The public health acts amendment act, 1907 : with explanation, full commentary upon the sections, and summary of recent public health decisions / by Arthur E. Clery and J. McWalter.

THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1907

BY

ARTHUR E. CLERY, LL.B.

AND

J. C. McWALTER, M.A., M.B., D.P.H.

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To

The Right Honorable

CHRISTOPHER PALLES

Lord Chief Baron of the Exchequer

This Work is, by his permission,

Respectfully Dedicated.

THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1907

9.1909

WITH

EXPLANATION, FULL COMMENTARY UPON THE SECTIONS, AND SUMMARY OF RECENT PUBLIC HEALTH DECISIONS

BY

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INTRODUCTION.

THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1907.

Glossary.

"PUBLIC HEALTH ACT" = THE PUBLIC HEALTH (IRELAND) ACT, 1878.

VANSTON = VANSTON'S "LAW OF PUBLIC HEALTH IN IRELAND." (1892 Ed.)

THE LOCAL AUTHORITY = "AN URBAN SANITARY AUTHORITY, AN URBAN DISTRICT COUNCIL, OR A RURAL DISTRICT COUNCIL."

PART I.

GENERAL.

General.

The law relating to Public Health in this country is still governed for the most part by our Public Health Act (which we shall call from this on "The Public Health Act") of 1878. Its provisions were in large part taken from the English Act of 1875. A number of short amending Acts have since been passed, some of which were purely Irish Acts, whilst others, like the present Act, amended, in rather clumsy fashion, the English law and the Irish law at the same time. The present Act has that object, and it is much the longest amending Act yet passed. The most important thing to remember about it is that *none of its operative provisions take effect in any district till they have been applied by the Local Government Board, or the Chief Secretary*, as the case may be, in accordance with the procedure set out in Part I. of the Act. Part I. itself, indeed, has not to be applied (s. 2 (2)), but this is only because it is confined to matters of procedure, definition, &c., ancillary to the provisions of the other parts. In order then to have the Act, or any part of it, applied in a district, the body to take the first step is the LOCAL AUTHORITY. The phrase, which constantly recurs, "means an *urban sanitary authority, an urban district council*, or a *rural district council*," and it is upon these bodies that practically all the powers of the Act, when applied, are conferred. The formalities for the application of the Act are as follows—as will be seen they are somewhat complicated:—

PROCEDURE FOR HAVING THE ACT (or a part of it) APPLIED IN A DISTRICT.

Application of Act.

A. ONCE AT LEAST IN EACH OF TWO SUCCESSIVE WEEKS AND TWO WEEKS BEFORE THE APPLICATION, the local authority shall ADVERTISE in one or more newspapers circulating in their district their *intention to apply* to the Local Government Board or the Chief Secretary to have parts or sections of the Act applied in their district.

B. The local authority MUST APPLY to the LOCAL GOVERNMENT BOARD (in the case of Parts II., III., IV., V., VI., and X.), or to the CHIEF SECRETARY (s. 3 (4)) (in the case of Parts VII., VIII. and IX.) to have those parts or any sections of them applied in their district, or (in case of a rural district) in any contributory place within the district s. 3 (1)).

C. Satisfactory PROOF of such ADVERTISEMENT must be given to the Local Government Board or Chief Secretary, as the case may be (s. 3 (2)).

D. The Local Government Board may, *if they think fit*, direct ENQUIRIES by their Inspectors, and the Chief Secretary, *if he thinks fit*, may direct a local enquiry. (*They have a similar power to direct an enquiry in regard to any other powers conferred on them by the Act.* In both cases the local authority must foot the Bill. £3 3s. 0d. a day is, however, the maximum that can be exacted by the Local Government Board inspector, but no limit is placed on the generosity of the Chief Secretary to his representative at the local authority's expense (s.5)].

E. ONE MONTH AFTER *the date of the* ADVERTISEMENT *mentioned above*, and after satisfactory proof of it has been given, the Local Government Board or the Chief Secretary (as the case may be) may MAKE AN ORDER DECLARING any part or any section of the ACT TO BE IN FORCE in the district of a local authority, who have complied with the above formalities,

Application of Act.

or (in case of a rural district) in any contributory place in the district (s. 3 (1)).

F. They may also DECLARE ANY ENACTMENTS IN A LOCAL ACT, which appear to them to contain similar or inconsistent provisions to be NO LONGER IN FORCE in the district (s. 3 (1)) or contributory place.

G. The order may specify CONDITIONS or (where, in the opinion of the Local Government Board or Chief Secretary, circumstances require it) NECESSARY ADAPTATIONS, subject to which any part or section of the Act, shall be in force in the district or place (s. 3 (3)).

H. The ORDER shall be PUBLISHED in such manner as the Local Government Board or Chief Secretary direct (s. 3 (1)).

I. A statement of the effect of each order specifying CONDITIONS or ADAPTATIONS, subject to which it is made, must also be *published in the "Dublin Gazette"* (s. 3 (3)). (See p. 76 *post*.)

As will be seen the local authority, seeking to have the Act applied in their district, are more or less in the same position as if they were seeking a private Act or a provisional order. The Local Government Board or the Chief Secretary, as the case may be, are to determine which provisions of the Act they shall dole out to them, and may hold an inquiry, at the expense of the local authority, to assist them in making up their minds. They may apply a section of the Act or not, as they think proper, just as a Parliamentary Committee might insert a section or reject one in a private Bill. In dealing with the Act hereafter each section is, for convenience sake, dealt with as being in force, but the reader must clearly keep before his mind that (except in Part I.) no section has any effect in a district until the Local Government Board or the Chief Secretary, as the case may be, has applied it at the request of the local authority.

The remaining sections of Part I. of the Act deal chiefly with matters of Procedure under the Act, and

Miscellaneous Provisions.

their purport is in general to adopt the procedure under the Public Health Act (as amended by subsequent enactments) as the procedure for the present Act as well.

We may briefly state the general effect of these sections.

Section 2 contains a provision saving the validity of bye-laws under repealed enactments.

Sections 6 and 8 deal with legal proceedings under the Act. These are to be in accordance with the summary methods provided by the Public Health Act.

Section 7 contains provisions as to appeal, which is to lie in general to a court of quarter sessions, but where the local authority are empowered to recover expenses in a summary manner or to declare them to be private improvement expenses, the appeal lies to the Local Government Board in the manner provided by the Public Health Act. Orders both of courts and authorities may be appealed.

Similarly s. 9 provides that the provisions of the Public Health Act relating to bye-laws is to apply to bye-laws under this Act; and s. 10 provides that the provisions of the Public Health (Ireland) Acts, 1878 to 1900, for determining the amount of costs, damages, etc., by arbitration are to apply in regard to the provisions of the present Act as well. (See p. 85 *post*.)

Section 11 saves the powers of the local authority under other Acts, and s. 12 is a saving clause for the rights of the Crown. Section 13 is the definition section; s. 14 makes some necessary adaptations of the Act in its application to this country. (See p. 87 *et seq*.)

All these sections are of such a highly technical character that they could not be conveniently dealt with further here, and the reader must be referred to the sections themselves and the notes upon them, as set out later on in the book. We shall now take up each part of the Act in turn and explain its provisions, assuming in each case that the Local Government Board or the Chief Secretary have put those provisions in force.

PART II.

STREETS AND BUILDINGS.

Buildings.

The first matter dealt with by the new Act is one which, though included in the original Public Health Act, may appear to affect Public Health only in an indirect fashion—that is, the regulation of (1) buildings and (2) streets. It will be convenient to make this a basis of division for the present part, and to treat separately of those provisions which relate to buildings and those which are concerned with streets. In both cases the provisions of the Act include, on the one hand, a number of new regulations, and, on the other, certain extensions and amendments of the earlier provisions of the Public Health Act. We shall in each case treat of the new regulations first, and afterwards of the extensions and amendments of earlier provisions. We can, therefore, divide our subject (*i.e.*, Part II.) as follows: —

I. BUILDINGS.
- A. *New Regulations* (ss. 22, 25, 27, 32, 33).
- B. *Extensions and Amendments* (ss. 15, 16, 23, 24, 33).

II. STREETS.
- A. *New Regulations* (ss. 18, 19, 20, 21, 26, 28, 29, 30 and 31).
- B. *Extensions and Amendments* (ss. 15, 16, 17).

I. BUILDINGS.

Before entering upon those provisions of the part which deal with buildings, it will be well to make clear what classes of buildings are entirely exempted from the provisions of this part of the Act.

Exemptions. New Regulations.

EXEMPTED BUILDINGS (s. 33).—Certain buildings are entirely exempted from the provisions of this part of the Act (*i.e.*, the building provisions of the Act) owing to their use and ownership. These are—

A building (UNLESS it is a dwellinghouse) *either*
(*a*) belonging to a *railway company*,
or
(*b*) belonging to any *company or public body authorised to construct*, maintain or improve
(1) *a harbour*, or
(2) *a pier*, or
(3) *a dock*,
or
(*c*) belonging to the *owners of any canal* or inland navigation,
AND in each case *used* by them *as part of or in connection with* their railway, harbour, &c.

Neither the provisions of ss. 15-33 (*i.e.*, Part II.) of the Act, nor any *bye-laws* made under any enactment extended by those sections, are to apply to such exempted buildings. In addition to the above, s. 27 contains certain special exemptions from its provisions which relate to temporary buildings. (See p. 125 *post*.)

BUILDINGS.—A. New Regulations (ss. 22, 25, 27, 32).

The first division of the new provisions of this part is concerned exclusively with the regulation of buildings, and it treats of

(*a*) buildings at *street corners*,
(*b*) the paving of *yards*,
(*c*) *temporary buildings*,
(*d*) the erection of *hoardings*.

BUILDINGS AT STREET CORNERS (s. 22).—The death-trap corner is one of the curses of our civilisation. Section 22 deals with it. Where a building is intended to

Paving Yards. Temporary Buildings.

be erected at the corner of two streets, the local authority are empowered to require the corner of the building to be *rounded off* or *splayed off* to the *height of the first storey or* to the *full height of the building*, " and to such extent otherwise as they may determine." But the local authority must pay *compensation* for any loss thus caused. (See p. 108 *post*.)

PAVING YARDS (s. 25).—The next matter to be dealt with is yards. If a yard " in connection with and exclusively belonging to " a dwellinghouse is not either so paved, &c., or provided with such works as to allow of the effectual drainage of its sub-soil or surface " by safe and suitable means to a proper outfall," the local authority may require the owner to execute such works as are necessary for effectual drainage within 21 days, and, if he make default, may do the works themselves and recover the expenses from him as a civil debt.

TEMPORARY BUILDINGS (s. 27).—The Public Health Act gave the local authority the power of supervision over the erection of permanent buildings. Section 27 of the present Act is directed to giving them a similar control over temporary structures. But certain temporary buildings are specially exempted from the provisions now to be set out, and it may, therefore, be well to begin by putting them out of our way.

The exempted buildings are of three kinds—

(*a*) Buildings *expressly exempted from* the operation of *the Public Health Acts or the bye-laws* made under them, *e.g.*, railway buildings (see the beginning, p. 8, above).

(*b*) A building erected to *protect or prevent* the acquisition of *rights to light*.

(*c*) (SO FAR AS REGARDS THE PROVISIONS OF S. 27 RELATING TO PLANS, SECTIONS AND SPECIFICATIONS) a temporary building which is *part of the plant* to be used in connection with the *construction, alteration or repair of a building or other work*. (See pp. 115-16 *post*.)

Temporary Buildings. Hoardings.

Steps before erecting a temporary building.—Before erecting a temporary building, a person must send to the local authority (s. 27 (1)) the following:—

(*a*) An *application for permission* to erect; and
(*b*) A *plan and sections* drawn to scale of not less than *1in. to 8ft.;* and
(*c*) A *block plan* drawn to a convenient scale, showing intended *situation and surroundings;* and
(*d*) A *specification* describing the *materials* and intended *purpose* of the building.

The local authority must then signify in writing their approval or disapproval, WITHIN A MONTH, and may ATTACH CONDITIONS to their approval as to—

(*a*) sanitary arrangements,
(*b*) ingress and egress,
(*c*) protection against fire,
(*d*) THE PERIOD DURING WHICH THE BUILDING SHALL BE ALLOWED TO STAND (s. 27 (3)).

MAX. PENALTY for Non-Compliance with these provisions, 40s.; and Max. Daily Penalty, 40s.

The owner becomes liable if the building is not removed within the period allowed.

The local authority may, in such case, also pull down the building and sell its materials, and they may recover the expense of pulling it down from the owner *or* the person erecting it, having first set off the proceeds of the sale, if any, of the materials (s. 27 (4), (5)). Any balance of such proceeds is to be paid over to the owner.

HOARDINGS (s. 32).—No hoardings or similar structures in "or abutting or adjoining" any street may be used for any purpose, unless they are *securely fixed to the satisfaction of the local authority.*

MAX. PENALTY (for contravention), £5; and Max. Daily Penalty, 20s.

BUILDINGS.—B. Extensions and Amendments (ss. 15, 16, 23, 24).

EXTENSION OF PUBLIC HEALTH ACT, ss. 41, 42.

Cancellation of Plans. Height of Buildings.

DEPOSIT OF PLANS, &c.—CANCELLATION (s. 15).—S. 41 of the Public Health Act gives the local authority power to make bye-laws imposing restrictions on the construction of new [*streets and*] buildings; and to require the deposit of plans and sections of the [*streets or*] buildings so as to secure the observance of the bye-laws. And the sanitary authority must (Public Health Act, s. 42) signify their approval or disapproval within a month from the deposit.

S. 15 of the present Act extends the power of the local authority, which has made such bye-laws, in one direction. It deals with the case of a man who, having secured approval for his [*street or*] building, finds his energy exhausted by the effort and never proceeds to put his plans into operation. Henceforth, if at the end of three years after the deposit of plans or sections, nothing has been done, the local authority may, by written notice, cancel their approval, and if the inactive projector should afterwards again desire to proceed with his scheme, he must make a fresh deposit of plans. But when the section of the Act has only been applied in the district *after* the deposit of the plans or sections, the three years are to run from the date when the section is applied instead of from the deposit of plans or sections as in other cases. *Notice* of the provisions of this section is *to be given to those who have already deposited plans*, and in case of future deposits, a similar *notice is to be attached to the approval*. (See p. 95 *post*).

RETAINING PLANS.—S. 16 is also a useful provision enabling local authorities to retain in their possession plans deposited with them, which they have approved of.

HEIGHT OF BUILDINGS AND CHIMNEYS (s. 24).—S. 41 of the Public Health Act is also extended in another way by enlarging the class of objects as to which a local

Definition of New Building.

authority may make building bye-laws. In addition to making bye-laws (under Public Health Act, s. 41) as to the structure, site and foundations of buildings, the air-space about them, &c., they may now also, by s. 24 of the present Act, make *bye-laws* with respect to—

(*a*) the *height of buildings;*
(*b*) *the height of chimneys* of buildings;
(*c*) the *structure of chimney-shafts for the furnaces* of steam engines, breweries, distilleries, or manufactories. (See p. 111 *post*).

NEW BUILDINGS (s. 23).—*Amendment of Public Health Act, s. 43.*—Again, since the bye-laws under s. 41 of the Public Health Act (except perhaps those just mentioned) are only to be made in regard to *new* buildings, it becomes important to ascertain what amount of change in an existing structure may reasonably be considered to amount to the erection of a *new* building. The Public Health Act (s. 43) already contained a definition of *new building*, but that is now superseded wherever the present Act is applied by the fresh definition of *new building* contained in s. 23 of the present Act. Each of the following changes in an old building is now declared to be THE ERECTION OF A NEW BUILDING just as much as the erection *de novo* of a new structure where none existed before:—

(1) The re-erection, wholly or partially, of a building of which an outer wall is *pulled down or burnt down within 10 ft. of the surface* of the ground adjoining the lowest storey of the building.
(2) The re-erection, wholly or partially, of any *frame building*, so far pulled down or burnt down, *as to leave only the frame-work of the lowest storey.*
(3) The *conversion into a dwellinghouse* of a building not originally constructed for human habitation.

(4) The *conversion* of a building, originally constructed as one dwellinghouse only, *into more than one dwellinghouse.* **Streets. Access to Buildings.**

(5) The *re-conversion into a dwellinghouse* of a building which has been discontinued as a dwellinghouse, or which has been appropriated for some other purpose than that of a dwellinghouse.

(6) (So far as regards the new addition), the making of an addition to an existing building by

(*a*) *raising any part of the roof;*

(*b*) *altering a wall;*

(*c*) *making a projection* from the building.

(7) The *roofing* or covering over of *an open space* between walls or buildings.

II.—STREETS.

We now come to the second division of the provisions of Part II., namely, those provisions which relate to streets; and it may be useful to point out here that street *includes a private street*, and may also include several things, a bridge, for instance, which we should not call a street in ordinary language.

Making the same division as in the case of the building provisions, we shall deal first with the new street regulations enacted by the Part.

STREETS.—A. New Regulations (ss. 18, 19, 20, 21, 26, 28, 29, 30 & 31).

Means of Access to Buildings (s. 18).—The first matter to be dealt with is the provision of new means of access, *i.e.*, crossings across a paved or kerbed footpath to a street in charge of a public body from the buildings at the side of the street. Such crossings for cattle, beasts of draught or burden, waggons, carts or

Access to Buildings. Street-Repairs.

other wheeled carriages exceeding four feet in width or 2 cwt. in weight, may only be allowed by the local authority *subject to the following conditions* (s. 18):—

(*a*) *Notice* in writing and a *plan*, showing the position, gradient and mode of construction, must be sent to the local authority.

