the condition of the person suffering therefrom or the general environment and circumstances of such person, the Chief of Police considers the attendance of such person at the Colonial Hospital, or other appointed place, inexpedient, he may dispense with such attendance, and take such measures or give such directions as he may think fit and proper.

**271.** The Chief of Police shall report in writing to the Governor if any person, having received a notice as provided by the preceding section has refused or omitted to attend at the Colonial Hospital, or other appointed place, or having attended has quitted it without the permission of the medical officer in charge, or having been excused from attendance has failed to comply with the directions given by the Chief of Police.

#### *Prevention of Epidemic Diseases.*

**272.** Whenever Gibraltar appears to be threatened with or is affected by any epidemic, endemic or infectious disease the Governor may make rules with respect to all or any of the following matters, namely:

- (1) For the disposal of the dead;
- (2) For house to house visitation;

53 & 54 Vic. s. 16.

53 & 54 Vic.  
c. 59, s. 11 (3).

53 & 54 Vic.  
c. 34, s. 2.

Infectious  
rubbish thrown  
into ash-pits, &c.,  
to be disinfected.  
Do. do. ss. 13, 16.  
53 & 54 Vic.

c. 59, s. 11.

Application of  
Ordinance to  
tents, &c.

52 & 53 Vic.

c. 72, s. 13.

Power to Chief of  
Police to call upon  
persons suffering  
from infectious  
disease to attend  
at and remain in  
hospital.

Persons refusing  
to attend at or  
remain in Hospital,  
or to comply with  
directions given.

Governor may  
make rules for  
certain purposes.  
38 & 39 Vic.  
c. 55, s. 134.



59 & 60 Vic.  
c. 19. s. 1.

(3) For their being enforced and executed by the authorities and officers therein named, if any, in addition to the Commissioners;

(4) For the provision of medical aid and accommodation, for the promotion of cleansing, ventilation, and disinfection, and generally for guarding against the spread of disease.

Commissioners  
to see to the  
execution of rules.  
38 & 39 Vic.  
c. 55. s. 136.

**273.** The Commissioners shall superintend and see to the execution of any rules so issued by the Governor as aforesaid, and shall do and provide all such acts, matters and things as may be necessary for mitigating any such disease, or for superintending or aiding in the execution of such rules, or for executing the same, as the case may require. Moreover the Commissioners may direct any prosecution or legal proceedings for or in respect of the wilful violation or neglect of any such rule.

Power of entry.  
Do. do. s. 137.

**274.** The Commissioners and their officers shall have power of entry on any premises for the purpose of executing or superintending the execution of any rules so issued by the Governor as aforesaid.

#### *Mortuaries, &c.*

Power to provide  
mortuaries.  
Do. do. s. 141.

**275.** The Commissioners may, with the consent in writing of the Governor, purchase or otherwise provide and fit up a proper place for the reception of dead bodies before interment (in this Ordinance 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.

Bye-laws.

Prohibiting  
retention of  
dead bodies in  
certain cases.  
53 & 54 Vic.  
c. 34. s. 8.

**276.** No person, without the sanction in writing of the Medical Officer of Health, shall retain unburied elsewhere than in a mortuary or in a room not used at the time as a dwelling-place, sleeping-place, or workroom, for more than twenty-four hours, the body of any person who has died from any infectious disease.

No wake to be  
held, where death  
is from infectious  
disease.  
7 Edw. 7.  
c. 53. s. 68.

**277.** It shall not be lawful to hold any wake over the body of any person who has died of infectious disease, and the occupier of any house or premises, or part of a house or premises, who permits or suffers any such wake to take place in such house, or premises, or part of a house or premises, and every person who attends to take part in such wake, shall be liable to a penalty not exceeding 40 shillings.

Bodies of persons  
dying of infectious  
diseases in hospital,  
&c., to be removed  
only for burial.  
53 & 54 Vic.  
c. 34. s. 9.

**278.** If any person shall die from any infectious disease in any hospital or place provided for the treatment of such cases, and the Medical Officer of Health certifies that in his opinion it is desirable, in order to prevent the risk of communicating any infectious disease or of spreading infection, that the body shall not be removed from such hospital or place except for the purpose of being forthwith buried, it shall not be lawful for any person or persons to remove such body from such hospital or place except for the last-mentioned purpose; and when the body is taken out of such hospital or place for that purpose it shall be forthwith carried or taken direct to the cemetery or place of burial, and shall be forthwith there buried; and any person wilfully offending



against this section shall be liable to a penalty not exceeding £10. Nothing herein contained shall prevent the removal of any dead body from any such hospital or place to any mortuary, and such mortuary shall, for the purposes of this section, be deemed part of such hospital or place as aforesaid.

**279.** Where the body of any person who has died from any infectious disease remains unburied elsewhere than in a mortuary or in a room not used at the time as a dwelling-place, sleeping-place, or workroom, for more than twenty-four hours after death without the sanction of the Medical Officer of Health, or where the dead body of any person is retained in any house or building so as to endanger the health of the inmates of such house or building, or of any adjoining or neighbouring house or building, any Justice may, on the application of the Commissioners, order the body to be removed at the cost of the Commissioners to the mortuary, and direct the same to be buried within a time to be limited in the order; and any Justice may, in the case of the body of any person who has died of any infectious disease, or in any case in which he shall consider immediate burial necessary, direct the body to be so buried. Unless the friends or relatives of the deceased undertake to bury and do bury the body within the time limited by such order, the Commissioners shall bury such body, and any expense so incurred may be recovered by the Commissioners in a summary manner from any person legally liable to pay the expenses of such burial.

Justice may in certain cases order dead bodies to be buried.

53 & 54 Vic.  
c. 34, s. 10.

#### PART IV.

##### *Public Highways.*

**280.** Subject to such rules as may be made by the Governor under this Ordinance the Commissioners shall be the surveyors of all the public highways in Gibraltar and shall for the purposes of this Ordinance control, manage and maintain the public highways and all such culverts and water channels as may be necessary to carry off the surface water therefrom, and all walls, retaining walls, and parapet walls situate thereon or pertaining thereto and which are requisite for their support, or for the safety of passengers or ordinary traffic thereon.

Commissioners to be surveyors of highways and to maintain all walls, &c.

**281.** The Commissioners shall from time to time cause all such public highways to be levelled, paved, metalled, flagged, channelled, altered and repaired as they may think fit, and may make and keep in repair pavements or footways for the use of passengers in or on the sides of any public highway: Provided always that no raising or lowering of the ground or soil in any place to a greater extent than two feet vertically shall be made without the previous sanction in writing of the Governor: And provided also, that if in carrying into execution any of the powers and authorities hereinbefore mentioned, any alteration of any steps, doors, or entrances into any house or building, or of any pavement, sewer, or drain, adjoining or belonging to any premises, or of any electric line, gas or water pipe, shall be rendered necessary, the expense of such alteration shall be defrayed by the Commissioners out of the general sanitary purposes rates.

Commissioners to pave and repair public highways, &c.  
38 & 39 Vic.  
c. 55, s. 149.

Any person who without the consent in writing of the Commissioners, unless by the express written command of the Governor, wilfully

Penalty on unauthorised disturbance or injury of same.



displaces or takes up or who injures the pavement, stones, materials, fences, or posts of, or the trees in any public highway shall be liable to a penalty not exceeding £5, and shall also pay to the Commissioners compensation for any damage thereby caused.

Commissioners  
authorised to  
take stone, &c.,  
for paving.

**282.** The Commissioners, subject to the proviso hereinafter mentioned, may quarry, dig for, and take all such stone, sand and materials as may be necessary to enable them to carry this Ordinance into execution, from all quarries and open places in Gibraltar being the property of His Majesty, his heirs and successors: Provided always that the Governor may from time to time make rules for the more safe and convenient exercise of such right by the Commissioners.

Penalty for  
injuring footways.  
10 & 11 Vic.  
c. 89. s. 28.

**283.** Any person who leads or rides any horse or other animal or draws or drives any bicycle, cart or carriage, sledge, truck or barrow upon any footway of the public highway shall be liable to a penalty not exceeding £5, and shall also pay to the Commissioners compensation for any damage thereby caused.

Damage to  
footway to be  
made good.  
7 Edw. 7.  
c. 53. s. 20.

**284.** If the footway of any highway be injured by, or in consequence of, any excavations or other works on lands adjoining thereto, the Commissioners may, after notice to the person in charge of such excavations or works, repair or replace the footway so injured, and all damages and expenses of, or arising from, such injury and repair or replacement shall be paid to the Commissioners by the owner of the lands on which such excavations or other works have been made, or by the person causing or responsible for the injury.

Carriages of too  
great width  
prohibited.

**285.** It shall not be lawful to drive on any public highway or public place in Gibraltar, any carriage, cart, waggon or other vehicle which shall, in the widest part thereof, including the load thereon, measure more than seven feet six inches in breadth; and every person who shall so offend, shall for every such offence be liable to a penalty not exceeding £5: Provided always that the Commissioners or the Governor may grant permission in writing for the use of any carriage, cart, waggon, or other vehicle that may be necessary for the conveyance of machinery of any kind, or for any special occasion, or for any military purpose.

Projections of  
houses, &c., to be  
removed on notice.  
10 & 11 Vic.  
c. 34. s. 69.

**286.** The Commissioners may give notice in writing to the owner or occupier of any house or building adjoining any public highway to remove or alter any porch, shed, projecting window, step, staircase, cellar door, window, sign, sign post, sign iron, show board, window shutter or blind, wall, gate, fence, door, or any other obstruction or projection erected or placed against or in front of any house or building, and which is or may be an obstruction to the safe and convenient passage along any public highway; and every such person shall, within thirty days after the service of such notice upon him remove such obstruction, or alter the same in such manner as shall have been directed by the Commissioners, and in default thereof shall be liable to a penalty not exceeding £5; and the Commissioners in such case may remove such obstruction or projection, and the expenses of such removal shall be paid by the occupier so making default: Provided always that, except in the case in which such obstructions or projections were made

Expenses of  
occupier when  
to be deducted  
from rent.



or put up by the occupier, such occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building.

**287.** If any such obstructions or projections were erected or placed before the commencement of this Ordinance, no such notice of the Commissioners shall have any force or effect, unless the same shall be made upon condition, stated therein, that the Commissioners shall pay to the person required to carry the same into execution, the expenses of such removal or alteration as well as compensation for the damage or injury, if any, to the premises occasioned thereby.

Existing  
projections to be  
removed on  
payment of  
expenses.  
10 & 11 Vic.  
c. 34. s. 70.

**288.** If any dispute shall arise as to the liability of the Commissioners to pay any such expenses and compensation for damage or injury, if any, or as to the amount thereof, or if the Commissioners shall refuse to pay the same, such liability shall be determined, and such amount, if any, shall be ascertained and may be recovered, in a summary manner from the Commissioners, by any person aggrieved by such refusal.

How dispute as to  
compensation to  
be decided.

**289.** (1) All vaults, arches, and cellars under any street, and all openings into such vaults, arches or cellars in the surface of any street, and all cellar-heads, gratings, lights, and coal holes in the surface of any street, and all landings, flags, or stones of the path or street supporting the same respectively, shall be kept in good condition and repair by the owners or occupiers of the same, or of the houses or buildings to which the same respectively belong.

As to repair of  
cellars under  
streets.  
53 & 54 Vic.  
c. 59. s. 35.

(2) Where any default is made in complying with the provisions of this section, the Commissioners may, after twenty-four hours notice in that behalf, cause anything in respect of which such default is made to be repaired or put into good condition, and the expenses of so doing shall be paid to the Commissioners by such owner or occupier respectively, or in default may be recovered in a summary manner.

**290.** The Commissioners may make bye-laws for regulating, so far as any rules of the Governor made under this Ordinance or otherwise shall not extend, the traffic in the public highways, or other ways and public places.

Bye-laws to  
regulate traffic in  
public highways.

#### *New Streets.*

**291.** The Governor, whenever he shall be requested so to do by the Commissioners, may by notice in writing declare any street or part of a street not being a public highway to be a public highway and thereupon such street or part of a street as defined in the notice shall become a public highway, and shall be vested in and under the control and management of the Commissioners, and be subject to all the provisions contained in this Ordinance relating to public highways in Gibraltar.

Governor may  
declare new streets  
to be public  
highways.  
Do. do. s. 41.

#### *Street Improvement.*

**292.** The Commissioners with the consent in writing of the Governor may purchase or otherwise acquire any lands for the purpose of widening, enlarging or diverting any public highway, or for the purpose of constructing any new public highway.

Power to  
purchase lands for  
improvement of  
public highway.  
38 & 39 Vic.  
c. 55. s. 154.



Commissioners  
may embellish  
public highways  
with consent of  
Governor.

**293.** The Commissioners may also, with the consent of the Governor in writing, ornament, embellish, and improve the public highways by planting trees thereon, and laying out gardens or flower beds in unused portions thereof, and do any other thing which they may consider desirable for the ornamentation, embellishment or improvement thereof, including the illuminating of any church clock or other clock by electricity, gas or otherwise, and set apart and enclose any part of any public highway so ornamented, embellished, and improved, which they shall determine not to be required for traffic and to be conducive to the embellishment of Gibraltar: Provided always that the cost thereof shall be defrayed out of current revenue, and not out of capital, and shall be charged upon the general sanitary purposes rates.

Refuges, &c., in  
public highways.  
53 & 54 Vic.  
c. 59, s. 39.

**294.** The Commissioners may from time to time place, maintain, alter, and remove in any public highway, such raised paving or places of refuge, with such pillars, rails, or other fences, either permanent or temporary, as they may think fit, for the purpose of protecting passengers and traffic, either along the public highway or on the footways, from injury, danger, or annoyance, or for the purpose of making the crossing of any public highway less dangerous to passengers.

*Reserved and Military Ways.*

Reserved and  
military ways  
how to be  
repaired.

**295.** Except as hereinafter provided, it shall not be lawful to defray the expenses of the maintenance, repair, cleansing, sewerage, and drainage of any reserved and military ways out of any rate or assessments to be made or levied in Gibraltar, or out of the local public revenue. But the Commissioners may from time to time contract with any person being an officer in His Majesty's civil or military service and duly authorised in writing by the Governor for such purpose, for maintaining in good repair and condition, and for the watering of any reserved and military way, not being a public highway, in consideration of such sum to be paid in advance as may be agreed upon.

Commissioners  
may contract  
for repairs.

When Governor  
may require the  
Commissioners to  
take charge of  
reserved and  
military ways.

**296.** The Governor with the previous sanction of one of His Majesty's Principal Secretaries of State, may by written notice delivered to the Commissioners, authorise and require the Commissioners to take charge of and to maintain, repair, water, or otherwise deal with any reserved and military ways, and other places that may be used by the civil population of Gibraltar, in such manner as may be directed by such notice, and the expenses of the Commissioners in executing such notice shall be paid out of the general sanitary purposes rates: Provided always that before issuing a notice requiring the Commissioners to maintain any reserved or military way, the Governor shall be satisfied that such way is in a state of good repair and provided with such culverts or water channels as may be necessary to carry off the surface water therefrom, and with water mains and street watering valves.

Governor to make  
rules for traffic  
upon reserved and  
military ways.

**297.** The Governor may make all such rules for the governance of the traffic upon all reserved and military ways and other open spaces and places of public resort, and places forming part of the defences of Gibraltar, as he may by this Ordinance make for the governance of the traffic upon the public highways.



*Regulation of Buildings.*

**298.** The Governor may make rules to regulate and govern the construction of all buildings in Gibraltar, and may specify in such rules the materials of which and the shape and proportions in which all houses and all staircases and roofs appertaining thereto shall in future be constructed. All such rules shall be submitted for the approval of one of His Majesty's Principal Secretaries of State, and when approved and after publication in the *Official Gazette*, shall have the force and effect of law.

Governor may make rules for the construction of buildings.

**299.** The owner of every house or building abutting upon or adjoining any public highway shall put up and keep in good condition, a gutter under the eaves of such house or building, and shall connect the same either with a similar gutter on the adjoining house or with a pipe so constructed as to carry the water from the roof thereof into a suitable reservoir or receptacle, or into a surface gutter communicating with one of the sewers or drains of the Commissioners, in such manner that the water from such house, or any portico or projection therefrom, shall not fall upon the persons passing along the public highway, or flow over the footpath; and in default of compliance, within ten days next after service with any notice in writing of the Commissioners for that purpose, such owner shall be liable to a penalty not exceeding £5 for every day that he shall so make default.

Owners to place gutters to eaves of houses or buildings. 10 & 11 Vic. c. 34. s. 74.

**300.** If the owner of any such house or building be His Majesty, his heirs or successors, or be not known, or shall not reside or cannot be found in Gibraltar, two Justices, upon complaint in that behalf, may order and require either the occupier or the person having the custody thereof, to put up and keep in good condition in manner aforesaid such gutter and pipe, and such occupier or person shall be entitled to deduct the expenses thereby incurred by him from the rent payable by him to the owner of the house or building.

If owner not to be found occupier may be ordered to place such gutter.

**301.** It shall not be lawful, without the previous consent in writing of the Governor and of the Commissioners, to build or rebuild or to commence to build or rebuild any house or building on any premises in Gibraltar, unless a duplicate specification of the house or building intended to be built or rebuilt, signed by the owner of such premises or other person by whom the same is intended to be built or rebuilt, shall have been delivered to the Governor and to the Commissioners, nor unless such specification shall have been approved in writing by the Governor and by the Commissioners. Nor shall it be lawful to build or rebuild in any manner contrary to the approval and conditions imposed by the Commissioners in their written consent as aforesaid, nor until the party intending to build or rebuild signify his assent in writing to abide by and fulfil all such conditions or until otherwise ordered by the Supreme Court under the provisions of this Ordinance.

Specification to be delivered of any house to be built or rebuilt.

**302.** Provided always that the last preceding section shall not be deemed to apply to any house or building to be built or rebuilt by the War Department, or by the Admiralty, or by the Government Engineer for the Local Government under the sanction of the Governor.

Exceptions.



Governor may  
forbid the building

**303.** If, in the opinion of the Governor, the building or rebuilding any such house or building, in the manner shown in such specification, will in any way interfere with or prejudice the defences of Gibraltar, the Governor may by notice in writing forbid such building or rebuilding.

on military  
grounds.

**304.** In every such notice it shall be stated that the same is made on the ground that the building or rebuilding of the house or building therein mentioned in the manner shown in the specification will interfere with or prejudice the defences of Gibraltar, and in all proceedings whatsoever had or taken in Gibraltar such notice shall be deemed and taken to be conclusive until the same shall be revoked by the Governor.

Commissioners  
may forbid the  
building

**305.** If in the opinion of the Commissioners the building or rebuilding of any such house or building in the manner shown in such specification will be prejudicial to the health of any of the inhabitants, or any such house or any part thereof, if built or rebuilt in the manner shown in the specification, will be unfit for human habitation, or injurious to the health of any person who might inhabit the same, the Commissioners may by notice in writing prohibit the building or rebuilding of such house or building.

on sanitary  
grounds.

**306.** In every such notice of prohibition it shall be stated that the same is made on the ground that the house or building if built or rebuilt in the manner shown in the specification will be, and in what manner, and how, unfit for human habitation, or injurious to the health of the inhabitants thereof.

Supreme Court  
may set aside  
Commissioners'  
notice of  
prohibition.

**307.** The person by whom any such specification shall be signed, or any other person being or claiming to be the owner of or otherwise interested in any such house or building may move the Supreme Court, according to the rules of Court, to set aside any such notice of prohibition of the Commissioners, and thereupon the said Court shall proceed to hear and determine such motion upon the merits, and shall either confirm or set aside such notice of prohibition and make such further order in the premises or as to costs as to the Chief Justice shall seem reasonable and just.

Penalty for  
building without  
consent.

**308.** Any person, save as hereinbefore excepted, who shall build or rebuild, or commence to build or rebuild, any house or building, or any part of any house or building in Gibraltar, without the previous consent of the Governor and the Commissioners as hereinbefore required, or without having delivered to the Governor and the Commissioners the specification hereinbefore mentioned, or otherwise than in accordance with the approval and conditions of such consent if given, shall upon conviction be liable to a penalty of £10, and to a further penalty not exceeding £1 for every day that such building or rebuilding is proceeded with, or remains unaltered after due notice shall have been given by the Governor, or by the Commissioners requiring the suspension or alteration of such building.

Attorney-General  
or Commissioners  
may obtain  
injunction.

**309.** The Attorney-General and the Commissioners (without prejudice to the recovery of any penalty under the last preceding section) may, if necessary, apply to the Supreme Court for an order to restrain any person from further proceeding to build, or to rebuild any



house or building, and to command the person who shall have built or rebuilt, or commenced to build or rebuild such house or building, to pull down such house or building, or so much thereof as may have been built or rebuilt, and to remove all the materials thereof. And thereupon the Court shall make such order as to the Chief Justice shall seem reasonable and just, including the payment of the costs occasioned by such application. If any person restrained by such order shall refuse or neglect to obey the same, upon application to the Supreme Court by the Attorney-General or the Commissioners where such order shall have been made at their instance, and upon due proof of such neglect or refusal, and also of service of notice of such application upon all proper parties, the Supreme Court may either postpone making or refuse to make any further order, and upon such terms and conditions as to the Chief Justice may seem reasonable and just, or may order and direct by a further order that such house or building, or so much thereof as shall have been then built or rebuilt, or commenced to be built or rebuilt shall be pulled down by the Commissioners and the materials thereof removed, which said materials shall be absolutely forfeited to the Commissioners.

**310.** Any person who wilfully uses or knowingly permits to be used any building or any part thereof otherwise than in accordance with the approval and conditions of the consent given as aforesaid, or for the purposes of habitation by any person other than the person placed therein to take care thereof and the family of such person where the building is described in the specification delivered as aforesaid otherwise than as a dwelling house, shall be guilty of an offence under this section, and shall be liable to a penalty not exceeding £5 and to a daily penalty not exceeding 40 shillings.

Buildings not to be used contrary to approval and conditions of consent or specification.  
53 & 54 Vic.  
c. 59. s. 33.

**311.** The Commissioners may, with the previous consent in writing of the Governor, in all cases in which any house shall hereafter be built or rebuilt in which any wall or part of a wall is a retaining wall of a street or public highway or any part thereof, or of ground any part of which is higher than the floor of any room in such house intended for human habitation, require and permit the owner or builder of such house to construct areas, vaults or arches or cellars under any such street or public highway, or high ground adjoining such wall or any part thereof, in such position and place, at such level and of such materials, and of such shape and dimensions, and to be drained and ventilated in such manner as they may deem expedient, for the purpose of ventilating or otherwise improving underground rooms or structures, and for rendering the same fit for human habitation, and as they may direct in their written consent to such building or rebuilding: Provided always that no right of property in any such areas, vaults, arches or cellars shall vest in any person under this section, and provided also that such construction shall be effected at the expense of the person making the same and without injury or damage to the street or public highway or to any sewer, drain, water, gas pipe or electric line thereunder, and provided also that any such damage or injury as aforesaid shall be made good by such person to the satisfaction of the Commissioners, and that in default the Commissioners may repair such damage or injury and recover the expenses occasioned by such repair from such person in a summary manner under this Ordinance.

Areas, vaults, &c., may be constructed under streets or public highways.



New houses, &c.,  
shall not be let  
without certificate  
of Commissioners.

**312.** No new building, and no house which has been rebuilt in whole or in part, and no house after having been re-leased shall be let or allowed to be occupied as a human habitation until a certificate has been obtained from the Commissioners that the conditions sanctioned by this Ordinance have been duly complied with and that such house is fit for such habitation, nor shall any store, cellar, vault, shop, warehouse, stable, coach-house, goatshed, tenement, or other hereditament or premises whatsoever, be let, or allowed to be occupied for the purpose for which it is intended, until a like certificate has been obtained from the Commissioners that the conditions imposed by them have been duly complied with, and that such premises are fit for such occupation. Every person who shall omit to comply with the requirements of this section shall be liable to a penalty of £1 for every day such house shall be occupied without such certificate.

Bye-laws  
respecting new  
buildings, &c.  
38 & 39 Vic.  
c. 55. s. 157.

**313.** The Commissioners may make bye-laws—

(1) With respect to the structure of walls, foundations, roofs and chimneys of new buildings, for securing stability and the prevention of fires, and for purposes of health.

(2) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings.

53 & 54 Vic.  
c. 59. s. 11 (3).

(3) With respect to the drainage of buildings, to sanitary conveniences in connection with buildings and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation.

Do. do. s. 23.

(4) With respect to the keeping waterclosets supplied with sufficient water for flushing.

(5) With respect to the structure of floors, hearths, and staircases, and the height of rooms intended to be used for human habitation.

(6) With respect to the paving of yards and open spaces in connection with dwelling-houses.

38 & 39 Vic.  
c. 55. s. 157.

And they may further provide for the observance of such bye-laws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to construct buildings, as to inspection by the Commissioners, and as to the powers of the Commissioners (subject to the provisions of this Ordinance) to remove, alter or pull down any work begun or done in contravention of such bye-laws.

53 & 54 Vic.  
c. 59. s. 23 & 11(3)

Any bye-laws with regard to the drainage of buildings, and to sanitary conveniences in connection with buildings and the keeping of waterclosets supplied with sufficient water for flushing may be made so as to affect buildings erected before the coming into operation of this Ordinance.

What to be deemed  
a new building.  
38 & 39 Vic.  
c. 55. s. 159.  
53 & 54 Vic.  
c. 59. s. 23 (4).

**314.** For the purposes of this Ordinance the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-



house of a building originally constructed as one dwelling-house only, or the conversion of a dwelling-house for other purposes, shall be considered the erection of a new building.

**315.** (1) Where any portion of a room extends immediately over any privy (not being a water-closet or earth-closet) or immediately over any cesspool, midden, or ashpit, that room, whether built before or after the coming into operation of this Ordinance, shall not be occupied as a dwelling place, sleeping place, or workroom or place of habitual employment of any person in any manufacture, trade or business during any portion of the day or night.

Rooms over  
privies, &c.,  
not to be used  
as dwelling or  
sleeping rooms.  
53 & 54 Vic.  
c. 59. s. 24.

(2) Any person who after notice from the Commissioners of not less than seven days, so occupies, and any person who suffers to be so occupied, any such room, shall be liable to a penalty not exceeding 40 shillings, and to a daily penalty not exceeding 10 shillings.

**316.** (1) It shall not be lawful to erect a new building on any ground which has been filled up with any matter impregnated with faecal, animal, or vegetable matter, or upon which any such matter has been deposited, unless and until such matter shall have been properly removed by excavation or otherwise, or shall have been rendered or have become innocuous.

Penalty for  
erection buildings  
on ground filled  
up with offensive  
matter.  
Do. do. s. 25.

(2) Every person who does or causes, or wilfully permits to be done, any act in contravention of this section shall for every such offence be liable to a penalty not exceeding £5, and to a daily penalty not exceeding 40 shillings.

**317.** (1) Where any court, or where any passage leading to the back of several buildings in separate occupations, and not being a public highway, is not regularly and effectually swept and kept clean and free from rubbish or other accumulation to the satisfaction of the Commissioners, the Commissioners may, if they think fit, cause such court or passage to be swept and cleaned.

Provision for  
keeping common  
courts and passages  
clean.  
Do. do. s. 27.

(2) The expenses thereby incurred shall be apportioned between the occupiers of the buildings situated in the court or to the back of which the passage leads in such shares as may be determined by the Commissioners, or, in case of dispute, by a Court of Summary Jurisdiction, and in default of payment any share so apportioned may be recovered in a summary manner from the occupier on whom it is apportioned.

**318.** The word "house" in the two following sections shall mean and include all buildings the whole or any part of which shall be used or intended to be used for the purposes of human habitation, other than and except premises inhabited by the Governor, all barracks and naval and military quarters, the naval and military hospitals, and the military prison.

Interpretation of  
word "house."

**319.** The Commissioners shall from time to time cause the houses in all or any of the public highways and reserved and military ways in which any house may be situate to be marked with numbers in a separate series for each such public highway or reserved or military way, and shall cause to be put up or painted on a conspicuous part of some house or place, at or near each end, corner, or entrance of every

Houses to be  
numbered and  
streets named.  
10 & 11 Vic.  
c. 34. s. 44.



such public highway and reserved and military way, the name by which the same is to be known; and every person who destroys, pulls down, or defaces any such number, or name, or puts up any number, or name different from the number, or name assigned by the Commissioners shall be liable to a penalty not exceeding 40 shillings for every such offence.

Numbers, &c.,  
of houses to be  
renewed.  
10 & 11 Vic.  
c. 34. s. 65.

**320.** The owner, and in default of the owner the occupier of such houses shall mark the same on the outside door thereof or in such place and in such manner as shall be directed by the Commissioners with the numbers assigned by the Commissioners, and shall renew such numbers as often as they become obliterated or defaced; and every such owner or occupier, as the case may be, who fails, within one week after notice for that purpose from the Commissioners, to mark his house with the number assigned by the Commissioners, or to renew such number when obliterated, shall be liable to a penalty not exceeding 40 shillings, and the Commissioners shall cause such numbers to be marked or to be renewed, as the case may require, and the expense thereof shall be repaid to the Commissioners by the owner or occupier and in default may be recovered in a summary manner: Provided always that the occupier shall be entitled to deduct any expense incurred by him under this section from the rent payable by him to the owner of the house.

Ruinous buildings  
may be taken down  
or secured.  
Do. do. s. 75.

**321.** If any building or wall or anything affixed thereon be deemed by the Commissioners to be in a ruinous state, and dangerous to passengers or to the occupiers of the neighbouring buildings the Commissioners shall immediately cause a proper board or fence to be put up for the protection of passengers and shall cause notice in writing to be given to the owner of such building or wall, if he be known and resident in Gibraltar, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof, if any, requiring such owner or occupier forthwith to take down, secure, or repair such building, wall, or other thing, as the case shall require: And if such owner or occupier do not begin to take down, secure, or repair such building, wall, or other thing within the space of three days after any such notice has been so given or put up as aforesaid, and complete such repairs, or taking down or securing, as speedily as the nature of the case will admit, the Commissioners may cause complaint thereof to be made before a Justice, and it shall be lawful for a Court of Summary Jurisdiction to order the owner, or in his default the occupier (if any) of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure, to the satisfaction of the Commissioners, the same or such part thereof as appears to it to be in a dangerous state, within a time to be fixed by the Court, and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so limited, or if no owner or occupier can be found on whom to serve such order, the Commissioners shall, with all convenient speed, cause all or so much of such building, wall, or other thing as shall be in a ruinous condition and dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite: And all the expenses of putting up every such fence, and of taking down, repairing, rebuilding, or securing such building, wall, or other thing, shall be paid by the owner thereof, but the Commissioners may in the first instance defray the expenses aforesaid out of the general sanitary purposes rates.

If owner, &c.,  
neglect to repair,  
Commissioners  
may do so,  
charging owner,  
&c.



**322.** If such owner can be found in Gibraltar, and if, on demand of the expenses aforesaid, he neglect or refuse to pay the same, then such expenses may be levied by distress, and any Justice may issue his warrant accordingly.

Expenses to be levied on owner.  
10 & 11 Vic.  
c. 34. s. 76.

**323.** If such owner cannot be found in Gibraltar, or sufficient distress of his goods and chattels cannot be made, the Commissioners, after giving twenty-eight days notice of their intention to do so, by posting a printed or written notice in a conspicuous place on such building, or on the land upon which such building stood, may take such building or land, provided that such expenses be not paid or tendered to them within the said twenty-eight days, making compensation by way of purchase money to the owner of such building or land in the manner provided by this Ordinance in the case of premises taken of which the owner or other person enabled to sell and convey is unknown to the Commissioners, and the Commissioners shall be entitled to deduct out of such compensation the amount of the expenses aforesaid, and may thereupon sell or otherwise dispose of the said building or land for the purposes of this Ordinance.

If owner cannot be found, or distress be had.  
Do. do. s. 77.

**324.** If any such building, wall or other thing as aforesaid, or any part of the same be pulled down by virtue of the powers aforesaid, the Commissioners may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such building, wall, or other thing; and the Commissioners shall restore any overplus arising from such sale to the owner thereof on demand. Nevertheless, the Commissioners, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

Commissioners may sell materials, restoring overplus arising from the sale.  
Do. do. s. 78.

**325.** The Commissioners shall, during the construction or repair of any of the public highways, and during the construction or repair of any sewers or drains, or other works, take proper precautions for guarding against accident, by shoreing-up and protecting the adjoining houses, and shall cause such bars or chains to be fixed across or in any of the said public highways, to prevent the passage of carriages and horses while such works are carried on, as to them shall seem proper; and the Commissioners shall cause any sewer or drain or other works, during the construction or repair thereof by them, to be lighted and guarded during the night, so as to prevent accidents; and every person who takes down, alters, or removes any of the said bars or chains, or extinguishes any light, without the authority or consent of the Commissioners, shall for every such offence be liable to a penalty not exceeding £5.

Precautions during repairs, erection of bars, and placing of lights.  
Do. do. s. 79.

**326.** (1) Every person intending to build or take down any building, or to alter or repair the outward part of any building in any street or court, shall—

(a) before beginning the same, unless the Commissioners otherwise consent in writing, cause close-boarded

Hoards to be put up during progress of buildings, &c.  
53 & 54 Vic.  
c. 59. s. 34.



hoards or fences to the satisfaction of the Commissioners to be put up in order to separate the building from the street or court;

- (b) if the Commissioners so require, make a convenient covered platform and handrail to serve as a footway for passengers outside of such hoard or fence;
- (c) continue such hoard or fence with such platform and handrail as aforesaid standing and in good condition to the satisfaction of the Commissioners during such time as they may require;
- (d) if required by the Commissioners, cause the same to be sufficiently lighted during the night;
- (e) remove the same when required by the Commissioners.

(2) A person shall not use any hoarding or similar structure which is in, or abuts on, any public highway, for any purpose unless it is securely fixed to the satisfaction of the Commissioners.

(3) Every person who fails to comply with any of the provisions of this section shall be liable to a penalty not exceeding £5 and to a daily penalty not exceeding 40 shillings.

Penalty for not  
lighting deposits of  
building materials  
or excavations.  
10 & 11 Vic.  
c. 34. s. 81.

**327.** When any building materials, rubbish, or other things are laid, or any hole made, in any of the streets, whether the same be done by order of the Commissioners or not, the person causing such materials or other things to be so laid, or such hole to be made, shall at his own expense cause a sufficient light to be fixed in a proper place upon or near the same, and continue such light every night from sun-setting to sun-rising while such materials or hole remain; and such person shall, at his own expense, cause such materials or other things and such hole to be sufficiently fenced and inclosed until such materials or other things are removed or the hole filled up or otherwise made secure; and every such person who fails so to light, fence, or inclose such materials or other things, or such hole, shall for every such offence be liable to a penalty not exceeding £5, and to a daily penalty not exceeding 40 shillings.

Penalty for  
continuing deposits  
of building  
materials or  
excavations an  
unreasonable time.  
Do. do. s. 82.

**328.** In no case shall any such building materials or other things or such hole be allowed to remain for an unnecessary time, under a penalty not exceeding £5 to be paid for every such offence by the person who causes such materials or other things to be laid or such hole to be made, and a daily penalty not exceeding 40 shillings; and in any such case the proof that the time has not exceeded the necessary time shall be upon the person so causing such materials or other things to be laid, or causing such hole to be made.

Dangerous places  
to be repaired  
or enclosed.  
7 Edw. 7. c. 53.  
s. 30.

**329.** (1) If in any situation fronting, adjoining or abutting on any public highway, any building, wall, fence, steps, structure, or other thing, or any excavation, reservoir, pond, dam, or bank, is for want of sufficient repair, protection, or enclosure, dangerous to the passengers along such highway, the Commissioners may by notice in writing served upon the owner, if he be known and resident in Gibraltar, or otherwise to be given to the occupier thereof, if any, require such owner or occupier within the period specified in the notice, to repair, remove, protect, or enclose, the same so as to prevent any danger therefrom.



(2) If, after service of the notice on the owner or occupier, he shall neglect to comply with the requirements thereof within the period prescribed by such notice, the Commissioners may cause such works as they may think proper to be done for effecting such repair, removal, protection, or enclosure, and the expenses thereof shall be payable by the owner or occupier, as the case may be, and may be recovered by the Commissioners summarily as a civil debt, or in manner provided by Section 496 of this Ordinance.

**330.** (1) Every building used as a place of public resort shall, to the satisfaction of the Commissioners, be substantially constructed and supported with ample, safe, and convenient means of ingress and egress for the use of the public, regard being had to the purposes for which such building is intended to be used, and to the number of persons likely to be assembled at any one time therein.

Means of ingress  
to and egress from  
places of public  
resort.  
53 & 54 Vic.  
c. 59, s. 36.

(2) The means of ingress and egress shall during the whole time that such building is used as a place of public resort be kept free and unobstructed to such extent as the Commissioners shall require.

(3) Any officer authorised in writing by the Commissioners, and producing his authority if so required, may at all reasonable times enter any such building to see that the provisions of this section are carried into effect.

(4) Any person who being the occupier or manager, or in the case of a building let for any period less than one year the owner, of any building used as aforesaid, uses the same or suffers the same to be used in contravention of this section, or fails to comply with the provisions of this section in respect thereof, shall for every such offence be liable to a penalty not exceeding £20.

(5) Where any alteration in the building is required in order to give proper means of ingress or egress, the Court may refuse to inflict a penalty for an offence under this section until a reasonable time has been allowed for making such alteration, but the Court may make such order as they think fit for the closing, or otherwise, of the building during such time.

(6) For the purposes of this section the expression "place of public resort" means a building used or constructed or adapted to be used either ordinarily or occasionally as a church, chapel or other place of public worship (not being merely a dwelling-house so used) or as a theatre, public-hall, public concert-room, public ball-room, public lecture-room, or public exhibition room, or as a public place of assembly for persons admitted thereto by tickets or by payment, or used, or constructed, or adapted to be used, either ordinarily or occasionally for any other public purpose, but shall not include a private dwelling-house used occasionally or exceptionally for any of those purposes.

Provided that this section shall not extend to any building used as a church or chapel or other place of public worship before or at the time of the coming into operation of this Ordinance.

**331.** (1) Whenever large number of persons are likely to assemble on the occasion of any show, entertainment, public procession, open-air meeting, or other like occasion, every roof of a building, and every platform, balcony, or other structure or part thereof let or used or

Safety of platforms,  
&c., erected or  
used on public  
occasions.  
Do. do. s. 37.



intended to be let or used for the purpose of affording sitting or standing accommodation for a number of persons, shall be safely constructed or secured to the satisfaction of the Commissioners.

(2) Any person who uses or allows to be used in contravention of this section, any roof of a building, platform, balcony, or structure not so safely constructed or secured, or who neglects to comply with the provisions of this section in respect thereof, shall be liable to a penalty not exceeding £50.

*Lighting, &c.*

**332.** In this part of this Ordinance, unless the context otherwise requires,—

"Electricity."  
45 & 46 Vic.  
c. 56. s. 32.  
"Electric line."

"Electricity" means electrical energy, or any like agency.

"Electric line" means a wire or wires, conductor, or other means used for the purpose of conveying, transmitting or distributing electricity, with any casing, coating, covering, tube, pipe, or insulator inclosing, surrounding, or supporting the same, or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting or distributing electricity.

"Works."

"Works" means and includes gas pipes, electric lines; also any buildings, machinery, engines, matters, or things of whatever description required to supply gas or electricity, and to carry into effect the object of the Commissioners under this Ordinance.

"Consumer."  
62 & 63 Vic.  
c. 19. s. 1.

"Consumer" means any body or person supplied or entitled to be supplied with gas or electricity by the Commissioners.

Commissioners  
may undertake  
supply of gas  
or electricity.

**333.** The Commissioners may undertake the supply, for public or private use, of gas or electricity for lighting or any other purpose whatsoever in Gibraltar, and if they undertake such supply shall, unless prevented by necessary repairs, alterations or other lawful hindrance, provide and keep a regular and efficient supply of gas or electricity, as the case may be, for the use of all consumers.

Commissioners  
may buy existing  
gas or electric  
works.  
38 & 39 Vic.  
c. 55. s. 162.

**334.** For the purpose of supplying gas or electricity in Gibraltar, the Commissioners may buy all the rights, powers and privileges and all or any of the lands, premises, works and other property of any existing gas or electric works in Gibraltar, and may enlarge, vary and alter the same.

Governor may  
require gas or  
electricity for  
imperial or local  
government  
premises.

**335.** As soon as the Commissioners shall have commenced the supply of gas or electricity the Governor may, by notice in writing, require them to supply gas or electricity, as the case may be, and to execute all such works as may be necessary in any imperial or local government premises in such notice mentioned, and the Commissioners shall thereupon supply and provide the same under the provisions of this Ordinance.

Application of  
money received  
from supply of  
gas or electricity.  
62 & 63 Vic.  
c. 19. s. 7.

**336.** All moneys received by the Commissioners in respect of the supply of gas or electricity shall be applied by them in payment of their expenses and liabilities in relation to such supply, and the surplus shall be either carried to the credit of all such expenses or to the credit of the general sanitary purposes rates during the ensuing year.



**337.** The Commissioners shall cause all lamps placed by them in the streets or other ways or public places to be lighted and kept alight at all necessary hours during the night, and all lamps in the public highways required for military purposes during such hours as the Governor shall by notice in writing declare to be necessary for such purposes.

Lighting of lamps.

**338.** The Commissioners may open and break up the soil and pavement of any streets in Gibraltar, and open and break up any sewers, drains, or tunnels within or under such streets, and lay down and place gas pipes, electric lines, fittings, apparatus and other works, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets, and in such streets and such other ways and public places as they may think necessary, and in such of the public highways as the Governor may by notice in writing declare to be necessary for military purposes, into, through, or against any building, public or private, or in any land not dedicated to public use, erect any pillars, lamps and works, and do all other works which shall from time to time be deemed necessary for the supply of gas or electricity in Gibraltar, doing as little damage as may be in the execution of the powers hereby granted, and making good any damage which may be done in the execution of such powers or of any works authorised under this section, and pay reasonable compensation to any person to whom damage may result therefrom; the amount of such compensation, in the absence of agreement between the Commissioners and the person entitled thereto, shall be assessed in the manner provided for compensation for damage caused by the laying of drainage pipes by Section 66 of this Ordinance: Provided always that nothing herein contained shall authorise the erection, or fixing, or lighting of any lamp near or to any powder magazine or other place which the Governor shall for military purposes, and by notice in writing delivered to the Commissioners, declare to be dangerous or improper.

Power to break up streets, &c., and lay down gas pipes, electric lines, &c.  
10 Vic. c. 15, ss. 6 and 7.

**339.** The Commissioners may alter the position of any pipes or wires being under any street or place authorised to be broken up by them which may interfere with the exercise of their powers under this Ordinance, making good any damage done thereby, and complying with such conditions as to the mode of making such alterations as may before the commencement of such alterations be agreed upon between the Commissioners and the owners of such pipes or wires, and in case the Commissioners and the owners of the pipes or wires do not agree the conditions shall be determined in a summary manner.

Power to alter position of pipes and wires.  
45 & 46 Vic.  
c. 56, s. 15.

**340.** Gas or electricity supplied under this Ordinance, except where otherwise expressly provided by agreement between the Commissioners and the consumer, shall be measured by meter and the register of the meter shall be *prima facie* evidence of the quantity of gas or electricity consumed, and in respect of which any charge is made and sought to be recovered by the Commissioners.

Measure of gas or electricity to be made by meter.  
34 & 35 Vic.  
c. 41, s. 20.

Provided always that if the Commissioners and the consumer of gas or electricity differ as to the quantity consumed, such difference may be determined, upon the application of either party, by a Court of Sum-



mary Jurisdiction, which may also order by which of the parties the costs of the proceedings before it shall be paid, and the decision of the Court shall be final and binding on all parties.

Meters to be provided and fixed by Commissioners upon terms.  
34 & 35 Vic.  
c. 41. s. 18.

**341.** The meters used for ascertaining the quantity of gas or electricity supplied shall be provided and fixed by the Commissioners upon such terms with respect to remuneration, to the testing and repair of such meters and fittings, to securing the safety and return to the Commissioners of such meters, as may be from time to time prescribed.

Meters not to be connected or disconnected without notice.  
Do. do. s. 15.

**342.** No consumer of gas or electricity shall connect any meter with any gas pipe or electric line through which gas or electricity is supplied by the Commissioners, or disconnect any meter from any such gas pipe or electric line, but a consumer may require the Commissioners within a specified time to disconnect any gas pipe or electric line from the meter, and no person shall wilfully damage or destroy or permit to be damaged or destroyed any gas pipe, electric line, or other works appertaining thereto, and if any person acts in contravention of this section he shall be liable for each offence to a penalty not exceeding £10, together with full compensation for any damage or loss thereby sustained by the Commissioners.

Gas pipes, electric lines, &c., not to be subject to distress in certain cases.  
45 & 46 Vic.  
c. 56. s. 25.

**343.** Where any gas pipes, electric lines, accumulators, fittings, works, or apparatus belonging to the Commissioners, or any meters for measuring gas or electricity are placed in or upon any premises for the purpose of supplying gas or electricity under this Ordinance, such gas pipes, electric lines, meters, accumulators, fittings, works, or apparatus, shall not be subject to distress, or to the landlord's remedy for rent of the premises where the same may be, nor to be taken in execution under any process of a court of law or equity, or any proceedings in bankruptcy against the person in whose possession the same may be.

Power to enter buildings for ascertaining quantities of gas or electricity consumed.  
34 & 35 Vic.  
c. 41. s. 21.

**344.** Any officer appointed by the Commissioners may at all reasonable times enter any building or land lighted with gas or electricity supplied by the Commissioners, in order to inspect the meter, fittings, and works for the supply of gas or electricity, and for the purpose of ascertaining the quantity of gas or electricity consumed or supplied, and if any person hinders such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time he shall for every such offence be liable to a penalty not exceeding £5.

Power to remove meter and fittings.  
Do. do. s. 22.

**345.** In all cases in which a consumer of gas or electricity supplied by the Commissioners ceases to require a supply of such gas or electricity, and in all cases in which the Commissioners are authorised by any bye-law made under this Ordinance to take away and cut off the supply of gas or electricity from any premises, it shall be lawful for the Commissioners, their agents or workmen, after twenty-four hours' notice in writing, under the hand of their Secretary to the occupier, or if unoccupied, then to the owner or lessee, or to the agent of the owner or lessee, of any premises in which any gas pipes, electric lines, meters, fittings, or apparatus belonging to the Commissioners are laid or fixed, and through or in which the supply of gas or electricity is from any such cause discontinued, to enter such premises between the hours of nine in the morning and five in the evening, for the purpose of removing,



and to remove such gas pipes, electric lines, meters, fittings or apparatus, repairing all damage caused by such entry or removal, and the expenses occasioned by such removal may be recovered in a summary manner from the person liable thereto.

**346.** (1) The prices to be charged by the Commissioners for the supply of gas or electricity shall be those prescribed by them and notice thereof shall be published in the *Official Gazette*.

Charges for gas  
or electricity.  
62 & 63 Vic.  
c. 19. ss. 32 & 33.

(2) Provided always that the Commissioners may make any agreement with a consumer as to the price to be charged for the supply of gas or electricity, and the mode in which those charges are to be ascertained, and may charge accordingly.

**347.** In case any person who shall have been supplied with gas or electricity by the Commissioners shall neglect or refuse to pay the amount due in respect of such supply or any sum due in connection therewith, the Commissioners shall have the same powers for recovering the amount due from such person, including the cost of cutting off the gas or electricity if the same shall have been cut off by the Commissioners, and the same remedies in case of default of payment thereof as they have for recovering rates under this Ordinance.

Recovery of  
charges for gas  
or electricity.  
34 & 35 Vic.  
c. 41. s. 23.  
45 & 46 Vic.  
c. 56. s. 21.

**348.** The Commissioners may recover in a summary manner from every consumer of gas or electricity full compensation for any injury, loss, removal or want of repair to or of such gas pipes, electric lines or works belonging to the Commissioners together with the expenses of the Commissioners thereby occasioned.

Compensation for  
injury, &c., to  
electric works, &c.

**349.** Every consumer of gas or electricity, and every inhabitant or occupier of any premises supplied with gas or electricity shall give immediate notice to the Commissioners of any injury to or removal, or alteration, or want of repair which he shall know or have reason to believe to have happened to any gas pipes, electric lines or works provided by the Commissioners for the supply of gas or electricity in such premises, and in default thereof shall be liable to a penalty not exceeding £5 together with the expenses of the Commissioners occasioned by such default.

Notice of injury,  
&c., to electric  
works, &c., to be  
given.

**350.** The Governor may make rules for the purpose of fixing the standard of the illuminating power and purity of the gas and the regular and efficient supply of the electricity supplied by the Commissioners and for testing the same, and generally with regard to any other matters in connection with the supply of gas or electricity.

Governor may  
make rules  
regulating standard  
of gas and  
efficiency of  
electricity, &c.  
45 & 46 Vic.  
c. 56. s. 6 (g).

**351.** The Commissioners may make bye-laws—

Bye-laws for gas  
or electricity.

(1) For prescribing the conditions to be fulfilled and observed by consumers of gas or electricity.

(2) For regulating the supply of gas or electricity by the Commissioners and the conditions subject to which such gas or electricity and all matters and things necessary or applicable to such supply or the consumption of such gas or electricity shall be supplied or provided by the Commissioners.



Injuring works with intent to cut off supply of gas or electricity.  
45 & 46 Vic.  
c. 56. s. 22.

**352.** Any person who unlawfully or maliciously cuts or injures any gas pipes, electric line or electric works with intent to cut off any supply of gas or electricity shall be guilty of felony, and be liable to be kept in penal servitude for any term not exceeding five years, or to be imprisoned with or without hard labour for any term not exceeding two years; but nothing in this section shall exempt a person from any proceeding for any offence which is punishable under any other provision of this Ordinance or under any other enactment, or at common law, so that no person be punished twice for the same offence.

Stealing gas or electricity.  
Do. do. s. 23.

**353.** Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses any gas or electricity shall be guilty of simple larceny and punishable accordingly.

Power to Governor to relieve gas company from obligation to supply gas in certain cases.

**354.** Where electricity is supplied in any place in Gibraltar and a supply of gas by any gas company is authorised within such area or any part thereof by any instrument under the provisions of which such gas company are under any general or limited obligation to supply gas upon demand, the Governor may, upon the application of such gas company, inquire into the circumstances of the case, and if he is satisfied that any specified part of such area is sufficiently supplied with electric light, and that the supply of gas in such specified part has ceased to be remunerative to the gas company, and that such gas company may properly be relieved from the obligation to supply gas upon demand as aforesaid, the Governor may in his discretion make an order relieving the gas company from such obligation within such specified part of such area, either wholly or in part, and upon such terms and conditions as he may think proper; and from and after the date of such order the gas company shall be so relieved accordingly. All expenses of the Governor in connection with such inquiry or order shall be borne and paid by the gas company upon whose application the inquiry or order was made.

*Provisions with respect to fires.*

Governor may organize and make rules for a fire brigade.

**355.** The Governor may make rules for the prevention and extinction of fire, and may by such rules organise a body of men, who shall be known as the Fire Brigade of Gibraltar, and may define the duties to be performed by, and the salaries and wages to be paid to, such fire brigade, and may also make provision for the removal of members of such brigade for misconduct or otherwise, and for filling up vacancies therein.

Employment of persons in naval or military service.

**356.** The Governor may accept the services of any commissioned or non-commissioned officer or other person in His Majesty's naval or military service as a member of such fire brigade.

Fire Engines and Firemen may be provided by the Commissioners.  
10 & 11 Vic.  
c. 89. s. 32.

**357.** The Commissioners may purchase or provide such engines for extinguishing fire, and such water buckets, pipes and other appurtenances for such engines, and such fire escapes and other implements for safety or use in case of fire, and may purchase, keep, or hire such horses for drawing such engines as they think fit, and may build, provide, or hire places for keeping such engines with their appur-



tenances, and for the accommodation of their officers and servants in that behalf, and may employ a proper number of persons to act as firemen, and may make such rules for their regulation as they think proper, and give such firemen and other persons such salaries and such rewards for their exertions in cases of fire as the Governor may by rule prescribe.

**358.** Every person who wilfully sets or causes to be set on fire any chimney shall be liable to a penalty not exceeding £5: Provided always that nothing herein contained shall exempt the person so setting or causing to be set on fire any chimney from liability to be indicted for felony.

Penalty for setting chimneys wilfully on fire.  
10 & 11 Vic.  
c. 89. s. 30.

**359.** If any chimney accidentally catch or be on fire the person occupying or using the premises in which such chimney is situated shall be liable to a penalty not exceeding 10 shillings: Provided always that such penalty shall not be incurred if such person prove to the satisfaction of a Court of Summary Jurisdiction that such fire was in nowise owing to omission, neglect, or carelessness of himself or servant.

Penalty for accidentally allowing chimneys to catch fire.  
Do. do. s. 31.

**360.** The Commissioners may recover in a summary manner from the owner or occupier of any premises full compensation for the water consumed in case of fire, and all other necessary expenses incurred by any alarm of fire or by such fire, and by keeping up an efficient supply of brackish water, and in such proportions from the persons liable to pay the same as to the Court may appear fair and reasonable.

Compensation to be paid for water consumed in case of fire and for other expenses.

**361.** The liability to pay such compensation shall be deemed and taken to be an insurable interest in any premises or property.

Liability to pay compensation deemed an insurable interest. When compensation to be paid by insurance company.

**362.** If such premises or such property shall be insured at any sum amounting to one half the value thereof, then such compensation and expenses may be recovered in like manner by the Commissioners from the insurance company or its agent, or if the same shall have been insured by more than one company, then from such companies or agents, in proportion to the amounts insured.

**363.** If such premises, or such property, shall be insured at any sum less than one half of the value thereof, then one moiety of such compensation and expenses may be recovered from the owner or occupier, and the other moiety thereof from such insurance company or its agent.

When compensation to be paid in moieties.

**364.** It shall be lawful to include in one complaint, and in one summons and order, any owner or occupier, jointly with any insurance company or its agent.

Proceedings may be joint.

*Provisions with respect to Public Bathing.*

**365.** The Commissioners may contract for the purchasing or renting of baths and wash-houses and of any lands necessary for the purpose of erecting buildings suitable for public baths and wash-houses, and as to such wash-houses either with or without drying ground, and may make any open bathing places, and convert any buildings into public baths

Commissioners may contract for the purchasing or renting of baths and wash-houses.  
9 & 10 Vic.  
c. 74. ss. 25 & 27.



and wash-houses, and may alter, enlarge, repair and improve the same respectively, and fit up, furnish and supply the same respectively with all requisite furniture, fittings and conveniences and may recover in a summary manner such payment for the use thereof respectively as shall be authorised by any bye-law under this Ordinance.

Bye-laws with respect to public bathing.

**366.** The Commissioners may make bye-laws—

(1) For regulating the use of private establishments for bathing, and public establishments for baths and wash-houses and the charges and mode of payment for the use thereof.

(2) For preventing the indecent exposure of bathers, and indecent and offensive language and behaviour.

(3) For regulating the supply of water to public baths and wash-houses.

*Buildings for apparently Drowned.*

Buildings for the apparently drowned.

**367.** The Commissioners may purchase or otherwise provide, and maintain an appropriate house, together with all such apparatus, matters, and things as may appear to them necessary to assist in the searching for persons drowned or supposed to be drowned, and restoring animation to persons apparently drowned, and may employ and reward assistants and others therein in such manner as to the Commissioners shall seem expedient, and for such purposes may raise under this Ordinance such sum as they may deem necessary and as may be sanctioned by the Governor in writing.

*Offices.*

Commissioners may construct offices.

**368.** The Commissioners, with the consent in writing of the Governor, may construct, purchase, or otherwise acquire, all such offices as they may determine to be necessary for the purposes of this Ordinance, and to enable them to carry the same into effect and may provide suitable furniture and fittings therein, and may for such purposes raise such sum under this Ordinance as they may deem necessary, and as may be sanctioned by the Governor in writing, and shall apply the same in the payment of the expenses incurred by them under this section.

Governor may grant necessary sites.

**369.** For the purposes aforesaid, and for all other purposes which may be authorised by this Ordinance, the Governor may from time to time grant to the Commissioners at such rent, payable to His Majesty, as may be reserved, permission to use any site, house or building, the property of His Majesty, together with all easements appertaining thereto for such term, and upon such conditions as he may think fit.

All such sites, offices, &c., vested in the Commissioners.

**370.** Every site, house, office and building, together with all easements appertaining thereto, which, or permission to use which, shall be granted by the Governor, and all such offices, and all furniture, fixtures, fittings, matters and things therein, shall be vested in, and under the control and management of the Commissioners.



*Public Works.*

**371.** No public work or purpose of any kind, the cost of which is not intended to be defrayed out of the general sanitary purposes rates provided in the estimates for the current year, or for which it may be necessary to raise capital, shall be undertaken or executed by the Commissioners without the previous consent in writing of the Governor.

Public works requiring Governor's sanction.

**372.** Whenever any such public work or purpose is proposed to be undertaken by the Commissioners, they shall submit to the Governor for his approval, accompanied when necessary by a map or plan, a report stating their reasons for desiring to undertake the same and an estimate of the cost of the execution thereof, and a financial scheme for the payment of such cost. Such estimate shall include, when necessary, an estimate of the probable annual expenditure, including redemption of capital and interest thereon, to be occasioned by the execution of such public work or purpose, and shall be published on two consecutive days in the *Official Gazette*.

When Governor's approval necessary to construction of public works.

**373.** The Governor may, if he shall think fit, authorise in writing the execution by the Commissioners of any such public work or purpose and the raising for such purpose the amount of capital mentioned by him, provided that the amount shall not exceed £1000 and provided also that the financial scheme shall provide that the whole cost thereof shall be defrayed out of capital.

When Governor may authorise execution of public works.

**374.** Whenever the amount of capital proposed to be raised for any public work or purpose shall exceed the sum of £1000, or if it shall be proposed in any financial scheme relating thereto that any part of the cost thereof shall be borne by moneys to be provided by the Imperial Parliament or out of the Colonial Revenue of Gibraltar, the Governor shall transmit the report of the Commissioners for such public work or purpose, and the financial scheme relating thereto to one of His Majesty's Principal Secretaries of State that the same may be submitted for the approval of His Majesty, and if His Majesty shall at any time within twelve months thereafter be pleased to approve the same, and to sanction and allow the estimates for defraying the cost of any public work therein described, whether subject to amendments or otherwise, such sanction and allowance shall be published in the *Official Gazette*.

When His Majesty's consent is necessary

to be published.

**375.** The estimates of any public work, the cost of which shall exceed £1,000, shall be published for general information in the *Official Gazette* twenty days before being submitted for the approval of His Majesty.

When estimates to be published

**376.** The Commissioners may include in, and raise as part of, such capital, their expenses in making and preparing all necessary estimates, surveys, valuations, and plans, for any public work, and in procuring contracts for the same: Provided that an account thereof shall have been duly rendered to the Sanitary Auditor and certified by him to be correct within three months after the estimates for such public work shall have been approved.

and include costs of estimates, surveys, &c.



How construction of works may be suspended or abandoned.

**377.** The Commissioners, with the consent in writing of the Governor, may abandon or suspend the construction of any public works or of any part thereof which shall not then be completed. The Commissioners shall clearly describe the works so abandoned or suspended or intended so to be and shall forthwith cause notice of the same and the Governor's approbation thereof to be published in the *Official Gazette* and thereupon their powers, and liabilities relating thereto shall cease or be suspended accordingly.

Suspended works may be sold or completed in different manner with consent of Governor.

**378.** The Commissioners may also determine that it is expedient that they should sell or complete in a different manner or for a different purpose to be stated in writing and described in a plan, any public works or any part thereof, the construction or completion whereof shall have been abandoned or suspended as aforesaid, and thereupon the Governor may authorise in writing the Commissioners to sell or to complete the same accordingly, and notice thereof, without the plan, shall be published in the *Official Gazette*. The proceeds of any sale shall be carried to the credit of the capital account.