(*b*) The works must, upon approval with or without amendment, be executed (1) *under the supervision* and (2) *to the reasonable satisfaction* of the local authority, and (3) *in accordance with the approved plan.*

(*c*) On completion, the new crossing is to be used, *subject to the conditions attached by the law of highways* to the use for such a purpose of a carriage way, which is in charge of a public authority. (See p. 103).

Urgent Repairs to Private Streets (s. 19).—The next matter to be dealt with is the repair of private streets, *i.e.*, streets not in charge of a public authority, where the repair is a matter of urgency, having become necessary in order to obviate or remove danger to passengers or vehicles in the street. In such a case the local authority may serve notice on the owners of the lands "fronting, adjoining or abutting on"—a technical term (see note to s. 18)—the streets, requiring them to execute specified repairs within a specified time (s. 19 (1)). In case of default the local authority may execute the repairs themselves and recover the cost as a civil debt, each owner being liable in proportion to the extent of his lands "fronting, adjoining or abutting on" the street (s. 19 (2)). If the name or abode of the owner cannot be found by the local authority, the occupier is to be served with the notice, or, if the lands are unoccupied, the notice is to be affixed on a conspicuous part of the premises (s. 19 (3)). An option to be exercised by notice in writing is also given to the majority in number, or rateable value of owners of

Excavations. Materials in Street.

lands or premises in the street to require the local authority to proceed under s. 28 of the Public Health Act, and to subsequently declare the street a public one, in charge of a public authority (s. 19 (4)). (See p. 105).

Footpath Damaged by Excavations (s. 20).—From the dangers of the street we come to those of the footpath. Where the footway of a street in charge of a public authority is injured in consequence of excavations or other works on adjoining lands, the local authority may repair it and recover the cost *either* from the owner of the lands in question *or* the person responsible for the injury. (See p. 107).

Old Materials in Streets (s. 28).—The Surveyor of the local authority may serve notice on the owners of buildings and lands in a street requiring them to remove their respective proportions of *any old materials* existing in the street at the time of the execution of work by the local authority in the street. If the owners do not comply within forty-eight hours, the local authority may themselves remove and appropriate the materials; but they must allow the reasonable value of the materials to the owner. This value is, in case of dispute, to be estimated by arbitration in accordance with Public Health Act, ss. 216-218. (See p. 119).

Excavations and Deposit of Building Materials in Streets (s. 29).—This section contains a most necessary provision to prevent injury to passers-by.

(1) The *Consent* of the local authority is *necessary* for—

(*a*) *Laying any building material, rubbish, &c.;*
(*b*) *Making any excavation* in or on a street *in charge of a public body.*

(2) Where the consent has been obtained, the material or excavation must be (*a*) sufficiently *fenced*, (*b*) *sufficiently lighted* between sunset and sunrise by the person who has deposited the material or made the excavation.

Dangerous Places.

Courts.

(3) The materials must be removed, or the excavation filled up on the requirement of the local authority. (See p. 120).

MAX. PENALTY (for non-compliance), £5; and Max. Daily Penalty, 40s.; and the local authority may remove the materials or fill up the excavation and recover the cost from the offender.

REPAIR OF DANGEROUS PLACES (s. 30).—The following section has a like object, where "*in any situation fronting, adjoining or abutting on any street or public footpath*" (see above), "a building, wall, fence, steps, structure," &c., or "a well, excavation, reservoir, pond, stream, dam or bank" is dangerous to persons lawfully using the street or footpath, owing to want of sufficient (*a*) repair, *or* (*b*) protection, *or* (*c*) enclosure, the local authority may serve a written notice on the owner requiring him, within a specified time, to take measures to prevent the danger, and if he does not comply the local authority may themselves take the measures they think proper, and recover the cost summarily from the owner as a civil debt.

FENCING LANDS ADJOINING STREETS (s. 31).—Where land (other than a common) adjoining any street, *owing to its not being properly fenced*, is (*a*) a *source of danger* to passengers, *or* (*b*) used for *immoral or indecent purposes*, *or* (*c*) for a purpose causing *inconvenience or annoyance to the public*, the local authority, UPON BEING AUTHORISED BY AN ORDER OF THE L.G.B., may, by written notice, require the owner to properly fence the land, and if, after fourteen days, he make default, *may fence it themselves* and recover the expenses from him summarily as a civil debt.

BUILDINGS AT STREET CORNERS (s. 22).—(See under "Buildings" in the preceding division.)

HOARDINGS IN STREETS (s. 32).—(See under "Buildings" in the preceding division.)

COURTS (s. 26).—Nothing, as an eminent Judge once pointed out, calls more for the interference of the public authority than courts, the insanitary retreats

Courts. Street Names.

of those least able to protect themselves. The present provision is intended to prevent, at least, their sanitary condition being deteriorated by having their entrances closed, narrowed or otherwise "altered or affected by a permanent structure so as to impede the free circulation of air." For the future, where the present section is applied, this cannot be done, nor the height of the entrance lowered, without the consent of the local authority, and the local authority may qualify their consent by requiring the provision of other sufficient means of access, or other sufficient means of securing the free circulation of air. The section, however, contains a saving clause for "any court which, by reason of its situation, use, architectural features or other characteristics, is, either wholly or in part, necessary for or ancillary to the ornament or amenity of any lands or premises"—a provision that certainly does not err on the side of clearness or definiteness.

MAX. PENALTY for contravening the section, £5; and Max. Daily Penalty, 20s. (See p. 114).

STREET NAMES (s. 21).—From the footpath the legislature turns its attention to the name-plate of the street. The naming of streets may often be a matter of no little public interest in this country, and changes of name are likely to be increasingly common in future. A local authority may, for instance, decide to change an English to a Gaelic name. The power to alter the name of a street, or part of a street, is committed to the local authority, but only—and the proviso is important—*with the consent of two-thirds in number and value of the ratepayers in the street*. The local authority are further empowered to cause the name to be painted or otherwise marked on a conspicuous part of any building or other erection. (See p. 108).

MAX. PENALTY for defacing, &c., the name, 40s.

As in the case of buildings, so now, too, in the case of streets we come to those provisions (ss. 15, 16, 17), which are in the nature of amendments of existing provisions.

STREETS.—B. Amendment of Public Health Act, Provisions (ss. 15, 16, 17).

Street Plans.

DEPOSIT OF PLANS, &c.—CANCELLATION.—*Extension of Public Health Act, ss. 41, 42.*—Public Health Act, s. 41, contained provisions as to the deposit of the plans of new streets similar to those as to the deposit of the plans of intended buildings, and s. 15 of the present Act gives the local authority the same power of cancelling their approval, after three years' inaction on the part of the projector, as in the case of the deposit of plans of buildings.—See p. 11. above (reading in the italicised words in square brackets).

RETAINING PLANS.—S. 16 enables the local authority to retain the plans of new streets they have approved of, just as in the case of the plans of buildings.

VARIATION OF PLAN OF STREET (s. 17).—On the deposit (in accordance with a bye-law in force in the district) of the plan and sections of a new street, the local authority, by order, may

(*a*) *vary* the intended (1) *position*, (2) *direction*, (3) *termination*, or (4) *level*, SO FAR AS IS NECESSARY
  (1) to secure more convenient, &c., communication with another street or intended street;
  (2) to secure an adequate opening at either end;
  (3) to secure compliance with any enactment or bye-law regulating streets or buildings (s. 17 (1));
(*b*) *fix the points* at which the new street shall be deemed to *begin and end.*

These limits, thus determined, are to have effect for the purposes of the Public Health Acts, 1878 to 1907, and bye-laws under them (s. 17 (1)).

EXCEPTION.—Where the owner of the land on which the street is intended to be laid out could not comply

Street Plans.

with the order of the local authority without purchasing, or executing works on, other lands, the powers CANNOT be exercised (s. 17 (2)).

The local authority are to pay COMPENSATION *to any person injuriously affected by the exercise of these powers* (s. 17 (4)).

MAX. PENALTY for laying out or constructing a new street not in compliance with order, £5; and *Max. Daily Penalty*, 40s. (s. 17 (3)).

The above provision is in effect an extension of Public Health Act, s. 41.

PART III.

SANITARY PROVISIONS.

Nuisances.

This, the third part of the Act, is concerned with those matters which are looked upon as "sanitary" in the strict and technical sense of the term. To show this we need only enumerate the matters contained in it. It deals with the following subject matters:—

I. NUISANCES, &c. (including *refuse* and *offensive trades, unhealthy cesspools, ashpits,* &c.)—(ss. 34, 35, 46, 48, 51).

II. DRAINS AND SINKS—(ss. 36, 37, 38, 45, 49).

III. WATER-CLOSETS, &c.—(ss. 39, 40, 41, 42).

IV. URINALS—(ss. 43, 44).

V. PUBLIC CONVENIENCES AND LAVATORIES—(s. 47).

VI. AMBULANCE—(s. 50).

The last heading is *sui generis*. As the arrangement of sections in this part is very confused, we have not hesitated to re-arrange them freely as above indicated.

I. NUISANCES (including refuse and offensive trades, unhealthy cesspools, ashpits, &c.).

It may not be strictly scientific to treat of "*refuse*" and *offensive trades* under the head of nuisances, as they are not necessarily such in law, but it is very convenient to do so. Neither does the word "nuisance" occur in s. 46 relating to cesspools, ashpits, &c., dangerous to health. The first thing then, we may remark, when dealing with this topic, is three sections (ss. 34, 35

and 51) of the Act, which amend existing provisions of the Public Health Act.

Examining Drains. Nuisances.

AMENDMENT OF THE PUBLIC HEALTH ACT.—The sections amended are ss. 51, 107*, 128.

Section 51 of our Public Health Act enabled the local authority, *on receiving a written complaint from any person* informing against a drain, water-closet, earth-closet, privy, ashpit, or cesspool in the district as being a nuisance, to enter the premises and see for themselves, and if they found the complaint justified, to take steps to have matters set right. But, in this country, at any rate, a private individual must be reduced to the last extremity of wretchedness before he thinks of lodging a complaint with a public authority against anyone else, still less of informing against his neighbour's water-closet. Moreover, under our Act the maker of an unjustified complaint might have to pay the expense due to it. And public spirit or private vengeance do not appear to have been any more active in England. Hence the present section (s. 34) amends the Act by obviating the necessity of private complaint, and providing that the local authority may act upon the report of their own surveyor or inspector of nuisances instead, if, on such report, they have reason to suspect the drain, &c., to be a nuisance. (See p. 126 *post*).

(The provisions of s. 61 of the local Dublin Corporation Act, 1890, may be compared. See note to section.)

Section 107 (Public Health Act).—Apart from any statute, nuisances, offensive odours, for instance, could be dealt with in various ways, as by an indictment at common law or an injunction in the Chancery Division. But s. 107 of the Public Health Act provided that a certain list of nuisances therein enumerated "should be deemed to be nuisances liable to be dealt with summarily in manner provided" by the Act. S. 35 of the present Act in effect amends that section, by providing that a list of three other things, shall be deemed nuisances

* Practically.

Cisterns, Gutters, or Deposits Causing Damp.

within the meaning of the Public Health Act. To put it roughly, one might say that it adds *three new nuisances* to the list given in s. 107 of the Public Health Act, which are capable of being dealt with summarily under the Act.

The THREE NEW PUBLIC HEALTH NUISANCES are as follows:—

(1) Any CISTERN used for the supply of water for domestic purposes, so placed, constructed, or kept, as to render the WATER therein LIABLE TO CONTAMINATION, causing, or likely to cause, risk to health.

(2) Any GUTTER, DRAIN, SHOOT, STACK-PIPE or DOWN-SPOUT of a building which, by reason of its insufficiency or its defective condition, shall CAUSE DAMP in such building or in an adjoining building.

(3) 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.

BUT NOTE (*a*)—(2) a nuisance which causes merely *unpleasantness*, without *danger to health*, will, in our opinion, be sufficient for the purposes of (2) above. (*See note to sect.*)

(*b*)—(3) above will most probably NOT APPLY to DEPOSITS CAUSED IN THE ORDINARY COURSE OF BUSINESS and speedily removed. (*See note to sect.*, p. 129, and also p. 227 *post.*)

Section 128 of the Public Health Act scheduled a certain number of trades, *e.g.*, soap-boiling, as "OFFENSIVE TRADES," and provided that they could not be established in an urban district without the consent of the urban authority, which could make bye-laws in regard to them, &c. It also provided (in effect) that other trades (1) necessarily offensive, (2) and of a *character similar* to those in the list of offensive trades given

Cesspools, Ashpits. Trade Refuse.

(which all dealt with animal matter), should be deemed offensive trades. The question what was an offensive trade, in addition to those in the list, was thus left to the court to decide and became subject to the judicial whim. This uncertainty is now abolished by the present section. For the future the local authority, subject to the approval of the Local Government Board, is to declare what is an offensive trade (in addition to those set out in the Public Health Act), and this declaration is to govern the matter. The local authority can also make bye-laws to govern the trades newly as well as those formerly excommunicated "in order to prevent or diminish any noxious or injurious effects of the trade." (S. 51, see p. 149 *post*).

INSANITARY CESSPOOLS, ASHPITS, &c.—S. 46 deals with CESSPOOLS, ASHPITS, and WELLS, whether used or disused, and cesspool (in effect) includes "any other receptacle used, or formerly used, as a receptacle for excreta or other obnoxious matter, or for . . . drainage of a house." If any of these belong to a house (or part of a house) and are "*prejudical to health or otherwise objectionable for sanitary reasons*," the local authority, acting upon the report of its officer, may (by written notice) direct the owner or occupier to have them filled up or removed (and to have any drain running into them disconnected), *or else* to have them altered so as to remove the objection.

If the CESSPOOL, &c., is jointly used by two or more houses, the notice may be served on any one or more of the occupiers or owners, and they need not all be served.

If the notice is not complied with the local authority may do the work themselves and recover the money in a summary way as a civil debt, or, where the owner is the person liable, may recover the money against him, as private improvement expenses, *i.e.*, by a special annual instalment charge, as to which see the note to the section. (See p. 144).

TRADE REFUSE.—The local authority have already a power, under the Public Health Act, to remove "house

Trade Refuse. Drains and Sinks.

refuse," which the Local Government Board can compel them to exercise, and many nice questions arose as to what exactly was "house refuse" as distinguished from "trade refuse." So by s. 48 of the present Act the power is extended to the removal of "trade refuse" (except sludge), and the owner or occupier of any premises can make the local authority remove his trade refuse, but he must pay them a reasonable sum for doing so. If he cannot agree with the local authority upon the sum, or if any question arises as to the meaning of "trade refuse," the matter is to be decided by a court of summary jurisdiction (*i.e.*, a police court or the magistrates), whose decision is to be final. (See p. 147).

And see under IV. URINALS, as to nuisance arising from them.

II. DRAINS AND SINKS (ss. 36, 37, 38, 45, 49).

This division contains (A) two new *prohibitions*, directed to improving methods of drainage; (B) provisions for *testing and examining drains* by the public authority in two cases; (C) a provision for *rectifying* the defects thus discovered in one case; (D) a power to provide drains and sinks for buildings.

(A) PROHIBITIONS—(See p. 129 *post*).

(1) No pipe used for carrying off rain-water from a roof shall be used for carrying off the soil or drainage from a privy or water-closet (s. 36).

MAX. PENALTY, £5; and Max. Daily Penalty, 40s.

(2) No water-pipe, stack-pipe or down-spout, made before the section comes into effect, which is used for conveying surface-water from any premises, shall be used or serve as a ventilating shaft to a drain (s. 37). Fourteen days' notice must be given before the section is enforced.

MAX. PENALTY, 40s.; and Max. Daily Penalty, 20s.

(B) PROVISIONS FOR TESTING AND EXAMINING—

Examining upon Connecting with Sewer.

Testing Drains.

(1) Public Health Act, s. 23, gives the owners and occupiers of premises power to connect their drains with sewers belonging to the local authority. But such drains might be defective and unfit to be connected. Section 38 of the present Act, therefore, provides that before any drain, made but not connected before the section comes into effect, is connected with a sewer belonging to the local authority, it must, if they require it, first be LAID OPEN FOR EXAMINATION by their surveyor and certified by him to be fit to be so connected.

Testing upon Reported Danger to Health.

(2) A very useful power to TEST suspected drains is given by s. 45 (1) to the local authority. The power, if properly applied, may prove of the greatest benefit to the health of the community.

Where—(*a*) the medical officer, (*b*) the surveyor, or (*c*) the inspector of nuisances, of the district reports 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 local authority may authorise them TO TEST THE DRAINS by

(*a*) the *coloured water test*,
(*b*) the *smoke test*,
(*c*) other similar test,

BUT NOT a test by water *under pressure*, SUBJECT TO THE CONDITION that *either* (*a*) the consent of the owner or occupier, *or* (*b*) an

Defective Drains. Provision of Drains.

order of a court of summary jurisdiction is *first* obtained.

The owner or occupier must give *all reasonable facilities* for the application of any test so authorised (s. 45 (3)).

MAX. PENALTY (for refusal), 40s.; and Max. Daily Penalty, 20s. (See p. 143.)

(C) PROVISION FOR RECTIFICATION—

If the *drains* thus tested are found *defective*, the local authority may require the *owner* (by a notice specifying generally the defect) to remedy it, and if he fail to do so, may themselves do the work, and recover the cost summarily, *or else* as "private improvement expenses," *i.e.*, by a special annual instalment charge (s. 45 (2)).

(D) POWER TO PROVIDE DRAINS AND SINKS FOR BUILDINGS—

But in addition to preventing defects in drains, the local authority may also see to the provision of drains. If (*a*) the surveyor, (*b*) the medical officer, (c) the inspector of nuisances, of the district, *report that any building* whenever built "*is not provided with a proper sink or drain*, &c.," the local authority may by notice in writing require the *owner or occupier* to remedy the deficiency, *within twenty-eight days*. (See p. 148.)

MAX. PENALTY for NON-COMPLIANCE, £5; and Daily Penalty, 40s.

A power is also given to the local authority to *provide the sink, drain, &c.*, themselves, and recover the cost summarily from the owner or occupier as a civil debt (s. 49).

III. WATER-CLOSETS, &c. (ss. 39-42).

Water-closets in New Buildings.

Sections 39-42 are concerned with that most important of sanitary matters, the provision of proper water-closets, a *water-closet* being defined by the Act as "a receptacle for human excreta . . . 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 fresh water supply, and having proper communication with a sewer." (See p. 131 *post*.)

There was, indeed, already a certain power given by the Public Health Act to the local authority to insist on proper closet accommodation, but they could not in all cases insist on *water-closets* (see *note* to section)—ancient ideas in these matters being still tolerated. But by the present section, wherever the water-supply and sewer are sufficient (*i.e.*, sufficient and reasonably available for flushing the number of water-closets the local authority requires to be provided (s. 39 (1)), very full powers to insist on water-closets [or "slop-closets" in certain cases to be mentioned] are given to them.

These powers may be divided into two according as they relate to (A) *new* buildings, or (B) *existing* buildings, and the latter may be again subdivided according as they relate to (*a*) the *alteration of existing* closets, or (*b*) the *provision* of *new* closets.

ALL THE POWERS to be mentioned APPLY ONLY IF there are a SUFFICIENT WATER-SUPPLY AND SEWER as defined by s. 39 (1). If this condition be fulfilled, then—

(A) NEW BUILDINGS.

Where the plans for a new building are deposited with them, within a month afterwards the local authority may *require the number of water-closets necessary* in the circumstances *to be provided*.

MAX. PENALTY for NON-COMPLIANCE, £5; and Max. Daily Penalty, 40s.

Water-closets in Existing Buildings.

(B) EXISTING BUILDINGS.

(*a*) *Alteration* of *existing* closets.

The local authority may require closets, which are not water-closets [or slop-closets (as to which see below)], to be converted into water-closets, s. 39 (4).

(*b*) *Provision* of *new* closets.

If, on the report of their officers,* the local authority is satisfied that the closets of a building are insufficient, and cannot be altered under (*a*) so as to render them sufficient, they may require the building to be provided with sufficient *water-closet* accommodation.

BUT, *in each of the three cases* mentioned, if the Local Government Board declare "that the circumstances of the district are such as to render it necessary or expedient" (s. 39 (5)), a "SLOP-CLOSET," which differs only from a water-closet in being flushed by slops or rain-water, instead of by "a fresh supply of water," *may be substituted for a water-closet*, or the two kinds of closets may be mingled in the above provisions.

(The "requirement" of the local authority is to be made in each case, by notice in writing, served, in case of new buildings, on the person intending to erect them and in the case of existing buildings on the owner.)

EXECUTION BY AND AT COST OF THE LOCAL AUTHORITY.

In the case of existing buildings (B), if the requirement is not complied with, the local authority *can do the work themselves*, and,

---

* *i.e.* (1) the medical officer, (2) the surveyor, (3) the inspector of nuisances, of the district.

(*a*) *in the case of alteration of existing closets*—

(1) If the closet was a "*pail-closet*," *i.e.*, a closet with a *moveable* receptacle—SHALL BEAR ALL THE COST;

(2) If the closet was of any other kind, *e.g.*, *a privy*—SHALL BEAR HALF THE COST (the owner bearing the other half, and being liable for it in the same manner as the owner in (*b*) below), (s. 39 (4)).

Water-closets, Contribution to cost of.

(*b*) *in the case of the provision of new closets*, they (the local authority) may RECOVER their expenses summarily FROM THE OWNER, as a civil debt (s. 40 (3)), and may make the money payable by an *instalment charge* under Public Health Act, s. 255, *i.e.*, as "private improvement expenses."

The provision enabling the local authority to share in, or even pay, the whole cost of altering water-closets is a distinct innovation; and it should tend to make powers of this nature much more of a reality than they have often hitherto been; it is a sacrifice of economic theory to the more urgent necessities of public sanitation. But why the power to contribute is confined to the alteration of insufficient closets and not extended to providing water-closets where the need is more urgent, namely, where there are no closets at all in the building, is not very apparent. (See pp. 131-5 *post*.)

Miscellaneous.—The following sections deal with the machinery for carrying out the provisions just stated. Section 40 (1) contains provisions enabling the surveyor of the district (subject to an appeal to a court of summary jurisdiction) to apportion the expenses of work done, under the provisions just stated, when it benefits two or more buildings and enabling the local authority to recover from each owner his apportioned share.

And s. 40 (2) provides that the expenses of the local authority under the provisions just stated shall be expenses under the Public Health Act. And s. 41 gives

Water-closets. Urinals.

a right of entry to duly authorised persons for the purpose of carrying out the provisions.

APPEAL (against the provisions just stated) lies *within fourteen days*, after service of (*a*) a requirement or (*b*) a demand for payment, *to a court of summary jurisdiction*, but *after service of a demand* for payment, the appeal is confined to the amount to be paid and the *requirement itself can no longer be appealed against* (s. 42 (1)). Pending an appeal the hand of the local authority is stayed (s. 42 (2)).

IV. URINALS, &c. (SS. 43, 44).

This portion of the Act gives power to the local authority, in one case to remove urinals when objectionable, and in another case to cause necessary urinals to be provided. (See pp. 140-1 *post*.)

(1) REMOVAL (s. 43).—If a urinal (*or other sanitary convenience*), whenever erected OPENING ON any street is from its position or construction

(*a*) a nuisance,
(*b*) offensive to public decency,

the local authority may, by a written notice fixing a reasonable time, *require the owner to remove it*.

MAX. PENALTY for NON-COMPLIANCE, 20s.; and Daily Penalty, 10s.

(2) PROVISION (s. 44).—The local authority may *require the owner to provide* one or more *sufficient urinals* in a suitable position in any

(*a*) inn,
(*b*) public-house,
(*c*) beer-house,
(*d*) eating-house,
(*e*) refreshment house, or
(*f*) place of public entertainment,

whenever built, IF IT HAS NO URINAL BELONGING OR ATTACHED THERETO.

MAX. PENALTY for NON-COMPLIANCE, 20s.; and Max. Daily Penalty, 10s.

V. PUBLIC CONVENIENCES AND LAVATORIES (s. 47).

Conveniences. Lavatories. Ambulance.

The local authority is empowered by s. 47 to (*a*) provide and maintain, (*b*) let out subject to such rent and conditions about charges, &c., as they think fit—

(1) SANITARY CONVENIENCES,
(2) LAVATORIES,

in *or under* any street in charge of a public authority. And they may further

(*a*) *pay attendants* for them,
(*b*) make *reasonable charges* for use (except for urinals),
(*c*) make *bye-laws* for their management.

Under s. 49 of the Public Health Act they had already power to provide similar conveniences on lands vested in them. (See p. 146 *post*.)

VI. AMBULANCE (s. 50).

Section 50 gives the local authority power to provide an ambulance (together with attendants and means of traction "and other requisites") "for use in any case of accident or other sudden and urgent disability."

They may, by agreement, *allow the ambulance to be used* by

(*a*) any other local authority,
(*b*) a private person. (See p. 149 *post*.)

PART IV.

INFECTIOUS DISEASES.

Definition of Infectious Disease.

The last part contained a number of provisions affecting the general health of the community. This part is also directly concerned with sanitation, but with that department of it which perhaps comes most immediately home to the man in the street, namely, the prevention of the spread of infectious diseases. The provisions are, for the most part, an extension of the existing Public Health Acts, and still more of the existing Infectious Diseases Acts. The first question that arises is, of course, what is meant by "an infectious disease." Now, the definition is taken from the Infectious Disease (Notification) Act, 1889, the Act which makes infectious diseases notifiable; hence under infectious disease are included:—Small-pox, cholera, diphtheria, membraneous croup, erysipelas, scarlatina (scarlet fever), and typhus, typhoid, enteric, relapsing, continued or puerperal fever, and also in any particular district the other infectious diseases which the local authority has, in exercise of its powers under that Act, made notifiable diseases in *that* district. And see note, p. 153.

The arrangement of the sections in the Act is very haphazard. It has therefore been thought best to re-arrange them freely in explaining them. They then fall under two heads:—

A. CONTROL OF CONDUCT.

B. DIRECT ACTION BY THE LOCAL AUTHORITY.

And each of these may be again divided into two, thus:—

A. CONTROL OF CONDUCT.

I. IN GENERAL (ss. 52, 62).

II. IN RELATION TO CERTAIN COMMON SOURCES OF INFECTION, ss. 53, 54 (*Dairies*); 55 (*Laundries*); 57, 58 (*Schools*); 59 (*Libraries*); 62, 63, 64 (*Public Vehicles*); 68 (*Wakes*). **Infectious Disease, Restrictions on Sufferer.**

and

B. DIRECT ACTION BY THE LOCAL AUTHORITY.

I. PREVENTATIVE (ss. 56, 61, 64 (2), 66).

II. CURATIVE (60, 65, 67).

Following this method of division, then, we come to—

A. CONTROL OF CONDUCT.

I. In General (ss. 52, 62).

(Amendment of the Public Health Act.)

The Act first proceeds to deal with that most serious source of danger, the public exposure of persons suffering from an infectious disease. The Public Health Act already inflicted a penalty of £5 (1) *on any person suffering* from a dangerous infectious disorder, who exposed himself "in any street, public place, shop, inn, or public conveyance" without proper precautions against spreading the infection, and (2) *on anyone in charge* of such a sufferer who exposed him in this way. (See p. 164 *post*.)

The present Act extends the prohibition in two ways.

(1) It extends the prohibition against exposing oneself in public without proper precautions, by a prohibition against engaging in any occupation or carrying on any trade or business, unless it can be done without risk of spreading the infectious disease. Anyone who knowing that he is suffering from an infectious disease, contravenes this provision incurs A PENALTY of 40s. (s. 52).

Exposing Infectious Patient.

(2) It inflicts A PENALTY of £5 on the person in charge of a man (or woman) suffering from an infectious disease, if, though not himself exposing the sufferer in public in the way mentioned above, he causes him to be exposed without proper precautions, or permits him to be exposed without proper precautions (s. 62).

II. In Relation to Certain Common Sources of Infection.

These, as has already been indicated, are:—

(*a*) DAIRIES (ss. 53, 54).
(*b*) LAUNDRIES (s. 55).
(*c*) SCHOOLS (ss. 57-58).
(*d*) LIBRARIES (s. 59).
(*e*) PUBLIC VEHICLES (ss. 62, 63, 64).
(*f*) WAKES (s. 68).

The general scope of the provisions in this portion is to prevent the spread of infection from such sources, (1) by preventing infection being brought to them, (2) by notification of infection, and (3) taking speedy measures of disinfection, &c., where infection exists. The heads (*a*), (*c*), (*e*) and (*f*) had already been dealt with by former legislation. Though the provisions of the Act, of course, vary under each head, yet a certain general similarity will be perceived in the methods adopted in each case.

(*a*) DAIRIES (ss. 53, 54). (See p. 153 *post*.)

Sources of Milk Supply.

Dairies are, of course, one of the commonest sources of infection, and the Infectious Disease (Prevention) Act, 1890 (see p. 266), contains provisions for the inspection and consequent closing up of dairies, whether inside or outside the district of the local authority, which are sources of infection. But the local authority, though its officers may trace infection to a dairy within the

Infected Dairy. Laundries.

district, may yet have no knowledge of the farms, &c., from which that dairy obtains its milk supply. So s. 53 of the present Act is devoted to meeting this difficulty. If the medical officer of the local authority certifies that a person in the district is suffering from infectious disease which he has reason to attribute to milk supplied within the district, the local authority can require the dairyman (within the district) who has supplied the suspected milk, to furnish a complete list of the farms, dairies, &c., from which he has been getting his milk supply during the preceding six weeks, and if he has been getting it from another dairyman in the district they may, in the same way, require that dairyman also to furnish a list of his sources of supply. The lists must be furnished within a reasonable time, to be fixed by the local authority, who are to pay for the list (sub-sec. 2) at the rate of sixpence for each twenty-five names.

MAX. PENALTY (for Non-Compliance), £5; and Max. Daily Penalty, 40s.

Disease on the premises.

It is provided by s. 54 that a dairyman must notify to the medical officer of health of every district in which he supplies milk, any cases of infectious disease occurring among persons engaged in or in connection with his dairy, WHETHER THE PREMISES from which the milk is supplied are WITHIN OR BEYOND THE DISTRICT of the local authority.

MAX. PENALTY (for Non-Compliance), 40s. (for each offence).

It may be doubted if such a penalty will prove a serious deterrent, having regard to what the dairyman stands to lose.

(*b*) LAUNDRIES (s. 55). (See p. 156 *post*.)

Laundries are another source of serious danger. Section 55 accordingly prohibits the sending or taking of

Laundries. Schools.

clothes, bedding, &c., that have been exposed to infection, from "an infectious disease," to be washed at a public washhouse or a laundry. But in three cases it can be done:—

Exceptions—

(*a*) Where the clothes, &c., have been disinfected to the satisfaction of the local authority or their medical officer (sub-sec. 1), *and the local authority may pay the expense of such disinfection* (sub-sec. 3).

(*b*) Where they have been disinfected to the satisfaction of a legally qualified medical practitioner (sub-sec. 1).

(*c*) Where they are sent to a laundry with notice that they have been exposed to infection and with proper precautions for the purpose of disinfection.

MAX. PENALTY (for Non-Compliance), 40s. (for each offence).

(*c*) SCHOOLS (ss. 57-58). (See p. 159 *post*.)

Scholar exposed to infection.

Provision against sending children, liable to convey infection, to school has already been made by our Public Health Act (s. 146), and s. 57 of the present Act is designed to introduce a similar provision into England, though it is, of course, capable of being applied in this country also, if its provisions are thought more advantageous than the slightly different ones of our Public Health Act. It enables the medical officer of a district by notice on the parent, guardian, &c., to prevent a child, who has suffered from an infectious disease or been exposed to infection, from going to school till the medical officer certifies that he may do so without danger. The certificate is to be given free of charge.

MAX. PENALTY (for Non-Compliance), 40s. (for each offence).

Infection in school.

Where any scholar, in a school, is suffering from an infectious disease, the local authority may require the "principal" of the school (which word where there is no *one* principal means the head of any particular department of the school (s. 58 (4)) to furnish them with a complete list of the names and addresses of the scholars (except boarders) in the school or any specified department of the school (s. 58 (4)), to furnish them a reasonable time to be fixed by the local authority, who must pay for it (s. 58 (2)) at the rate of sixpence for each twenty-five names.

Infected School. Libraries.

MAX. PENALTY (for Non-Compliance), 40s. (for each offence).

(*d*) LIBRARIES (s. 59). (See p. 160 *post*.)

Public and Circulating Libraries are another source of infection, often not sufficiently recognised. The thoughtless borrowing of a book for a fever patient may work untold evil. S. 59 is intended to provide against the danger.

The section *relates only to books belonging to* (1) *a public library*, (2) *a circulating library*.

(1) A person knowing that he is suffering from an infectious disease must NOT

(*a*) Take out any such book (sub-sec. 1).
(*b*) Use any such book (sub-sec. 1).
(*c*) Cause any such book to be taken out for his use (sub-sec. 1).

(2) Again, no person must permit any such book, under his control, to be used by anyone whom he knows to be suffering from an infectious disease (sub-sec. 2).

(3) If a person know any such book has been exposed to infection, he must not return it or, if it is under his control, permit it to be returned, but must give notice of its infected condition to the local authority (sub-sec. 3). Thereupon the local authority must

Libraries. Public Vehicles.

disinfect or destroy the book (sub-sec. 3), and in the latter case pay its value to the proprietor of the library (sub-sec. 4).

MAX. PENALTY (for Contravention), 40s. (for each offence) (sub-sec. 5).

(*e*) PUBLIC VEHICLES (ss. 62, 63, 64).

Two classes of public vehicles are dealt with, (1) *public vehicles in general*, such as cabs, &c., and (2) *public vehicles used for the carrying of passengers at separate fares*. In the first case only proper precautions and subsequent disinfection are imposed as a condition of use by infected persons; in the latter case, their use by infected persons is under the new Act entirely prohibited. (See pp. 165-6 *post*.)