Completed works and cost to be certified to Governor.

**379.** Whenever the Commissioners shall have completed any public works under this Ordinance, or so much thereof the construction whereof shall not have been abandoned or suspended in manner hereinbefore mentioned, they shall certify such completion to the Governor and shall at the same time transmit an account in duplicate of the expenditure relating thereto.

Account to be audited and certified by Governor.

**380.** The Governor shall cause such account to be transmitted to the Sanitary Auditor, who shall examine and audit the same, and the Governor if he shall be satisfied that such works have been satisfactorily completed, and the accounts thereof duly audited, shall certify to the Commissioners his approbation thereof, and shall cause such certificate to be published in the *Official Gazette*. Such public works shall thereupon become vested in and be under the control and management of the Commissioners.

Provision in case of extraordinary emergency.

**381.** In the event of any extraordinary emergency arising for the reconstruction of any public works, the probable cost of which would in the opinion of the Commissioners exceed in any one year the sum of £1,000, the Commissioners shall transmit a full report thereof to the Governor with an estimate of the probable cost, and thereupon the Governor if it shall appear to him upon inquiry that such emergency has not arisen through any omission of the Commissioners to maintain in good condition and repair such public works, may signify in writing his approval of such reconstruction, and that the expenses thereof shall be defrayed out of capital, and authorise the Commissioners to raise the amount named by him for such purpose. The capital so raised shall be repaid in such equal annual instalments, being not more than ten nor less than two, as the Commissioners shall determine. When the works shall have been completed the Commissioners shall transmit in duplicate a report to the Governor, setting forth fully all that they have done therein.

Public works to be insured against fire.

**382.** The Commissioners may insure against fire in some insurance office, at not less than two-thirds of the value thereof, all public works



and property vested in or under their control and management, or in their possession or occupation, and which from the nature thereof may be liable to destruction by fire, and also all the furniture, fixtures, matters and things therein, and may pay the premium and other expenses of every such insurance out of the general sanitary purposes rates.

## PART V.

### GENERAL PROVISIONS.

#### *Contracts.*

**383.** The Commissioners may enter into any contracts necessary for carrying this Ordinance into execution, and with the consent in writing of the Governor may contract with any military officer in His Majesty's service. All such contracts shall be for any period not exceeding three years.

Power of  
Commissioners  
to contract.  
38 & 39 Vic.  
c. 55, s. 173.

**384.** All contracts made by the Commissioners in the United Kingdom, and all articles obtained by them in the United Kingdom, shall be made and obtained through the Crown Agents for the Colonies.

Contracts and  
purchases in the  
United Kingdom  
how to be made.

#### *Sale and Purchase of Lands.*

**385.** The Commissioners, with the consent in writing of the Governor, may—

Power of  
Commissioners—

(1) Sell or exchange any public highway or any part thereof which they shall determine to be useless and unnecessary, or surrender the same to His Majesty; and

to sell useless  
public highways

(2) Sell at the best price that can be gotten for the same the whole or any part of any surplus lands vested in them for any public purpose, and which they may determine not to be required for any such purpose,

and surplus  
property;

and the proceeds of such sale shall be carried to the credit of the proper capital account, and applied to the payment of any bonds or other securities for such capital as they become due and payable, and by consent of the holders of such bonds or other securities in anticipation of the time when they become due and payable.

application of  
proceeds.  
Do. do. s. 175.

**386.** The Governor may direct in writing the Commissioners to invest the proceeds of any sale under this Ordinance in securities authorised by law in Gibraltar for the investment of trust funds, and likewise to reinvest the interest accruing thereon until they shall make such application thereof as may be directed by this Ordinance.

Investment of  
proceeds.

**387.** The Commissioners may, with the consent in writing of the Governor, purchase or take on lease any lands which may be required by them for the purposes of this Ordinance. But nothing in this Ordinance shall authorise the Commissioners to acquire any portion of His Majesty's Dockyard or Victualling Yard, or any other premises belonging to His Majesty which are or shall be used by the Admiralty or His Majesty's naval forces, without permission of the Lords of the Admiralty previously obtained for that purpose; and such permission

Commissioners  
may purchase,  
&c., lands required  
by them

except Dockyard,  
&c.



shall be in writing under the hand of their secretary for the time being, and shall specify the premises allowed to be acquired by the Commissioners, and the purpose for which the same are acquired by them.

Whole but not part  
of a tenement  
may be taken.

**388.** The Commissioners may not acquire compulsorily a part of any premises distinguished in the tenement valuation of Gibraltar by a separate and distinct number, but in every case in which the Commissioners are authorised or required to acquire a part of any such premises, they may acquire the whole of such premises.

Who may convey.

**389.** All persons seised, possessed of, or entitled to any such premises, or to any estate or interest therein, may sell and convey or release the same to the Commissioners, and may enter into all necessary agreements for that purpose, and the power to sell, convey, or release as aforesaid, may lawfully be exercised by all such persons (other than married women entitled to dower or lessees for life, or for a year, or for any less interest), not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such persons; and as to married women, whether they be of full age or not, and as to guardians on behalf of their wards, and as to committees on behalf of lunatics and idiots of whom they are the committees respectively, and that to the same extent as wives, wards, lunatics and idiots respectively, could have exercised the same power under the authority of this Ordinance, if they had respectively been under no disability, and as to trustees, executors, and administrators on behalf of their *cestui que* trusts, whether infants, issue unborn, lunatics, *femmes couvertes*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same power under the authority of this Ordinance if they had respectively been under no disability.

If purchase  
money under £20  
compensation  
ascertainable in  
a summary  
manner.

**390.** If the purchase money shall not exceed £20, or if compensation be required for any right to take or use any lands temporarily or for any loss or damage by reason that any premises held by a person, and which adjoin any authorised public work, will be injuriously affected by the construction thereof by the Commissioners in the exercise and performance of the powers, authorities and duties granted to, vested in, and imposed upon them, the amount of such purchase money or compensation shall be ascertained and ordered to be paid upon complaint in that behalf to any Justice, which said complaint shall be inquired into, in manner provided in this Ordinance with reference to compensation payable to any occupier or owner for opening or breaking up any place or premises belonging to such occupier or owner.

To whom payable.

**391.** Such purchase and compensation money shall be paid to the person entitled to the rents and profits of the premises in respect whereof the same shall be payable for his own use and benefit, or in case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such person, then such money shall be paid to the husband, guardian, committee, or trustee of such person, as the case may be, or to such other person as may be appointed by the Court in trust for the use and benefit of any such wife, infant, idiot, lunatic, or other incapacitated person entitled to such rents and profits.



**392.** When the Commissioners shall have paid or tendered to the person entitled thereto, his executors, administrators, or assigns, the amount of purchase money or compensation so ordered to be payable, the Commissioners may enter upon the premises in respect of which such order shall have been made, and may use the same in manner and form in respect of which the amount specified in such order shall be payable.

On payment possession may be taken.

**393.** In every case in which complaint shall have been made that any premises adjoining any authorised public work will be injuriously affected as aforesaid, the Court upon the hearing and adjudication thereof, whether it shall order and adjudge any compensation to be paid or not, may order and adjudge what works, if any, should be made and maintained by the Commissioners for the accommodation of the premises adjoining such public work, and injuriously affected thereby; and all such works, if any, so ordered to be made and maintained, shall be deemed to be to all intents and purposes part of and included in such public work.

Justices may order accommodation works.

**394.** Whenever the purchase-money shall amount to more than £20, or if the owner of any premises or other person hereby enabled to sell and convey any premises be unknown to the Commissioners, or shall neglect or refuse to name the amount of purchase-money required when requested by the Commissioners so to do, the Supreme Court shall ascertain the amount to be paid, and shall order such purchase-money to be paid in manner and form, and subject to the provisions, hereinafter contained: Provided always, that whenever the owner of any premises or other person hereby enabled to sell and convey any premises shall be unknown to the Commissioners, the Court shall make no order as to the cost of the proceedings relating thereto, and that whenever a sum exceeding £20 as purchase-money shall be awarded, the costs of all proceedings relating thereto shall be in the discretion of the Court; otherwise they shall be paid by the person requiring payment of the purchase-money, or neglecting or refusing to name the amount required: Provided also, that whenever any premises required by the Commissioners to be taken or acquired shall be held in undivided shares, in joint tenancy, tenancy in common or coparcenary, no more than one set of costs shall be allowed to the joint tenants, tenants in common, or coparceners thereof, or any greater amount of costs be paid to and among such joint tenants, tenants in common, or coparceners than would have been payable if the premises had not been so held.

If purchase-money over £20 or no sum named Supreme Court shall ascertain amount.

**395.** The Chief Justice may from time to time make such rules as he shall think fit to regulate the practice to be observed in the Supreme Court with respect to the adjudication upon all rights and claims to the purchase-money of land purchased or required to be purchased by the Commissioners, and the hearing of all persons having or claiming to have any estate or interest in such land; and also with respect to the fees to be taken and paid in the Supreme Court in any such proceedings. All such rules shall be made in manner provided by the "Supreme Court Consolidation Order, 1888."

Chief Justice to frame rules of procedure.

**396.** The Commissioners shall deposit in the registry of the Supreme Court a map of any premises which they shall be empowered or

Maps, &c., of premises to be deposited in registry.



required permanently to take and acquire, drawn to a scale of not less than sixty inches to the mile, horizontally measured, and a book of reference thereto, which shall contain a true extract from the tenement valuation of Gibraltar, so far as regards such premises, and such map and book of reference shall be deemed to be records of the Supreme Court, and shall, until the value of the premises therein referred to shall have been ascertained by the Supreme Court, be open at all reasonable hours to the inspection of all persons claiming to have any right, title, or interest to or in such premises.

Failing which and notice given Court not to entertain application.

**397.** The Supreme Court shall not entertain any application to ascertain the value of any premises unless such map and book of reference shall have been so deposited not more than one year nor less than thirty days before the day fixed for hearing such application, nor unless a notice of such intended application shall have been twice published in the *Official Gazette* not more than thirty days nor less than twenty days before the hearing of such application, nor unless a copy of such notice under the seal of the Commissioners and the hand of their chairman shall, not more than thirty nor less than twenty days before the hearing of such application, have been served on every person in Gibraltar named or described in the tenement valuation as the occupier, owner, or reputed owner and person who has the custody of the premises, which service may be made in the manner authorised by this Ordinance, nor unless a like copy of such notice shall also within the period aforesaid have been transmitted to the Governor.

Chief Justice shall fix days for ascertaining value

and shall inquire into value.

**398.** The Chief Justice shall fix a day for determining the amount of purchase-money to be paid for such premises as shall be described in any notice as being required for the purpose therein mentioned, and which notice shall have been entered by the Registrar of the Supreme Court, who is hereby required to enter the same, and which shall have been published not less than twenty days previously in the *Official Gazette*; and the Chief Justice shall, on the day appointed by him, inquire into the value of the premises described in every such notice, and shall, after the inquiry frame a draft order determining the purchase-money to be paid by the Commissioners in respect of the several interests in such premises, and such draft order shall be deposited with the Registrar of the Court, who shall give notice thereof to the Commissioners and to all persons who may appear on the face of such draft order to be entitled to payment under the same, or who shall have been heard before the Chief Justice as claimants for purchase-money, and shall publish notice thereof in the *Official Gazette*, and shall in every such notice specify a day for the holding of a Court to hear objections to such draft order, not being earlier than ten days nor later than thirty days after the first publication of the said last-mentioned notice.

And afterwards hear objections thereto.

**399.** The Chief Justice shall hold such Court accordingly, and thereat hear and determine any objection which may then be made to such draft order by or on behalf of any person interested therein, or adjourn the further hearing thereof, if he shall see fit, to a future day, and may personally view and take all such other measures which he may deem proper for ascertaining the value of any such premises, or of any interest therein, or the justice or propriety of any other matter contained in such draft order, and may for the purposes aforesaid, or any of them,



adjourn the Court from time to time; and when the Chief Justice has heard and determined all such objections (if any), and made such inquiry as he may think necessary, and made such alterations (if any) in the draft order which he may think proper, he shall make an order, which shall be binding and conclusive upon His Majesty, his heirs and successors, and upon all other persons whomsoever, and such order shall be enrolled in and be a record of the Supreme Court.

**400.** The Commissioners shall thereupon publish a notice in the *Official Gazette* requiring all persons claiming to have any right or interest in the premises in respect of which the price shall have been ascertained by such order to deliver to them, within thirty-one days after the first publication of such notice, a short statement in writing of the nature of such claim, and a short abstract of the title on which it is founded, which statement and abstract shall be paid for by the Commissioners.

Requisitions for title.

**401.** Within thirty days from the delivery of such statement and abstract, the Commissioners shall, when it appears to them that any person so claiming is absolutely entitled to the premises or to the estate or interest claimed by him, cause to be made out in duplicate certificates stating the price or compensation to which such person is entitled under the said order, and shall forthwith deliver one of such certificates to the Registrar of the Supreme Court, and the other on demand to the person so entitled to the money specified therein; and when more premises than one are included in one order and shall be claimed by the same person, such premises or the interests therein may be included in one certificate, and where any agreement shall be entered into in respect of the value of the interest of any person in any premises the Commissioners shall, where it appears to them that such person is absolutely entitled in like manner, cause to be made out and to be delivered such certificates, and the Registrar of the Supreme Court shall enter in the said order the name of the person so entitled to the money therein specified and enrol the same.

Owners when absolutely entitled how to be paid.

**402.** The Commissioners shall on demand pay to the person to whom any such certificate shall have been given, the amount of moneys specified to be payable by such certificate to the person to whom or in whose favour such certificate shall have been so given; and if the Commissioners shall wilfully make default in such payment, then the person named in such certificate shall be entitled, by leave of the Supreme Court, upon motion founded upon affidavit satisfying the said Court, to enter up judgment against the Commissioners for the amount of moneys specified in such certificate, together with the costs of such motion and judgment, in the same manner in all respects as if he had been by warrant of attorney from the Commissioners authorised to enter up judgment against them; and all moneys payable under such certificates or recovered by such judgments shall at law and in equity be deemed and taken to be personal estate from the time when the Commissioners shall enter on such premises as aforesaid.

When to be paid.

**403.** When the Commissioners shall have duly paid the amount specified to be payable by any such certificate, they may enter upon any premises in respect of which such certificates shall be given, and

On payment Commissioners may take possession.



may thenceforth hold and use the same for the estate or interest in respect of which the amount specified in such certificate shall be payable.

Payment to be  
recorded in  
Supreme Court.

**404.** In every case in which any moneys shall be so paid by the Commissioners for any such person as aforesaid, the person receiving such moneys shall give them a receipt in duplicate for the same, which shall be immediately produced together with an affidavit of the execution thereof to the Registrar of the Supreme Court, whereupon the Registrar shall enter such payment together with the date of the receipt in the said order opposite to the sum therein mentioned, and such entry shall to all intents and purposes have the effect of satisfaction entered upon the record. Every receipt for the payment of any purchase-money shall operate as a grant, release, and conveyance of all the estate and interest of the person by whom the same is given, and of all persons claiming through or under him in the premises in respect of which the money mentioned in such receipt shall have been paid.

If title doubtful  
and in other cases  
money may be  
paid into Court.

**405.** If it appears to the Commissioners from any such statement or abstract or otherwise that the person making any such claim is not entitled absolutely to the premises, estate or interest in respect of which his claim shall have been made, or is under any disability, or if such person shall not produce a good title to any premises, estate or interest claimed by him, or if any person to whom any purchase-money shall have been adjudged shall refuse to accept the same when tendered, or to give a receipt for the same, or cannot be found by the Commissioners within Gibraltar, they may by leave of the Court pay such money into Court; and the Registrar of the said Court shall enter such payment in the before-mentioned order, together with the date of such payment, and shall give to the Commissioners a receipt under his hand and the seal of the said Court for the money so paid, which receipt shall have the same force, effect, and operation as any receipt given by the person entitled to the money in pursuance of the provisions hereinbefore mentioned; and immediately thereafter the Commissioners may enter any premises in respect of which such money shall be so paid and such receipt given, and may hold the same thenceforward for the estate or interest, and may use the same in manner and form, in respect of which the amount specified in such receipt shall have been paid.

To be paid out  
on petition  
duly served.

**406.** Any person claiming any right, title or interest to or in any premises in respect whereof any purchase-money shall have been paid into Court may present a petition verified upon oath and setting forth the nature of such right, title, or interest, and praying for the purchase-money in respect thereof. And the Supreme Court on reading such petition may direct service thereof to be made upon the Commissioners, and upon such persons and within such period and in such way as to the Court may seem reasonable and just, and may fix a day for hearing such petition, and all persons who may have entered an appearance as respondents thereto, and the Commissioners and any person served with any such petition, may enter an appearance as a respondent thereto on or before the day named by the Supreme Court for that purpose.

Persons served  
may appear.

Right to money  
to be decided  
by Court.

**407.** The Chief Justice shall, on the day named for that purpose, or on such subsequent day as he may fix and appoint, proceed to try the



right, title, and interest of the petitioners, and to hear all evidence which may be adduced on oath in support thereof or in opposition thereto, and shall make such order therein as shall be reasonable and just, and may include therein an order for the payment of the costs by such person and to such person, and either out of the money in Court or otherwise, as to such Court shall seem reasonable and just. Every such order shall be entered upon the rolls and be a record of the Court, and shall be a judgment, and shall entitle all persons to all the benefits and remedies of and relating to a judgment of the Court.

**408.** If such money be paid into Court in consequence of the refusal by the person adjudged to be entitled thereto to accept or to give a receipt for the same, or of such person not being in Gibraltar, the Supreme Court may order payment thereof to be made to the Commissioners of all their costs occasioned by the payment thereof into Court, and the said Court shall order that the balance, if any, or the whole of such money in the event of no order for the payment of costs being made, shall remain in Court until a motion shall be made on behalf of the person so adjudged to be entitled thereto, his executors, administrators, or assigns, and shall then order the same to be paid out to the proper person.

Provision as  
to costs.

**409.** If such money be paid into Court under any circumstances than those mentioned in the last preceding clause, the same shall be paid out to the person who shall make good his title thereto to the satisfaction of the Court, and not otherwise.

Money to be paid  
to person entitled.

**410.** The Court shall, upon motion on behalf of any person who shall have, by virtue of any mortgage or of any judgment, any lien or charge upon any such premises, direct that the money paid into Court, or a competent part thereof, be paid out of Court to such person, and shall order satisfaction to be entered on the mortgage or on the record of the judgment, or otherwise, for the amount so ordered to be paid.

A mortgagee  
or creditor.

**411.** If any purchase-money shall be less than £20, or if the balance of any purchase-money paid into Court remaining after payment of any mortgage or judgment debt be less than £20, the same shall be paid to the person entitled to the rents and profits of the premises in respect whereof the same shall be payable for his own use and benefit, or in case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such person, then such money shall be paid to the husband, guardian, committee or trustees of such person, as the case may be, or to such other person as may be appointed by the Court, in trust for the use and benefit of any such wife, infant, idiot, lunatic, or other incapacitated person entitled to such rents and profits. Every payment as aforesaid shall be an absolute bar to and discharge of all other legal and equitable rights whatsoever to the same.

Small sums to  
whom payable.

**412.** If the Commissioners shall require any premises for any longer temporary period than that for which they have already paid compensation, they may contract with the person entitled under the provisions of this Ordinance to receive compensation for such premises for any further period not exceeding one year at each time, and if they cannot agree, the Commissioners after giving ten days' notice to such person,

Payment to bar  
all rights.

Lands taken  
temporarily may  
be retained on  
certain conditions  
for a longer period.



may make complaint to any Justice, which complaint shall be inquired into in manner provided in this Ordinance with reference to any compensation payable to any occupier or owner for opening or breaking up any such place or premises belonging to such occupier or owner. And upon payment or tender by the Commissioners of the sum agreed upon or stated in any order made upon the hearing of any such complaint, they may keep and retain possession of the said premises for the period therein specified.

And rendered to owner on expiration thereof.

**413.** Upon the expiration of the period for which any premises shall have been temporarily taken, the Commissioners shall surrender and give up the same to the person entitled to possession thereof in as good condition as they were in at the time of the entry thereon by them; and if such person shall have cause to complain that such premises are not in the same good condition, and are deteriorated in value by the neglect or default of the Commissioners, he may, after giving ten days' notice to the Commissioners, make a further like complaint, which shall be inquired into in manner aforesaid.

No action except for wilful neglect.

**414.** No action shall be brought against the Commissioners for any neglect to give up in good condition any premises which may have been temporarily taken, unless such neglect shall have been wilful and malicious.

Compulsory power to cease unless prosecuted with all convenient speed.

**415.** In every case in which the Commissioners shall have published and served a notice that application is intended to be made to the Supreme Court to ascertain the value of the premises described in such notice, the power of the Commissioners to take and acquire the same otherwise than by agreement shall wholly cease and determine if such application is not prosecuted thereafter with all convenient speed.

Land acquired to remain in possession of Commissioners.

**416.** As soon as the Commissioners shall have purchased or otherwise acquired or taken any premises which they may be authorised to purchase, acquire, or take for any public purpose, the same shall, subject to the provisions in this Ordinance, be deemed to be in their lawful possession and vested in them, and under their control and management.

Premises charged with rent when to be discharged.

**417.** When the Commissioners shall purchase or otherwise acquire any premises which shall together with other premises be subject to any undivided rent or service issuing out of or charged upon the same payable or due to His Majesty, his heirs or successors, or to any other person, such rent or service shall cease to issue out of or to be charged upon the premises so purchased or otherwise acquired, and shall thenceforth issue out of and be charged exclusively upon the premises not purchased or otherwise acquired by the Commissioners.

Rent to the Crown to continue.

**418.** Whenever the Commissioners shall purchase or otherwise acquire the whole of any premises subject to any undivided rent or service issuing out of or charged upon the same, payable or due to His Majesty, his heirs or successors, such rent or service shall continue to issue out of and to be charged upon such premises: Provided always, that whenever the Commissioners shall have purchased or otherwise acquired any such premises, the whole of which shall not be required

Rent how charged when part sold by the Commissioners.



for any public work, the Commissioners may sell the part not so required, upon and subject to the condition that the whole of such rent shall issue out of and be charged upon the part so sold and not otherwise; and the Governor, if he shall be satisfied that the part so sold is a sufficient and reasonable security for such rent or service, may approve of the conveyance thereof upon and subject to such condition, and thereupon the Commissioners, and the part of the premises not so sold, shall be wholly discharged from such rent or service from the time when such conveyance so approved as aforesaid shall have been duly registered.

#### *Rules.*

**419.** All rules made by the Governor under this Ordinance shall be made under his hand and seal and may from time to time be altered or repealed. All such rules shall be published in the *Official Gazette* and after such publication shall have the same force and effect as if enacted in this Ordinance.

Governor's rules.

**420.** Any person who, without lawful excuse, the proof whereof shall lie on the person charged—

(1) Wilfully violates any rules made by the Governor under this Ordinance; or

(2) Wilfully obstructs any person acting under the authority or in the execution of any such rule,

Penalty for violating or obstructing the execution of rules made by the Governor.  
38 & 39 Vic.  
c. 55. s. 140.

shall be liable to a penalty not exceeding £10.

#### *Bye-laws.*

**421.** In addition to the bye-laws authorised to be made by the Commissioners under this Ordinance, it shall be lawful for them to make all such further and other bye-laws as they may think fit and as occasion may require to carry out and give effect to the provisions of this Ordinance.

General power as to bye-laws.

**422.** The Governor, whenever requested so to do by the Commissioners, may cause to be prepared by the Attorney-General a draft of any bye-law hereby authorised, and cause such draft to be transmitted to the Commissioners for their consideration.

Preparation of bye-laws.

**423.** Every bye-law by this Ordinance authorised to be made by the Commissioners shall be made by them under their common seal and the hand of their chairman, and dated on the day of the making thereof; and no such bye-law shall have any force or effect unless the Governor shall, within six weeks thereafter, signify his approbation thereof under his hand and seal thereto. Such approbation, if given, shall be published by the Commissioners in the *Official Gazette*, and no bye-law shall come into operation or take effect until the same shall have been published in manner aforesaid.

No bye-law valid unless approved by the Governor and published.

**424.** Every bye-law shall, within three days after publication of the same, be enrolled in the Supreme Court.

To be enrolled.



Examined copy  
to be conclusive  
evidence.

**425.** An examined copy of the enrolment of any bye-law, certified under the seal of the Court and the hand of the Registrar of the Court, shall be conclusive evidence in all Courts, and in all legal proceedings, and to all intents and purposes that such bye-law was duly made under this Ordinance.

No bye-law to  
be questioned  
till annulled.

**426.** Every bye-law lawfully made by the Commissioners shall, after publication thereof as aforesaid, be good, valid and effectual to all intents and purposes, and such bye-law shall not be impeached, impugned, questioned, or disobeyed by any Court, or Justice, or by any person whatever, until the same shall have been repealed, or otherwise lawfully annulled: Provided always, that nothing hereinbefore contained shall apply to any legal or other authorised proceeding *bonâ fide* instituted or taken for the express purpose of causing any such bye-law to be repealed, or otherwise lawfully annulled.

Breach of bye-law  
an offence.

**427.** Every person who shall without lawful excuse, the proof whereof shall lie on the person charged, break or disobey, or neglect, or refuse to obey any bye-law duly in force under this Ordinance shall be liable to a penalty not exceeding £5.

Bye-laws may be  
printed and sold.

**428.** The Commissioners may cause to be printed, and may keep a sufficient number of printed copies of all their bye-laws, and may, upon payment of a reasonable sum for the same, sell copies thereof to any person who may apply for the same.

## PART VI.

### RATING AND BORROWING POWERS, &C.

#### *Expenses of Commissioners.*

Expenses, &c.,  
to be defrayed  
out of general  
sanitary purposes  
rates.  
38 & 39 Vic.  
c. 55, s. 207.

**429.** All expenses and compensation incurred or payable by the Commissioners in the execution of this Ordinance, and not otherwise provided for out of capital raised for that purpose, shall be charged on and defrayed out of the general sanitary purposes rates leviable by them under this Ordinance.

#### *General Sanitary Purposes Rates.*

Assessment of  
general sanitary  
purposes rates.  
Do. do. s. 211.

**430.** With respect to the assessment and levying of general sanitary purposes rates to be made by the Commissioners under this Ordinance, the following provisions shall have effect: (namely)

(1) General sanitary purpose rates shall be made and levied on the occupiers of all premises in Gibraltar, and shall be assessed on the full net annual value thereof, including all such premises as may be let to any tenant by the War Department, subject to the following exceptions, regulations, and conditions, namely:—

(a) The owner instead of the occupier may at the option of the Commissioners be rated in cases—

Where the rateable value of any premises liable to assessment under this Ordinance does not exceed the sum of £10; or



Where any premises so liable are let to weekly or monthly tenants ; or

Where any premises are let in separate apartments, or where the rents become payable or are collected at any shorter period than quarterly.

Provided that in cases where the owner is rated instead of the occupier he shall be assessed on such reduced rate, as the Commissioners deem reasonable, of the net annual value, not being less than three-quarters nor more than four-fifths of the net annual value.

Provided also that the owner shall be liable to be rated although the premises be unoccupied at the time of the assessment of the rate,

- (b) Where any premises are let by the War Department the rates shall be assessed and collected from the tenants thereof exclusively.
- (c) Where the Government of the Colony pays the rates upon any property belonging to it, and such property is let in separate holdings, each such holding shall be separately assessed, and a proportionate allowance shall be made in respect of any such holding as may be unoccupied during a period of not less than one month.

(2) If at the time of making any such rate the premises in respect of which the same may be made are unoccupied, such premises shall be included in the rate, but the rate shall not be charged on any person in respect of the same while they continue to be unoccupied; and if any such premises are afterwards occupied during any part of the period for which the rate was made, and before the same has been fully paid, the name of the incoming tenant shall be inserted in the rate, and thereupon so much of the rate as at the commencement of his tenancy may be in proportion to the remainder of the said period shall be recovered and paid in the same manner in all respects as if the premises had been occupied at the time when the rate was made.

(3) If any owner or occupier assessed or liable to any such rate ceases to be owner or occupier of the premises in respect whereof he is so assessed or liable, before the end of the period for which the rate was made, and before the same is fully paid off, he shall be liable to pay only such part of the rate as may be in proportion to the time during which he continues to be such owner or occupier; and in every such case if any person afterwards becomes owner or occupier of the premises during part of the said period, he shall pay such part of the rate as may be in proportion to the time during which he continues to be such owner or occupier, and the same shall be recovered from him in the same manner as if he had been originally assessed or liable.

**431.** No person shall be exempted from any such rate on the ground that the premises in respect of which he shall be assessed and rated are the property of His Majesty, his heirs and successors, or that they are occupied, within the meaning of this Ordinance, by him, or that he has the custody thereof, by command or by permission of His Majesty, or as his officer or servant, unless some officer be rated and assessed in respect thereof by the name of his office under the provisions of this Ordinance.

No premises exempt because belonging to the Crown.



Exemption from  
assessment.