(1) *Public vehicles in general.*

The Public Health Act (s. 142) already prohibits any person suffering from a dangerous infectious disorder from exposing himself *without proper precautions against spreading it* in a public conveyance, and prohibits anyone in charge of such a sufferer from thus exposing him, without proper precautions. And the present Act slightly extends this provision by making the person in charge of a sufferer from an infectious disease liable to a penalty of £5, not only where he himself exposes the sufferer in a public vehicle without proper precautions, but if he *causes or permits* him to be so exposed (s. 62).

Again, the Public Health Act (s. 143) requires that the driver of a public conveyance, after he has, to his knowledge, conveyed any person suffering from a dangerous infectious disorder, shall have it immediately disinfected, and he must be indemnified against loss or expense thus accruing to him before he is required to convey such a sufferer.

Section 64 (1) of the present Act contains a similar provision, namely, that as soon as it comes to the knowledge of the owner or driver of a public vehicle that

Public Vehicles, Trams, etc.

he has conveyed a person suffering from an infectious disease, he must—

(*a*) Give notice to the medical officer of the local authority;

(*b*) *And then* cause the vehicle to be disinfected.

MAX. PENALTY (for Non-Compliance), £5.

But the owner of a public vehicle is not to be at a loss by this provision as he might have been under the provisions of the Public Health Act, because

(*a*) He is entitled to recover from the person conveyed in the vehicle, or the person who has caused him to be conveyed in it, a sufficient sum to cover the loss and expense incurred in connection with disinfection (s. 64 (1)), and

(*b*) The local authority is bound upon request to provide for the disinfection of the vehicle, free of charge, *unless the owner or driver has* KNOWINGLY *conveyed an infected sufferer* (s. 64 (2)).

We now come to the more stringent provisions of the present Act, relating to

(2) *Public vehicles used for the carrying of passengers at separate fares* (s. 63).

A tram or omnibus would presumably be the kind of vehicle referred to. The danger is here serious, and the prohibition correspondingly strict, being threefold in character, as follows:—

(*a*) A sufferer from an infectious disease must not enter such a vehicle;

(*b*) No person must *knowingly* place a sufferer from an infectious disease in such a vehicle;

(*c*) The owner or driver of such a vehicle must not *knowingly* convey a sufferer from an infectious disease.

MAX PENALTY (*in each case*), 40s.

Wakes, Filthy Articles.

(*f*) WAKES (s. 68). (See p. 172 *post*.)

The serious danger arising from wakes over persons who have died from an infectious disease was recognised and dealt with by our Public Health Act (s. 142 (5)) as long ago as 1878. It is now recognised in England also, and hence comes the present section (s. 68), which, however, only inflicts a maximum fine of forty shillings, where our Public Health Act (s. 142 (5)) imposes a maximum penalty of five pounds. But, on the other hand, the present section, which can, of course, be applied in this country, inflicts the penalty not merely on the person in control of the premises where the wake is held, as the Public Health Act (s. 142 (5)) does, but on any person attending to take part in the function. Therefore, though it imposes a smaller penalty, it should prove more effective than the provisions of our Public Health Act, and might, with advantage, be applied in this country.

We now come to the second division of the provisions, in which the local authority is not to be content with enforcing penalties for the breach of certain laws by the public, but steps in to carry out itself certain preventative or curative works for the benefit of public health. We thus have the heading: —

B. DIRECT ACTION BY THE LOCAL AUTHORITY.

We deal first with its preventative action.

I. Preventative (ss. 56, 61, 64 (2), 66).

CLEANSING, &C., OF FILTHY ARTICLES.

Previous enactments have dealt with articles exposed to the infection of disease, and provided for their destruction or disinfection. S. 56 of the present Act goes still further, and provides for the cleansing, purification or destruction of articles in a dwellinghouse;

when this is made necessary *by reason of the filthy condition of the articles* in order to remove or obviate risk of injury to the health of any person in the dwelling-house. The principle of prevention being better than cure is thus recognised in the fullest manner, and it is thus possible to take action before any disease actually breaks out. But before the local authority so exercises its power to cleanse, purify, or destroy, it must be satisfied as to the necessity for doing so, by the certificate of its medical officer. And if any person sustains injury through the exercise of this power, the local authority must make reasonable compensation to him, unless he was himself responsible for the filthy condition of the article (s. 56). (See p. 157 *post*.)

Cleaning, etc. Infected Premises.

Cleansing, &c., of Infected Premises and Articles.

Section 66 of the Act deals with the cleansing and disinfecting of premises likely to retain infection. It is an extension of the powers of this nature which local authorities can obtain under the Infectious Disease (Prevention) Act, 1890 (s. 5), (p. 268). The most notable addition to the powers of the local authority, which it gives, is a power to destroy articles, upon making reasonable compensation, with a view to checking the spread of infection.

Under the section the local authority receive two powers: —

(1) To *cleanse and disinfect* any house or part of a house and any articles in it likely to retain infection (s. 66 (1)).

(2) To *destroy* any articles in a house or part likely to retain infection (s. 66 (1)).

But this *can only be done* when the medical officer of the local authority or some other legally qualified medical practitioner has certified that *to do so would tend to prevent or check any dangerous infectious disease.*

Compulsory Disinfection, Procedure.

If the PERSON IN CHARGE of the premises, &c. (on whom a notice would otherwise have to be served (see below)) CONSENTS, the power may forthwith be exercised and disinfection or destruction proceeded with, without more ado (s. 66 (2)). OTHERWISE THE PROCEDURE, according to which this power is to be (*compulsorily*) exercised, is slightly complicated. Having obtained the MEDICAL CERTIFICATE,

the *first step* is to serve a NOTICE on

(*a*) the *person in occupation* or having the charge, management or control of the house (or part of a house (s. 66 (1) (5), *or*

(*b*) *where the whole house is a lodging-house wholly let to lodgers or a tenement-house*, on the person receiving the rent payable by the tenants or lodgers either on his own account or as agent (s. 66 (1) (5)), *or*

(*c*) *where the house or part is unoccupied*, on the owner of the house.

The NOTICE must

(*a*) fix a time for the disinfection, destruction, &c. (s. 66 (1)).

(*b*) Inform the person on whom it is served that unless he undertakes within twenty-four hours to carry out the disinfection, destruction, &c., to the satisfaction of the medical officer of the local authority or some other legally qualified medical practitioner, the local authority will carry it out themselves.

Then *unless* the person on whom the notice is served

(1) undertakes, within twenty-four hours to comply with it, *and*

(2) complies with it within the time fixed in it,

the local authority may carry out the disinfection, destruction, &c., themselves (s. 66 (2)).

The disinfection, destruction, &c., is whether by consent or not to be carried out by, and at the cost of, the

local authority, and compensation to be paid for any article destroyed and for any *unnecessary* damage caused by the disinfection (s. 66 (4)). (See pp. 168-71.)

Compensation. Removals from Infected Premises.

For the purpose of carrying out the provisions of the section, the local authority are given power to enter any premises between 6 a.m. and 9 p.m. (s. 66 (3) (5)).

REMOVAL OF PERSON FROM INFECTED PREMISES (s. 61).

The Infectious Diseases (Prevention) Act, 1890 (s. 15), gave the local authority power to provide a temporary shelter for the members of a family in which infectious disease had broken out, who had to leave their dwellings for the purpose of enabling them to be disinfected. This power is by the present Act extended to providing a shelter (and necessary attendants) for any inmates of the house, leaving it under the provision now to be mentioned, even though the section of the Infectious Diseases (Prevention) Act has not been applied in the district. And the local authority may borrow in accordance with the provisions of the Public Health Act in order to provide such a shelter.

As soon as such a shelter has been provided, *where any infectious disease appears in a "house"* (see below), the local authority may, *upon the certificate of their medical officer*, cause any inmate not himself sick to be removed to the shelter at *their* expense—

(*a*) *Upon his consenting* (or his parent or guardian consenting, if he is a child), *or*

(*b*) *where he does not consent*, upon the *order of two justices*, who are satisfied of the necessity for removing him. The justices may attach conditions to their order.

MAX. PENALTY (for wilfully disobeying or obstructing the order), £5. (See pp. 162, 272.)

And "*house*" is given an extended meaning for this purpose so that it includes any tent, van, shed,

Hospital for Infectious Patients.

or similar structure, or boat lying in a canal or other water, used for human habitation (s. 61 (3)).

The removal of persons actually suffering from infectious disease to hospital will be immediately referred to (s. 65).

The function of the local authority in disinfecting public vehicles (s. 64 (2)) has already been referred to under "public vehicles."

II. Curative (ss. 60, 65, 67).

Removal of Infectious Patients to Hospital.

Section 65 extends the operation of the Public Health Act (s. 141), which only applied to certain particular cases of danger, *e.g.*, having an infectious disease in a common lodging-house, to "all cases of persons suffering from any dangerous infectious disease and being *in or upon any house or premises where such persons cannot be effectually isolated* so as to prevent the spread of the disease." All such persons may, therefore, under the present Act, be removed to a suitable hospital, within, or within a convenient distance of, the district, if such exist. But, as under the Public Health Act, three *preliminary requirements* must be fulfilled:—

(*a*) The *consent* of the *hospital authorities* obtained. (See p. 167.)

(*b*) A *certificate* given by a legally qualified medical practitioner.

(*c*) The *order of a justice* obtained.*

Provision of Hospital Accommodation for Infectious Patients. (See *p.* 161.)

The Public Health Act (s. 155) contains provisions for providing hospital accommodation for infectious patients. Unless the patient is a pauper the cost of

* N.B.—This appears to be the most reasonable construction.

his maintenance in such a hospital becomes a debt due to the local authority (Public Health Act, s. 156). But the present Act (s. 60) gives the local authority a discretion, according to the circumstances, as to whether they shall seek to recover the cost of maintenance or not. The Act also confers on them a new power.

Hospital Accommodation Nursing.

PROVISION OF NURSING FOR INFECTIOUS PATIENTS. (s. 67).

Where patients suffering from an infectious disease cannot be removed to hospital, owing to

(*a*) want of accommodation at the hospital;
(*b*) danger of infection;
(*c*) danger likely to accrue to the patient from removal;

the local authority may provide nurses and (s. 67 (2)) charge such reasonable sums for their services as they think fit. (See p. 171.)

But this power is not to be taken as diminishing the necessity of providing proper hospital accommodation for infectious patients (s. 67 (3)).

PART V.

COMMON LODGING-HOUSES (ss. 69-75).

(See p. 174.)

Common Lodging Houses.

The provisions as to common lodging-houses are an extension of those contained in the Public Health Act, 1878. They may be classed under four heads:—

(*a*) Increased discretion as to registration.
(*b*) Obligation of resident supervision.
(*c*) Increased scope of punishment.
(*d*) Provision for sanitary accommodation.

(*a*) Increased Discretion as to Registration.—Hitherto the business of a common lodging-house keeper was one that anybody might carry on subject to registration. A house must, indeed, have been passed by the sanitary inspector before it could be registered as a common lodging-house, and unless a man produced a certificate of character from three householders, the sanitary authority could refuse to register him, but otherwise they were not free in the matter (Public Health Act, s. 89). Now, where the present Act is applied, the provisions as to the certificate of character are abolished by s. 75 (2), and it is provided instead by s. 69 (1) that the local authority may, at their discretion, refuse to register any person as a common lodging-house keeper unless they are satisfied of his character and his fitness for the position. This leaves them entirely unfettered in the exercise of their discretion. Again it had been held that once on the register, a lodging-house keeper was always on, and could not be removed *by the local authority* (save in one exceptional case, see Public Health Act, s. 92), even though he were convicted, for instance, of allowing his premises to be used as a house of bad repute. He might, however (s. 99), have been prohibited by the court from exercising his profession

Common Lodging Houses.

after a *third* conviction. Now s. 69 (2) provides that in case of persons newly registered after the section is applied, the registration shall be only for a year or such shorter period as the local authority may determine, but may be renewed from time to time, thus giving them, in effect, power to remove a name at their discretion after a short delay.

Section 72, *post*, deals with removal from the register of lodging-house keepers convicted of offences against the Act, *by the court, before whom he is convicted*. See (*c*.)

(*b*) OBLIGATION OF RESIDENT SUPERVISION.—Every common lodging-house must in future be controlled and managed either by the lodging-house keeper or an approved deputy specially appointed, and either the "keeper" or his deputy must reside on the premises at night (s. 70 (1)). The neglect of this provision, either by the "keeper" or his deputy, exposes the "keeper" himself to a PENALTY of 40s., and a daily penalty of 20s. The deputy (or deputies, for more than one may be appointed) must be registered, like "keepers," but on a special register, and the local authority may at any time cancel the registration (s. 71).

(*c*) INCREASED SCOPE OF PUNISHMENT.—S. 72 allows the court, before which the conviction is obtained, to cancel the registration of a common lodging-house keeper, on his conviction of *one* offence against the Public Health Acts or the present Act, instead of after *three* as under the former provisions (s. 99) of the Public Health Act, which are now repealed (s. 75 (2)), wherever the provisions of the present Act are put in force. S. 73 renders an unregistered keeper of a common lodging-house liable to the same penalties under s. 97 of the Public Health Act, as a registered one.

(*d*) PROVISION OF SANITARY ACCOMMODATION.—By s. 74 the keepers of common lodging-houses are compelled to provide suitable sanitary conveniences for men and women (separately), including a proper supply of water for flushing w.c.'s and urinals. The suitability is apparently a question in the discretion of the local

Common Lodging Houses.

authority (see note to s. 74). If the lodging-house keeper neglects his duties under the section, the authority can serve him with a notice compelling him to remedy matters, and if he does not comply with it to their satisfaction within twenty-eight days from its service, execute the work themselves, and recover the cost of it from him in a summary manner, or else declare the cost to be "private improvement expenses" (see note to s. 74).

PART VI.

RECREATION GROUNDS.

(See p. 181.)

Parks, etc., Amusements.

Unlike the English Public Health Act (1875), our Act of 1878 contained no provision as to the acquisition of public walks and pleasure grounds by local authorities, whether urban or rural. But this power has since been conferred on them by virtue of the Open Spaces Act, 1887, and the Local Government Act, 1898 (see note to s. 76 (1) p. 184). Under the latter Act the local authority also acquired power to make bye-laws for the regulation of any such recreation ground or public walk (Local Government Act, s. 36 (1) *c*), and under the Public Health Amendment Act, 1890 (s. 44), the local authority acquired the power to close recreation grounds and parks, which they have provided, for a few days in the year, for the purpose of holding shows and for other public purposes, and to charge for admission on such days. The present Act extends their powers of regulating parks and pleasure grounds, which they have provided or which are under their management, in the following matters:—

(*a*) SKATING.—The local authority may enclose one quarter of the ice available for skating in the park and charge for admission, but the rest must be left open free to the public (s. 76 (1) (*a*)).

(*b*) PLAYGROUNDS.—May, by notice, set apart portions of the park for any game, and exclude the public *while it is in actual use for that purpose* (s. 76 (1) (*b*)).

Parks, etc., Bands, Chairs, Pavilions.

(*c*) APPARATUS FOR GAMES.—May themselves provide, or (for not more than three years at a time) let the right of providing, apparatus for games (or recreations) (s. 76 (1) (*c*)).

(*d*) BANDS.—May (subject to approval of the Local Government Board as to amount) levy a rate up to 1d. in the £ (s. 76 (3)), for providing or contributing to bands in parks (s. 76 (1) (*d*), and

(*e*) May enclose any part of the park, not exceeding one acre, for the convenience of those listening to the band, and charge for admission (s. 76 (1) (*e*)). This is a provision of which local authorities desiring to relieve "the deadly dullness of Irish life" might make practical use.

(*f*) CHAIRS OR SEATS.—May provide and charge for, or authorise any person to provide and charge for, chairs and seats in the park (s. 76 (1) (*f*)).

(*g*) READING ROOMS.—May provide reading rooms, and (*on not more than 12 days a year, or for more than four days running*) charge for admission (s. 76 (1) (*g*)).

(*h*) PAVILIONS AND CONVENIENCES.—May provide and charge for admission to pavilions or other buildings and conveniences (s. 76 (1) (*g*)), and let them to any person for the purpose of entertainments and authorise him to charge for admission (s. 76 (1) (*h*)).

(*i*) REFRESHMENT ROOMS.—May provide and maintain refreshment rooms, either retaining the management in their own hands or letting it out for a period not exceeding three years (s. 76 (1) (*i*)).

Expenses due to the exercise of these powers are to be defrayed out of the same rate as the expenses of the park, and any receipts credited to that rate (see note to s. 76 (2)).

The Local Government Board are empowered (s. 776 (1)) to make rules and regulations subject to which the powers mentioned in (*a*), (*b*), (*e*), (*g*), (*h*) and (*i*) above shall be exercised; and none of the powers in the section is to be exercised so as to contravene any covenant or condition, subject to which the park or pleasure ground was granted or leased, unless the donor, &c., consent (s. 76 (4)). S. 77 enables the local authority to appoint officers for carrying out this part of the Act, and have them sworn in as constables. (In this regard s. 36 (1) (*c*) of the Local Government Act, 1898, quoted in the note to s. 76 (1) of this Act, should also be referred to.)

PART VII.

POLICE.

Police Powers.

Nice questions may arise in regard to this part of the Act. In England the police are to a great extent under the local bodies, and hence many of the provisions in this part are more adapted to the circumstances of that country. Some of the powers proposed to be given to the local authorities by these sections already indeed belong to the Irish police authorities. Nevertheless, the sections are clearly intended by Parliament to be applicable to Ireland. For instance, a special Irish Act is incorporated in s. 81 by s. 14 of the Act. Some of the powers mentioned in this part have, moreover, already been given to certain Irish authorities by other Acts, as will appear on reference to the notes under the sections. Several of the provisions, however, seem beneficial ones, which may, with advantage, be applied by our local authorities, if the Chief Secretary gives, as it is submitted he should give, his consent. This part may be conveniently divided into three divisions.

A.—TRAFFIC.
B.—CONDUCT IN PUBLIC.
C.—CONTROL OF CERTAIN TRADES.

A.—TRAFFIC.

A is, of course, but a sub-division of B, but it is a sub-division of conduct in which even the virtuous are most prone to sin, and in which the sin is much on the increase.

Powers of a somewhat similar nature are already possessed by the Irish police under the Police Acts. The regulations as to traffic may again be sub-divided into—

(1) *Human traffic.* (See p. 187.)
(2) *Animal traffic.* (See p. 188.)

(1) HUMAN TRAFFIC.—The regulations for traffic can only be made for such streets—to be specified in the regulations—as are specially liable to be obstructed by

Control of Traffic.

traffic. With regard to them the local authority may make regulations, *subject to the approval of the Chief Secretary*—

(*a*) Prescribing the line to be kept at any street crossing by all persons riding or driving (which includes cyclists).

(*b*) Requiring drivers of slow, heavy vehicles to keep in a particular part of the road (s. 78).

MAX. PENALTY, 40/.

But *note* this is only incurred AFTER WARNING BY A POLICE CONSTABLE, DIRECTING THE TRAFFIC IN THE STREET. But the warning may be given by signal only.

But a penalty may also be incurred, apart from any regulations, by those who violate elementary principles of traffic. Hence a

PENALTY (not exceeding) 40/-

is likewise incurred by every person "who shall ride or drive so as to endanger the life or limb of any person or to the common danger of the passengers in any thoroughfare," *and such person may be arrested without a warrant by a constable* WITNESSING THE OFFENCE (s. 79).

(2) ANIMAL TRAFFIC.—The provisions as to driving animals deal with "cattle-driving" only in its earlier meaning. The local authority may define the streets in which alone the leading or driving of animals may take place *by day*, *i.e.*, between 9 a.m. and 9 p.m.

Exceptions:—

ALL ANIMALS—

(*a*) The leading or driving of animals is permitted without restriction between 9 p.m. and 9 a.m.

(*b*) The owner of *any animals* shall not be prevented by the regulations from driving them to or from his *own premises*.

(*c*) Nothing in the Act is to interfere with the leading or driving of *any animals* to a licensed *slaughter-house*.

Driving Animals. Public Conduct.

CATTLE—

(*d*) The regulations shall not prevent the driving of *cattle* (when merely passing from one to the other) between market and *railway station;* or,

(*e*) between market and *landing wharf;* or,

(*f*) between a market and a *place outside* the district.

The local authority are bound to allow at all times a "reasonably short and efficient" route for the passage of these animals.

B.—CONDUCT IN PUBLIC.

Streets, Recreation Grounds, &c.

The object of s. 81 is to render a number of offences against public safety and decency, hitherto punishable only when committed in the street, subject to the same punishment when committed in

(*a*) a *place of public resort* or *recreation ground belonging to or under the control of the local authority, or*

(*b*) any *unfenced ground adjoining* . . . any street.

According to the most probable construction it appears that the provisions are in both cases *confined to "urban districts."*

The offences are— (See p. 189).

FIRST (under the Towns Improvement Act).

Safety—

(*a*) Suffering an unmuzzled ferocious dog to be at large. (10/-).

(*b*) "Setting on" a dog (however mild its temperament). (10/-).

(*c*) Riding or driving furiously. (20/-).

(*d*) Driving cattle furiously. (20/-).

(*e*) Wantonly discharging a firearm. (10/-).

(*f*) Throwing a stone or other missile. (10/-).

(*g*) Throwing dirt, &c., on the street. (10/-).

The maximum penalty is stated in a bracket after each.

Decency—

(*h*) a common prostitute or night-walker loitering and importuning passengers.

(*i*) Exposure of person or other act against public decency.

(*j*) Offering for sale, or exhibiting profane, indecent or obscene books, prints, &c.

(*k*) Singing profane or obscene songs, &c.

The MAXIMUM PENALTY for each of these latter offences against decency is 40/-.

None of the above offences are punishable unless they are committed in a street (or the other places mentioned above, to which the Act is, by s. 81, now extended) in a manner *calculated to obstruct, annoy, or put in danger* the residents or passengers. (See note.)

SECONDLY (under the Vagrancy Act, sec. 4)—

The Vagrancy Act makes certain crimes punishable if committed in "an open and public place." S. 81 extends the definition of "*open and public place*" for the purposes of that Act in the same way as it extends the definition of "street" for the other Acts. The places mentioned above, *i.e.*, recreation grounds and unfenced land adjoining a street are to be deemed "open and public places." Only one section, however (s. 4), of the Vagrancy Act applies to this country. Hence, "PLAYING OR BETTING AT OR WITH ANY TABLE OR INSTRUMENT OF GAMING AT ANY GAME OR PRETENDED GAME OF CHANCE" in such places is the main offence aimed at. Persons so guilty are to be deemed rogues and vagabonds—and to suffer three months' imprisonment or under.

THIRDLY (Under the Towns Police Clauses Act).

These provisions are less important for us, and the note may be consulted as to them.

Sea-shore.

(S. 82.)

Sea-Shore Promenades.

The seaside visitor is not such a nuisance with us as in England, nor have we anything in Ireland even faintly resembling Southend or Blackpool. We take our pleasures respectably, if not sadly. Still the local authority may in some instances find it convenient to make bye-laws under s. 82, though for the most part its provisions contemplate a state of things not existing in our midst. Under the section the local authority may enforce bye-laws regulating, *as regards the sea-shore*,

(1) The erection of *booths*, *stalls*, &c., where things are sold (sub-sec. 1).
(2) The various *entertainments*, &c., mentioned in the section, as also vehicles, however propelled (sub-s. 1). (See p. 195.)
(3) The playing of *games* on the shore (sub-s. 1).
(4) *Riding* and *driving* on the shore (sub-s. 2).
(5) *Selling* and *hawking* on the shore (sub-s. 3).
(6) The *use*, *in general*, of the shore (sub-s. 1).

The bye-laws may provide for the preservation of order and good conduct among persons using the sea-shore. Their object is to be the prevention of danger, annoyance or obstruction to persons using the sea-shore.

But *the consent of the Board of Trade must be obtained to bye-laws affecting the shore below high-water mark.*

Promenades and Esplanades.

(S. 83.)

The local authority may, with a similar object, by s. 83, make bye-laws with regard to promenades and esplanades, as to

(1) Traffic.
(2) Selling and hawking articles.
(3) Preservation of order and good conduct.

C.—CONTROL OF CERTAIN TRADES.

Porters. Servants' Registries.

I. Porters (s. 84).

The local authority

(1) may grant licences (sub-s. 1) for *not longer than a year at a time*, at a cost of 1/- each, to carry on the calling of

(*a*) luggage porter,
(*b*) light porter,
(*c*) public messenger, or
(*d*) commissionaire.

(2) May make bye-laws in regard to those carrying on these occupations and *fix their charges* (sub-s. 2).

(3) May suspend, revoke or endorse the licence for breach of bye-law (sub-s. 3), or in the public interest.

(But the licence must contain a clause warning the porter of the existence of this power.)

(4) May prescribe conditions as to licensed porters wearing badges (sub-s. 4).

All licences must terminate on the 31st March (sub-s. 4).

Unlicensed porters pretending to be licensed or wearing a badge with that object incur a *penalty* of *20/-* (sub-s. 5). (See p. 196.)

II. Servants' Registries (s. 85).

These provisions relate only to *female domestic servants' registries, kept for private gain*. They are intended mainly to prevent a number of serious moral and other evils that have cropped up in this business (sub-s. 1).

(*a*) *Registry keepers must register* themselves, their abodes, and their premises with the local authority (sub-s. 1).

(*b*) As a *punishment* for contravention of this section or bye-laws made under it, the regis-

Servants' Registries. Marine Dealers.

tration may be suspended or cancelled (sub-s. 5) by the court.

(*c*) The local authority may make *bye-laws* . . . . for the *prevention of fraud or immorality* in the business and for regulating the premises used in it (sub-s. 2).

In addition to registering himself (or herself) and observing the bye-laws,

a *registry keeper must in particular*

(1) keep such books as the local authority prescribe (sub-s. 2);

(2) keep a copy of the bye-laws hung up conspicuously in the registered premises (sub-s. 3);

(3) admit any inspector or officer of the local body exhibiting his authority (sub-s. 4).

Maximum Penalty (for acting without licence or violating the Act or bye-laws) £5, and *Max. Daily Penalty* of 40/- (sub-s. 5).

The local authority must give public notice of the provisions of the section by advertisements, handbills, &c., as provided (sub-s. 6).

III. Marine Dealers (s. 86).

Such dealers are obliged

(1) to register themselves, their abodes and premises (sub-s. 1);

(2) to enter sales in books (sub-s. 2);

(3) to admit inspectors (sub-s. 4).

Having regard to our special Irish Act giving the control over such dealers to the magistrates, it would seem unlikely that s. 86 will be applied in this country.

IV. Proprietors of Bathing Machines, &c.

V. Boatmen.

The provisions dealing with IV. and V., which seem naturally to belong here, are introduced instead in Part X. (Miscellaneous), and will be dealt with there. (See pp. 63, 65.)

PART VIII.
FIRE BRIGADE.

Fire Brigade.

The sections of the English Public Health Act giving power to establish a fire brigade were not included in our Irish Act. Why houses on fire were regarded by the then legislature as not injurious to Irish health it is now perhaps not possible to discover. But towns have received power to establish a fire brigade under the Towns Improvement Act, 1854. Hence the present provisions, which extend the powers of a fire brigade can be made applicable in our country.

Breaking into Premises.—The power first given (s. 87), namely, to a police constable acting under the orders of his superior, or any member of the brigade, or any officer of the local authority, to enter or break into a house on fire, or any adjoining premises, is an essential one for a fire brigade, and has presumably been hitherto assumed even though it did not exist. The value of the section when adopted is that it will protect members of the fire brigade and also the local authority itself from actions by people whose premises have been broken into. But the power is not confined merely to breaking in. Members of the fire brigade, etc., are also empowered to do everything they deem necessary for extinguishing the fire or protecting the building or rescuing persons or property. This clearly gives a very wide discretion to the fire brigade, enabling them to pull down walls, damage property by water, etc., acts eminently necessary, but likely to be keenly resented. But their conduct will be controlled by the chief of the brigade, as enacted by s. 89. This part of the section also in effect merely throws a legal protection over acts which must in any case have been done for the public benefit.

Regulation of Traffic at Fires.—A very necessary power is that of s. 88, which, where such power does not already exist, enables the officer in charge of police to regulate the street traffic at a fire, and imposes a

Fire Brigade.

penalty of £5 on anyone disobeying his orders. It is left to the officer's own discretion as to whether he shall stop the traffic or not. In this and other sections, which of course apply both to England and this country, the fact that the police are largely under the control of the local authority in England must not be left out of sight.

Control of Operations.—Even fire brigades have their jealousies and fire chiefs their precedence, and s. 89 is intended to prevent them from becoming a serious menace to the public at the critical moment. "*Ubi regio ibi*—the authority of the fire captain," is the motto of the section. Each fire chief is to be supreme in his own district, and all other fire brigades coming in must bow to his sway, and if the captain be absent, the other local officer in charge of the local brigade enjoys a similar pre-eminence. Whichever of them it is, he is to have "sole charge and control of all operations for the putting out of such fire . . . . including the fixing of the positions of fire-engines and apparatus, the attaching of hose to any water-pipes or water supply, and the selection of the parts of the building on fire or of adjoining buildings against which the water is to be directed." All this may lead to heart-burning. Suppose the case, a common one enough, of a large fire in a township, to which a city fire brigade goes out, the chief of the city fire brigade must place himself under the control of the smaller township potentate, whose competency may not always be of the highest.

Fire Appliances in Common.—S. 90 permits co-operation between local authorities in providing fire-engines, etc. A joint fire brigade can thus be established, a provision which might prove extremely useful in some cases and prevent money being frittered away on small and bad local fire brigades in adjoining localities. We may compare the provision of our Local Government Act, 1898, that permits local authorities to execute works in common.

PART IX.

SKY-SIGNS.

Definition of Sky-sign.

The provision as to sky-signs, s. 91, has been adopted from some of the London local Acts. It has more to do with æsthetics than sanitation. It may be remarked *in limine* that, like the provisions relating to police and fire brigades, the Chief Secretary and not the Local Government Board is the power to apply it. Its object is to do away with advertisements sustained over houses by supports, which it styles sky-signs. The definition of sky-sign in the Act is as follows:—"Any word, letter, model, sign, device, or representation in the nature of an advertisement, announcement or direction, supported on or attached to any post, pole, standard, framework or other support wholly or in part upon, over or above any house, building or structure, which or any part of which sky-sign shall be visible against the sky from some point in any street or public way." The reader may find some difficulty in taking all this in. And the definition is extended to cover *any part* of such post, etc. Advertisement balloons, parachutes, etc., erected above houses, are likewise brought under the definition of sky-sign. But flag-staffs, poles, vanes, and weather-cocks—the qualification is an important one—not used for advertisement, are expressly excepted, as is also a board, sign, frame, &c., of continuous face (not open-work) not more than 3 feet in height, securely fixed to or upon the top of the wall, ridge of the roof, etc., of a building. In this matter as in others railway and canal companies are specially favoured, and advertisements upon their premises relating to their business do not fall within the provisions of the section. But to come within the exception they must be so placed that they cannot fall into any street or public place. It will be seen from the notes to the section that there has been a slight conflict of decision as to what exactly amounts to a sky-sign. The proprietors of Madame

Sky-signs.

Tussaud's were permitted to add a new eye-sore to London by a trellis work advertisement, whilst on the other hand, where a merchant had a wind-mill erected over his premises which in addition to catching the breezes and working his machinery thereby was also intended to attract custom by having the merchant's name inscribed upon it in open work, the court refused to yield to this evasion of the law, and anathematised it as a sky-sign. No doubt sky-signs are not among the most urgent of Irish evils. In most parts of Ireland one can see sky enough, and to spare, and in many places a sky-sign might be rather welcome as diversifying the landscape, but in a few of our large cities the adoption of this part of the Act may be thought desirable.

Sky-signs are dealt with in two ways. (See p. 205.)

I. Future Sky-signs.

No sky-sign is permitted to be erected for the future under any circumstances.

II. Existing Sky-signs.

(*a*) *After three years* they must all be taken down.

(*b*) *For three years after the adoption of the section* they may be retained for such period and upon such conditions as the local body permits, upon obtaining a licence from the local body aforesaid. The parting between the shop-keeper and his sky-sign is thus made easier.

But even in this case the licence is to become void before the three years in certain events, which are, roughly speaking, if any alteration is made in the sky-sign or if it falls down, or has to be taken down, or if the building over which it is erected becomes unoccupied or is demolished. Any person disobeying the provisions of the Act is liable to a fine of £5 and of £1 a day for each day he continues the offence after conviction. Further, the local authority can obtain an order enabling it to remove the offending sky-sign and bill the proprietor with the cost of doing so.

PART X.

MISCELLANEOUS.

Bathing.

Part VII. had dealt with public conduct by the sea-side, enabling the local authority to control behaviour, whether upon the parade or on the more primitive beach; and, with the consent of the Board of Trade, the majesty of the local law was even enabled to extend below high-water mark. But Part X. enables the all-powerful urban or rural council to continue its watchful protection, even over those who entrust themselves to the water, whether they confine their efforts to swimming or embark on a longer excursion in a pleasure boat, let for hire. The last section is an exception, being taken up with powers for acquiring land.

The Part may be divided into—

I. BATHING.
II. LIFE-SAVING.
III. PLEASURE BOATS.
IV. PURCHASE OF LAND.

I. BATHING (s. 92). (See p. 211.)

BYE-LAWS.—The local authority may *make bye-laws* with regard to (s. 92 (*a*))—

(*a*) Public bathing from machines;
(*b*) Other public bathing

FOR the following PURPOSES:—

(1) Fixing the stands of bathing machines and the limits of bathing for each sex;
(2) Preventing indecent exposure (which may, indeed, also be an indictable offence at common law);
(3) Regulating the use of, and charges for, bathing machines;

Bathing. Life-saving.

(4) Regulating the hours of bathing;

(5) Compelling persons providing accommodation for public bathing to secure the safety of the bathers by life-saving apparatus, &c.;

(6) Regulating the distance to be kept by pleasure boats from bathers.

The local authority can thus, it would appear, enforce the provision of life-saving apparatus, &c., on the part of persons—a local committee, for instance—providing accommodation for bathing gratuitously.

A reasonable PENALTY not exceeding £5 and a DAILY PENALTY of 40s. may be inflicted for breach of such bye-laws (see Public Health Act, s. 220; *Vanston*, p. 232). See note to section 92, *post*, as to how far such bye-laws can affect private property.

But, in addition to controlling the conduct of others, the legislature has adopted the socialist principle of enabling the local authority to step in and secure the proper carrying out of the work by doing it itself.