**432.** It shall not be lawful to rate or assess any person whatever to any rate for and in respect of any of the following premises, and the same are hereby exempted from rateability; that is to say,—

(1) Courts of Justice :

(2) The Church of England commonly called the Cathedral :

(3) The two Military Chapels of the same Church, maintained for the celebration of divine service and religious instruction by chaplains in His Majesty's service, for the benefit of His Majesty's land forces in Gibraltar, and their families and servants :

(4) The Church known as the Church of Santa Maria la Coronada :

(5) Every other church, chapel, or like building used and maintained exclusively for the public celebration of divine service, and not being part of any premises used for human habitation : Provided always, that if any such church, chapel, or other like building be part of any premises used for human habitation, the person liable to be rated and assessed for or in respect of such last-mentioned premises shall be rated and assessed for and in respect of, and shall to all intents and purposes be deemed and taken to be the owner or occupier, as the case may be, of such church, chapel, or building : Provided also, that no such church, chapel, or like building so used and maintained as aforesaid shall be deemed or taken to be part of premises used for human habitation by reason only that it communicates therewith :

(6) Every place set apart exclusively for the burial of the dead :

(7) The public gardens known as the Alameda Gardens, and also the walk lying to the west of the Grand Parade called the Alameda Walk, and a certain other garden situated between the Alameda Walk and the main road leading from the Southport Gate to Rosia, so long as the same walk and garden shall be set apart for the health, recreation, and enjoyment of all His Majesty's subjects and others inhabiting or being in Gibraltar :

(8) The walls, batteries, and other like open erections in nowise habitable or inhabited or profitably used by man, constructed exclusively for and set apart as part of the military defences of Gibraltar, no estimate of the net annual value whereof within the meaning of this Ordinance can reasonably be made :

(9) The lighthouse and all premises necessarily used and occupied by the keeper thereof, and other the officers and servants of the Corporation of the Trinity House, in the discharge of his and their respective duties as the keeper or in the care and management of such lighthouse :

(10) All premises hereby vested in or used or occupied by the Commissioners for the exclusive purpose of carrying this Ordinance into execution :

(11) All premises on the Upper Rock of Gibraltar within that area of land delineated in the plan in Schedule C to this Ordinance annexed, and coloured or indicated on the said plan by a red tint.



**433.** Any general sanitary purposes rates may be made and levied either prospectively in order to raise money for the payment of expenses to be incurred within one year thereafter, or retrospectively in order to raise money for the payment of expenses incurred within one year previously, and at such rate of assessment as the Commissioners shall think fit, and as is authorised by this Ordinance, from which rate of assessment there shall be no appeal.

What rates may be prospective or retrospective.  
38 & 39 Vic.  
c. 55, s. 210.

**434.** Every rate shall be made at a certain and equal rate assessed upon the net annual value of all premises liable to be assessed and rated in Gibraltar, that is to say, at the rate of one or more shillings or fraction of a shilling to every pound of the net annual value.

Rates how assessed.

**435.** Every general sanitary purposes rate hereby authorised shall, in addition to any other particular which the form of making such rate shall require to set forth, contain an account of every particular set forth at the head of the respective columns in the form in Schedule A, Form No. 13 to this Ordinance, so far as such particulars can be ascertained, and shall be signed by the Chairman of the Commissioners, at the foot thereof, and unless the same be so signed, it shall be of no force or effect.

Rates must be in a certain form.

**436.** Every general sanitary purposes rate hereby authorised to be made shall be due on the first day of January in each year and shall be paid in advance: Provided always that the Commissioners may collect the same by equal quarterly instalments payable in advance, namely, on the first day of January, the first day of April, the first day of July, and the first day of October.

When rates to be collected.

Provided further that in every case any rates may be sued for and recovered at any time during a period not longer than twelve months from the date on which the same may be collected by the Commissioners under the provisions of this section.

**437.** Any person who shall remove from any premises in respect of which he may be rated and assessed, and leave any rate unpaid, or who shall remove any of his goods from any premises in order to avoid a distress thereon, shall be liable to a penalty not exceeding £10.

Penalty on persons leaving rates in arrear.

**438.** The Commissioners may reduce or remit the payment of any general sanitary purposes rate on account of the poverty or sickness of any person liable to the payment thereof.

When rates may be remitted.  
Do. do. s. 225.

**439.** In every case in which any order of Justices shall have been made under this Ordinance, whereby it shall be ordered that any sum on account of any rate or assessment, shall be paid by any person being the owner or occupier of any premises, and the same shall remain unpaid after demand in writing shall have been made, the Commissioners may apply to the Supreme Court, in manner hereinafter provided, for an order that the amount of such sum shall be a first charge on such premises.

Money due by owner, &c., of premises after demand to be a first charge thereon.

**440.** All rates payable to the Commissioners under this Ordinance shall be deemed and taken to be a first charge upon the estate of any

Rates payable to Commissioners to be deemed a first charge.



person who shall take the benefit of any law for the time being in force in Gibraltar relating to bankrupts and shall be paid in priority to the claims of any other creditors upon such estate.

Rates may be inspected.  
38 & 39 Vic.  
c. 55. s. 219.

**441.** The Commissioners shall permit every rated inhabitant of Gibraltar, and every other person authorised in writing by the Governor, to inspect at all reasonable hours every rate made by them, and every account kept under this Ordinance, paying one shilling for each rate or account inspected, and they shall on demand give a copy of or extract from any rate or account to any such inhabitant or other person, paying three pence for every hundred words or fraction thereof, under a penalty of £10 for every refusal, to be recovered, together with full costs of suit, by the party aggrieved, on the summary side of the Supreme Court.

Application of fees for inspection, &c.

**442.** All moneys received by the Commissioners for any inspection, copy, or extract of or from any rate or account, shall be credited to the general sanitary purposes rates.

#### *Tenement Valuation.*

Commissioners to revise tenement valuation annually.

**443.** The Commissioners shall on the first day of October in every year, and not otherwise except by order of the Supreme Court, revise the then existing book and map of the tenement valuation of Gibraltar and make such alterations therein as may be required by any order of the Commissioners, or by notice in writing signed by any rated inhabitant, and which may be certified by the valuator to be necessary, and the valuator shall make a new book of all the premises in any such order or notice mentioned.

Which is to be published.

**444.** When the tenement valuation and survey map shall have been revised, the same shall be certified, together with the date of the certifying thereof, by the Commissioners, and they shall cause a notice to be published in the *Official Gazette* that the tenement valuation of all the premises in Gibraltar, together with the names of all the owners or occupiers thereof, so far as could be ascertained by the valuator, has been revised for the purpose of future rates and assessments, and that the same may be inspected at their office on any day, Saturdays and Sundays excepted, between the hours of 11 o'clock in the forenoon and 3 o'clock in the afternoon, and also that any person who may be aggrieved by reason that his name is inserted in such valuation in respect of premises in respect whereof his name ought not to be so inserted, or that premises in respect whereof his name ought to be inserted, are valued beyond their net annual value, or that the name of any person whose name ought to be inserted in such valuation is wholly omitted therefrom, or is omitted in respect of premises in respect whereof his name ought to be inserted, or that any premises are valued below their net annual value, or by reason of any other matter or thing inserted in or omitted from such valuation, whereby he shall be aggrieved, may, within the period of one calendar month after such publication, appeal against such valuation to the Supreme Court.

And conclusive, except as may be allowed on appeal.

**445.** After the expiration of the said period of one month the said revised valuation shall, subject to every such appeal, and subject also to all such amendments therein as may be made by order of the Supreme



Court, and to such others as are authorised under the provisions of this Ordinance, be conclusive evidence of the net annual value of all premises mentioned therein, for all purposes of rating and assessment; and all rates and assessments hereby authorised, and thereafter made shall be made according thereto; and such valuation shall also be *prima facie* evidence of the truth of all other matters required to be ascertained, and which shall be contained therein.

**446.** The valuator or his assistant or assistants to be appointed by the Commissioners, may at all reasonable hours of the day, having given one clear day's notice in writing, enter any premises in Gibraltar for the purpose of enabling him to discharge his duties, and remain therein so long as shall be necessary for the purpose aforesaid; subject nevertheless to such rules as may for military reasons be made by the Governor, and subject also, as to every prison, to all rules made concerning the admission of strangers therein.

Valuator shall have power of entry, subject to military, &c., rules.

**447.** If any person shall, after one clear day's notice in writing, signed by the valuator, or his assistant or assistants to be appointed by the Commissioners, hinder and prevent, without lawful authority, such valuator from entering or from so remaining on such premises, he shall be liable to a daily penalty of £5.

Penalty on hindering valuator from entering.

**448.** The valuator may, by a notice under his hand, require any person to appear before him, at such reasonable time and place as may be therein stated, to give evidence on oath or affirmation (which oath or affirmation he is hereby authorised to administer) concerning all or any of the matters hereby required to be ascertained by him; and if any person duly served with any such notice shall refuse to appear at the time and place so stated, or to give evidence, he shall be liable to a penalty of £5.

Valuator may summon witnesses and examine them on oath.

**449.** The valuator shall ascertain and enter in a book—

Valuator shall ascertain and enter in book annual value, &c., of rateable premises.

1. The separate net annual value of every tenement in Gibraltar; that is to say, every house, building, yard, courtyard, and patio within the curtilage of any dwelling-house or otherwise, orchard, garden, piece or parcel of land, and premises, separately the one from the other.

2. The description of every such tenement.

3. The situation of every such tenement.

4. The area or contents of every such tenement in acres, roods, and perches, where amounting to one quarter of an acre.

5. The name of every person who shall occupy within the meaning of this Ordinance every tenement.

6. The name of every owner or reputed owner of every tenement, including His Majesty, his heirs and successors.

7. If the owner of any tenement be His Majesty, his heirs or successors, the name of the officer subordinate to the Governor, having the custody thereof as such officer, together with a description of his office, and if the net annual value of any such last-



mentioned tenement should not exceed £10, the name of the officer subordinate to the Governor having the custody thereof, or authorised to collect or to receive the rent thereof which may become due to His Majesty, his heirs or successors, together with a description of his office.

8. If the occupier of any tenement be unknown, or shall not reside in Gibraltar, or if any tenement be unoccupied, the name of the person, if any, having or reputed to have the custody thereof.

And shall ascertain and enter premises exempt from rateability.

**450.** The valuator shall ascertain and enter every tenement which is exempt from liability to be rated and assessed, and shall ascertain and enter all the particulars hereinbefore in that behalf mentioned relating thereto, except the net annual value thereof, and instead thereof he shall ascertain and enter that the same are exempt, together with the cause of such exemption.

#### *Improvement Rate.*

Part of capital to be charged upon owners of premises benefited by improvement.

**451.** Such part of the capital raised by the Commissioners, being in no case more than one-half, and of the interest thereon, and the expenses incurred by them for the purposes of Section 292 of this Ordinance, shall in every case be charged upon the premises, the owners and occupiers of which will be benefited by reason of improved access to, or otherwise by the widening, enlarging or diverting any public highway, or constructing any new public highway, and the Commissioners shall rate and assess every person liable to be rated and assessed to the general sanitary purposes rates in respect of any such premises: Provided always that the Commissioners, whenever they shall purchase a part of any premises held in entirety under the same title, the owner of the residue whereof shall be so benefited, may agree for exemption from such rate or assessment in respect of such residue of such premises.

Improvement rate recoverable as other rate.

**452.** Every such rate and assessment shall be called an improvement rate and shall be made and assessed in the same manner as a general sanitary purposes rate, and after fourteen days' notice left on the premises assessed, the Commissioners may levy and collect the sums assessed, in the same manner as other rates are by this Ordinance recoverable, and with the same right of appeal as by this Ordinance is given to the party aggrieved by any general sanitary purposes rate.

Improvement rate how to be applied.

**453.** The Commissioners shall apply all moneys received by them on account of such rate in payment of the expenses incurred in relation to such rate, and of the capital raised and interest thereon, and the expenses of the Commissioners in relation thereto.

#### *Borrowing Powers.*

Power to borrow.

**454.** The Commissioners shall have power and authority, with the previous consent in writing of the Governor, to take up at interest upon the security of the general sanitary purposes rates, and all other rates which they now are or at any time may be authorised to assess and levy, and all other moneys which they may be authorised to take, have and receive, and all their right, title, and interest therein, the capital required



for any public purpose under this Ordinance, and all moneys necessary to repay and discharge or to consolidate into one loans raised for public purposes under any enactment hereby repealed, or any enactment subsisting previously thereto, or under this Ordinance: Provided always that the total amount borrowed by the Commissioners shall not exceed the assessable value for two years of the property in Gibraltar subject to the payment of rates, and provided also that the consent of the person to whom any loan is owing to any consolidation or any dealing with such loan under the provisions of this section shall be voluntary and expressed in writing.

**455.** Every loan borrowed by the Commissioners shall be discharged within a period not exceeding thirty years from the date thereof, and such discharge shall be secured by the issue of debentures for sums of not less than £20, or a multiple thereof, made payable in such manner and by such instalments, subject to the approval of the Governor, as shall secure the repayment, within the prescribed period, of the whole sum secured by such debentures.

Discharge of loans borrowed by the Commissioners.

The debentures shall bear such rate of interest and be payable at such times as the Commissioners, with the approval of the Governor, may declare at the time of issue.

Interest.

Provided that if any such loan shall amount to less than £400 the same shall be repaid within a period of five years.

Proviso as to loans not exceeding £400.

**456.** The debentures shall be signed by the Chairman of the Commissioners and by one other Commissioner, and countersigned by the Secretary.

Debentures how signed.

**457.** Every debenture shall, before being issued, be registered in a register book to be kept for that purpose at the office of the Commissioners.

Registry of debentures.

**458.** There shall be attached to every debenture, coupons for the payment of the interest to become due in each half year upon the principal sum secured by the debenture.

Coupons for interest.

The coupons shall be sufficient in number to provide for the payment of the interest, either during the whole period for which the debenture has to run, or for such lesser period as the Commissioners may determine.

**459.** The debentures and the coupons thereto shall be in such form as the Commissioners may, with the approval of the Governor, direct.

Forms of debentures and coupons.

**460.** Every such debenture and coupon, and the right to receive the principal and interest secured or represented thereby, shall be transferable by delivery.

Transfer of debenture and coupon by delivery.

**461.** The bearer of any such debenture may, on delivery up to the secretary of the Commissioners of such debenture and of all unpaid coupons belonging thereto, require to be registered in the books kept by the Commissioners as the owner of such debenture, and thereupon shall receive in exchange therefor a certificate of such registration duly signed by the Chairman of the Commissioners and the secretary in the form in Schedule A, Form 14 to this Ordinance.

Registered debentures.



Interest on  
debentures  
payable by  
dividend  
warrants.

**462.** The interest on debentures of which the owners are registered under the preceding section (hereinafter called registered debentures) shall be payable by dividend warrants in accordance with such regulations as the Commissioners may, with the approval of the Governor, from time to time make.

Transfer of  
registered  
debentures.

**463.** A registered debenture shall be transferable only by a memorial entered in the Register and signed by the Chairman of the Commissioners acting under the authority of a deed of transfer according to the form in Schedule A, Form No. 15 to this Ordinance, or to the like effect; and such deed, when duly executed by all parties, shall be delivered to the Secretary of the Commissioners and kept by him. The transferee shall receive a certificate of registration in the form in Schedule A, Form No. 14 to this Ordinance, and the former certificate issued in respect of such registered debenture shall be delivered to and cancelled by such Secretary.

On surrender  
of certificate of  
registration  
registered  
debenture to  
be delivered to  
owner thereof.

**464.** The owner of any registered debenture may at any time on surrender of his certificate of registration to the Commissioners for cancellation require the Commissioners to deliver to him the debenture in respect of which such certificate was issued, with all coupons belonging thereto, in respect of interest unpaid, and thereupon the registration made in respect thereof shall be cancelled, and the name of the owner erased from the Register.

Notice of trust  
not receivable.

**465.** No notice of any trust in respect of any debenture, registered debenture, or coupon issued under this Ordinance, shall be receivable by the Commissioners.

Fee on issuing  
of certificate of  
registration or  
on delivery of  
debenture, &c.

**466.** On the issue of any certificate of registration, or on the cancellation of registration, or on the transfer of any registered debenture, such fee shall be paid to the Commissioners as they may, with the approval of the Governor, from time to time prescribe.

Interest when and  
where payable.

**467.** The interest upon the principal secured by each debenture shall run from the day named in that behalf in the debenture, and shall be paid half-yearly on the days named in that behalf in the debenture, at the office of the Commissioners, or such other place in Gibraltar as the Commissioners may direct.

Appropriation  
and payment of  
interest, &c.

**468.** So long as any of the debentures issued under this Ordinance remain outstanding the Commissioners shall in each half-year ending with the day on which the interest on the debentures falls due, appropriate half-yearly out of the general sanitary purposes rates the necessary funds to pay the half-yearly interest due on account of the said loan, and shall further appropriate out of the general sanitary purposes rates in every year in which any debentures become due such sum as shall be sufficient to provide for the repayment of such debentures upon the date at which they become due.

#### *Accounts.*

Accounts how  
to be kept.

**469.** The Commissioners shall keep their accounts according to the most approved system of book-keeping, and in the denomination of the



legal currency of Gibraltar for the time being, and such books shall contain and include a full and distinct account of all the expenses, disbursements and liabilities of the Commissioners incurred by them under this Ordinance, and of all moneys by them received or receivable, and of all moneys by them paid or payable.

**470.** The Commissioners shall keep a separate and distinct account, to be called the capital account, of all receipts and disbursements of any capital which they may raise or receive for any purpose under this Ordinance, in such manner as the Governor shall in writing direct; and so far as such directions shall not extend, they shall keep such capital account according to the most approved system of book-keeping.

Capital account  
to be kept.

**471.** The Commissioners shall include in such capital account an account of all moneys which, heretofore have been or at any time hereafter may be granted to them out of moneys provided by Parliament, and out of His Majesty's local revenue of Gibraltar, and of all other moneys which shall be payable to them or come into their hands, and be applicable to the same purposes as capital which they may raise.

Capital account  
how to be kept.

**472.** The Commissioners shall also keep separate and distinct accounts of the appropriation of all moneys which they may raise or receive for the purpose of constructing, purchasing or otherwise acquiring any public work under this Ordinance.

Accounts of  
money raised,  
&c., how kept.

**473.** The salary, wages, or other remuneration of every person appointed for the purpose of discharging any duty under this Ordinance shall be deemed and taken to be part of the expenses of the Commissioners and shall be paid out of the proper moneys which may be received by them for that purpose, and shall be entered in the proper account.

Salaries, &c.,  
how to be paid.

**474.** The Commissioners shall, during the month of December in every year, prepare an estimate, certified under the hand of their secretary, of their probable expenses during the following year, in the same form as the abstracts of accounts which they are hereby required to prepare and deliver to the Sanitary Auditor, and shall within fifteen days before the last day of such month, publish the same in the *Official Gazette*.

Annual estimate of  
probable expenses  
in following year.

**475.** All moneys which the Commissioners shall receive under this Ordinance, otherwise than as capital or for any specific purpose under this Ordinance, shall be duly accounted for and applied in aid of the general sanitary purposes rates.

How moneys  
received, except  
capital, &c., to  
be applied.

**476.** The Commissioners may make bye-laws—

Bye-laws as to  
manner of keeping  
accounts and  
disposal of capital.

(1) For regulating the manner in which their accounts shall be kept, subject nevertheless to the provisions contained in this Ordinance.

(2) For regulating the application of the balance of any capital which shall have been raised by them for any purpose under this Ordinance, and which may remain in their hands and not be required for such purpose.



*Audit of Accounts.*

Accounts of  
Commissioners  
and collectors.

**477.** The Commissioners, and every person having the collection, receipt, or expenditure of money by this Ordinance payable to or receivable by the Commissioners, or holding or accountable for any balance of such money, or any books, deeds, papers, goods, or chattels relating to the duties of the Commissioners, shall once in every quarter of a year make out and render to the Sanitary Auditor an abstract of account of all moneys, matters, and things committed to their or his charge, or received, held, expended, or applied by them, or him on their behalf.

Audit of accounts  
of Commissioners.  
38 & 39 Vic.  
c. 55. s. 247.

**478.** The following regulations with respect to audit shall be observed; (namely),

(1) The accounts under this Ordinance of the Commissioners shall be audited once in every year and such audit shall be commenced as soon as can be before the first day of March in every year by the Sanitary Auditor.

(2) Before each audit the Commissioners shall prepare and deliver to the Sanitary Auditor an abstract of every account hereby required to be kept, containing the amount of receipts and payments, debts and credits, in each of such accounts.

(3) For the purpose of any audit under this Ordinance, the Sanitary Auditor may require the production before him of all books, deeds, contracts, accounts, vouchers, receipts and other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, receipts, documents or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same; and if any such person neglects or refuses so to do, or to produce any such books, deeds, contracts, accounts, vouchers, receipts, documents or papers, or to make or sign such declaration, he shall incur for every neglect or refusal a penalty not exceeding 40 shillings; and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury.

(4) The Sanitary Auditor shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and in every such case the auditor shall cause notice of his intention to make such surcharge to be given to such person, and shall adjourn the audit so far as it relates to such particular matter, for a sufficient time to allow of such person appearing before him and showing cause against such surcharge, and at such time the auditor shall hear such person and determine according to the law and justice of the case, and thereupon certify



the amount, if any, due from such person: Provided always that the Sanitary Auditor shall not disallow any payment or liability made or incurred by the Commissioners under any order of the Supreme Court, or with the previous authority of the Governor in manner hereinafter mentioned.

(5) On application by any person aggrieved the Sanitary Auditor shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and the person aggrieved may apply to the Supreme Court by motion in a summary way for an order directing the auditor to allow any item that may have been disallowed by him; and the said Court, upon proof of notice to the auditor and to all such other persons, if any, as it may think entitled to notice, may make such order with respect to such disallowance and surcharge and as to costs as may appear to it just and reasonable, and if it shall find that the said disallowance or surcharge was lawfully made, but that the subject matter thereof was incurred under circumstances that make it fair and equitable that the disallowance or surcharge should be remitted, the Court may remit the same, and the auditor shall govern himself accordingly.

(6) Every sum certified to be due from any person by the Sanitary Auditor shall be paid by such person to the Commissioners within fourteen days after the same has been so certified, unless there is an appeal against the decision; and the auditor shall, if necessary, proceed for the recovery thereof in the Supreme Court, if the amount shall exceed £5, or in a summary manner under this Ordinance if the amount shall not exceed such sum. All expenses incurred by the auditor in such proceeding as aforesaid, which shall not be recovered by him from any other person, shall be paid by the Commissioners out of the general sanitary purposes rates.

(7) The Sanitary Auditor shall within sixty days after the day appointed by him for the audit, complete the examination of the accounts compared with all the proper vouchers thereof, and deliver to the Commissioners the abstract of such accounts audited and examined and signed by him together with all the vouchers; and if he fail to do so within such period, the Commissioners shall, within seven days thereafter, notify the Governor accordingly.

(8) The Commissioners shall within ten days after the completion of the audit publish every such abstract in the *Official Gazette*.

**479.** The accounts under this Ordinance of officers or assistants of the Commissioners who are required to receive moneys or goods on behalf of the Commissioners shall be audited by the Sanitary Auditor with the same powers, incidents and consequences as in the case of such last-mentioned accounts.

Audit of accounts  
of officers.  
38 & 39 Vic.  
c. 55. s. 250.

**480.** The Governor may, upon application made to him in that behalf, remit any surcharge upon any Commissioner or other person, if he shall be satisfied that the payment or liability surcharged was made or incurred *bonâ fide* for the purpose of carrying into effect or performing the powers and duties vested in or imposed upon the Commissioners,

Governor may  
remit any  
surcharge.



and that such payment or liability was made or incurred for the public advantage, and the Sanitary Auditor shall govern himself accordingly.

Commissioners to apply to the Governor in doubtful cases, to authorise expenditure.

**481.** In all doubtful cases, or upon an emergency, or in cases for which no provision has been made by law, the Commissioners shall before making any payment or incurring any liability apply to the Governor for his authority to make such payment or incur such liability, and the Governor may, if he shall think fit, authorise in writing the expenditure of any sum of money or the incurring of any liability by the Commissioners for the purpose of carrying into effect or performing the duties imposed upon them, notwithstanding that no provision may have been made by law for such expenditure or for incurring such liability.

Commissioners to submit books for examination when required by Governor.

**482.** The Commissioners, whenever desired by the Governor, shall submit their books of account and all documents in their possession, for special examination by any person or persons appointed as a committee for that purpose by the Governor, and shall furnish all such information connected with their affairs as may be required by such committee.

## PART VII.

### *Legal Proceedings.*

In the Supreme Court.

**483.** In all matters in which jurisdiction is hereby given to the Supreme Court, such jurisdiction shall be exercised subject to the provisions of this Ordinance, but in all other respects with all the powers and authority which the Supreme Court has independent of this Ordinance and in accordance with the rules of Court for the time being in force: Provided always that the Chief Justice shall be the sole judge of all matters of law and of fact unless he shall think fit to direct that so far as issues of fact are raised they shall be tried by a Jury.

Appeals to the Supreme Court.  
53 & 54 Vic.  
c. 59, s. 7.  
38 & 39 Vic.  
c. 55, s. 269.

**484.** Any person aggrieved—

- (1) By the tenement valuation, or by any rate or assessment;
- (2) By any order, judgment, determination or requirement of the Commissioners under this Ordinance;
- (3) By the withholding of any order, certificate, licence, consent or approval, which may be made, granted or given by the Commissioners under this Ordinance;
- (4) By any conviction or order of a Court of Summary Jurisdiction under any provision of this Ordinance,

may, except as in this Ordinance is otherwise expressly provided, within one calendar month after such grievance shall have arisen, appeal in manner provided by "The Justices Ordinance, 1890," to the Supreme Court: Provided always that nothing herein contained shall be deemed to authorise any appeal against the rate or assessment hereby authorised at which any general sanitary purposes rate may be made, unless the same shall be unequal.

When and how Attorney-General may appeal.

**485.** The Attorney-General, within the same period of one calendar month, may appeal to the Supreme Court against the tenement valuation



in any of the following cases; namely, if the name of any person who ought to be inserted therein is omitted therefrom, or if the net annual value of any tenement which ought to be ascertained is omitted, or is inserted either above or below the amount which ought to be inserted. The Attorney-General may also, within a like period of one calendar month, appeal to the Supreme Court against the making, neglecting, or omitting to make any order by the Commissioners in prejudice, abridgment, or derogation from the rights or privileges of His Majesty, his heirs or successors, or the duties, powers, or authorities by this Ordinance reserved to or vested in the Governor, and also within a period of four days after a copy of the appointment of any person to be valuator under the provision of this Ordinance shall have been transmitted to the Governor may appeal to the Supreme Court against such appointment. And every appeal by the Attorney-General shall be subject to all the provisions relating to appeals contained in this Ordinance, save only that no recognizance to prosecute such appeal shall be required.

**486.** In every appeal against the tenement valuation, or the making of a rate, the Court, if any ground of objection or of disallowance be sustained, may either quash the valuation or the rate, and order a new valuation or a new rate, as the case may be, to be made instead thereof, or, if the defects be trivial, may amend and confirm the same, or order the same to be amended by the Commissioners: Provided always, that such amendment can be made without any appreciable prejudice to the liability of ratepayers not parties to the appeal; and provided also, that in such cases the Commissioners shall not be entitled to recover costs, unless the Chief Justice shall so order, and that if the appeal be against the tenement valuation, the appellants shall recover from the Commissioners costs of all their grounds of appeal which shall be sustained, unless the Chief Justice shall otherwise order. When the tenement valuation or a rate shall be quashed on appeal, the Court shall order the Commissioners to pay to the appellants full costs of all the objections thereto which shall be sustained, and may order any parties who shall also appear as respondents, in respect of whom or whose premises such rate may be quashed, and whose conduct as respondents has been productive of unnecessary expense to the Commissioners, to pay and reimburse the Commissioners any costs which they may have unnecessarily occasioned.

Valuation and rates may be quashed or amended.

**487.** Whenever any appeal to the Supreme Court under this Ordinance, either by a party aggrieved or by the Attorney-General, or otherwise, shall cease to be prosecuted with effect or whenever the appellant shall be guilty of unreasonable delay in prosecuting the same, the Chief Justice shall, upon the application of the respondent, dismiss such appeal.

Appeal not prosecuted with effect to be dismissed.

**488.** The Chief Justice in every case in which any appeal by the Attorney-General shall be dismissed for want of prosecution thereof, or for unreasonable delay, or otherwise, may, if he shall think fit, order that the taxed costs of the respondent occasioned by the said appeal shall be paid out of the local public revenue.

Costs of respondent when recoverable.

**489.** The Court shall cause a duplicate of the order in every appeal against the making of a rate or assessment to be recorded in the rate or

Order of Court how entered.



assessment book, and the decision upon any appeal shall be conclusive and binding on all parties thereto to all intents and purposes.

When Court may  
make direction.

**490.** In cases of appeal in which no special provision is herein made for the service of notice of appeal or statement of the grounds of appeal, the Supreme Court, upon motion on the part of the appellant, may direct upon whom and the manner in which such service shall be made.

Summary  
proceedings for  
offences, penalties,  
&c.  
38 & 39 Vic.  
c. 55. s. 251.

**491.** All offences under this Ordinance, and all penalties, forfeitures, expenses and other moneys hereby imposed and all damages or compensation for damages hereby made payable and all other matters and things under this Ordinance directed to be prosecuted and recovered in a summary manner may, subject to the provisions of this Ordinance, be prosecuted and recovered in manner directed by "The Justices Ordinance, 1890," before a Court of Summary Jurisdiction, and for the purposes of this Ordinance the said Justices Ordinance shall be read and construed as if the two following sections were enacted therein; (namely,)

42 & 43 Vic.  
c. 49. s. 6.

**1.** Where 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 civil debt recoverable summarily is recoverable, 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 like manner as such civil debt, and not otherwise.

Do. do. s. 35.

**2.** Any sum declared by the preceding section to be a civil debt, which is recoverable summarily, or in respect of the recovery of which jurisdiction is given 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 Justices Ordinance, 1890." 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 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 every such case the Court may commit him to prison for a term not exceeding six weeks, or until payment of the sum due.

32 & 33 Vic.  
c. 62. s. 5.

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 commitment 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 "The Justices Ordinance, 1890."

No imprisonment under this section shall operate as a satisfaction or extinguishment of the debt or demand or cause of action, or deprive any person of any right to take out execution against the lands, goods or chattels of the person imprisoned, in the same manner as if such imprisonment had not taken place.

**492.** Proceedings for the recovery of any penalty under this Ordinance shall not, except as in this Ordinance is expressly provided, be had or taken by any person other than by a party aggrieved, or by the Commissioners without the consent in writing of the Attorney-General.

32 & 33 Vic.  
c. 62. s. 5.

Restriction on  
recovery of  
penalties.  
38 & 39 Vic.  
c. 55. s. 253.

**493.** Where the application of a penalty under this Ordinance is not otherwise provided for, one half thereof shall go to the informer, and the remainder to the Commissioners: Provided that if the Commissioners are the informers they shall be entitled to the whole of the penalty recovered; and all penalties or sums recovered by them on account of any penalty shall be paid over to them, and shall be credited to the general sanitary purposes rates.