PROVISION BY LOCAL AUTHORITY.—The local authority may—

(*a*) *provide* on the seashore or riverside "*bathing sheds* or other *conveniences*, with all necessary *appliances*";

(*b*) "may *charge for the use* thereof."

LIFE-SAVING (s. 93).

The provision next to be mentioned is the natural sequel of those last referred to. We have already seen that those who provide bathing accommodation may be compelled to provide life-saving apparatus. The local authority may also provide life-saving appliances itself (s. 93), but not in bathing-places only, but *at any place in their district where they think that those appliances are likely to be of use.* This is a most salutary and humane provision.

PLEASURE BOATS (s. 94).

Pleasure Boats. Boatmen.

The number of distressing accidents taking place from the use of pleasure boats on lake and sea makes their control a matter of importance, more especially as such calamities may often seriously injure the prosperity of a watering-place. The Towns Improvement Act, 1854, already gave urban authorities a power to licence pleasure boats, and this power was extended to rural authorities by s. 35 of the Local Government Act, 1898. The provisions of s. 94 of the present Act deal with the same matter.

The local authority may LICENSE—

(*a*) BOATS (*i.e.*, pleasure boats and pleasure vessels to be let *for hire*, or used for carrying passengers *for hire* (s. 94 (1), not duly licensed by the Board of Trade regulations) (s. 94 (4))—

(1) for such *period* and subject to such *conditions* (s. 94 (1)) as *they think fit* (s. 94 (1));

(2) *subject to suspension* or revocation (s. 94 (2));

(3) at an *annual fee* not exceeding 5s. (s. 94 (1));

(4) for such *number of persons* as shall be specified (s. 94 (5)).

(*b*) BOATMEN ("or persons assisting in the charge and navigation of such boats and vessels") (s. 94 (1))—

(1) for such *period* and subject to such *conditions* (s. 94 (1)) as *they think fit* (s. 94 (2));

(2) *subject to suspension* or revocation;

(3) at an *annual fee* not exceeding 1s.

GENERAL PROVISIONS:—

(1) It must be stated *in the license that* it is liable to suspension or revocation (s. 94 (2)).

Acquiring Lands. Surplus Lands.

(2) No person shall hire out or carry passengers in an *unlicensed boat* (s. 94 (3)).

(3) Passengers shall not be carried in excess of the number in the licence, and that number and the proprietor's name shall be *painted on the boat* (s. 94 (5)) in the manner prescribed in the Act. "English" lettering must apparently be used, if the authority adopt the section. (See note.)

PENALTY.—Each offence, 40s.

A person on the refusal, suspension or revocation of a license, may APPEAL to a court of summary jurisdiction constituted in accordance with Public Health Act, s. 249, in accordance with s. 94 (7).

PURCHASE OF LANDS (s. 95).

(*a*) *Highways.*—Sections 202 and 203 of the Public Health Act give the local authority power to acquire land compulsorily (*in accordance with the provisions of the Lands Clauses Acts as amended by second schedule of the Housing of the Working Classes Act*, 1890 (see Public Health (Ireland) Act, 1896, c. 8)), for the purposes of that Act. Under the present section the same process of compulsory acquisition is applied in regard to land required for "highway purposes." [But some difficulty may arise on the section as the amendment (as regards Ireland) of s. 202 of the Public Health Act by s. 8 of the Public Health (Ireland) Act, 1896, substituting the Housing of the Working Classes Act provisions for those of the Lands Clauses Act is not referred to in the present Act]. (See p. 265.)

(*b*) *Surplus Lands.*—The Public Health Act (s. 202) provided that, if the lands were not required for the purpose for which they had been acquired, they should be sold for the highest price they would fetch, unless the Local Government Board otherwise directed. The present section (s. 95) relaxes that provision by enabling

Surplus Lands. Disputes.

ch lands to be used (even though there be a general ovision to the contrary in a local Act) for any purpose pproved of by the Local Government Board, subject to e following *exceptions*:—

(1) Covenants or conditions attached to *the use of the lands*, at the time of their purchase by the local authority, must still be observed;

(2) As also special provisions affecting the use of the lands in local Acts;

(3) No nuisance must be created or permitted on the lands;

(4) If they are to be used for (*a*) a well for the public supply of water, (*b*) a cemetery or burial ground, (*c*) a destructor, (*d*) an electric generating station, (*e*) a sewage farm, or (*f*) an hospital for infectious diseases, this can only be done by the authorisation of the Local Government Board AFTER A LOCAL INQUIRY.

The section is a substantial convenience to local odies, as saving them the trouble and expense of equiring land anew for each separate object, when rplus land already in their hands, which has been equired in connection with some other scheme, would) for the purpose.

The section also contains a saving clause as to rights equired under a judgment or written agreement before ae coming into operation of the section, and referring ae settlement of disputes under such an agreement, to hich a local authority is a party, to the Local Govern- eent Board.

PUBLIC HEALTH ACTS AMENDMENT ACT, 1907.

[7 Edw. 7. Ch. 53.]

ARRANGEMENT OF SECTIONS.

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tion.
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SCHEDULE.

CHAPTER 53.

An Act to amend the Public Health (*Ireland*) Acts, *1878 to 1900*.

[28th August, 1907.]

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

[NOTE.—*As to the meaning of italicised portions, see* p. 94. ss. 1, 2.

PART I.

GENERAL.

Division of Act into Parts.

1. This Act is divided into Parts as follows:—

Part I.—General.
II.—Streets and buildings.
III.—Sanitary provisions.
IV.—Infectious diseases
V.—Common lodging-houses.
VI.—Recreation grounds.
VII.—Police.
VIII.—Fire brigade.
IX.—Sky Signs.
X.—Miscellaneous.

Short title, construction, and extent of Act.

2.—(1) This Act shall be construed as one with the Public Health (*Ireland*) Acts, *1878 to 1900*.

(2) Part I. of this Act shall extend to England and Wales and Ireland exclusive of the administrative County of London, and all or any of the remaining Parts or all or any of the sections thereof shall extend to any district to which all or any of those Parts or sections are applied by an Order of the Local Government Board *for Ireland* or of the *Chief Secretary*,* as the case may be.

ss. 2, 3.

(3) This Act may be cited as the Public Health Acts Amendment Act, 1907, and this Act and the Public Health (*Ireland*) Acts, *1878 to 1900*, may together be cited as the Public Health (*Ireland*) Acts, 1878 to 1907.

(4) Any bye-laws made under any enactment for which any provisions of this Act are substituted shall remain in force as if the bye-laws had been made under the corresponding provisions of this Act.

(5) This Act shall come into operation on the first day of January one thousand nine hundred and eight.

Public Health (Ireland) Acts, 1878 to 1900.—By s. 34 of the Public Health (Ireland) Act, 1896, "the expression 'The Public Health (Ireland) Acts, 1878 to 1890, means the Public Health (Ireland) Act, 1878, the Public Health (Ireland) Amendment Act, 1879, the Public Health (Ireland) Amendment Act, 1884, the Public Health Act, 1889, and the Public Health Acts Amendment Act, 1890' ;" and by s. 35 of the same statute the Public Health (Ireland) Acts, 1878 to 1890, and the Public Health (Ireland) Act, 1896, "may be cited collectively as the Public Health (Ireland) Acts, 1878 to 1896." And, further, s. 2 of the Public Health (Ireland) Act, 1900, provides that the Public Health (Ireland) Act, 1900, may be cited with the Public Health (Ireland) Acts, 1878 to 1896. *The Public Health (Ireland) Acts, 1878 to 1900*, will, therefore, include all the statutes above referred to, *i.e.*, the Acts of 1878, 1879, 1884, 1889, 1890, 1896 and 1900.

Applications of Parts or section of Act.

3.—(1) The Local Government Board *for Ireland* may, on the application of a local authority, by Order

to be published in such manner as the Local Government Board *for Ireland* direct, declare any Part or any section of this Act to be in force in the district of the local authority, or, where the local authority are a rural district council, in any contributory place within the district of the local authority, and may declare any enactments in any local Act which appear to the Local Government Board *for Ireland* to contain provisions similar to or inconsistent with any such Part or section to be no longer in force in that district or contributory place. s. 3.

(2) The local authority shall, two weeks at least before applying for an Order, give notice of their intention to make such application by advertising the same once at least in one or more of the newspapers circulating in their district in each of two successive weeks, and no order shall be made under this section until proof of such advertisement has been given to the satisfaction of the Local Government Board *for Ireland*, and until at least one month has elapsed after the date of such advertisement.

(3) Any such Order may specify conditions subject to which any Part or any section of this Act shall be in force in the district or contributory place, and where, in the opinion of the Local Government Board *for Ireland*, the circumstances so require, any such Order may, in relation to that district or contributory place, declare

ss. 3, 4.

any Part or any section of this Act to be in force subject to such necessary adaptations as are specified in the Order.

A statement of the effect of each Order specifying conditions or adaptations as aforesaid shall be published in the *Dublin Gazette* as well as in any other manner directed by the Local Government Board *for Ireland*.

(4) In regard to Part VII. (Police), Part VIII. (Fire Brigade), and Part IX. (Sky Signs) of this Act, the *Chief Secretary* shall be deemed to be substituted in this section for the Local Government Board *for Ireland*.

Local Authority, *i.e.*, "an urban sanitary authority, an urban district council, or a rural district council," s. 13 *post*.

District of the Local Authority "means an urban sanitary district, an urban district, or a rural district," s. 13 *post*.

Contributory Place.—Public Health Act, s. 232 (*Vanston*, p. 242), provides that "the following areas situated in a rural sanitary district shall be contributory places for the purposes of this Act; that is to say—(1) the dispensary district, (2) the electoral division, (3) the townland, (4) such portions of any townland or townlands as may be determined by the Local Government Board," and the definition would appear to be incorporated in the present Act by s. 13, *post*, *ad fin.*, and see p. 220 *post*.

Expenses of local authority.

4. All expenses incurred or payable by a local authority in the execution of this Act and not otherwise provided for may be charged and defrayed in the case of an urban sanitary authority or urban district

ouncil, as the case may be, as part of the expenses incurred by them in the execution of the Public Health (*Ireland*) Acts, *1878 to 1900*, and in the case of a rural district council shall, subject to any power of the Local Government Board *for Ireland* under any Act to order the contrary, be charged and defrayed as a part of their general expenses under the Public Health (*Ireland*) Acts, *1878 to 1900*.

This section is almost identical with Public Health Acts Amendment Act, 1890, s. 4.—See *Vanston*, p. 327.

URBAN SANITARY AUTHORITY OR URBAN DISTRICT COUNCIL.—See note to s. 13, *post;* as to their expenses, see Public Health Act, ss. 226-228; *Vanston*, pp. 235-238.

RURAL DISTRICT COUNCIL.—See note to s. 13, *post;* as to their expenses, see Public Health Act, ss. 232, 233; *Vanston*, pp. 241-243.

SUBJECT TO ANY POWER, &C.—See Public Health Acts Amendment Act, 1890, s. 49, *Vanston*, p. 356; Public Health Act, ss. 232-233, *Vanston*, pp. 241-243.

Enquiries by Local Government Board.

5.—(1) The Local Government Board *for Ireland* may direct any enquiries to be held by their inspectors which they may deem necessary in regard to the exercise of any powers conferred upon them under this Act, and the inspectors of the Local Government Board *for Ireland* shall for purposes of any such enquiry have all such powers as they have for the purposes of enquiries directed by that Board under the Public Health (*Ireland*) Act, 1878.

ss. 5, 6.

(2) The local authority shall pay to the Local Government Board *for Ireland* any expenses incurred by that Board in relation to any enquiries referred to in this section, including the expenses of any witnesses summoned by the inspector holding the enquiry, and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

(3) The *Chief Secretary* may order that a local inquiry be held in regard to the exercise of any powers conferred on him under this Act. The person holding any such inquiry shall receive such remuneration as the *Chief Secretary* may determine, and that remuneration and the expenses of the local inquiry shall be paid by the local authority.

It is provided by Public Health Act, s. 213, *Vanston*, p. 220, that—"Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have, in relation to witnesses and their examination, the production of papers and accounts and the inspection of places and matters required to be inspected, similar powers to those conferred upon Poor Law inspectors by the Poor Law Acts"; and see 10 & 11 Vic., c. 90, ss. 19, 20.

Legal Proceedings, &c.

6. Offences under this Act or under any bye-law made under the powers of this Act or under the powers of the Public Health (*Ireland*) Act, 1878, or any enactment amending or extending that Act, may be prosecuted, and penalties, forfeitures, costs, and expenses

recovered, in like manner and subject to the same provisions as offences which may be prosecuted, and penalties, forfeitures, costs, and expenses which may be recovered, in a summary manner under the Public Health (*Ireland*) Acts, *1878 to 1900*.

This section is closely similar to Public Health Acts Amendment Act, 1890, s. 6.—See *Vanston*, p. 328.

Under the Public Health (*Ireland*) Acts.—See Public Health Act, s. 249 *et seq.*; *Vanston*, p. 255 *et seq.* See also p. 264 *post*.

Public Health Act, s. 249, is as follows:—"All offences under this Act, and all penalties, forfeitures, costs, and expenses under this Act, directed to be recovered in a summary manner, or the recovery of which is not otherwise provided for, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction. The court of summary jurisdiction, when hearing and determining an information or complaint under this Act, shall be constituted of two or more Justices of the Peace in petty sessions, sitting at a place appointed for holding petty sessions, or of some magistrate or officer for the time being empowered by law to do alone any act authorised to be done by more than one Justice of the Peace, sitting at some court or other place appointed for the administration of Justice." For the meaning of Summary Jurisdiction Acts, see note to s. 7 below.

Public Health Act, s. 260, gives an option to proceed in the county court for demands under £50. (See p. 262.)

Appeals to Quarter Sessions, &c.

7.—(1) Except where this Act otherwise expressly provides any person aggrieved—

(*a*) By any order, judgment, determination, or requirement of a local authority under this Act;

s. 7.

(*b*) By the withholding of any order, certificate, licence, consent, or approval, which may be made, granted, or given by a local authority under this Act;

(*c*) By any conviction or order of a court of summary jurisdiction under any provision of this Act;

may appeal, in manner provided by the Summary Jurisdiction Acts, to a court of quarter sessions.

(2) Where any person deems himself aggrieved by the decision of the local authority in any case in which the local authority, under this Act, are empowered to recover in a summary manner any expenses incurred by them, or to declare the expenses to be private improvement expenses, section *two hundred and sixty-eight* of the Public Health (*Ireland*) Act, 1878, shall apply as it applies to cases under that Act, and sub-section (1) of this section shall not apply in any such case, whether arising under the Public Health (*Ireland*) Act, 1878, or under this Act; but nothing in this sub-section shall extend to any case in which an appeal to a court of summary jurisdiction in relation to any requirement of a local authority, or to any such expenses, is expressly authorised by this Act.

Section 7 (1) is almost identical with Public Health Acts Amendment Act, 1890, s. 7 (1).—See *Vanston*, p. 328.

Persons Aggrieved.—See note to these words where they occur, in a different context, in Public Health Act, s. 251, at *Vanston*, p. 258.

s. 7, note.

COURT OF SUMMARY JURISDICTION.—"The expression . . . . means any Justice or Justices of the Peace, or other magistrate or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts, or any Acts therein referred to."—Public Health Act, s. 2, *Vanston*, p. 7. This definition is incorporated in the present Act by s. 13, *post*, *ad fin.*

SUMMARY JURISDICTION ACTS.—"The expression . . . means, as regards the police district of Dublin metropolis, the Acts regulating the powers and duties of Justices of the Peace for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and the Acts amending or affecting the same."—Public Health Act, s. 2, *Vanston*, p. 6. This definition is incorporated in the present Act by s. 13, *post*, *ad. fin.*

COURT OF QUARTER SESSIONS "means the court of general or quarter sessions of the peace having jurisdiction over the whole or any part of the district or place in which the matter requiring the cognizance of general or quarter sessions arises, and when used in reference to any suit or proceeding prosecuted or taken in any borough in which there shall be a recorder having jurisdiction to hear appeals from rates, or from any order, conviction or judgment of any court of summary jurisdiction, includes the court of such recorder."—Public Health Act, s. 2, *Vanston*, p. 6. This definition is incorporated in the present Act by s. 13, *post*, *ad fin.* As to appeals to quarter sessions, see 14 & 15 Vic., c. 93, s. 24; 27 & 28 Vic., c. 99, ss. 49, 50; and 40 & 41 Vic., c. 56, ss. 72, 75, 76; and, for the Dublin Metropolitan Police District, 34 & 35 Vic., c. 77, s. 12.

PUBLIC HEALTH ACT, s. 268, is as follows:—"Where any person deems himself aggrieved by the decision of the sanitary authority in any case in which the sanitary authority are empowered to recover in a summary manner any expenses incurred by them or to declare such expenses to be private improvement expenses, he may, within twenty-one days after notice of such

8, 9.

decision, address a memorial to the Local Government Board, stating the grounds of his complaint, and shall deliver a copy thereof to the sanitary authority; the Local Government Board may make such order in the matter as to the said Board may seem equitable, and the order so made shall be binding and conclusive on all parties; provided that, if such order should repeal in whole or in part the decision appealed against, the Local Government Board, before making such order, shall afford to the sanitary authority opportunity of giving such evidence as it may desire in support of its decision.

"Any proceedings that may have been commenced for the recovery of such expenses by the sanitary authority shall, on the delivery to them of such copy as aforesaid, be stayed; and the Local Government Board may, if it thinks fit, by its order, direct the sanitary authority to pay to the person so proceeded against such sum as the said Board may consider to be a just compensation for the loss, damage, or grievance thereby sustained by him."

The proviso at the end of the first paragraph is not in the corresponding English section.

A person so appealing cannot afterwards contend that the L.G.B. had no jurisdiction to hear the appeal, in proceedings to quash their order, R. (Thynne) *v.* L.G.B., 37, I.L.T.R., 89.

More than one sum in one summons.

8. Any information, complaint, warrant or summons made or issued for the purpose of this Act or of the Public Health (*Ireland*) Acts, *1878 to 1900*, may contain in the body thereof or in a schedule thereto several sums.

This section is almost identical with s. 8 of the Public Health Acts Amendment Act, 1890.—*Vanston*, p. 329.

Bye-laws.

9. All the provisions with respect to bye-laws contained in sections *two hundred and nineteen to two*

ss. 9, 10.

hundred and twenty-three of the Public Health (*Ireland*) Act, 1878, and any enactment amended or extended by those sections shall apply to all bye-laws from time to time made by a local authority under the provisions of this Act, provided that the *Chief Secretary* shall be the confirming authority for bye-laws made under Part VII. (Police) of this Act.

See *Vanston*, pp. 230-234, and cf. Public Health Acts Amendment Act, 1890, s. 9; *Vanston*, p. 329, and see p. 220 *post*.

Compensation, how determined.

10. Where any compensation, costs, damages or expenses is or are by this Act directed to be paid, and the method for determining the amount thereof is not otherwise provided for, such amount shall, in case of dispute, be ascertained in the manner provided by the Public Health (*Ireland*) Acts, *1878 to 1900*.

See Public Health Act, ss. 216-218; *Vanston*, pp. 223-229; cf. also Public Health Act, s. 274, and note thereto; *Vanston*, p. 289, and Public Health (*Ireland*) Act, 1896, s. 24; *Vanston*, Public Health Supplement, p. 93, and see p. 221 *post*. And as to costs, see *Mullingar R.D.C.* v. *Lord Greville*, 41, I.L.T.R., 144.

Section 216 is as follows:—"In case of dispute as to the amount of any compensation to be made under the provisions of this Act (except where the mode of determining the same is specially provided for), and in case of any matter which by this Act is authorised or directed to be settled by arbitration, then, unless both parties concur in the appointment of a single arbitrator, each party shall appoint an arbitrator to whom the matter shall be referred."

Powers of Act Cumulative.

ss. 10, 11, 12.

11. All powers given to a local authority under this Act shall be deemed to be in addition to and not in derogation of any other powers conferred upon such local authority by any Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not been passed.

Nothing in this Act shall exempt any person from any penalty to which he would have been liable if this Act had not been passed, but no person shall be liable, except in the case of a daily penalty, to more than one penalty in respect of the same offence.

This section is almost identical with Public Health Act, s. 293, *Vanston*, p. 302, and Public Health Acts Amendment Act, 1890, s. 10, *Vanston*, p. 329. See *Burton* v. *Corporation of Salford*, 11 Q.B.D. 286, *Lea* v. *Facey*, 17 Q.B.D. 139, and other cases cited at *Vanston*, p. 303.

Daily Penalty.— See s. 13. *post*.

Crown Rights.

12. Nothing in this Act affects prejudicially any estate, right, power, privilege, or exemption of the Crown, and in particular nothing herein contained authorises any local authority to take, use, or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay, or estuary, or any land, hereditaments, subjects, or right of whatsoever description belonging to His Majesty in

ght of His Crown, and under the management of the ss. 12, 13.
ommissioners of Woods or of the Board of Trade espectively, without the consent in writing of the ommissioners of Woods or the Board of Trade, as the ase may be, on behalf of His Majesty first had and btained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised o give).

Cf. s. 32 of the Public Health (Ireland) Act, 1896, nd see p. 221 *post*.

Interpretation.

13. In this Act, if not inconsistent with the context—

The expression "local authority" means an urban sanitary authority, an urban district council or a rural district council:

The expression "district of the local authority" means an urban sanitary district, an urban district, or a rural district:

The expression "daily penalty" means a penalty for each day on which an offence is continued after conviction therefor:

The expressions "lands," "premises," "owner," "street," "house," "drain," and "sewer" have respectively the same meaning as in the Public Health (*Ireland*) Acts, *1878 to 1900*:

The expressions "clerk," "medical officer," "surveyor," and "inspector of nuisances" mean the

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clerk, medical officer of health, surveyor, and inspector of nuisances respectively of the district of the local authority:

The expression "dairy" includes any farm, farmhouse, cowshed, milk store, milk shop, or other place from which milk is supplied or in which milk is kept for the purposes of sale within (unless otherwise expressed) the district of the local authority:

The expression "dairyman" includes any cowkeeper, purveyor of milk, or occupier of a dairy within (unless otherwise expressed) the district of the local authority:

The expression "infectious disease" means any infectious disease to which the Infectious Disease (Notification) Act, 1889, for the time being applies within the district of the local authority:

The expressions "the commencement of this Part" and "the commencement of this section" used in relation to any Part or section of this Act mean respectively the date at which, by an Order made by the Local Government Board *for Ireland*, or by the *Chief Secretary*, as the case may be, in pursuance of this Act, and subject to any conditions or adaptations specified in that Order, the Part or section is declared to be in force:

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Other expressions to which a special meaning is assigned by the Public Health (*Ireland*) Act, 1878, have respectively the same meaning in this Act as they have in that Act.

LOCAL AUTHORITY, DISTRICT OF THE LOCAL AUTHORITY.—It is provided by the Public Health Act, s. 3 (*Vanston*, p. 17), that "For the purposes of this Act eland shall be divided into sanitary districts to be lled respectively:—

"(1) Urban sanitary districts; and (2) Rural sanitary stricts; and every such urban and rural sanitary district shall respectively be subject to the jurisdiction of sanitary authority, in this Act called an urban sanitary authority or urban authority, and a rural sanitary thority or rural authority, invested with the powers this Act mentioned," and Public Health Act, ss. 4, 7, ovided what were to be urban sanitary districts, mely, the city of Dublin, corporate towns and other wns fulfilling certain conditions, and Public Health ct, s. 6 (*Vanston*, p. 19), provided that the area of ery poor law union, with the exception of those portons (if any) of the area which are included in urban nitary districts, *should* form a rural sanitary district r rural district), and that the guardians of the nion should, subject to the exceptions therein mened, be the rural sanitary authority or rural authoty of the districts. The Local Government Act, 1898, 22 (1) provides that "All urban sanitary authorities all be called urban district councils, and their dists shall be called urban districts, but nothing in this ction shall alter the style or title of the corporation council of a borough," and s. 22 (2) *ib.* provides at "For every rural sanitary district there shall be rural district council, whose district shall be called a ral district." And see Local Government Act, s. 68, which the powers of Public Health Act, s. 7, were eserved, and see L.G. Act, 1898, s. 42 (1).

s. 13, note.

LANDS, &c.—Public Health Act, s. 2, provides that:—

"'LANDS' and 'PREMISES' include messuages, buildings, lands, easements, and hereditaments of any tenure" . . . . .

"'OWNER' means the person for the time being receiving the rackrent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rackrent." (See also p. 222 *post*.)

"'RACKRENT' means rent which is not less than two-thirds of the full net annual value of the property, out of which the rent arises as ascertained under the Acts relating to the valuation of rateable property in Ireland."

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

"'HOUSE' includes schools, and also factories and other buildings in which persons are employed, whatever their number may be."

"'DRAIN' means any drain of and used for the drainage of one building only or of premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed." (See p. 228 *post*.)

"'SEWER' includes sewers and drains of every description, except drains to which the word 'drain' interpreted as aforesaid applies, and except drains vested in or under the control of any authority having the management of roads and not being a sanitary authority under this Act." (See p. 228 *post*.)

And see the very full notes upon these words at *Vanston*, p. 8, *et seq.*, and *Vanston*, Public Health

ppl., p. 3, *et. seq.*; and as to 'lands,' see also Public alth Act, ss. 202 and 203, *Vanston*, pp. 209, 211, ecially in regard to s. 95, *post*, and as to the difference ween "means" and "includes," the latter of which ds lets in popular meanings as well as those con- ied in the definition, see *Vanston*, p. 12, and *Robin-* v. *Barton, Local Board*, 8 App. Cas. 798. s. 13, note 14.

MEDICAL OFFICER.—Public Health Act, s. 11, pro- es that "Every medical officer of a dispensary dis- t shall be a sanitary officer for such district, or for h part thereof as he shall personally be in charge under the title of medical officer of health." See *nston*, pp. 24, 25. And see also s. 18 of the Public alth (Ireland) Act, 1896; *Vanston*, Public Health ppl., p. 90.

As to the other terms dealt with, see the notes under sections in which they occur.

Application of Act to Ireland.

4. In the application of this Act to Ireland the owing modifications shall have effect:—

(1) This Act may be cited with the Public Health (Ireland) Acts, 1878 to 1900, as the Public Health (Ireland) Acts, 1878 to 1907;

(2) A reference to a place of abode in England shall be construed to be a reference to a place of abode in Ireland;

(3) The Local Government Board for Ireland shall be substituted for the Local Government Board;

(4) The Chief Secretary shall be substituted for the Secretary of State;

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(5) The Department of Agriculture and Technical Instruction for Ireland shall be substituted for the Board of Agriculture and Fisheries;

(6) The Dublin Gazette shall be substituted for the London Gazette;

(7) A court of summary jurisdiction constituted in accordance with the provisions of section two hundred and forty-nine of the Public Health (Ireland) Act, 1878, shall be substituted for a petty sessional court;

(8) The Public Health (Ireland) Acts, 1878 to 1900, shall be substituted for the Public Health Acts; the Public Health (Ireland) Acts, 1878 to 1907, shall be substituted for the Public Health Acts, 1875 to 1907, and the Public Health (Ireland) Act, 1878, shall be substituted for the Public Health Act, 1875, and in particular references in this Act to the sections of the Public Health Act, 1875, mentioned in the first column of the schedule to this Act shall be construed as references to the corresponding sections of the Public Health (Ireland) Act, 1878, mentioned in the second column of that schedule;

(9) In subsection (2) of section seventy-four of this Act, the words "and the sanitary authority may" shall be substituted for the words "and the local authority may";

(10) The provision with respect to section twenty-eight of the Town Police Clauses Act, 1847, shall extend to section seventy-two of the Towns Improvement (Ireland) Act, 1854. s. 14. schedule.

(*We print the schedule here instead of at the end of the Act for convenience sake.*)

SCHEDULE.

REFERENCES TO THE PUBLIC HEALTH (IRELAND) ACT, 1878, TO BE SUBSTITUTED FOR REFERENCES TO THE PUBLIC HEALTH ACT, 1875.

ections of the Public Health Act, 1875.	Corresponding Sections of Public Health (Ireland) Act, 1878.
rrty-one	Fifty-one.
wenty-seven	Eighty-eight.
wenty-eight	Eighty-nine.
ghty-six	Ninety-seven.
ghty-eight	Ninety-nine.
e hundred and two	One hundred and eighteen.
e hundred and three	One hundred and nineteen.
e hundred and twelve	One hundred and twenty-eight.
e hundred and twenty-four	One hundred and forty-one.
e hundred and twenty-six	One hundred and forty-two.
e hundred and thirty-two	One hundred and fifty-six.
e hundred and fifty	Twenty-eight.
e hundred and fifty-seven	Forty-one.
e hundred and fifty-eight	Forty-two.
e hundred and seventy-five	Two hundred and two.
e hundred and seventy-six	Two hundred and three.
e hundred and eighty-two	Two hundred and nineteen.
e hundred and eighty-six	Two hundred and twenty-three.
o hundred and fifty-seven	Two hundred and fifty-five.
o hundred and sixty-eight	Two hundred and sixty-eight.
ree hundred and four	Two hundred and seventy-seven.

The changes directed to be made by this section in the application of the Act to this country have been made (in italics) in printing the several sections. Cf. Public Health Acts Amendment Act, 1890, s. 12; *Vanston*, p. 331. The comment of *Vanston* thereon may well be applied here also. Cf. also Infectious Disease (Notification) Act, 1889, s. 18; *Vanston*, p. 692.

PUBLIC HEALTH (IRELAND) ACTS.—See note to s. 2 *ante*.

S. 249 OF THE PUBLIC HEALTH (IRELAND) ACT cited in the note to s. 6 *ante*, and see *Vanston*, p. 255.

PART II.

STREETS AND BUILDINGS.

Deposit of plan to be of no effect after certain intervals.

s. 15.

15. The deposit of any plans or sections of any street or building, in pursuance of any bye-law in force in the district, may by notice in writing to the person by whom the plans or sections have been deposited be declared by the local authority to be of no effect if the work to which the plans or sections relate is not commenced—

As to plans and sections deposited before the commencement of this section, within three years from that date;

As to plans and sections deposited on or after the commencement of this section, within three years of the deposit of the plans and sections.

When the deposit of any plans and sections has been declared to be of no effect, a fresh deposit shall be necessary before the work to which they relate is commenced.

The local authority shall give notice of the provisions of this section to every person intending to lay out a new street or erect a new building in relation to which plans and sections have been deposited before the commencement of this section, but the laying out of which street or erection of which building shall not have been commenced, and shall attach a similar notice to the approval of every such intended work in relation

s. 15.

to which plans and sections have been deposited subsequent to the commencement of this section.

Public Health Act, s. 41, provides that "Every sanitary authority may make bye-laws with respect to the following matters (that is to say):—

(1). With respect to the level, width and construction of new streets, and the provisions for the sewerage thereof, and the preventing of the opening thereof for public use until such bye-laws have been complied with:

(2). With respect to the structure and description and quality of the substances used in the construction of new buildings for securing stability and the prevention of fires, and for purposes of health:

(3). With respect to the sites of houses, buildings and other erections. . . . .

(4). 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:

(5). With respect to the drainage of buildings, to water-closets, earth-closets, privies, ashpits, and cesspools in connection with buildings . . . . and they may further provide for the observance of such bye-laws by enacting therein such provisions as they think necessary . . . . AS TO THE DEPOSIT OF PLANS AND SECTIONS by persons intending to lay out streets or to construct buildings. . . . Provided that no bye-law made under this section shall affect any building erected before the passing of this Act" (*i.e., the* 8th *August,* 1878). (See *Vanston,* pp. 74-5). But as to the last provision, see s. 23 of the Public Health Acts Amendment Act, 1890. For full text of s. 41, see p. 244 *post.*

s. 15 note.

The section, it will be seen, applies both to urban and rural authorities. The power to make bye-laws is further extended as regards urban authorities [and now may be extended as regards rural authorities; see Public Health Act, 1896, s. 1, and Local Government Act, 1898, s. 33] by s. 23 of the Public Health Acts Amendment Act, 1890, to include "The paving of yards and open spaces in connection with dwelling-houses; and the provision in connection with the laying out of new streets of secondary means of access, where necessary, for the purpose of the removal of house refuse and other matters.

Any Bye-law in Force.—No. 6 of the Dublin Corporation Bye-laws, 1901, made under the Public Health Act, and the Public Health Acts Amendment Act, 1890, with respect to new streets and the sewerage thereof, provides that "Every person who intends to lay out a new street, shall give to the Corporation notice in writing of such intention, which notice shall be delivered to the Town Clerk at his office, City Hall, and shall, at the same time, deliver, or cause to be delivered to the Town Clerk at his office, a plan and section of such intended street, drawn to a scale of not less than one inch to every forty-four feet.

Such person shall show on every such plan the names of the owners of the lands through or over which such street is intended to pass; the intended level and width of the carriage and foot-ways, respectively; the intended direction shown by the points of the compass; the intended mode of construction; plan of sewers, and the position where the outfall is intended to discharge; the intended name of such street, and its intended position in relation to the streets nearest thereto; the size and number of the intended building lots; the intended sites, height, class and nature of the buildings to be erected thereon; the intended height of the division and fence walls thereon; and, the name and address of the person intending to lay out such street.

s. 15 note.

Such person shall sign such plan, or cause the same to be signed by his duly authorized agent.

Such person shall show on every such section the levels of the present surface of the ground above the ordnance datum; the intended level and rate or rates of inclination of the intended street, the level and inclinations of the streets with which it is intended that such street shall be connected; and the intended level of the lowest floors of the intended buildings.

And No. 7 of the same provides that "the Borough Surveyor, shall, within *one month* after the lodgment of the plans and notices as hereinbefore specified, issue a printed notice approving or disapproving of the plans submitted, and in the event of disapproval setting forth his reasons for such disapproval. No works to which these bye-laws relate shall be commenced after such notice of disapproval, or before the expiration of such month without such approval, by the person laying out a street or constructing any work of any description to which these bye-laws relate."

As to buildings, No. 94 of the Dublin Corporation Bye-laws, under the same Acts, and of the same date, with respect to new buildings, provides that "every person who intends to erect a building, shall give to the Corporation notice in writing of such intention, which shall be delivered to the Town Clerk at his office, City Hall, and shall at the same time deliver, or cause to be delivered to the Town Clerk, at his office, plans and sections of every floor of such intended building, which shall be drawn to a scale of not less than *one inch* to every *eight feet*, and shall show the position of the several parts of such building, and the position of every water-closet, earth-closet, ashpit, well, and all other appurtenances:

"Such person shall at the same time deliver, or cause to be delivered to the Town Clerk to the Corporation, at his office, City Hall, a description in writing of the materials of which it is intended that such building

shall be constructed, and of the intended mode of drainage and means of water supply. s. 15 note.