Application of  
penalties.  
Do. do. s. 254.

**494.** Where any nuisance under this Ordinance appears to be wholly or partially caused by the acts or defaults of two or more persons, it shall be lawful for the Commissioners or other complainant to institute proceedings against any one of such persons, or to include all or any two or more of such persons in one proceeding; and any one or more of such persons may be ordered to abate such nuisance, so far as the same appears to the Court having cognizance of the case to be caused by his or their acts or defaults, or may be prohibited from continuing any acts or defaults which, in the opinion of such Court, contribute to such nuisance, or may be fined or otherwise punished, notwithstanding that the acts or defaults of any one of such persons would not separately have caused a nuisance; and the cost may be distributed as to such Court may appear fair and reasonable.

Proceedings in  
certain cases  
against nuisances.  
Do. do. s. 255.

Proceedings against several persons included in one complaint shall not abate by reason of the death of any among the persons so included, but all such proceedings may be carried on as if the deceased person had not been originally so included.

Whenever in any proceeding under the provisions of this Ordinance relating to nuisances, whether written or otherwise, it becomes necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate him as the "owner" or "occupier" of such premises, without name or further description.

Nothing in this section shall prevent persons proceeded against from recovering contribution in any case in which they would now be entitled to contribution by law.

**495.** If any person assessed to any rate made under this Ordinance by the Commissioners fails to pay the same when due, or if any person quits or is about to quit any premises without payment of any such rate then due from him in respect of such premises, any Justice may

Summary  
proceedings for  
recovery of rates.  
Do. do. s. 256.



summon the defaulter to appear before a Court of Summary Jurisdiction to show cause why the rate in arrear should not be paid; and if the defaulter fails to appear, or if no sufficient cause for non-payment is shown, the Court may make an order for payment of the same, and in default of compliance with such order may by warrant cause the same to be levied by distress of the goods and chattels of the defaulter.

The costs of the levy of arrears of any rate may be included in the warrant for such levy.

Recovery of  
expenses by  
Commissioners  
from owners.  
38 & 39 Vic.  
c. 55, s. 257.

**496.** In every case in which any sum on account of any rate or assessment, compensation for damage, expenses, or otherwise howsoever due under this Ordinance, shall remain unpaid, the Commissioners may, whether any warrant of distress shall have been issued or not, apply to the Supreme Court in a summary way (such notice being given as the Court may direct) for an order, which the Court is hereby authorised to make, that the amount of such sum, together with the expenses occasioned by the non-payment thereof being ascertained by the Court, and the costs of such application shall be a first charge on the premises, whether such premises shall be the property of His Majesty, his heirs or successors, or of any other person, for the recovery of which the Commissioners shall have all the rights and remedies of the first judgment creditor upon such premises, and against all persons having, or claiming to have, any right, title, or interest therein, saving nevertheless the paramount rights only of His Majesty, his heirs and successors.

Justices may  
act though  
members of the  
Commissioners  
or liable to  
contribution.  
Do. do. s. 258.

**497.** No Justice of the Peace shall be deemed incapable of acting in cases arising under this Ordinance by reason of his being a member of the Commissioners 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 the Commissioners are under this Ordinance to be defrayed.

Commissioners  
how represented in  
legal proceedings.

**498.** In all legal proceedings before any Court under this Ordinance the Commissioners may be represented by their secretary.

More than one  
sum in one  
Summons, &c.  
53 & 54 Vic.  
c. 59, s. 8.

**499.** Any information, complaint, warrant, or summons made or issued for the purposes of this Ordinance may contain in the body thereof or in a schedule thereto several sums.

Attorney-General  
may prosecute if  
person guilty of  
misdemeanor.

**500.** Whenever any Justice shall issue any summons for the appearance of any person to answer any complaint of any offence determinable in a summary manner under this Ordinance, which offence may be also punishable as a misdemeanour by indictment, and if upon the day appointed for the hearing of the said complaint, or by adjournment upon any other day within eight days thereafter, the Attorney-General shall signify to the Court by writing under his hand his intention to proceed against the offender otherwise than under the provisions of this Ordinance, the further hearing of the complaint aforesaid under the summons aforesaid shall be adjourned, and if proceedings are had and prosecuted with effect and with all convenient speed by the Attorney-General, nothing further shall be done under or in pursuance of such summons, otherwise the Justices may proceed to the determination of the said



complaint, and their order therein shall be final and conclusive, subject nevertheless to any appeal therefrom to the Supreme Court in manner herein provided.

**501.** Where any order shall be made upon any officer rated and assessed by the name of his office under this Ordinance no warrant of distress shall be issued until a duplicate of the order of Justices (which duplicate the Justices are hereby required to give to the Commissioners) shall have been transmitted to the Governor, and the amount therein ordered to be paid remain unpaid for a period of twenty-eight days; nor shall such money be levied by distress or sale of any goods or chattels being the private property of any such officer, but upon information on oath being laid before any Justice of the transmission to the Governor of such duplicate of the order of Justices not less than twenty-eight days previously to the swearing of such information, and that the amount mentioned in such order is unpaid, any Justice may issue a warrant of distress; and thereupon the amount if due for any rate made and assessed upon or in respect of any premises not inhabited, possessed or enjoyed by the Governor, or for costs of recovering or relating to the same, shall be levied by distress and sale of any goods and chattels, other than munitions of war or military apparel being the property of His Majesty, his heirs or successors, which may be found on such premises, and other than the private property of such officer to whomsoever, including His Majesty, his heirs or successors, but other than such officer, they may belong, saving nevertheless the rights and remedies of the owner of such goods and chattels other than His Majesty, his heirs or successors, against every person by whose act, default, or neglect they may have become liable to be and have been distrained.

Distress how made.

**502.** Every person who, having been convicted of any offence against this Ordinance shall afterwards be guilty of the same or of any other offence against any of the provisions hereof for which he shall be liable upon summary conviction to pay any penalty, shall for every such offence be liable to pay a penalty not exceeding double the amount which he would otherwise be liable to pay, nor less than double the amount which upon such previous conviction he was ordered to pay, and if any person after being convicted more than once of any offence against this Ordinance shall afterwards commit the same or any other offence against this Ordinance, he shall either pay any sum as herein last mentioned, or, at the discretion of the Justices, be imprisoned, with or without hard labour, for any period not exceeding three calendar months.

Repeated offences.

**503.** Any person who, with intent to deceive or defraud, forges, alters or utters, knowing the same to be forged or altered, any instrument, matter or thing whatsoever authorised to be made under this Ordinance, shall be guilty of felony and be liable to penal servitude for any period not exceeding five nor less than three years, or to imprisonment, with or without hard labour, for any term not exceeding two years.

Penalty for forgery.  
54 & 55 Vic.  
c. 69. s. 1.

**504.** Every person guilty of any offence hereby declared to be a misdemeanor shall be liable upon conviction thereof at any Criminal Sessions of the Supreme Court, to be imprisoned, with or without hard labour, for any term not exceeding two years, or be liable to a penalty not exceeding £100.

Penalty for a  
misdemeanor.



False evidence  
punishable as  
perjury.  
38 & 39 Vic.  
c. 55. s. 263.

Protection of  
persons acting in  
execution of  
Ordinance, &c.  
56 & 57 Vic.  
c. 61. s. 1.

**505.** Any person who on any examination on oath, under any of the provisions of this Ordinance wilfully and corruptly gives false evidence shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury.

**506.** Where after the commencement of this Ordinance any action, prosecution, or other proceeding is commenced in Gibraltar against any person for any act done in pursuance, or execution or intended execution of the provisions of this Ordinance or of any public duty or authority, or in respect of any alleged neglect or default in the execution of such Ordinance, duty, or authority the following provisions shall have effect:

- (a) The action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within six months next after the act, neglect or default complained of, or, in case of a continuance of injury or damage, within six months next after the ceasing thereof.
- (b) Wherever in any such action a judgment is obtained by the defendant, it shall carry costs to be taxed as between solicitor and client.
- (c) Where the proceeding is an action for damages, tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after the tender, or is proceeded with after payment into Court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after the tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of the tender or payment; but this provision shall not affect costs on any injunction in the action:
- (d) If, in the opinion of the Court, the plaintiff has not given the defendant a sufficient opportunity of tendering amends before the commencement of the proceeding the Court may award to the defendant costs to be taxed as between solicitor and client.

This section shall not affect any proceedings by any department of the Government against the Commissioners or officer of the Commissioners.

Costs of  
Commissioners in  
legal proceedings.

**507.** All costs which the Commissioners or their officers, or any constable acting in the execution of this Ordinance may incur or be ordered by any Court to pay in any legal proceedings shall be part of their lawful expenses, and shall be paid out of the general sanitary purposes rates unless the Court shall adjudge their conduct or any complaint or any ground of appeal or the defence against any ground of appeal to have been frivolous and vexatious or that they have wilfully neglected or refused to obey an order of the Court, in any of which cases the Court may make such order as to costs as it shall think fit, and the Commissioners and their officers or any such constable shall not be entitled to be reimbursed such costs out of any moneys that shall be raised or received by them under this Ordinance or by virtue of their office.



**508.** No writ or other process under the provisions of this Ordinance shall be served or executed within the limit of any premises inhabited, possessed, or enjoyed by the Governor.

No legal proceeding to be served at Governor's residence.

**509.** A copy of the *Official Gazette* which shall contain any notice, advertisement, or other matter hereby required to be published therein shall be conclusive evidence that the requirements of this Ordinance, so far as regards such publication, have been duly carried into effect.

Evidence of publication of official notices.

**510.** Any officer of the Commissioners or other person appointed by them or by the Governor under the provisions of this Ordinance, and any constable, or any officer, non-commissioned officer, or private in His Majesty's forces, actually on duty, and all persons called to their or his aid by them or any of them, may arrest and detain any person who shall have committed or be found in the act of committing any offence under this Ordinance, whose name and address shall be unknown to them or him, or who shall have no fixed residence in Gibraltar, and convey him with all convenient speed before some Justice without any warrant or other authority than this Ordinance; and such Justice shall, if he be satisfied by evidence on oath that there was sufficient cause for such arrest and detention, commit the person so charged to gaol, there to remain until the first day when he can be brought before two Justices, and then to be brought before such Justices, to be dealt with according to law, and as if he appeared upon a summons charging him with such offence, and such Justices shall hear and determine the complaint accordingly.

Arrest of offenders.

#### *Notices.*

**511.** Notices, orders and other documents under this Ordinance may be in writing or print, or partly in writing and partly in print; and if the same require authentication by the Commissioners the signature thereof by the secretary to the Commissioners shall be sufficient authentication.

Notices, &c., may be printed or written.  
38 & 39 Vic.  
c. 55. s. 266.

**512.** Notices, orders and other documents required or authorised to be served under this Ordinance may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or where addressed to the owner or occupier of premises by delivering the same or a true copy thereof to some person on the premises, or if there is no person on the premises who can be so served by fixing the same on some conspicuous part of the premises; they may also be served by post by a prepaid letter, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice, order or other document was properly addressed and put into the post.

Service of notices.  
Do. do. s. 267.

Any notice by this Ordinance required to be given to the owner or occupier of any premises may be addressed by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given, without further name or description.

### PART VIII.

#### *Miscellaneous Provisions.*

**513.** Whenever it becomes necessary for the Commissioners or any of their officers to enter, examine or lay open any lands or premises for

Entry on lands for purposes of Ordinance.  
Do. do. s. 305.



the purpose of making plans, surveying, measuring, taking levels, making, keeping in repair or examining works, ascertaining the course of sewers or drains, and the owner or occupier of such lands or premises refuses to permit the same to be entered upon, examined or laid open for the purposes aforesaid or any of them, the Commissioners may, after written notice to such owner or occupier, apply to a Court of Summary Jurisdiction for an order authorising the Commissioners to enter, examine and lay open the said lands and premises for the purposes aforesaid or any of them.

If no sufficient cause is shown against the application the Court may make an order accordingly, and on such order being made the Commissioners or any of their officers may, at all reasonable times between the hours of nine in the forenoon and six in the afternoon, enter, examine or lay open the lands or premises mentioned in such order, for such of the said purposes as are therein specified, without being subject to any action or molestation for so doing: Provided that, except in case of emergency, no entry shall be made or works commenced under this section unless at least twenty-four hours notice of the intended entry, and of the object thereof, be given to the occupier of the premises intended to be entered.

Officers for rates and expenses to be appointed by Governor.

**514.** The Governor shall appoint some person or persons to be styled officer for rates and expenses charged upon national revenue for and in respect of imperial government premises, and some person to be styled officer for rates and expenses charged upon local revenue for and in respect of local government premises: Provided always that the persons appointed shall be officers in His Majesty's civil, naval or military service.

When appointment to be void.

**515.** Every such appointment shall become *ipso facto* void, save and except as to matters lawfully done thereunder and in pursuance thereof, if the person appointed shall be absent from Gibraltar for any period exceeding ten days, unless by consent of the Governor previously given, or if he shall cease to belong to His Majesty's civil, naval or military service, and in every such case it shall be lawful for the Governor to appoint some other officer to be rated and assessed in place of the officer whose appointment shall so become void as aforesaid.

Officers to be deemed owners of premises for which appointed.

**516.** The Officer for rates and expenses charged upon national or local revenue shall be deemed for the purposes of this Ordinance to be the owner of all premises in respect of which he shall be so appointed.

Duties of, and how to be described.

**517.** Every such officer shall perform all acts and be subject to all the liabilities imposed upon him by this Ordinance, and in all legal and other proceedings and instruments whatsoever under this Ordinance shall be described by the name of his office.

Appointment of officer officially rated may be cancelled.

**518.** The appointment of any officer to be rated and assessed under the provisions of this Ordinance may be cancelled at will by the Governor by notice in writing transmitted to the Commissioners, provided that the Governor shall at the same time appoint some other officer to be so rated and assessed in place of the officer whose appointment is cancelled.



**519.** Every officer appointed in the place of any other officer shall, except as regards personal liability for anything theretofore done, be deemed to have come into office immediately upon the cancellation or avoidance of the previous appointment.

Appointment  
of new officer.

**520.** The Commissioners shall immediately upon receipt of notice of such appointment as aforesaid cause notice thereof to be published in the *Official Gazette* and shall rate and assess the officer therein named by the name of the office therein described as the occupier of the premises therein set forth.

Appointment  
of officer officially  
rated to be  
published.

**521.** All expenses lawfully incurred under this Ordinance by any officer for rates and expenses by the construction, repair or alteration by him or by the Commissioners of any branch drain, or communication pipe, or other private work whatever connected with a sufficient supply of water for any premises or necessary therefor, and by the providing all works and things connected therewith or relating thereto, and all charges for a supply of water to such premises by the Commissioners under any order of the Governor under this Ordinance, shall be deemed to be part of the lawful expenses of such officer.

Expenses of officer  
for rates, &c.,  
to be lawful  
expenses.

**522.** Every officer for rates and expenses charged upon national revenue shall be rated and assessed to the general sanitary purposes rates, and to all improvement rates and assessments authorised under this Ordinance in respect of all the premises mentioned in his appointment, except such as shall be exempt from rateability, and except all such premises as may be let by the War Department.

How officer for  
rates, &c., charged  
upon national  
revenue to be  
rated.

**523.** Every officer for rates and expenses charged upon local revenue shall be rated and assessed to the general sanitary purposes rates and improvement rates and assessments authorised by this Ordinance in respect of all the premises mentioned in his appointment.

How officer for  
rates, &c., charged  
upon local revenue  
to be rated.

**524.** All assessments and all lawful expenses under this Ordinance shall, so far as relates to imperial government premises, be paid by the officer for rates and expenses charged upon national revenue out of such moneys as may for that purpose be provided by Parliament.

Expenses of officer  
for national revenue  
how paid.

**525.** All assessments and all lawful expenses under this Ordinance shall, so far as regards local government premises, and so far as regards premises the property of His Majesty, be paid and defrayed by the officer for rates and expenses charged upon local revenue out of moneys of the local public revenue.

Expenses of officer  
for local revenue  
how paid.

**526.** In the absence of any express agreement in writing to the contrary, all the expenses lawfully incurred under this Ordinance by any person being the occupier, or having the custody of any premises the property of His Majesty or of any person whatever, by the construction, repair, or alteration by him or by the Commissioners of any branch drain, communication pipe, or other private work whatever connected with a sufficient supply of water to any such premises or necessary therefor, and by providing all works and things relating thereto, and not occasioned by the wilful default of such person, may be deducted from the rent payable by him to His Majesty, or other owner, as the case may be, and the receipt for the amount so paid shall to that extent be a sufficient discharge for the rent.

Costs of  
construction, &c.,  
incurred by  
occupier, when  
recoverable from  
owner.



Provision for  
expenses paid by  
occupier.

**527.** Whenever any occupier of any premises is authorised to deduct any sum from the rent due in respect of such premises to his immediate landlord, not being His Majesty, his heirs and successors, such landlord and his landlord, *toties quoties*, in the absence of any express agreement in writing to the contrary, may deduct the same from the rent due to his immediate landlord; and if any such landlord shall hold such premises immediately from His Majesty, his heirs or successors by virtue of a demise thereof granted on behalf of His Majesty or any of his royal predecessors, or his heirs or successors for a term of which no more than seven years are unexpired, such landlord may, in the absence of any express agreement in writing to the contrary, and if the conditions to be performed by him shall have been duly performed, deduct the same from the rent due to His Majesty, his heirs and successors.

**528.** Any person who—

Penalty for  
disobedience of  
orders, &c.,

(1) neglects or refuses to obey the lawful commands of the Commissioners or to perform the duties which he has undertaken to perform, or makes use of abusive or insulting language, or otherwise wilfully misconducts himself in the performance of any such duty,

for disobedience  
of orders of  
Justices or for  
obstruction,

(2) refuses to obey any warrant or order of Justices or any order or notice of the Commissioners hereby authorised, or obstructs any person lawfully acting under the authority or employed in the execution of this Ordinance,

for refusing  
to allow  
Commissioners  
to enter,

(3) without lawful excuse the proof whereof shall lie on the person charged, refuses to permit the Commissioners, their officers or servants, or the Medical Officer of Health, to enter any premises which they are authorised under this Ordinance to enter, or prevents them from entering or remaining therein as long as may be necessary,

for obstructing  
Commissioners  
in the construction  
of works,

(4) wilfully obstructs the Commissioners in constructing any of the works, matters or things which they are by this Ordinance authorised to construct, or in maintaining and keeping the same in good condition and repair or in otherwise carrying this Ordinance into execution,

for trespass or  
wilful damage  
to works.

(5) wilfully trespasses upon or wilfully damages any works or property belonging to the Commissioners,

shall, in cases where no other penalty is provided by this Ordinance, be liable to a penalty not exceeding £5, and shall also pay such sum by way of compensation as shall be ordered by the Justices for any damage incurred by reason of the last mentioned offence.

Governor's  
sanction for entry  
of barracks, &c.,  
and Senior Naval  
Officer for entry  
of Dockyard, &c.,  
necessary.

**529.** Nothing in this Ordinance contained shall authorise the Commissioners, their officers or any other person to enter any premises being a barrack, store or other place used by any of His Majesty's military forces, or forming part of the fortifications or defences of Gibraltar unless such entry shall have been previously approved in writing by the Governor, and if any warrant or order of Justices has been issued the Governor shall have countersigned the same, or to enter upon His Majesty's Dockyard, Victualling Yard, or any other premises belonging to His Majesty used by the Admiralty or His Majesty's naval forces, without the consent in writing of His Majesty's Senior Naval Officer at Gibraltar for the time being.



## PART IX.

*Saving clauses and repeal of enactments.*

**530.** The Schedules to this Ordinance annexed shall be read and have effect as part of this Ordinance; and the forms therein contained or forms to the like effect, varied as circumstances may require, may be used and shall be sufficient for all purposes.

Schedules.

**531.** All books known at the time of the passing of this Ordinance as the tenement valuation books of Gibraltar shall, notwithstanding the repeal of the enactments hereby repealed, continue to be of the same force and effect as conclusive evidence of the net annual value of all premises, the net annual value of which is stated therein, for all purposes of rating and assessment, and for all other purposes whatever authorised by the said enactments hereby repealed, or any of them, and the tenement valuation of Gibraltar in force and existing at the commencement of this Ordinance shall, notwithstanding the repeal of any of the enactments hereby repealed, continue to be the tenement valuation of Gibraltar until the same shall be revised by the Commissioners in manner hereinbefore provided.

Tenement  
Valuation books.

**532.** All orders, acts, matters, or things whatsoever lawfully made, performed, or done by the Commissioners, and all such expenditure as may have been incurred by the Commissioners under the authority of the Governor prior to the coming into operation of this Ordinance, are hereby confirmed and approved *ab initio*, and shall notwithstanding the passing of this Ordinance, be deemed valid, and effectual in law to all intents and purposes, as well for as against His Majesty, his heirs and successors, and all other persons whomsoever.

Acts of  
Commissioners  
under repealed  
orders.

**533.** All general sanitary purposes rates and assessments made under the provisions of the enactments hereby repealed, and in force at the commencement of this Ordinance, shall continue in full force and effect as if the same had been made under the provisions of this Ordinance.

General sanitary  
purposes rates.

**534.** All surveys, maps and plans, and all books of reference to such maps or plans, and all maps and plans of public works, and all books of reference, estimates, reports, and schemes for defraying the cost thereof prepared under the provisions of the enactments hereby repealed, and in use and effect at the time of the passing of this Ordinance shall, so far as they are not inconsistent with the provisions of this Ordinance, continue to be used, and shall be of the same force and effect for all purposes authorised by the said enactments hereby repealed as if the said enactments had not been repealed.

Surveys, maps  
and books.

**535.** The public gardens known as the Alameda gardens as defined in this Ordinance and all the roads, paths, walks, and ornamental buildings therein, save and except such parts of the said gardens and buildings within the same as are now included in and form part of the defences of Gibraltar, shall continue to be perpetually set apart for the health, recreation, and enjoyment of all His Majesty's subjects and others inhabiting or being in Gibraltar, and shall, together with a certain walk lying to the west of the grand parade, and called the Alameda walk, and a certain other garden lying between the Alameda walk and the main road from the Southport gate to Rosia, so long as the same

Alameda Gardens.



shall be in like manner set apart for the health, recreation, and enjoyment of all His Majesty's subjects and others inhabiting or being in Gibraltar, continue to be managed, maintained, and repaired by a civil officer in His Majesty's service, the cost whereof shall be paid and defrayed out of the local public revenue.

Rules and bye-laws.

**536.** All Rules made by the Governor and all bye-laws made by the Commissioners under the sanction of any enactment hereby repealed and not inconsistent with this Ordinance, shall continue in force notwithstanding such repeal and shall be of the same effect to all intents and purposes as if they had been made under this Ordinance.

Public works.

**537.** All public works sanctioned by any enactment hereby repealed and in course of construction at the commencement of this Ordinance, shall be deemed to have been sanctioned under this Ordinance and shall be constructed and completed as if the same had been commenced under this Ordinance.

Repeal of orders, and ordinances.

**538.** The enactments specified in Schedule D to this Ordinance are hereby repealed from and after the commencement of this Ordinance.

Provided that—

(1) Any warrant, licence or certificate granted under any enactment hereby repealed shall continue in force as if it had been made or granted under this Ordinance; and

(2) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Ordinance or to the corresponding enactment in this Ordinance.

This repeal shall not affect—

(a) The past operation of any enactment hereby repealed nor anything duly done or suffered under any enactment hereby repealed;

(b) Any security given under any enactment hereby repealed;

(c) Any right or liability acquired or incurred under any enactment hereby repealed;

(d) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed;

(e) Any investigation, legal proceeding, or remedy in respect of any such right, security, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding and remedy may be carried on as if this Ordinance had not passed.

Duties, powers and authorities of Governor.

**539.** Nothing herein contained shall prejudice, abridge, or derogate from, or be deemed, taken, or construed to prejudice, abridge, or derogate from, the duties, powers, or authorities which now are or at any time hereafter may be lawfully imposed upon or vested in or which heretofore have been exercised by the Governor for the preservation of the peace, safety, and good government of Gibraltar, or by him in his capacity as Commander-in-Chief of His Majesty's Forces at Gibraltar, for the safety, order, protection, care and good government of His Majesty's Forces, and his barracks, quarters, warehouses, stores, fortifications, defences, munitions of war and military apparel within Gibraltar.



# SCHEDULE A.

## FORMS.

No. 1.—*Return of legal proceedings instituted under The Public Health Ordinance, 1907,*  
*from* *to*

Name of party against whom any proceeding taken since last return.	Date of such proceeding since last return.	By whom proceeding taken.	Nature of proceedings taken since last return.	Nature of offence, &c., complained of.	Order of Justices, if any.	Remarks showing what works, if any, ordered by Justices to be done, and by whom, &c.

Dated this

day of

19

By order,

A. B.,

Secretary to the Sanitary Commissioners of Gibraltar.







No. 3.—*Notice of objection to placing or laying a communication pipe.*

To the Sanitary Commissioners of Gibraltar.

Whereas by a notice served upon me on the \_\_\_\_\_ day of \_\_\_\_\_ you required that the officer having the custody [or that the occupier, or that the owner] of certain premises [describe the premises according to the notice] should within \_\_\_\_\_ days after the service of such notice, place or lay, or permit to be placed or laid by you a communication pipe from such premises to communicate with the nearest main pipe of the said Commissioners. And whereas, I, A.B., as the officer for rates and expenses charged upon national revenue [or as the officer for rates and expenses charged upon local revenue], have the custody [or whereas I, A.B., am the occupier or the owner] of the said premises. Now take notice, that I object to the placing or laying such communication pipe, and that the following are the grounds of my objection, namely [insert grounds of objection authorised by this Ordinance].

And I request you to cause the said premises to be examined by your Surveyor and the Medical Officer of Health, and the Sanitary Inspector, or any two of them, in manner prescribed by "The Public Health Ordinance, 1907."

Dated this \_\_\_\_\_

day of \_\_\_\_\_

19 \_\_\_\_\_

Officer for rates and expenses charged upon national revenue  
[or occupier, or as the case may be].



No. 4.—*Notice to owner, &c., requiring him to whitewash, cleanse, or purify premises.*

To

Whereas it has been certified to us, the Sanitary Commissioners of Gibraltar, by the Medical Officer of Health [or by P.V. and S.H., two medical practitioners], that a certain house [or that a certain part, namely, *describe the part*, of a certain house] situated at [*insert such a description of the house as may be sufficient to identify it*], of which you are the owner [or occupier] is in such a filthy and unwholesome condition that the whitewashing [cleansing or purifying] thereof would tend to prevent or check infectious disease. We, the said Commissioners, do therefore hereby give you notice, and require you, within hours [or days] after service upon you of this notice, fully and effectually to whitewash [cleanse or purify] the same: And we give you further notice that if you fail fully and effectually to whitewash [cleanse or purify] the said house [or the said part of the house] within the period aforesaid, we shall cause such house or part of a house to be whitewashed [cleansed or purified], and that the expenses incurred in so doing shall be recoverable from you under the provisions of "The Public Health Ordinance, 1907."

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No. 5.—*Certificate of examination of Cellar.*

To the Sanitary Commissioners of Gibraltar.

We

Surveyor to the Sanitary Commissioners of Gibraltar, hereby certify that we did on personally examine a certain cellar situate at [*insert such description of the cellar, &c., and of the situation thereof, as shall be sufficient to identify the premises*], and that in our opinion the same is fit for human habitation [or is unfit for human habitation, and is capable of being rendered fit for human habitation by the following means and works, that is to say (*insert a short statement of such means, works*), or is incapable of being rendered fit for human habitation].



No. 6.—*Licence to let and occupy Cellar as a Dwelling.*

Whereas

Medical Officer of Health [or Sanitary Inspector], and

Surveyor to us, the Sanitary Commissioners of Gibraltar, have, by their certificate, a copy whereof is above written, certified to us that a certain cellar, therein described, and situated at [*insert the description and situation as in the Certificate*], is fit for human habitation: We, the said Commissioners, do hereby licence the same to be let or occupied as a dwelling until the first day of January now next; and we do hereby declare that this our licence shall be renewed from time to time upon request made by the owner of such cellar until any order of prohibition shall be made in respect thereof, under any provision of "The Public Health Ordinance, 1907"; and in the event of any such order of prohibition being made, then this licence, and every renewal thereof, if any shall have been made, shall thenceforth be null and void, subject however to any order of Justices adjudging that the same is fit for human habitation, and to the provisions of the said Ordinance.

Witness our common seal, and the hand of our Chairman, this

day of

19

X. Y.,

(L.S.) Chairman of the Sanitary Commissioners  
of Gibraltar.



No. 7.—Register of common lodging houses.

Name of applicant for licence.	Date of application.	Date of grant of licence.	Situation of premises.	Lowest height above sea line.	Number of rooms and other description of premises.	Cubic feet of lodging rooms.	Superficial area of premises.	Nature and extent of water supply.	Number of owners family on premises.	Remarks by the Commissioners.

## No. 8.—Notice of nuisance.

To the Sanitary Commissioners of Gibraltar.

I, the person aggrieved by the filthy condition of the premises hereinafter mentioned, [or We, two inhabitants] householders of Gibraltar, residing respectively at  
 or I, the Sanitary Inspector, or the  
 premises, namely,  
*the premises* are kept in so filthy a condition that unless the same are forthwith well and properly cleansed and kept well and properly cleansed the same will become a nuisance, and that such filthy condition is caused by A.B., as owner, &c., of the said premises [*insert the name of the person being the owner, &c., as the case may be, or if the owner, &c., be unknown, add, by a person unknown*], and that I, as owner, [*&c., as the case may be*] of a house situate at  
 am aggrieved thereby.







No. 10.—*Form of Analyst's Certificate.*

To \*

I, the undersigned, Analyst of the Sanitary Commissioners of Gibraltar, do hereby certify that I received on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, from † \_\_\_\_\_ a sample of \_\_\_\_\_ for analysis (which then weighed ‡ \_\_\_\_\_), and have analysed the same, and declare the result of my analysis to be as follows:—

I am of opinion that the same is a sample of genuine

or,

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under.

Observations §

As witness my hand this \_\_\_\_\_ day of \_\_\_\_\_

\* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample.

‡ When the article cannot be conveniently weighed, this passage may be erased or the blank may be left unfilled.

§ Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article potable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary, or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.



No. 11.—*Certificate of Medical Practitioner.*

Gibraltar.

To the Sanitary Commissioners of Gibraltar.

I hereby certify and declare that in my opinion <sup>(1)</sup> \_\_\_\_\_  
 an inmate of <sup>(2)</sup> \_\_\_\_\_ is suffering from <sup>(3)</sup> \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

Medical Practitioner.

<sup>(1)</sup> Insert name in full of person suffering from disease.

<sup>(2)</sup> Number and district of the house, and name of the street or road where person is resident. In the case of a tent, van, shed, or other similar structure, the name or description of the dwelling and the name of the place where it is situate should be given.

<sup>(3)</sup> Name of disease.

No. 12.—*Notice that property is required for public purposes.*

The Sanitary Commissioners being authorised and required to take and acquire the premises numbered and described in the Tenement Valuation of Gibraltar as follows :—

[*Insert correct extract from the Tenement Valuation so far as the same relates to the premises required*] in order to enable them to construct the following public work, or to effect the following public purpose :—  
 [*State briefly the public work or public purposes for which the premises are required, as, for instance, in order to enable them to construct thereon a tank for the general supply of water thereon.*] A map thereof, and a book of reference thereto, have this day been deposited in the Registry of the Supreme Court, which may be inspected at all reasonable hours until the value of the premises referred to shall have been ascertained by the Supreme Court.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

By order,

A. B.,

Secretary to the Sanitary Commissioners of Gibraltar.



## No. 13.—Form of rate for general sanitary purposes.

An assessment made for a general sanitary purposes rate, made this \_\_\_\_\_ day of \_\_\_\_\_ in the year one thousand nine hundred and \_\_\_\_\_ after the rate of \_\_\_\_\_ in the

Number in Tenement Valuation.	Number in General Purposes Rate.	Arrears due.	Name of occupier or other person assessed.	Name of owner.	Description of property rated.	Name or situation of property.	Estimated extent.	Net annual value.	Amount of rate at

Witness our Common Seal, and the hand of our Chairman, this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

[L.S.]

X.Y.,

Chairman of the Sanitary Commissioners of Gibraltar.

## No. 14.—Certificate of Registration.

Sanitary Commissioners of Gibraltar.

This is to certify that A.B. has this day been duly registered in the books kept by the Sanitary Commissioners as the owner of a Debenture.

Bond No. \_\_\_\_\_ for  
Sanitary Commissioners.

lodged in the custody of the

....., Chairman,  
..... Secretary.

NOT NEGOTIABLE



Sanitary Commissioners' Office, Gibraltar.

..... per Cent. Registered Debenture.

I (or we) in consideration of the sum of paid to  
do hereby transfer to the said his (or their) Executors, Administrators  
and Assigns, the undermentioned Sanitary Commissioners' Registered Debentures, bearing date the  
day of viz. :—

Nos.	of £	each £	pounds per
"	"	"	
"	"	"	
"	"	"	
"	"	"	
		£	

for securing the principal sum of pounds with interest thereon after the rate of  
centum per annum, and all right, interest and property, in and to the money thereby secured.

In witness whereof have hereunto set hand and seal, this day of  
one thousand nine hundred and

Signed, sealed and delivered by the abovementioned }

..... in the presence of .....

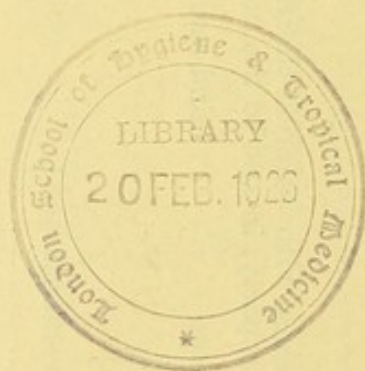
Witness' name, address and description.

Transfer No.....

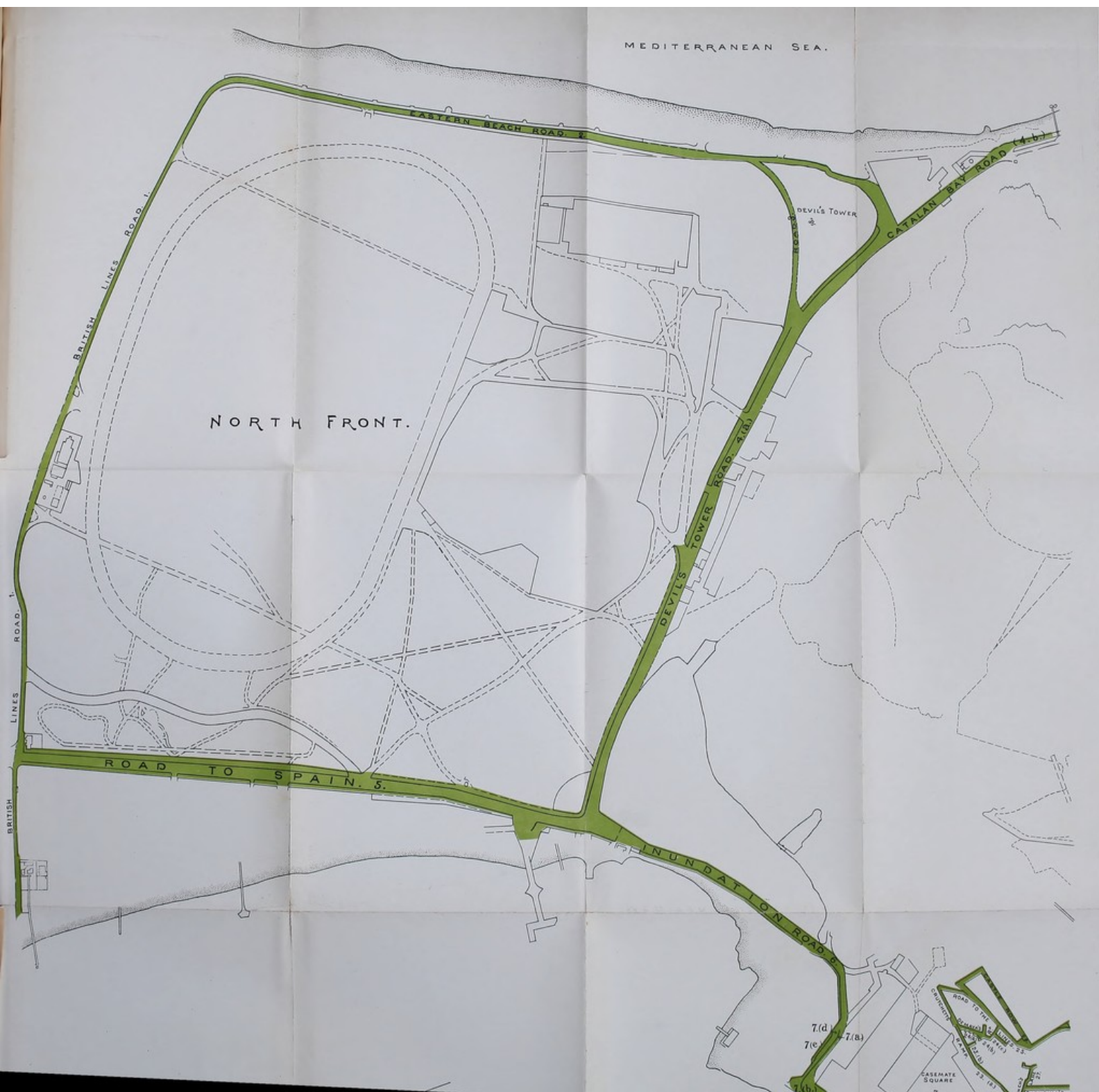
When left .....

By whom left for registration .....

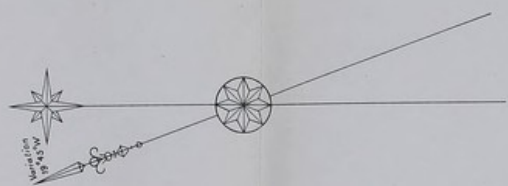










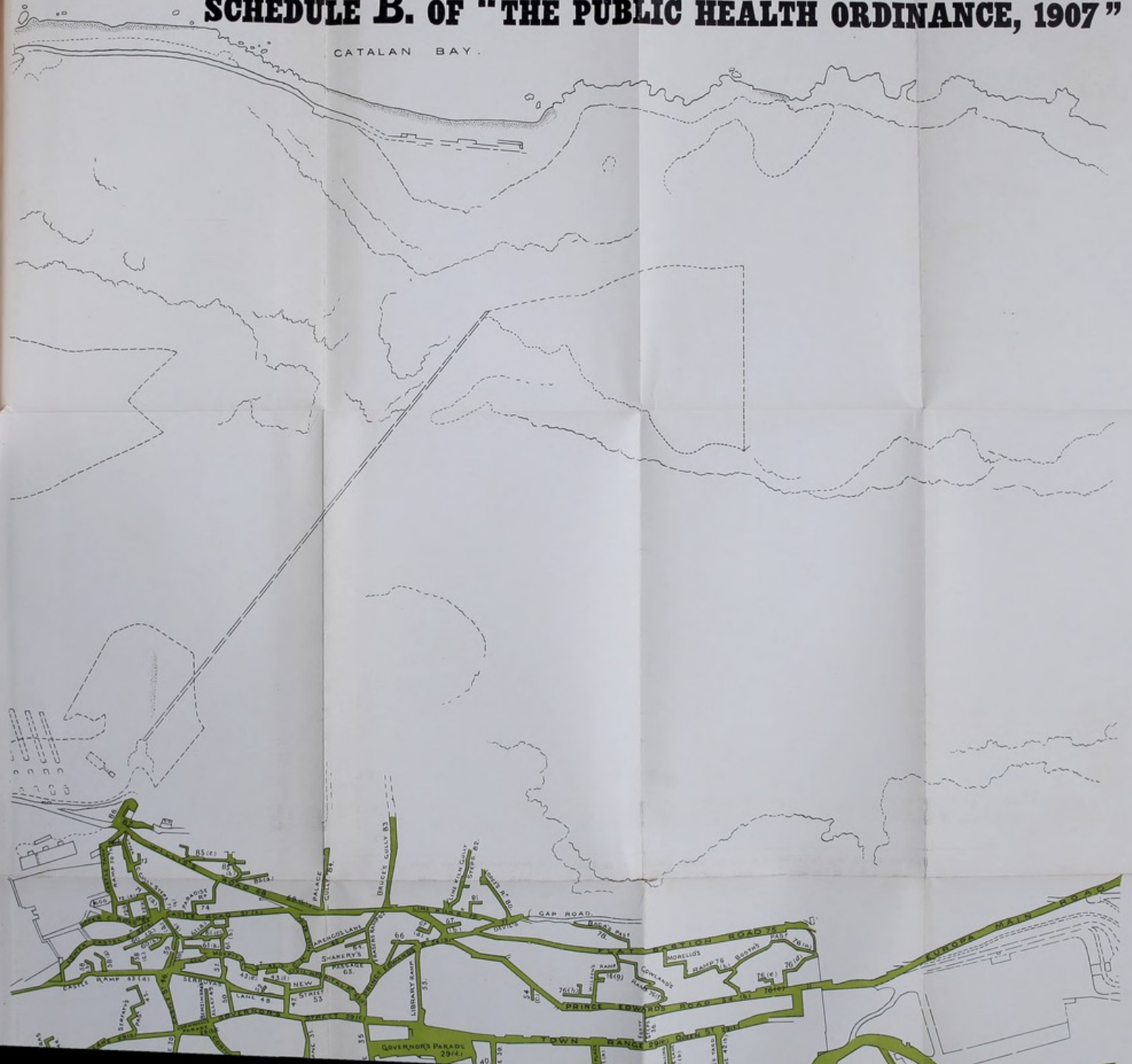




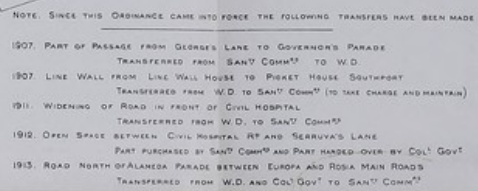
# PLAN OF GIBRALTAR.

## SCHEDULE B. OF "THE PUBLIC HEALTH ORDINANCE, 1907"

CATALAN BAY.



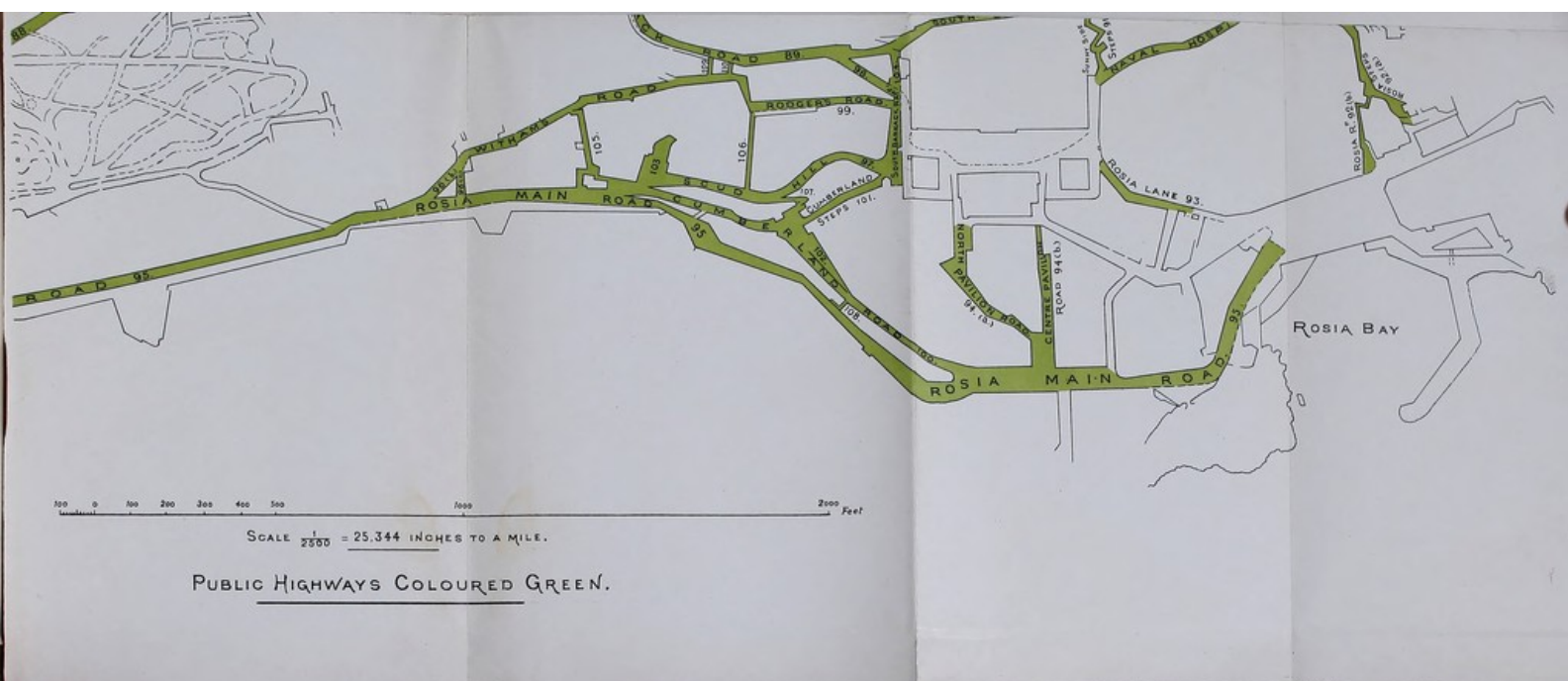






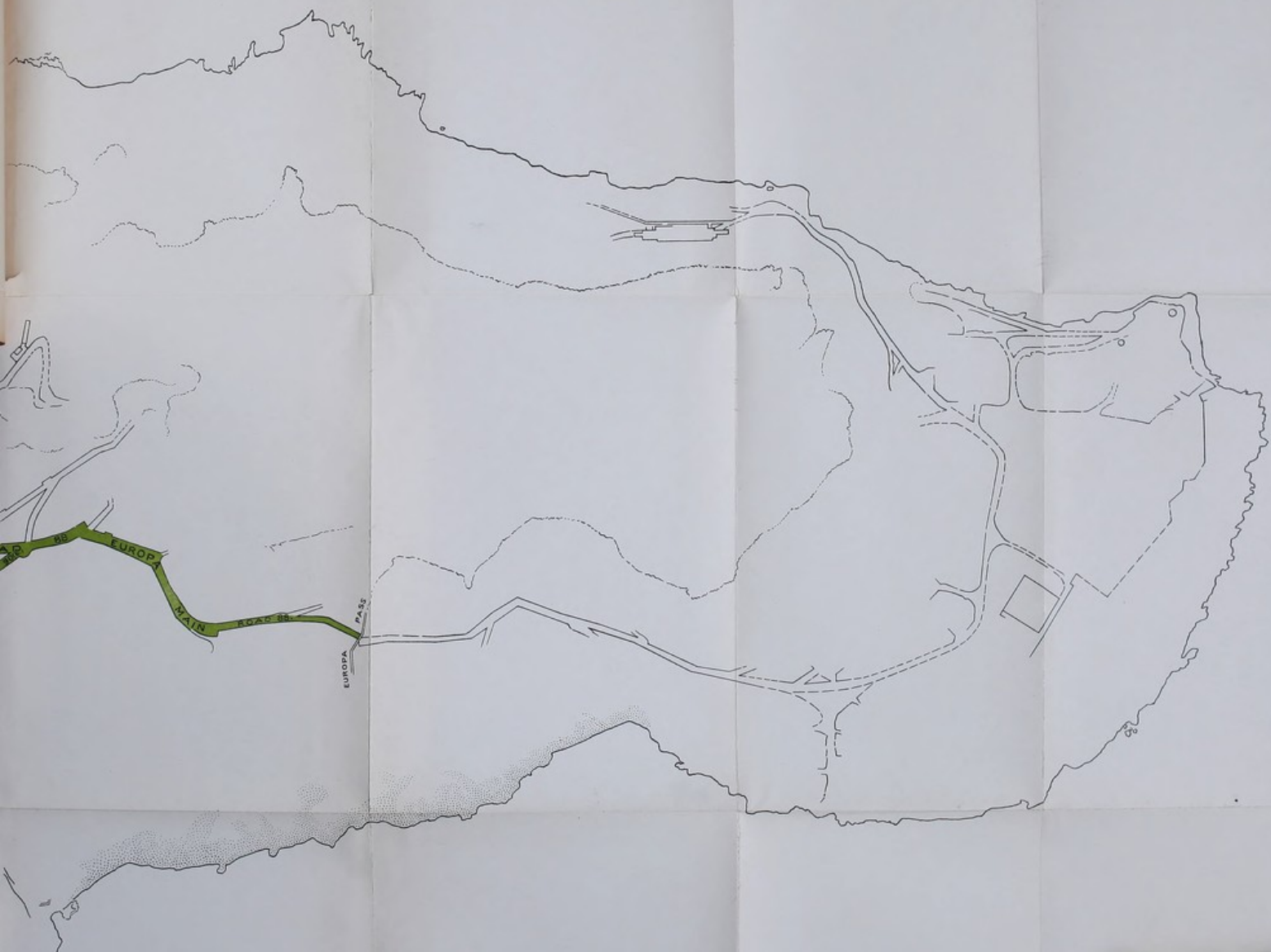








RRANEAN SEA.

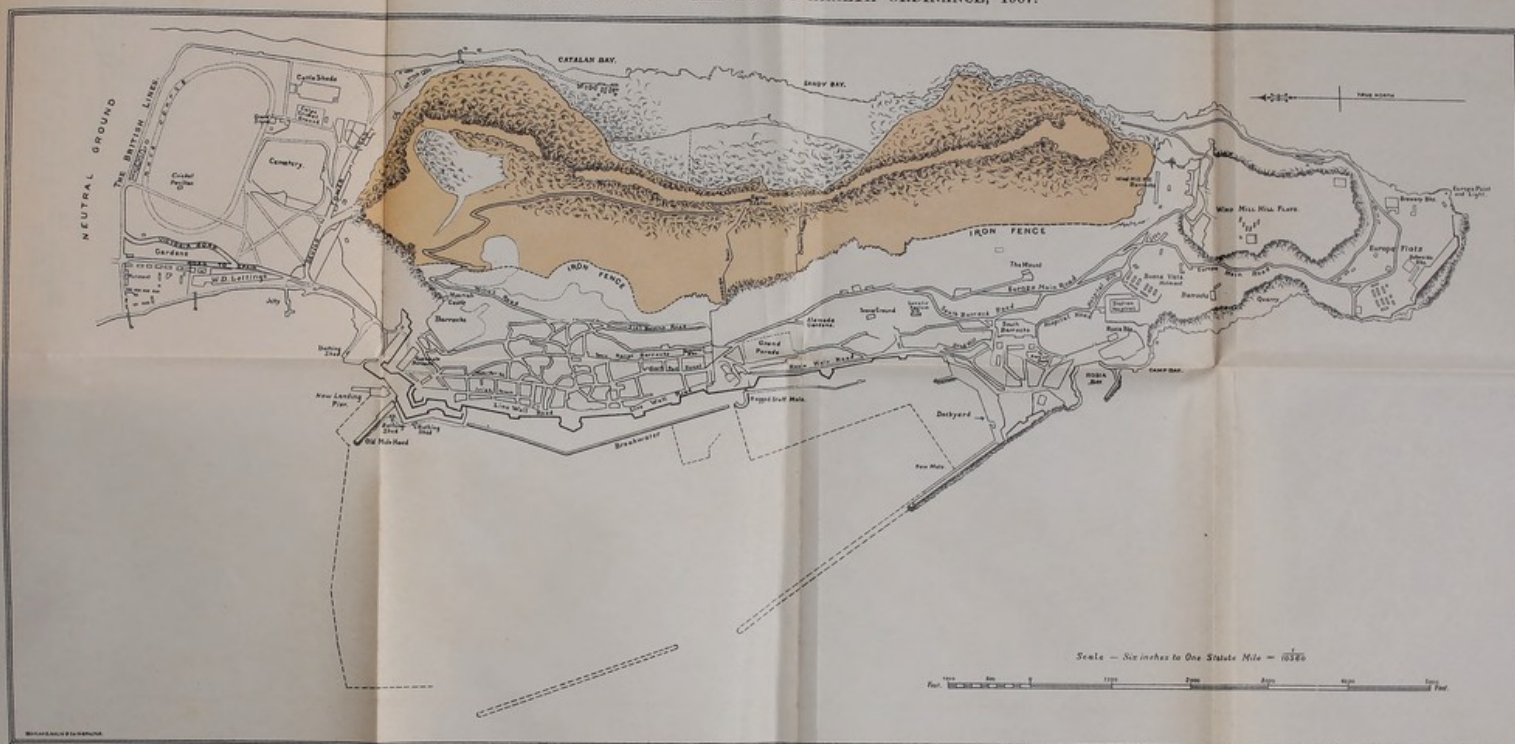




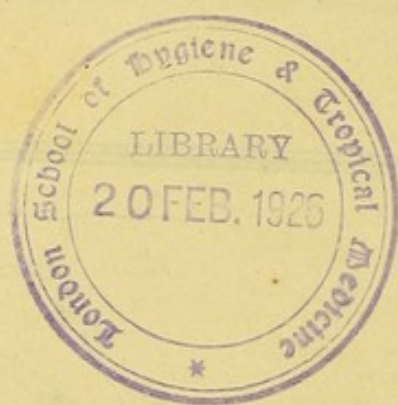




SCHEDULE C. OF "THE PUBLIC HEALTH ORDINANCE, 1907."









# SCHEDULE D.

## REPEAL OF ORDERS IN COUNCIL AND ORDINANCES.

### PUBLIC HEALTH ORDINANCE.

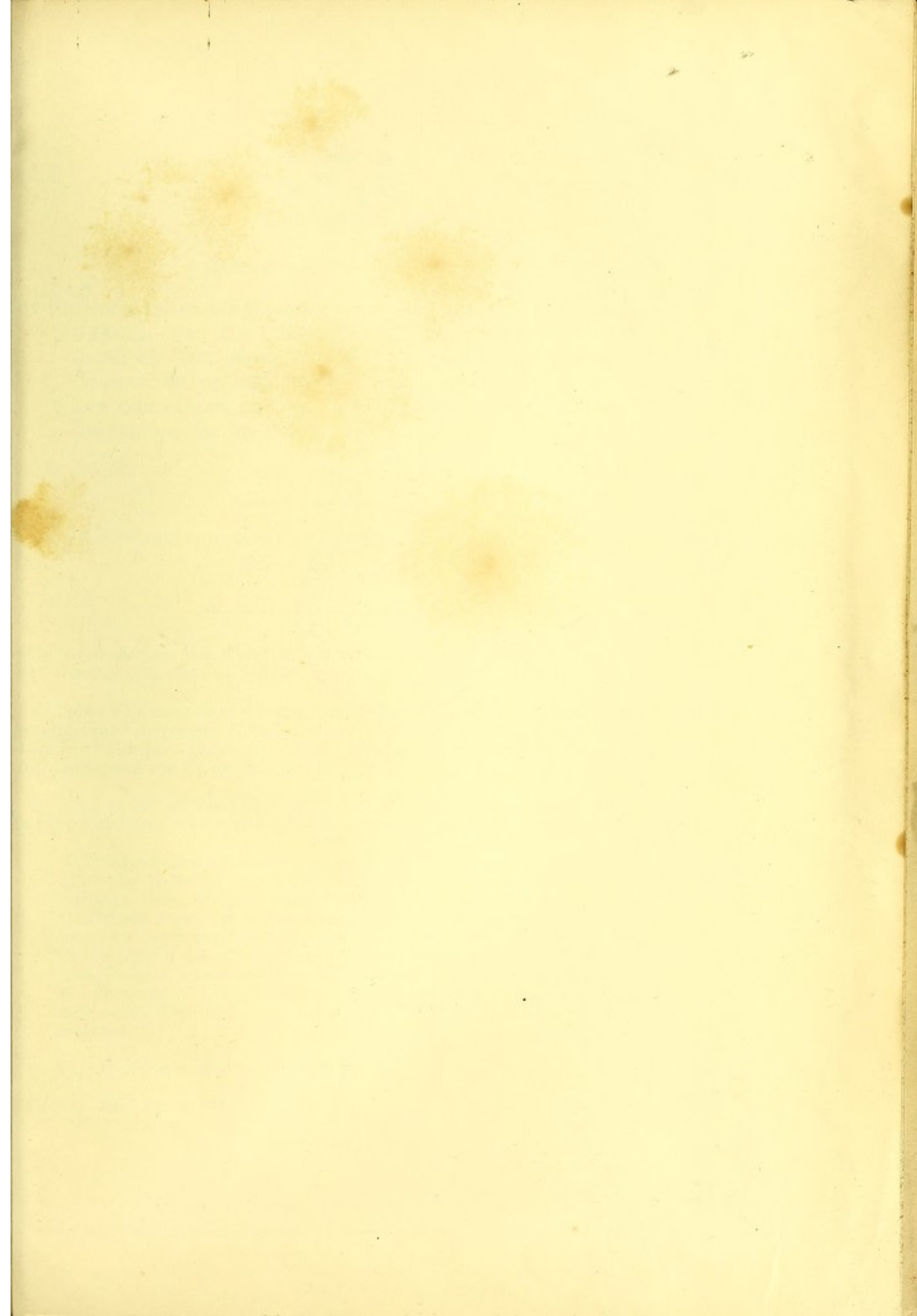
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Date of Order or Ordinance.	TITLE.	Extent of repeal.
25th May, 1868	"The Census of the Population Ordinance, Gibraltar, 1868."	Sections 15, 16, 17 & 18.
19th July, 1883	"The Sanitary Order in Council, Gibraltar, 1883." ... ..	The whole Order.
26th September, 1891	"The Sanitary Order Amendment Order, Gibraltar, 1891." ...	The whole Order.
26th December, 1891	"The Consolidation of Sanitary Loans Ordinance, Gibraltar, 1891."	The whole Ordinance.
29th March, 1892	"The Consolidation of Sanitary Loans Amendment Ordinance, Gibraltar, 1892."	The whole Ordinance.
10th March, 1893	"The Sanitary Order Amendment Ordinance, Gibraltar, 1893."	The whole Ordinance.
4th October, 1895	"The Electric Lighting Ordinance, Gibraltar, 1895." ... ..	The whole Ordinance.
9th October, 1895	"The Sanitary Order Amendment Ordinance, Gibraltar, 1895."	The whole Ordinance.
23rd March, 1896	"The Sanitary Loans Ordinance, Gibraltar, 1896." ... ..	The whole Ordinance.
6th April, 1896	"The Drainage Works Contribution Ordinance, Gibraltar, 1896."	The whole Ordinance.
22nd August, 1899	"The Consolidation of Sanitary Loans Amendment Ordinance, Gibraltar, 1899."	The whole Ordinance.
21st May, 1900	"The Inspection of Food Ordinance, Gibraltar, 1900." ... ..	The whole Ordinance.
29th March, 1901	"The Sanitary Order Further Amendment Ordinance, Gibraltar, 1901."	The whole Ordinance.
3rd March, 1902	"The Consolidation of Sanitary Loans Amendment Ordinance, Gibraltar, 1902."	The whole Ordinance.
6th May, 1902	"The Sanitary Order Amendment Ordinance, Gibraltar, 1902."	The whole Ordinance.
16th September, 1902	"The Sanitary Order Further Amendment Ordinance, Gibraltar, 1902."	The whole Ordinance.
25th May, 1906	"The Sanitary Order Amendment Ordinance, Gibraltar, 1906."	The whole Ordinance.















LS



### Gibraltar No. 3 of 1914.

BY HIS EXCELLENCY SIR HERBERT SCOTT GOULD MILES, LIEUTENANT-GENERAL OF HIS MAJESTY'S FORCES, KNIGHT GRAND CROSS OF THE MOST HONOURABLE ORDER OF THE BATH, COMMANDER OF THE ROYAL VICTORIAN ORDER, GOVERNOR AND COMMANDER-IN-CHIEF OF THE CITY AND GARRISON OF GIBRALTAR, &c., &c., &c.

H. G. MILES.

[23rd April, 1914].

*An Ordinance to amend "The Public Health Ordinance, Gibraltar, 1907."*

**B**E it enacted by His Excellency the Governor of the City and Garrison of Gibraltar as follows:—

1. This Ordinance may be cited as "The Public Health Ordinance Amendment Ordinance, 1914," and shall be read as one with the Public Health Ordinance, Gibraltar, 1907, hereinafter called the Principal Ordinance, and the Ordinances amending the same. Short title.

2. Section 287 of the Principal Ordinance shall be numbered 287 (1), and the following sub-section shall be added thereto:—

"(2) The Commissioners may, with the consent of the Governor, alter the name of any public highway, or of any reserved and military way, whether such highway or way be named in this Ordinance or no. A notice of any such alteration, stating both the previous name and the nature of the alteration, shall be published in the *Official Gazette*, and from and after the date of such publication the new name shall be substituted for the previous name for the purposes of this Ordinance, including Schedule B thereto, and any other Ordinance or Rule wherein such previous name is referred to." Power to alter names of streets.

3. This Ordinance shall come into operation forthwith.

Ordinance when to take effect.

Passed, 23rd April, 1914.

By Command,

A. C. GREENWOOD,  
Acting Colonial Secretary.



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FROM  
DR. J. H. GOLDSTEIN  
1000 UNIVERSITY AVENUE  
ANN ARBOR, MICH. 48106

TO  
DR. J. H. GOLDSTEIN  
1000 UNIVERSITY AVENUE  
ANN ARBOR, MICH. 48106

RE: [illegible]  
[illegible]  
[illegible]



LS



**Gibraltar No. 6 of 1915.**

BY HIS EXCELLENCY SIR HERBERT SCOTT GOULD MILES, LIEUTENANT-GENERAL OF HIS MAJESTY'S FORCES, KNIGHT GRAND CROSS OF THE MOST HONOURABLE ORDER OF THE BATH, COMMANDER OF THE ROYAL VICTORIAN ORDER, GOVERNOR AND COMMANDER-IN-CHIEF OF THE CITY AND GARRISON OF GIBRALTAR, &c., &c., &c.

H. G. MILES.

1st October, 1915.

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*An Ordinance to amend "The Public Health Ordinance, 1907."*

---

**B**E it enacted by His Excellency the Governor of the City and Garrison of Gibraltar as follows:—

1. This Ordinance may be cited as "The Public Health Amendment Ordinance, 1915." Short title.
2. This Ordinance shall be read and construed as one with The Public Health Ordinance, 1907, (hereinafter referred to as the Principal Ordinance) and in any future publication of the Principal Ordinance it shall be lawful to incorporate the provisions of this Ordinance. Construction.
3. Section 167 of the Principal Ordinance is amended as follows:—
  - (a) Line 1 of Sub-Section (8) is amended by the substitution of the word "premises" for the word "house" and by the insertion of the words "and brackish" between the words "fresh" and "water." Amendment of Section 167.



(b) Sub-Section (14) is repealed and is replaced as follows:—

“(14) Any cistern used for the supply of water for domestic purposes, and any well, pool, channel, barrel, bucket, tub, or other vessel so placed, constructed or kept as to allow the breeding of insects therein, or render the water therein liable to contamination, causing or likely to cause risk to health.”

(c) A new Sub-Section (Sub-Section 17) is added as follows:—

“(17) Any manure bin, refuse or other receptacle, kept in such a condition as to be a nuisance or injurious to health.”

Amendment of  
Section 172.

4. In Section 172 the following proviso is added:—

“*Thirdly*—That where a nuisance arises under Sub-Section (14) of Section 167, the service of a notice by the Commissioners as provided under this Section may be dispensed with, and the Commissioners may if satisfied of the existence of such a nuisance cause a complaint relating to such nuisance to be made forthwith before a justice, and such justice shall thereupon issue a summons requiring the person, by whose act, default, or sufferance, the nuisance arises or continues, or, if such person cannot be found the owner or occupier of the premises on which the nuisance arises, to appear before a Court of Summary Jurisdiction.”

Additional Section.  
Provisions for  
identifying marks  
on tubs, barrels,  
&c.

5. The following Section is added and shall be inserted next after Section 178. It may be referred to as Section 178 (A)—

“Whenever it may appear desirable to the Sanitary Commissioners that means should be provided for identifying the ownership of any tub, barrel, or other water receptacle on or in any premises used by or occupied by members of more than one family, they may stamp or mark or cause the owner or person in charge thereof to stamp or mark any such tub, barrel, or other water receptacle, in a manner directed by the Sanitary Commissioners, so as to permit of identification of ownership, and the owner or person in charge of any such tub, barrel or other water receptacle shall, if required to do so by the Sanitary Commissioners, maintain such stamp or mark in a legible and satisfactory condition.”

Amendment of  
Section 231.

6. Section 231 is amended by the insertion in line 2 thereof of the words “or offers or exposes for sale” after the word “sells.”

Date of  
commencement.

7. This Ordinance shall come into operation forthwith.

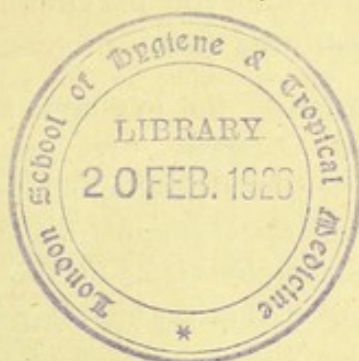
Passed, 1st October, 1915.

By Command,

W. C. F. ROBERTSON,  
Colonial Secretary.



LS



**GIBRALTAR.**

**No. 7 of 1921.**

BY HIS EXCELLENCY SIR HORACE LOCKWOOD SMITH-DORRIEN, GENERAL OF HIS MAJESTY'S FORCES, KNIGHT GRAND CROSS OF THE MOST HONOURABLE ORDER OF THE BATH, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, COMPANION OF THE DISTINGUISHED SERVICE ORDER, GOVERNOR AND COMMANDER-IN-CHIEF OF THE CITY AND GARRISON OF GIBRALTAR, &c., &c., &c.

H. L. SMITH-DORRIEN.

[25th April, 1921]

---

*An ORDINANCE to amend the Public Health Ordinance, 1907.*

---

**B**E it enacted by His Excellency the Governor of the City and Garrison of Gibraltar as follows:—

1. This Ordinance may be cited as the Public Health (Amendment) Ordinance, 1921, and shall be read and construed as one with the Public Health Ordinance, 1907, hereinafter called the Principal Ordinance.

Short title and construction.



Repeal of and  
substitution for  
Section 421 of  
Public Health  
Ordinance.

**2.** Section 421 of the Principal Ordinance is hereby repealed and there is substituted therefor the following :—

421. In addition to the bye-laws authorised to be made by the Commissioners under this Ordinance, it shall be lawful for them to make bye-laws for the prevention and suppression of nuisances not already punishable by virtue of this or any Ordinance in force in Gibraltar and for the regulation of the conduct and behaviour of persons frequenting or using public places and all such further and other bye-laws as they may think fit and as occasion may require to carry out and give effect to the provisions of this Ordinance.

Date of  
operation.

**3.** This Ordinance shall come into operation forthwith.

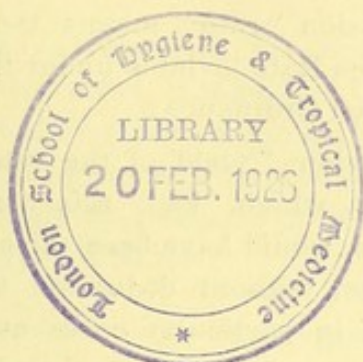
Passed 25th April, 1921.

By Command,

C. W. J. ORR,

Colonial Secretary.





**GIBRALTAR.**

**No. 10 of 1922.**

BY HIS EXCELLENCY SIR HORACE LOCKWOOD SMITH-DORRIEN, GENERAL OF HIS MAJESTY'S FORCES, KNIGHT GRAND CROSS OF THE MOST HONOURABLE ORDER OF THE BATH, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, COMPANION OF THE DISTINGUISHED SERVICE ORDER, GOVERNOR AND COMMANDER-IN-CHIEF OF THE CITY AND GARRISON OF GIBRALTAR, &c., &c., &c.

H. L. SMITH-DORRIEN.

[30th September, 1922]

---

*An ORDINANCE to amend the Public Health Ordinance, 1907.*

---

**B**E it enacted by His Excellency the Governor of the City and Garrison of Gibraltar as follows:—

1. This Ordinance may be cited as the Public Health (Amendment) Ordinance, 1922, and shall be read and construed as one with the Public Health Ordinance, 1907, hereinafter called the Principal Ordinance.

Short title and construction.



Interpretation  
of terms.

2. In this Ordinance unless the context otherwise requires—  
The expression "Council" means the City Council of Gibraltar:

The expression "rate" means the General Sanitary Purposes Rate leviable under the provisions of the Principal Ordinance:

The expression "yield of the rate" means the total moneys which, had this Ordinance not been enacted, would have been raised by the levying of the rate, without deduction therefrom or rebate thereof in particular cases as allowed under the provisions of the Principal Ordinance.

Imperial Authorities may make contributions in lieu of payment of rates by assessment.

3. (1) It shall be lawful for the Governor notwithstanding anything to the contrary in the Principal Ordinance contained, to declare that in any year in lieu of the rate and of all assessments charged upon national revenue and paid out of moneys provided by the Imperial Parliament under the provisions of the Principal Ordinance, there shall be paid to the Council a contribution in aid calculated and based upon a proportion of the yield of the rate for such year. Such proportion shall be a percentage which shall have been agreed upon between His Majesty's Treasury and the Council, and such percentage may from time to time be altered by agreement between His Majesty's Treasury and the Council at the request of either party and with the concurrence of the Secretary of State for the Colonies.

(2) The declaration as aforesaid shall be made in every year and shall be addressed to the Council not later than the first day of October in the year preceding that to which such declaration relates, and every such declaration shall be given under the hand and the seal of the Governor and shall state the percentage of the yield of the rate agreed as aforesaid to form the contribution for the year next ensuing.

Contribution,  
how payable.

4. The contribution for the year shall be paid to the Council by the Treasury on or before the 31st day of March in such year and no deduction from such contribution shall be made on any account whatsoever.

Exemption  
from rating  
of Imperial

5. The rate shall be levied in accordance with the provisions of the Principal Ordinance save that it shall not be



lawful to rate or assess any person to such rate for or in respect of any Imperial Government premises occupied on behalf of His Majesty His Heirs or Successors.

Government  
Premises.

6. The provisions contained in the Principal Ordinance relating to the appointment, duties and liabilities of the Officer for Rates and Expenses charged on National Revenue so far as such provisions have reference to the rate for General Sanitary Purposes shall be null and void from the date of commencement of this Ordinance.

Repeal of  
provisions  
relating to the  
Officer for Rates  
and Expenses  
charged on  
National  
Revenue.

7. This Ordinance shall come into operation on the 1st day of October, 1922.

Date of  
commencement.

Passed 30th September, 1922.

By Command,

C. W. J. ORR,  
Colonial Secretary.



Government of India

Ministry of Education  
No. 10 of 1922

Department of Education  
No. 10 of 1922

Ministry of Education  
No. 10 of 1922

Department of Education  
No. 10 of 1922

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No. 10 of 1922

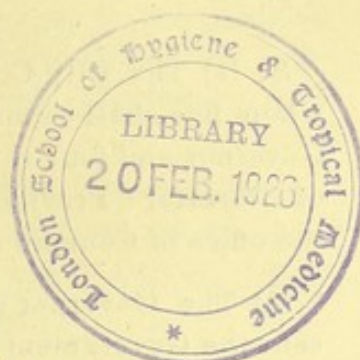


LS



**GIBRALTAR.**

**No. 10 of 1921.**



BY HIS EXCELLENCY SIR HORACE LOCKWOOD SMITH-DORRIEN, GENERAL OF HIS MAJESTY'S FORCES, KNIGHT GRAND CROSS OF THE MOST HONOURABLE ORDER OF THE BATH, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, COMPANION OF THE DISTINGUISHED SERVICE ORDER, GOVERNOR AND COMMANDER-IN-CHIEF OF THE CITY AND GARRISON OF GIBRALTAR, &c., &c., &c.

H. L. SMITH-DORRIEN.

[22nd August, 1921]

*An ORDINANCE to constitute a City Council  
and to provide for the conduct of elections.*

WHEREAS it is desirable to provide for the better representation of the civil population in regard to municipal affairs and business:

BE IT ENACTED by His Excellency the Governor of the City and Garrison of Gibraltar as follows:—

1. This Ordinance may be cited as the City Council Ordinance, 1921, and shall come into force on the 1st day of October one thousand nine hundred and twenty-one.

Short title  
and date of  
commencement.

**PART I.**

2. (1) There shall be constituted and erected in Gibraltar a City Council, the members whereof shall be termed Councillors, and the said Council shall be constituted as from the date of the first election held under this Ordinance.

Formation of a  
City Council.



(2) The City Council shall be a corporate body having a common seal and shall sue or be sued in its corporate capacity.

Constitution of  
City Council.

3. (1) The City Council shall consist of nine members of whom five shall be members nominated or appointed by the Governor and four shall be members elected by the electors of Gibraltar: Provided that no woman shall be eligible for the office of Councillor.

(2) The Governor shall nominate one Councillor to represent the Government of Gibraltar, one Councillor to represent the Lords Commissioners of the Admiralty and one Councillor to represent His Majesty's Principal Secretary of State for War and may remove them and nominate other Councillors in their place as he may from time to time see fit.

(3) (a) The Governor shall at each general election of Councillors appoint two Councillors as he may see fit for the full period of three years provided that in case of the death or resignation of a Councillor appointed under this subsection, or if any such Councillor is absent from meetings of the Council for more than six months consecutively except in case of illness or for some reason approved by the Council, the Governor may appoint some other person to fill the vacancy and the person so appointed shall continue in office as a Councillor so long only as the person in whose stead he shall have been appointed would have been entitled to remain in office.

(b) Every appointment or nomination made by the Governor under this and the preceding subsection shall be published in the *Official Gazette*.

(4) The four elected Councillors shall be elected for a period of three years.

Transfer to  
City Council  
of powers, &c.,  
of Board of  
Sanitary  
Commissioners.

4. (1) From and after the first day of December, 1921, the Board of Sanitary Commissioners shall cease to exist and subject to the provisions of this Ordinance their powers, duties, property and liabilities shall be transferred to the City Council.

(2)



(2) Where any Ordinance passed before the first day of October, 1921, contains expressions referring to the Sanitary Commissioners of Gibraltar such expressions shall be construed as referring to the City Council created by this Ordinance.

5. For the purpose of the election of Councillors, Gibraltar shall be divided into four wards as set forth in the first Schedule to this Ordinance and each ward shall elect and return to the City Council one Councillor.

Division of City and Garrison into wards and allocation of elected Councillors.

6. A person shall be qualified to be elected a Councillor if he be:—

Qualification of Councillor.

(a) a British Subject by birth and of full age.

(b) a resident of Gibraltar in the actual occupation within the City and Garrison of Gibraltar for a period of not less than eight months in every year of a dwelling house or a part thereof.

(c) Fully conversant with and able to read and write the English language.

Provided that the word "resident" shall not include any person residing in Gibraltar by virtue of any periodical permit or licence.

7. A person shall be disqualified from becoming or from acting as a Councillor who shall be or shall become a bankrupt and shall not have obtained his certificate or who has been or shall be convicted of any felony or other crime for which he has suffered or shall be sentenced to undergo any term of imprisonment exceeding three calendar months.

Disqualification of Councillors.

8. Any person not duly qualified who shall wilfully act as a Councillor shall be liable to a penalty not exceeding fifty pounds for every day on which he shall so act or to imprisonment for a period not exceeding six months and the appointment or election of any such person who shall not be duly qualified or who shall become disqualified shall be void to all intents and purposes as from the date upon which such Councillor shall first have become disqualified.

Penalty on disqualified Councillors acting.

Provided always that no such acting shall prejudice or avoid the acts of the Councillors duly appointed or legally qualified.

9. Every person being a candidate for election as a Councillor shall in writing not later than twenty-one days before the date fixed for the taking of the poll so inform the returning officer of his intention and shall at the same time forward to

Declaration to be made by candidate for election as Councillor.



the returning officer a declaration sworn before a Justice of the Peace in the form provided in the second Schedule to this Ordinance that he fulfils the qualifications requisite under this Ordinance.

If only one person signifies intention to become candidate.

**10.** If not more than one person has signified in manner required by the preceding section his intention to become a candidate for election for a ward the Returning Officer on the day fixed for the election shall declare such candidate duly elected to the City Council.

If more than one, poll to be taken.

If more than one candidate come forward for election, a poll shall be taken in manner hereinafter provided.

Power of Registration Officer to hear complaint.

**11.** It shall be lawful for the Registration Officer to hear and consider any complaint or objection in regard to the qualifications of any candidate and to give a decision thereon and any person aggrieved by any such decision shall be entitled to appeal in manner provided by Section 16 of this Ordinance.

Penalty on disqualified person offering himself as candidate.

**12.** Any person who knowing that he is not duly qualified shall wilfully offer himself as a candidate for election shall upon summary conviction be liable to a penalty not exceeding twenty pounds or to imprisonment for a period not exceeding one month.

Power of candidate to appoint an election agent.

**13.** Every person being a candidate for election as a Councillor may appoint an election agent whose name he shall notify to the Registration Officer and every advertisement, circular or publication issued for the purpose of promoting or procuring the election of any candidate shall bear thereon the name of the candidate or his agent and the printer thereof, if any.

Preparation of register of electors.

**14.** (1) During the year 1921 and thereafter in every third year there shall be prepared a register of electors and such register shall be published not later than the first day of October in such year.

(2) The Governor shall appoint a Registration Officer to supervise the preparation of the register in accordance with the rules contained in the third Schedule to this Ordinance.



**15.** A person shall be entitled to be registered as an elector if he is a British subject of full age not subject to any legal incapacity nor in arrears as to payment of rates and if he has during a period of not less than six months in the year in which the register has been prepared occupied any land or premises in Gibraltar either as owner or tenant and the word tenant shall be deemed to include any person who occupies a room or rooms as a lodger only :

Qualifications  
of electors.

Provided that no woman shall be entitled to be registered as an elector, and

Provided that no person in the Naval or Military Forces or in the Civil Service of the Crown, shall be entitled to be registered as elector in respect of the occupation of any residence or quarters provided by the Crown free of rent or other charges.

**16.** (1) Any person who may be aggrieved by the omission or inclusion of any name in the register, may make complaint or objection to the Registration Officer who shall hear and determine the same.

Appeal against  
decision of  
Registration  
Officer.

(2) An appeal shall lie to the Police Magistrate from any decision of the Registration Officer on any complaint or objection which has been considered by him.

(3) An appeal shall lie on any point of law from any decision of the Police Magistrate on any such appeal from the Registration Officer to the Supreme Court, but no appeal shall lie from any decision of the Supreme Court.

**17.** The first elections under this Ordinance shall be held on the first day of December, 1921, and subsequent elections shall be held every third year on the first day of December or if such day is a Sunday then on the previous day.

Date of first  
and subsequent  
election and  
casual elections.

Provided always that in the case of a casual vacancy an election shall be held on any day to be fixed by the Governor, such day being not less than twenty-eight nor more than forty-two days after the date upon which the vacancy shall have been notified to exist and any such casual vacancy arising shall be notified to the Governor by the Chairman of the Council and published in the *Official Gazette* at the first meeting of the Council after the vacancy has arisen.



Registration  
Officer to act  
as Returning  
Officer.

**18.** (1) The Registration Officer shall perform the duties of Returning Officer and shall have power to appoint deputies who shall perform such duties as the Registration Officer shall direct, but the appointments of deputies shall be subject to the approval of the Governor.

(2) It shall be lawful for the Governor to fix the remuneration of the Registration Officer and of the deputies and to cause same to be paid out of Government Funds.

(3) The expenses incurred in the preparation of the register shall be audited by the Colonial Auditor and shall be paid out of Government Funds.

Provided that after the first elections shall have taken place all future registers shall be prepared by and the expenses of such preparation shall be a proper charge against the revenues of the City Council and anything to the contrary in this Ordinance notwithstanding the City Council shall appoint and remunerate the Registration Officer and his deputies if any.

## PART II.

### METHOD OF ELECTION.

Interpretation.

**19.** In this part of this Ordinance if not inconsistent with the context, the following expressions shall have the meanings hereinafter respectively assigned to them, that is to say :—

The expression "election" means an election of a City Councillor or Councillors.

The expression "candidates" or "candidate" means any persons or person who have or has been nominated as or declared themselves or himself candidates or a candidate at an election.

The expression "Presiding Officer" means a person under whatever designation presiding at an election, and in default of any other appointment by the Governor shall be the registration officer or his deputy.

The expression "elector" means any person qualified to vote for members to serve on the City Council.

The expression "register" means the register for the time being of voters qualified to vote for members to serve on the City Council.

The expression "polling place" means the house or room in which an election is held.



PROCEDURE AT POLL.

**20.** In the case of a poll being required at an election the votes shall be given by ballot, the ballot of each voter shall consist of a paper (in this Ordinance called a ballot paper), showing the names and descriptions of the candidates arranged alphabetically in the order of their surnames and (if there are two or more candidates with the same surname) of their other names, it shall have a number printed on the back and shall have attached a counterfoil with the same number printed on the face, and shall be in the form set forth in the fourth Schedule to this Ordinance or as near thereto as circumstances admit, and shall be capable of being folded up.

Votes, when poll required at an election, to be taken by ballot. Of what ballot shall consist.

**21.** Every ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked. The Presiding Officer at any polling place just before the commencement of the poll shall show the ballot box empty to such persons as may be present in such polling place so that they may see that it is empty, and shall then lock it up and place his seal upon it in such manner as to prevent its being opened without breaking such seal and shall place it in his view for the receipt of ballot papers and keep it so locked and sealed.

Ballot boxes how to be constructed; to be shown empty before any votes are taken, and then to be locked and sealed.

**22.** Every elector shall be entitled to demand and receive a ballot paper, but immediately before it is delivered to such elector it shall be marked on both sides by the Presiding Officer with a mark called in this Ordinance "the official mark," and the number and name of the elector as stated in the copy of the register shall be called out and the number of such elector shall be marked on the counterfoil, and a mark shall be placed in the copy of the register against the number of the elector to denote that he has received a ballot paper but without showing the particular ballot paper which he has received.

Every elector entitled to a ballot paper.

Duty of Presiding Officer before delivering it.

**23.** The elector on receiving the ballot paper shall forthwith proceed into the compartment or one of the compartments in the polling place and there secretly mark his vote by placing a cross on the right hand side of the ballot paper opposite the name of the candidate for whom he votes, thus—X, and shall then fold up the ballot paper so as to conceal his

Course to be followed by an elector on receiving a ballot paper.



What ballot papers to be void and not counted.

vote but so as to show the official mark on the back, and shall then put his ballot paper so folded up into the ballot box in the presence of the Presiding Officer after having shown to him the official mark on the back; any ballot paper which has not on its back the official mark or on which votes are given to more candidates than the elector voting is entitled to vote for, or on which anything except the said number on the back is written or marked by which the elector can be identified shall be void and not counted; he shall vote without undue delay and shall quit the polling place as soon as he has put his ballot paper into the ballot box.

Votes of electors prevented voting by blindness or other physical cause, or unable to read, how taken. Lists to be made of votes so taken.

**24.** The Presiding Officer on the application of any elector who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Ordinance, or of any elector who is unable to read, shall cause the vote of such elector to be marked on a ballot paper in manner directed by such elector, and the ballot paper to be placed in the ballot box, and the name and number on the register of every elector whose vote is marked in pursuance of this section and the reason why it is so marked shall be entered on a list to be called "the list of voters marked by the Presiding Officer."

Course to be adopted in case of a person claiming to vote as being a specified elector, after another person has voted as such elector.

**25.** If a person representing himself to be a particular elector named on the register applies for a ballot paper after another person has voted as such elector, the applicant shall upon duly answering the questions and taking the oath permitted to be asked and to be administered to voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Ordinance called "a tendered ballot paper"), instead of being put into the ballot box shall be given to the Presiding Officer and indorsed by him with the name of the voter and the number in the register and set aside and shall not be counted by the Presiding Officer, and the name of the voter and his number on the register shall be entered on a list called "the tendered votes list."

"Tendered votes list."

Under what circumstances an elector may obtained a second ballot paper.

**26.** An elector who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering to the Presiding Officer the



allot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the Presiding Officer, obtain another ballot paper in the place of the ballot paper so delivered up, and the spoilt ballot paper shall be immediately cancelled.

#### PROCEDURE AFTER CLOSE OF POLL.

**27.** After the close of the poll and before the Presiding Officer shall depart from the place of election the ballot box shall be opened by the Presiding Officer in the presence of the candidates, or any other persons nominated by them for the purpose in attendance, and no other person, except with the sanction of the Presiding Officer, and he shall ascertain the result of the poll by counting the votes given to each candidate, but, while doing so, shall keep the ballot papers with their face upwards, and take all proper precautions for preventing any person from seeing the numbers on the backs of such papers.

Result of poll when, how, and in whose presence to be ascertained.

Precaution to be taken by Presiding Officer.

**28.** The Presiding Officer shall indorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the indorsement "rejection objected to" if an objection be in fact made by any candidate, or a person nominated by him to be present at the counts of the votes, to the decision of the Presiding Officer. The Presiding Officer shall report to the Colonial Secretary, the number of ballot papers rejected and not counted by him under the several heads of:

Course to be pursued by Presiding Officer with respect to ballot papers rejected by him.

- (1) Want of official mark.
- (2) Voting for more candidates than entitled to.
- (3) Writing or mark by which voter could be identified,
- (4) Unmarked or void for uncertainty,

and shall on request allow the candidate before such report is sent in to copy it.

**29.** The decision of the Presiding Officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

His decision in such cases to be final, subject, &c.

**30.** Upon the completion of the counting and the declaration by the Presiding Officer, of the candidates elected, the Presiding Officer shall seal up each description of papers, other than the list of voters (which shall in each case be returned to the Colonial Secretary for future use), relating to

Disposal by the Presiding Officer of the papers relating to the election when result of poll is declared.



the election in separate packets, and return the same to the Colonial Secretary, and the Colonial Secretary shall retain for one year all documents and papers so returned to him as aforesaid, and then the Colonial Secretary, unless otherwise directed by the Supreme Court, shall cause them to be destroyed.

In whose presence such papers to be sealed up.

**31.** The papers required by the last preceding section to be sealed up by the Presiding Officer shall be sealed up by him in the presence of the candidates, or any other person nominated by them for the purpose in attendance, and by no other person except with the sanction of the Presiding Officer.

PROVISIONS PREVENTING INSPECTION OF  
ELECTION PAPERS EXCEPT UNDER  
COMPETENT AUTHORITY.

Rejected ballot papers not to be inspected except under the order of the Supreme Court.

**32.** No person shall be allowed to inspect any rejected ballot papers in the custody of the Colonial Secretary except under the order of the Supreme Court to be granted by such court on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers or for the purpose of a petition questioning an election or return, and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the said court may think expedient, and shall be obeyed by the Colonial Secretary, and the power given to the court by this section may be exercised by any judge of the said court at chambers.

Election papers in the custody of the Colonial Secretary not to be opened except under the order of the Supreme Court.

**33.** No person shall, except by order of the Supreme Court or a judge thereof, open any election papers relating to the election of members of the City Council so as aforesaid returned to the Colonial Secretary and in his custody; such order may be made subject to such conditions as to person, time, place, and mode of opening or inspection, as the said court or a judge thereof may think expedient; provided that in making and carrying into effect any such order care should be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted and his vote has been declared by competent



authority to be invalid; and such papers shall be resealed at such time and in such manner as the judge of the said court may from time to time direct.

34. When an order is made for the production by the Colonial Secretary of any document in his possession relating to any specified election the production by such Colonial Secretary of the documents ordered by the Supreme Court or any judge thereof in such manner as may be directed by rule of the court, shall be conclusive evidence that such document relates to the specified election; and any endorsement appearing on any packet of papers produced by such Colonial Secretary shall be evidence of such papers being what they are stated to be by the endorsement. The production from proper custody of a ballot paper purporting to have been used at any election and of a counterfoil marked with the same printed number and having a number marked thereon in writing shall be *prima facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had annexed to his name in the register at such election the same number as the number written on such counterfoil.

Production by Colonial Secretary of documents under any such order as aforesaid to be conclusive evidence that such documents are the ones required.

Production of ballot paper *prima facie* evidence of, &c.

#### OFFENCES AT ELECTIONS.

35. Every person who :

- (1) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
- (2) without due authority supplies any ballot paper to any person; or
- (3) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (4) fraudulently takes out of the polling place any ballot paper; or
- (5) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of the election;

Offences in respect of ballot papers and ballot boxes.

shall be guilty of a misdemeanour and be liable, if he is a Presiding Officer, to imprisonment for a term not exceeding



two years with or without hard labour, and if he is another person to imprisonment for a term not exceeding six months with or without hard labour. Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable. In any indictment or other prosecution for an offence in relation to the ballot boxes and ballot papers at an election, the property in such boxes and papers may be stated to be in the Presiding Officer at such election as well as the property in the counterfoil.

**Infringement  
of secrecy.**

**36.** Every person in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting in such place, and shall not communicate except for some purposes authorized by law before the poll is closed to any person any information as to the name or number on the register of any elector who has or has not applied for a ballot paper, or voted at that polling place or as to the official mark, and no such person whosoever shall interfere with or attempt to interfere with an elector when marking his vote or otherwise attempt to obtain in the polling place information as to the candidate for whom any voter in such election is about to vote or has voted, or communicate at any time to any person any information obtained in a polling place as to the candidate for whom any voter in such polling place is about to vote or has voted, or as to the number on the back of the ballot paper given to any elector at such polling place. Every such person in attendance at the counting of votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper or communicate any information at such counting or to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any elector to display his ballot paper after he shall have marked the same so as to make known to any person the name of the candidate for whom he has so marked his vote. Every person who acts in contravention of the provisions of this section shall be liable on summary conviction before a Police Magistrate to imprisonment for a term not exceeding six months with or without hard labour,



GENERAL PROVISIONS.

**37.** Each polling place shall be furnished with one or more compartments as shall be necessary in which the electors can mark their votes screened from observation.

Polling place to be furnished with compartments.

**38.** Directions for the guidance of the electors in voting according to the form set forth in the fifth Schedule to this Ordinance shall be printed in conspicuous characters and placarded in various places, outside and inside of every polling place and, in addition thereto, in every compartment of every polling place and be illustrated by examples of the ballot paper.

Direction for the guidance of electors to be printed and placarded in various places.

**39.** The Presiding Officer shall within three days before polling day provide such ballot boxes, ballot papers, polling compartments, materials for electors to mark the ballot papers, directions for the guidance of electors in voting, and such other things as may be necessary for effectually conducting any election in manner provided by this Ordinance.

Presiding Officer to provide ballot boxes, &c., within three days before polling day.

**40.** Where in this Ordinance any expressions are used requiring or authorizing or inferring that any act or thing is to be done in the presence of the candidates or of any other persons nominated by them for the purpose, such expressions shall be deemed to refer to the presence of such of the candidates or of any other persons nominated by them for the purpose as may be authorized to attend, and as have in fact attended at the time and place where such act or thing is being done, and the non-attendance of any candidate or of any of the persons nominated by him for the purpose at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

Non-attendance of candidate, &c., in whose presence any act is to, or may be done, not to invalidate act done.

**41.** The Presiding Officer and every other person authorized to attend a polling place, or at the counting of the votes, shall, before the opening of the poll, make the oath of secrecy according to the form prescribed in the sixth Schedule to this Ordinance; if he is the Presiding Officer before any justice of the peace present or if he is any other person before the Presiding Officer or any justice of the peace present.

Oath of secrecy by and before whom to be taken.

**42.** If any person misconduct himself in the polling place or fails to obey the lawful orders of the Presiding Officer he

Keeping of order in the polling place.



may immediately by order of the Presiding Officer be removed from the polling place by any police officer or constable in or near that place, or any other person authorized in writing by the Presiding Officer to remove him, and the persons so removed shall not unless with the permission of the Presiding Officer again be allowed to enter the polling place during that day. The powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling place from having an opportunity of voting at such polling place.

Prohibition of disclosure of vote.

**43.** No elector who has voted at an election shall in any legal proceedings to question the election or return be required to state for whom he has voted.

Effect of mistake in use of form given in evidence.

**44.** No election shall be declared invalid by reason of any mistake in the use of the form in the fourth Schedule to this Ordinance annexed, if it appears to the authority having cognizance of the question that the election was conducted in accordance with the principles laid down in this Ordinance, and that such mistake did not affect the result of the election.

Votes to be struck off for bribery, treating, or undue influence.

**45.** When a candidate on the trial of any petition to controvert any election is proved to have been guilty by himself or by any person on his behalf of bribery, treating, or undue influence, in respect of any person who voted at such election or where any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election as agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall be struck off from the number of votes appearing to have been given to such candidate, one vote for every person who voted at such election, and is proved to have been so bribed, treated, or unduly influenced or so retained or employed for reward as aforesaid.

### PART III.

#### PREVENTION OF CORRUPT PRACTICES.

Definitions.

**46.** Throughout this part of this Ordinance in the construction thereof, except there be something in the subject or



context repugnant to such construction, the word "election" shall mean the election of any member or members to serve in the City Council; the word "voter" shall mean any person who has or claims to have a right to vote in the election of a member or members to serve in the City Council; and the words "candidate at an election" shall include all persons elected as members to serve in the City Council, and all persons nominated as candidates or who shall have declared themselves candidates at or before such election.

**47.** The following persons shall be deemed guilty of bribery, and shall be punishable accordingly :—

What persons  
to be deemed  
guilty of giving  
bribes or  
bribery.

(1) Every person who shall directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise or promise to procure or to endeavour to procure any moneys or valuable consideration to or for any voter, or to or for any person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election.

(2) Every person who shall directly or indirectly by himself or by any other person on his behalf, give or procure, or offer, promise, or promise to procure, or to endeavour to procure any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote, or refrain from voting, or shall corruptly do any such act as aforesaid on account of any voter having voted or refrained from voting at any election.

(3) Every person who shall directly or indirectly by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person to serve in the City Council or the vote of any voter at any election.

(4). Every person who shall upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement,



procure or engage, promise or endeavour to procure, the return of any person to serve in the City Council, or the vote of any voter at any election.

(5) Every person who shall advance or pay or cause to be paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

And any person so offending shall be liable to forfeit the sum of one hundred pounds to any person who shall sue for the same, together with full costs of suit.

What persons  
to be deemed  
guilty of  
receiving bribes  
or bribery.

**48.** The following persons shall be deemed guilty of bribery and shall be punishable accordingly:—

- (1) Every voter who shall, before or during any election directly or indirectly, by himself or by any other person on his behalf receive, agree or contract for any money, gift, loan, or valuable consideration, office, place, or employment for himself, or for any other person for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election.
- (2) Every person who shall, after any election, directly or indirectly by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote, or to refrain from voting at any election.

And any person so offending shall be liable to forfeit the sum of ten pounds to any person who shall sue for the same together with full costs of the suit.

Corrupt  
payment of  
rates or taxes  
punishable  
as bribery.

**49.** Any person, either directly or indirectly, corruptly paying any rates or taxes on behalf of any elector for the purpose of enabling him to be registered as a voter thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly paying any rate or tax on behalf of any voter for the purpose of inducing him to vote or refrain from voting, and also any



person on whose behalf and with whose privity any such payment, as in this section is mentioned, is made, shall be deemed guilty of bribery and shall be punishable accordingly.

**50.** Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person, or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election, and every elector who corruptly accepts or takes any such meat, drink, entertainment or provision, shall be guilty of treating, and shall be punishable accordingly.

Treating  
defined.

**51.** Every person who shall directly or indirectly by himself or by any other person on his behalf, make use of, or threaten to make use of any force, violence, or restraint, or inflict or threaten the infliction by himself or by or through any other person of any temporal or spiritual injury, damage, harm, or loss, or in any other manner practise intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance, impede, prevent, or otherwise interfere with the free exercise of the franchise of any voter, or shall thereby compel, induce, or prevail upon any voter, either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall be liable to forfeit the sum of fifty pounds to any person who shall sue for the same, together with full costs of suit.

Undue  
influence  
defined.

**52.** Whenever it shall be proved before the Presiding Officer that any person who is or claims to be placed on the list or register of voters, has been convicted of bribery, treating or undue influence at an election or that judgment has been obtained against any such person for any penal sum

Names of  
offenders to be  
struck out of  
registers of  
voters and  
inserted in  
separate list.



hereby made recoverable in respect of the offences of bribery, treating or undue influence, or either of them, then and in that case such Presiding Officer shall, in case the name of such person is in the list of voters, expunge the same therefrom or shall, in case such person is claiming to have his name inserted therein, disallow such claim, and the names of all persons whose names shall be so expunged from the list of voters, and whose claims shall be so disallowed shall be thereupon inserted in a separate list to be entitled, "The list of persons disqualified for bribery, treating or undue influence," which last mentioned list shall be appended to the list or register of voters, and shall be printed and published, or copied therewith whenever the same shall be or is required to be printed or published or copied.

No cockades,  
&c., to be given  
at elections.

Penalty.

Payments for  
cockades, &c.,  
to be deemed  
illegal.

Penalties for  
bribery,  
treating or  
undue influence  
how to be  
recovered.

What  
allegations  
sufficient in any  
action for any  
penalty for  
bribery,  
treating  
or undue  
influence.

**53.** No candidate, before, during, or after any election shall in regard to such election by himself or agent, directly or indirectly, give or provide to or for any person having a vote at such election, any cockade, ribbon, or other mark of distinction, and every person so giving or providing shall for every such offence forfeit the sum of two pounds to such person as shall sue for the same, together with full costs of suit, and all payments made for or on account of any chairing or any such cockade, ribbon or mark of distinction as aforesaid, or of any bands of music or flags, or banners, shall be deemed illegal payment within this Ordinance.

**54.** The pecuniary penalties hereby imposed for the offences of bribery, treating, or undue influence respectively shall be recoverable by action or suit by any person who shall sue for the same in the Supreme Court, which court is hereby authorized and empowered to hear and determine all such cases under this Ordinance, and to enforce its decisions in such cases in the manner usual in cases brought before that court, and coming within its original legal jurisdiction.

**55.** In any action or suit for any penalty for bribery, treating, or undue influence it shall be sufficient to allege that the defendant was, at the election at or in connection with which the offence is intended to be alleged to have been committed, guilty of bribery, treating, or undue influence (as the case may require); and in any action or suit relating to



any such offence, the certificate of the Returning Officer in this behalf shall be sufficient evidence of the due holding of the election, and of any person therein named having been a candidate thereat.

**56.** No person shall be liable to any penalty or forfeiture hereby enacted or imposed unless some action or suit for the offence committed shall be commenced against such person within the space of one year next after such offence against this Ordinance shall be committed, and unless such person shall be summoned or otherwise served with writ or process within the same space of time, so as such summons or service of writ or process shall not have been prevented by such person absconding or withdrawing out of the jurisdiction of the Supreme Court, and in case of any such suit or process as aforesaid the same shall be proceeded with and carried on without any wilful delay.

Limitation  
of actions.

**57.** A person shall for all purposes of the law relating to the City Council elections be deemed to be guilty of the offence of personation who at an election applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person, or who having voted once at any such election applies at the same election for a ballot paper in his own name.

Definition and  
punishment of  
personation.

The offence of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, shall be a felony, and any person convicted thereof shall be punished by imprisonment for a term not exceeding two years together with hard labour. It shall be the duty of the Returning Officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is Returning Officer.

**58.** If any candidate at any election for the City Council shall have judgment given against him in an action brought to recover any of the penalties imposed by this Ordinance for bribery, treating, or undue influence or personation at such election, or if on the controverting of such election shall be declared by the court to have been guilty of or to have known

Privileges lost  
by candidate  
declared guilty  
of bribery,  
treating, or  
undue influence  
or personation.



and consented to bribery, treating, or undue influence or personation, at such election, such candidate shall be incapable of being elected or sitting in the City Council for five years from the date of such judgment or declaration aforesaid, and his seat (if he has been elected) shall from the date of such judgment or declaration as aforesaid be deemed vacant.

Any breach of this Ordinance by an agent, without his principal's knowledge or consent, not to affect principal.

**59.** When any breach of the provisions of this Ordinance, treating or undue influence or personation has been committed by any agent without the knowledge or consent of his principal then such principal shall in no way be subjected to the penalties incurred by the infringement of such provisions by such agent.

Plaintiff in any action under this Ordinance to give security for costs.

**60.** The Supreme Court before entertaining any action or suit for any of the penalties imposed by the provisions of this Ordinance, shall call upon the plaintiff to give security for costs.

Repeal.

**61.** From and after the 1st day of December, 1921, the enactments mentioned in the Seventh Schedule to this Ordinance shall be and hereby are repealed to the extent shown in the third column of the said Schedule.

Passed 22nd August, 1921.

By Command,

C. W. J. ORR,  
Colonial Secretary.

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[SCHEDULES.]



FIRST SCHEDULE.

LIST OF WARDS.

1. *Old Town Ward.*

- Police District No. 1.—North Front and Catalan Bay Village, Cooperage Lane to Irish Town, Irish Town to Parliament Lane, Parliament Lane north side to Main Street, Main Street west side to Cooperage Lane and the Sewerage.
- „ „ „ 2.—Crutchett's Ramp, Demaya's Ramp and Steps, Crutchett's Ramp to Road to the Lines, Castle Ramp, and Lynch's Lane north side.
- „ „ „ 4.—Parliament Lane south side, Irish Town to Tuckey's Lane, Tuckey's Lane north side to Main Street, Main Street west side to Parliament Lane.
- „ „ „ 7.—Market Lane north side to Main Street, Main Street west side to Tuckey's Lane, Tuckey's Lane south side to Irish Town, Irish Town to Line Wall (north end Fountain Ramp).
- „ „ „ 9.—Fountain Ramp to Commercial Square, Commercial Square north side to Main Street, Main Street west side to Market Lane, Market Lane south side to Irish Town, Irish Town to Commercial Square.
- „ „ „ 10.—Commercial Square south side from Main Street to Line Wall, Line Wall to King Street, King Street north side to Main Street, Main Street to Commercial Square, including College Lane.
- „ „ „ 15.—Line Wall from King Street to Cathedral Gardens, Bomb House Lane west side from Cathedral Gardens to Main Street and Main Street from Bomb House Lane to King Street, King Street south side from Line Wall to Main Street, including Giro's Passage.



Police District No. 3.—Main Street east side from Lynch's Lane to Engineer Lane, Engineer Lane to Castle Street, Castle Street north side to Castle Ramp, Castle Ramp west side to Road to the Lines, Road to the Lines west side to Lynch's Lane, Lynch's Lane south side to Main Street, including Turnbull's Lane, Carreras' Passage and Serfaty's Passage.

*2. Castle Ward.*

„ „ „ 5.—Castle Ramp east side from Road to the Lines to Castle Steps, Castle Steps north side to Willis's Road, Tank Ramp to Castle Road, Lower Castle Road to Castle Ramp, including Richardson's Passage, Parody's Passage, McPhail's Passage and Ansaldo's Passage.

„ „ „ 6.—Main Street east side from Engineer Lane to Bell Lane, Bell Lane north side to Cornwall's Parade, Engineer Lane west side to Main Street.

„ „ „ 8.—Bell Lane south side from Cornwall's Parade to Main Street, Main Street east side to City Mill Lane, Cornwall's Lane west side to Cornwall's Parade including Horse Barrack Lane.

„ „ „ 11.—Cornwall's Parade east side from Castle Street to Benzimbra's Alley, and Governor's Street east side to Rodger's Ramp, Rodger's Ramp north side to Hospital Ramp, Hospital Ramp west side to Castle Street, Castle Street south side to Cornwall's Parade, including Boschetti's Ramp, Serruya's Lane, and Pezzi's Steps.

„ „ „ 12.—Cornwall's Lane south side from Governor's Street to City Mill Lane, City Mill Lane north side to Governor's Street, Governor's Street west side to Cornwall's Lane.

„ „ „ 13.—Main Street east side from City Mill Lane to Church Lane, Church Lane north side to Governor's Street, Governor's Street west side to City Mill Lane, City Mill Lane south side to Main Street, including Cannon Lane, and Pitman's Alley.



Police District No. 14.—Governor's Street east side from Rodger's Ramp to Prince Edward's Road, Prince Edward's Road north side to Fraser's Ramp, Fraser's Ramp north side to Castle Road, Castle Road west side to Hospital Hill, Hospital Hill south side to Rodger's Ramp, Rodger's Ramp south side to Governor's Street, including New Street, Hospital Ramp, Police Barracks Lane.

„ „ „ 18—Castle Road west side, from Fraser's Ramp to Prince Edward's Road, Prince Edward's Road east side to Library Ramp, Library Ramp north side to Governor's Street, Governor's Street east side to Prince Edward's Road, including Prince Edward's Road, between Fraser's Ramp and Library Ramp, and Johnstone's Passage.

*3. Cathedral Ward.*

„ „ „ 25.—Castle Steps south side to Castle Road, Castle Road east side to Flat Bastion Road, Flat Bastion Road east side to Charles V. Wall, including Devil's Gap Road, Lime Kiln Road, Lopez's Ramp, Lime Kiln Steps, Bruce's Gully, and Arengo's Palace Lane.

„ „ „ 26.—Hospital Ramp east side to Hospital Hill, Hospital Hill to north side Castle Road, Willis's Road west side to Castle Steps, Castle Steps to Hospital Ramp, including Paradise Ramp, Chicardo's Passage and Abecasis' Passage.

„ „ „ 27.—Willis's Road east side, from Calpe Married Quarters to Castle Road, Palace Gully Steps north side, including Danino's Ramp.

„ „ „ 16.—Bomb House Lane east side from Main Street to Cathedral Gardens, Line Wall to Secretary's Lane, Governor's Lane to Main Street, Main Street west side to Bomb House Lane, including Baker's Passage, Cathedral Square, and Secretary's Lane.



Police District No. 17.—Church Lane south side from Main Street to Governor's Street, Governor's Street west side to George's Lane, George's Lane, Main Street east side to Church Lane, including Cannon Lane from Library Street to Church Lane and Library Street.

„ „ „ 19.—Library Ramp, south side from Governor's Parade to Prince Edward's Road, Prince Edward's Road west side to Hargrave's Parade, Town Range east side to Library Ramp, including Forty Steps.

*4. Europa Ward.*

„ „ „ 20.—Governor's Lane south side from Main Street to Line Wall, Line Wall from Secretary's Lane to Main Street, Main Street west side from the Naval Picket House to Governor's Lane, including Convent Ramp.

„ „ „ 21.—Town Range west side from George's Lane to Convent Place, Convent Place north side from Town Range to Main Street, Main Street east side from Convent Place to George's Lane.

„ „ „ 22.—Convent Place south side from Town Range to Main Street, Main Street east side to Southport Gate, Aerial Line Road to Alameda, Alameda Road to Hargrave's Parade, Hargrave's Parade to Town Range, Town Range west side to Convent Place, including Victualling Office Lane and King's Yard Lane.

„ „ „ 23.—The Assembly Rooms.

„ „ „ 24.—Flat Bastion Road from Prince Edward's Road west side to Charles V. Steps, Charles V. Steps to Prince Edward's Road, Prince Edward's Road east side to Flat Bastion Road, including Booth's Passage, Morello's Ramp, Gowland's Ramp, and Wilson's Ramp.



Police District No. 1 (South).—Europa Road from Alameda Road, to Engineer Road, South Barrack Road west side to Witham's Road, Witham's Road east side to Armstrong's Steps, Armstrong's Steps north side to Rosia Road, Rosia Road to Alameda Road, and Alameda Road to Europa Road, including Alameda Hill and Sand Pits Tennis Court.

" " " 2 " —Amstrong's Steps from Rosia Road south side to Witham's Road, Witham's Road west side to South Barrack Road, South Barrack Road west side to Scud Hill Ramp, Scud Hill Ramp north side to Scud Hill, Scud Hill east side to Armstrong's Steps, including South Sheds, Rodger's Steps, and Rodger's Road.

" " " 3 " —Scud Hill, from Rosia Road west side to North Pavilion Road, North Pavilion Road north side to New Mole Parade, New Mole Parade to Rosia Road, Rosia Road to Scud Hill, including Upper Cumberland Road, Cumberland Hill and Lower Cumberland Road.

" " " 4 " —Europa Road, from South Barrack Road west side to South Barrack Road, and South Barrack Road east side to Europa Road.

" " " 5 " —North Pavilion Road from New Mole Parade, south side to Scud Hill Ramp, Scud Hill Ramp south side to South Barrack Road, South Barrack Road west side to Sunnyside Steps, Sunnyside Steps north side to Naval Hospital Road, Naval Hospital Road to Rosia Lane, Rosia Lane west side to Rosia Parade, Rosia Parade to Rosia Road, Rosia Road to New Mole Parade, including Centre Pavilion Road, and Rosia Road.



- Police District No. 6 (South).—Sunnyside Steps from Naval Hospital Road south side to South Barrack Road, South Barrack Road south side to Europa Road, Europa Road west side to Buena Vista Hill, Buena Vista Hill north side to Naval Hospital Road, Naval Hospital Road north and east sides to Sunnyside Steps, including Buena Vista Road.
- “ “ “ 7 “ —Naval Hospital Road from Rosia Lane south and west sides to Rosia Steps, Rosia Steps north side to Rosia Parade, Rosia Parade to Rosia Lane, and Rosia Lane east side to Naval Hospital Road.
- “ “ “ 8 “ —Rosia Steps from Rosia Parade south side to Naval Hospital Road west side to Centre Road, Naval Hospital Centre Road west side to Little Bay Quarry, thence pathway to Rosia Parade.
- “ “ “ 9 “ —Naval Hospital Hill from Naval Hospital Road, south side and the whole of Naval Hospital grounds east side, to Centre Road, Centre Road east side to Naval Hospital Hill.
- “ “ “ 10 “ —Buena Vista Hill, from Naval Hospital Hill, south side to Europa Road, Europa Road east and north sides to Wind Mill Hill, Wind Mill Hill and Road to the Flats, Wind Mill Hill Flats to Europa Pass Gate, thence taking the whole of Buena Vista Barracks and Hutments to Buena Vista Hill.
- “ “ “ 11 “ —Engineer Road to Wind Mill Hill Flats, Wind Mill Hill Road, east side to Europa Road, Europa Road east side to Engineer Road, including Storm Water Gully.



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SECOND SCHEDULE.

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I, A. B., being a candidate for election to the office of Councillor of the City Council of Gibraltar, solemnly and sincerely declare that:—

- (a) I am a British subject by birth and of the full age of 21 years.
- (b) I reside within the City of Gibraltar during at least eight months in every year.
- (c) I am fully conversant with and able to read and write the English language.

(Signed) .....

Declared before me this      day of      192 .

A Justice of the Peace for Gibraltar.



### THIRD SCHEDULE.

#### REGISTRATION RULES.

1. The register shall be framed in separate parts for each registration unit, and the registration unit shall be the ward.

2. The names in the register shall be arranged in street order.

3. It shall be the duty of the Registration Officer to cause a house to house or other sufficient inquiry to be made, and to prepare, or cause to be prepared, lists for each registration unit of all persons appearing to be entitled to be registered as electors and to publish those lists in the form in which the register is to be framed. The Registration Officer shall at the same time publish a notice specifying the mode in which, and the time within which, claims and objections are to be made under these rules.

4. Any person who claims to be entitled to be registered as an elector and who is not entered or is entered in an incorrect manner or manner with incorrect particulars on the electors' list may claim to be registered or to be registered correctly by sending to the Registration Officer a claim on or before the first day of September. The claim shall contain a declaration of the qualification of the claimant to be registered accordingly, including a declaration that the claimant has attained the required age and is a British Subject.

5. The Registration Officer shall, as soon as practicable after receiving any notice of objection to the registration of any elector, send a copy of the notice to the person in respect of whose registration notice of objection is given.

#### PREPARATION OF THE REGISTER FROM THE LISTS.

Consideration  
of objections.

6. The Registration Officer shall, as soon as practicable, consider all objections of which notice has been given to him in accordance with these rules, and for that purpose shall give at least five clear days' notice to the objector and to the person in respect of whose registration the notice of objection has been given, of the time and place at which the objection will be considered by him.

Consideration  
of claims.

7. The Registration Officer shall also consider all claims of which notice is given to him in accordance with these rules, and in respect of which no notice of objection is given, and, if he considers that the claim may be allowed without further inquiry, shall give notice to the claimant that his claim is allowed.



If the Registration Officer is not satisfied that any such claim can be allowed without inquiry, he shall give at least five clear days' notice to the claimant of the time and place at which the claim will be considered by him.

8. If on the consideration of any claim or objection it appears to the Registration Officer that the claimant, or person in respect of whose name objection is taken, is not entitled to be entered on the register in the character in which he claims to be registered, or in which he is entered on the list, but is entitled to be entered on the register in another character or in another place on the register, the Registration Officer may decide that the name of that person shall be so entered on the register.

Supplemental powers on consideration of claims and objection.

9. It shall be the duty of the Registration Officer to publish the register not later than the first day of October by publishing in the *Official Gazette* a notice that a copy of the register is open to inspection at his Office during specified hours.

It shall be the duty of the Registration Officer to keep a copy of the register open for inspection in his Office and to arrange for copies to be hung for inspection at all post offices within Gibraltar.

It shall be the duty of the Registration Officer to transmit a copy of the register, as soon as may be after it is published, to the Colonial Secretary.

#### APPEALS FROM REGISTRATION OFFICER.

10. A person desiring to appeal against the decision of a Registration Officer must give notice of appeal in the prescribed form to the Registration Officer and to the opposite party, if any, when the decision is given or within five days thereafter, specifying the grounds of appeal.

Notice of appeal from Registration Officer.

The Registration Officer shall forward any such notices to the police court together, in each case, with a statement of the material facts which, in his opinion, have been established in the case, and of his decision upon the whole case and on any point which may be specified as a ground of appeal, and shall also furnish to the court any further information which the court may require and which he is able to furnish.

Where it appears to the Registration Officer that any notices of appeal given to him are based on similar grounds, he shall inform the police court of the fact for the purpose of enabling the police court (if the court thinks fit) to consolidate the appeals, or select a case as a test case.

Appeals relating to the same point.

#### GENERAL.

11. Where the Registration Officer by these rules is required to publish any document, and no specific provision is made as to the mode of publication, he shall publish the docu-

Publication of documents.



ment available for inspection by the public in his office, and in the post offices, and, if he thinks fit, in any other manner which is, in his opinion, desirable for the purpose of bringing the contents of the document to the notice of those interested.

Any document required to be published shall be kept published for the prescribed time.

Any failure to publish a document in accordance with these rules shall not invalidate the document, but this provision shall not relieve the Registration Officer from any penalty for such a failure.

If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the Registration Officer in connection with his registration duties, or any copies of a document which have been made available for inspection in pursuance of these rules, he shall be liable on summary conviction to a fine not exceeding five pounds.

Supply of  
copies of claims,  
objections, &c.

12. The Registration Officer shall, on the application of any person, allow that person to inspect, and take extracts from the electors lists for any registration unit in his area and any claim or notice of objection made under these rules.

Mode of  
sending  
notices, &c.

13. Any claim or notice of objection which is under these rules to be sent to the Registration Officer may be sent to him by post addressed to him at his office.

Any notice which is required to be sent by the Registration Officer under these rules to any person shall be sufficiently sent if sent by post to the address of that person as given by him for the purpose, or as appearing on the lists, or if there is no such address, to his last known place of abode.

Information  
from  
householders.

14. The Registration Officer may require any householder or any person owning or occupying any land or premises within his area, or the agent or factor of such person, to give, in the prescribed form, any information in his possession which the Registration Officer may require for the purpose of his duties as Registration Officer; and if any person fails to give the required information or give false information, he shall be liable, on summary conviction, to a fine not exceeding twenty pounds. Any notice requiring information under this rule may be sent by post.

Reckoning  
of time.

15. In reckoning time for the purpose of these rules, Sunday, Christmas Day, Good Friday, and any bank holiday or day set apart as a public holiday, or day of public fast, or public thanksgiving shall be excluded; and where anything is required by these rules to be done on any day falls to be done on any such day, that thing may be done on the next day not being one of any such days.



## FOURTH SCHEDULE.

## FORM OF BALLOT PAPER.

1	John White, Merchant, Main Street, Gibraltar.
2	Ernesto Roguero, Dockyard Labour- er, Castle Ramp, Gibraltar.
3	Richard Walter Smith, Civil Ser- vant, Europa Road, Gibraltar.
4	Manuel Villano, Grocer, Governor's Street, Gibraltar.

COUNTERFOIL.

No.....

NOTE:—

The Counterfoil is to  
have a number to cor-  
respond with that on  
the back of the Ballot  
Paper.

## FORM OF BACK OF BALLOT PAPER.

No.....

*Election for City Council, Gibraltar, 1921.*NOTE.—The number on the ballot paper is to correspond with that in the  
counterfoil.

## DIRECTIONS AS TO PRINTING BALLOT PAPER.

Nothing is to be printed on the ballot paper except in  
accordance with this Schedule.

The surname of each candidate, and if there are two or  
more candidates of the same surname, also the other names  
of such candidates, shall be printed in large characters as  
shown in the form, and the names, addresses, and descrip-  
tions, and the number on the back of the paper, shall be  
printed in small characters.



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FIFTH SCHEDULE.

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FORM OF DIRECTIONS FOR THE GUIDANCE OF THE ELECTOR  
IN VOTING WHICH SHALL BE PRINTED IN CONSPICUOUS  
CHARACTERS, AND PLACARDED IN VARIOUS PLACES  
OUTSIDE AND INSIDE OF EVERY POLLING PLACE,  
AND IN ADDITION THERETO IN EVERY  
COMPARTMENT OF EVERY POLLING PLACE.

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The voter may vote for ONE candidate.

The voter will go into one of the compartments and with the pencil provided in the compartment, place a cross on the right hand side, opposite the name of the candidate for whom he votes, thus — X.

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the Presiding Officer, and then in the presence of the Presiding Officer put the paper into the ballot box, and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper he can return it to the Presiding Officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than one candidate, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given him by the Presiding Officer, he will be guilty of a misdemeanour and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

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NOTE.—These directions shall be illustrated by examples of the ballot paper.

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## SIXTH SCHEDULE.

I swear by Almighty God that I will not at this election for the City Council of Gibraltar do anything forbidden by section 36 of the City Council Ordinance, 1921.

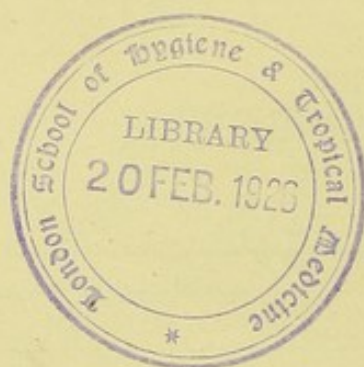
- Note* :—1. The section must be read to the person taking the oath by the person administering it.
2. The provisions of the Oaths Ordinance Amendment Ordinance, 1914, are applicable and should be consulted by the person administering the oath.

## SEVENTH SCHEDULE.

## REPEAL.

Date of Ordinance.	Title.	Extent of Repeal.
1st October, 1907.	Public Health, Ordinance, 1907.	Section 2.—Definition of the expressions “Commissioners” and “Representative Commissioners.” Sections 3 to 18 inclusive—the whole. Section 21—the whole.















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P.





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