"Such person shall at the same time deliver or cause to be delivered to the Town Clerk, at his office, a block plan of such building, which shall be drawn to a scale of not less than *one inch* to every *forty-four feet*, and showing the position of the buildings and appurtenances of the properties immediately adjoining, with the line of frontage of the houses or buildings (if any) on both sides, the width and level of the street in front, and of the street, if any, at the rear of such building, the level of the lowest floor of such building, and of any yard or ground belonging thereto:

"And, such person shall likewise show on such plan the intended lines of drainage of such building; the intended size, depth, and inclination of each drain; and the details of the arrangement proposed to be adopted for the ventilation of the drains.

"All such plans, sections and block-plans shall be legibly drawn in ink, and shall be coloured in such manner as shall be necessary either for the purpose of distinguishing the several materials to be employed or of distinguishing existing work from the proposed new work.

"All such plans shall bear on them the name and address of the building owner, and shall also be signed by the architect, engineer, or other person responsible for their preparation."

And No. 95 contains a provision almost identical with No. 7 above as to the *City Architect* issuing a printed notice of approval or disapproval.

PLANS AND SECTIONS.—A person who sends in a plan of a new street may abandon his intention and deal with his property as if he had never done so.

Mayor of Sunderland v. *Skinner*, 53 J.P., p. 660.

COMMENCEMENT OF THIS SECTION. See s. 13 *ante*.

s. 15 note, 16, 17.

NEW STREET.—See *Vanston*, pp. 4, 76, and *Vanston*, Public Health Suppl., p. 30, and see especially s. 23 *ante*.

NEW BUILDINGS.—See *Vanston*, pp. 14, 79, 86 and s. 23 *post* and note thereto.

FRESH DEPOSIT.—This also becomes necessary if any substantial change is made in the plans, even if the change is a proper one. *James* v. *Masters* [1893], 1 Q.B. 355. And see cases cited in App. 7, p. 225 *post*.

As to Plans deposited with Local Authority.

16. The local authority may retain any drawings, plans, elevations, sections, specifications, and written particulars, descriptions or details, deposited with and approved by them in pursuance of any enactment for the time being in force in the district or of any bye-law thereunder.

A bye-law enabling an urban authority to retain such plans, even though they were disapproved of, was held good under the former law.

Gooding v. *Ealing Local Board*, 1 T.L.R. 62.

Power to vary position or direction and to fix beginning and end of new streets.

17.—(1) The local authority may, on the deposit of a plan and sections of a new street in pursuance of a bye-law in force in the district, by order vary the intended position, direction or termination, or level of the new street so far as is necessary for the purpose of securing more direct, easier, or more convenient means of communication with any other street or intended

street or for the purpose of securing an adequate opening at either end of the new street, or of securing compliance with any enactment or bye-law in force in the district for the regulation of streets and buildings.

The local authority may also by their order fix the points at which the new street shall be deemed to begin or end, and the limits of the new street as determined by the points so fixed shall have effect for the purposes of the Public Health (*Ireland*) Acts, 1878 to 1907, and of any bye-laws made under those Acts and in force within the district.

(2) The powers of the local authority under this section shall not be exercisable in any case in which it is shown, to their satisfaction, that compliance with their order will entail the purchase of additional lands by the owner of the lands on which the new street is intended to be laid out, or the execution of works elsewhere than on those lands.

(3) Where the local authority make an order under this section a person shall not lay out or construct the new street otherwise than in compliance with the order. If any person acts in contravention of this provision, he shall be liable to a penalty not exceeding five pounds, and to a daily penalty not exceeding forty shillings.

(4) The local authority shall pay compensation to any person injuriously affected by the exercise by the local authority of their powers under this section.

See note to s. 15 *ante*.

s. 17 note.

As to Dublin, cf. s. 36 of the Dublin Corporation Act, 1890 (*Vanston*, p. 792), of which some of the provisions are identical with this section.

BYE-LAW IN FORCE.—See note to s. 15 *ante*.

NEW STREET.—See note to s. 15 *ante*.

If a highway, which is, of course, a street in a technical sense within the meaning of the Public Health Act, s. 2, become a street in a popular sense, by the erection of buildings along it, this is a "new street." *Vestry of St. Giles, Camberwell*, v. *Crystal Palace Co.* [1892], 2 Q.B. 33; and see cases cited in App. 6. p. 223. *post*.

PURPOSES OF THE PUBLIC HEALTH (*Ireland*) ACTS, &c.—See Public Health Act, s. 41, Public Health Acts Amendment Act, 1890, s. 23; *Vanston*, pp. 74, 341.

OWNER.—For definition, see s. 13 *ante* and Public Health Act, s. 2; *Vanston*, pp. 4, 8; and see cases cited in App. 5, p. 222 *post*.

LANDS.—For definition, see s. 13 *ante* and Public Health Act, s. 2; *Vanston*, pp. 4, 8.

PENALTY.—See s. 6 *ante* and Public Health Act, ss. 249-252; *Vanston*, p. 255 *et seq.*, and as to appeal, see s. 7 *ante*.

DAILY PENALTY.—See s. 13 *ante*.

COMPENSATION.—See s. 10 *ante* and Public Health Act, ss. 216-218; *Vanston*, pp. 223-229; cf. also Public Health Act, s. 274 and note thereto in *Vanston*, p. 289. It was held under the English section corresponding to that section that the right to compensation could be tried out by *mandamus* before the amount of compensation has been assessed.—*Pearsall* v. *Brierly Hill Local Board*, 11 Q.B.D. 735, and *vice versa*. "If the damage complained of has been occasioned apparently by reason of the exercise of the powers of the Act, the arbitrator proceeds to assess the amount of compensation limited to such damage and leaving it open to the defendants, if they think fit, to contest their

liability to the amount awarded on any grounds that may be open to them."—*Per* Lord FitzGerald, *Brierly Hill Local Board* v. *Pearsall*, 9 App. Cas. 595; *Vanston*, p. 291. s. 17, note, 18.

Note that, unlike Public Health Act, s. 274, the present section contains no provision as to the party to be compensated not being in default.

Crossing for cattle, &c., over footways.

18. The provision and use of new means of access for any cattle, any beast of draught or burden, any waggon, cart, or other wheeled carriage exceeding four feet in width or two hundred-weight in weight, to or from any premises fronting, adjoining, or abutting on any street which has become a highway repairable by the inhabitants at large, may, where that provision involves passage across or interference with any such part of the street as comprises a kerbed or paved footway, be allowed by the local authority subject to the following conditions (that is to say):—

(*a*) Every person who intends to provide the new means of access shall give notice in writing of his intention to the local authority, and shall at the same time submit, for the approval of the local authority, a plan showing the position, gradient, and mode of construction of the intended means of access;

(*b*) When the plan, with or without amendment, has been approved by the local authority, the person may, upon receiving notice of their

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approval, proceed to execute the necessary works, but those works shall be executed under the supervision and to the reasonable satisfaction of the local authority, and in accordance with the plan as approved by the local authority;

(*c*) After the completion of the works the new means of access may be used, subject to the conditions which, in pursuance of any provisions of the law relating to highways, attach to the use for the like purpose of any carriage way forming part of a highway repairable by the inhabitants at large.

FRONTING, ADJOINING OR ABUTTING.—These words occur in Public Health Act, s. 28; *Vanston*, p. 45. See *Wakefield Local Board* v. *Lee*, 1 Ex. D. 336, and other nice decisions upon them cited at *Vanston*, p. 53; and see cases cited in App. 6, p. 223 *post*.

HIGHWAY REPAIRABLE BY THE INHABITANTS AT LARGE.—Where these words occur in Public Health Acts Amendment Act, 1890, s. 27, *Vanston* says (at p. 345)—"The expression . . . . . is one applicable in England, where it has a definite legal meaning. That is not the case in this country; accordingly in s. 28 of the Irish Public Health Act of 1878 (which is almost identical with s. 150 of the English Act of 1875, from which it was taken, and in which the same expression occurs), we find substituted for it the words '*in charge of the sanitary authority or of any grand jury or other public body.*' In the application of this section to Ireland, it would seem that the expression should be construed as being equivalent to the words substituted

or it in the section mentioned." Always bearing in mind the change in the control of roads since brought about by the Local Government Act, 1898, a similar canon of construction should presumably apply to the expression where it occurs in this and succeeding sections. s. 19.

As to urgent repairs to private streets.

19.—(1) Where repairs are required in the case of any street, not being a highway repairable by the inhabitants at large, to obviate or remove danger to any passenger or vehicle in the street, the local authority may give notice in writing to the owners of the lands and premises fronting, adjoining, or abutting on the street, and may require the owners to execute, within a time to be specified in the notice, such repairs as are described in the notice.

(2) If, within the time specified in the notice, the repairs described in the notice are not executed, the local authority may execute the repairs, and may recover summarily, as a civil debt, the cost of the repairs so executed from the owners in default, and the amount recoverable from each owner shall be in the proportion which the extent of his lands and premises fronting, adjoining, or abutting on the street, bears to the total extent of all lands and premises so fronting, adjoining, or abutting.

(3) Where the name or place of abode of an owner cannot be found by the local authority, a copy of the

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notice shall be sent by post to or left with the occupier of the lands and premises to which the notice relates, or, if there be no such occupier, shall be affixed upon some conspicuous part of the lands and premises.

(4) In every case in which, within the time specified in the notice, the majority in number or rateable value of owners of lands and premises in the street, by a notice in writing, require the local authority to proceed, in relation to the street, under section *twenty-eight* of the Public Health (*Ireland*) Act, 1878 [or, if the Private Street Works Act, 1892, is in force in the district, under that Act], the local authority shall so proceed; and where the local authority so proceed they shall, on the completion of the necessary works, forthwith declare the street to be a highway repairable by the inhabitants at large, and on and after the date of the declaration the street shall become a highway so repairable.

Cf. provisions of Public Health Act, c. 28; *Vanston*, p. 45.

HIGHWAY REPAIRABLE, &C.—See note to last sect.

FRONTING, ADJOINING, OR ABUTTING.—See note to last sect.

STREET.—By s. 13 *ante*, the definition in Public Health Act, s. 2, quoted in the note to s. 13, *ante*, is incorporated in the present Act. See *Vanston*, pp. 4, 11 and 49; and see cases cited in App. 6, p. 223, *post*.

MAY RECOVER.—See s. 6 *ante*, and Public Health Act; ss. 249, 250, 260; *Vanston*, pp. 255, 256, 267, and *see the very full note* at *Vanston*, p. 55, but note that

s. 19 note, 20.

no such discretion as to apportionment is given to the surveyor of the local authority under the present sect. as is given by Public Health Act, s. 28.

COSTS.—See s. 10 *ante*, and Public Health Act, s. 2216, *et seq.*; *Vanston*, p. 223, *et seq.*

OWNER.—The definition in Public Health Act, s. 2, quoted in the note to s. 13, *ante*, is incorporated by ss. 13, *ante*. See *Vanston*, pp. 4, 8.

PRIVATE STREET WORKS ACT does not apply to this country.

Recovery of damages caused to footways by excavations.

20. If the footway of any street repairable by the inhabitants at large be injured by or in consequence of any excavations or other works on lands adjoining thereto, the local authority may 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 local authority 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.

STREET REPAIRABLE, &c.—See note to s. 18.

DAMAGES, EXPENSES.—See ss. 6, 10 *ante*, and notes to s. 19 *ante*.

ss. 21, 22.

Power to alter names of streets.

21. The local authority may, with the consent of two-thirds in number and value of the ratepayers in any street, alter the name of such street or any part of such street. The local authority may cause the name of any street or of any part of any street to be painted or otherwise marked on a conspicuous part of any building or other erection.

Any person who shall wilfully and without the consent of the local authority, obliterate, deface, obscure, remove, or alter any such name, shall be liable to a penalty not exceeding forty shillings.

For cases under s. 64 of the Towns Improvement Clauses Act, 1847, see *Collins* v. *Hornsey U.C.* [1901], 2 K.B. 180; *Anderson* v. *Dublin Corporation*, 15 L.R.I. 410; and see 11 & 12 Vic., c. 163, s. 145; 57 & 58 Vic., c. 213, ss. 32-35.

PENALTY.—See s. 6 *ante*, and Public Health Act, s. 249, *et seq.*; *Vanston*, p. 255, *et seq.*

As to Dublin, cf. Dublin Corporation Act, 1890, s. 42; *Vanston*, p. 794, under which a *simple* majority of ratepapers is sufficient.

Buildings at corner of streets.

22. The local authority may require the corner of any building intended to be erected at the corner of two streets to be rounded off or splayed off to the height of the first storey or to the full height of the building, and to such extent otherwise as they may determine and for any loss which may be sustained through the exercise

f the powers by this section conferred upon the local s. 23.
uthority they shall pay compensation.

COMPENSATION.—See s. 10 *ante*, and Public Health Act, s. 216, *et seq.*; *Vanston*, p. 223, *et seq.*, and the last note to s. 19, *ante*.

What to be deemed new buildings.

23. For the purposes of this Act and the Public Health (*Ireland*) Acts, 1878 to 1900, and any bye-laws made thereunder, each of the following operations, namely:—

(*a*) The re-erection, wholly or partially, of any building of which an outer wall is pulled down or burnt down to or within ten feet of the surface of the ground adjoining the lowest storey of the building, and of any frame building so far pulled down or burnt down as to leave only the framework of the lowest storey;

(*b*) 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;

(*c*) The re-conversion into a dwelling-house of any building which has been discontinued as or appropriated for any purpose other than that of a dwelling-house;

(*d*) The making of any addition to an existing building by raising any part of the roof, by

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altering a wall, or making any projection from the building, but so far as regards the addition only; and

(*e*) The roofing or covering over of an open space between walls or buildings;

shall be deemed to be the erection of a new building.

This section is, so far as it applies to the Public Health Acts, an extension of the Public Health Act, s. 43 (*Vanston*, p. 86). But neither this section nor that section gives an exhaustive definition of "new building." What is a new building must always be a question of fact and of degree, except as to the operations mentioned in these two sections. *James* v. *Wyvill*, 51, L.T. (N.S.) 237; see *Vanston*, p. 86. It is important to note that the clause at the end of Public Health Act, s. 43, as to the rebuilding of a building taken down to half its cubic extent, being the erection of a new building (which is identical with the first part of s. 32 of the Dublin Corporation Act, 1890), is not contained in the corresponding English section, of which the present section is, in effect, an amendment. The result is that in this country the erection of a new building might apparently have a wider meaning for the purposes of the earlier Public Health Acts, than for the purposes of the present Act, since the last clause of Public Health Act, s. 43, above mentioned, applies to the earlier Public Health Acts, but not to the present Act. But see, as regards Dublin, s. 32 of the Dublin Corporation Act, above referred to. Sub-section (*b*) of the present section is identical with a portion of the Public Health Act, s. 43. As to Dublin, cf. with sub-s. (*d*) above, s. 31 of the Dublin Corporation Act, 1890; *Vanston*, p. 790.

Public Health (Ireland) Acts, 1878 to 1900.—See note to s. 14 (8) *ante*, and to s. 2 *ante*.

s. 23 note, 24.

BUILDING.—See note to Public Health Act, s. 2, *Vanston*, p. 14, and see *Dublin Corporation* v. *Irish Church Missions* [1901], 2 I.R. 387, *Stevens* v. *Gourley*, 7 C.B.N.S. 99, *Fielding* v. *Rhyl Improvement Commissioners*, 3 C.P.D. 272. "The question for our decision is this:—Is a structure of a temporary character designed and used as such obnoxious to the provisions of the Public Health Act, 1878 . . . . ? My answer to this question is, No—by reason of the temporary character of the construction. The Public Health Act deals with buildings of a permanent and not a temporary character, and sect. 41 especially strongly supports this view."—*Per Lord O'Brien, C.J.*, in the *Church Missions* case [1901], 2 I.R., p. 410.

Bye-laws as to height of chimneys, &c.

24. Section *forty-one* of the Public Health (*Ireland*) Act, 1878, shall be extended so as to empower the local authority to make bye-laws—

with respect to the height of chimneys of buildings, and with respect to the height of buildings; and

with respect to the structure of chimney shafts for the furnaces of steam engines, breweries, distilleries, or manufactories.

Section *forty-two* of the Public Health (*Ireland*) Act, 1878, shall also be in force in every district in which this section is in force.

The effect of this section is, it is submitted, merely to add the objects mentioned in it to the lists enumerated in Public Health Act, s. 41, and, therefore, to make the bye-laws relating to the objects mentioned in the present section subject to the last paragraph of Public Health Act, s. 41, which is as follows:—"And they may further provide for the observance

s. 24 note.

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 lay out streets, or to construct buildings, as to inspection by the sanitary authority, and as to the power of such authority (subject to the provisions of this Act) to remove, alter, or pull down any work begun or done in contravention of such bye-law PROVIDED THAT NO BYE-LAW MADE UNDER THIS SECTION SHALL AFFECT ANY BUILDING ERECTED BEFORE THE PASSING OF THIS ACT" (*i.e.*, 8th August, 1878), see *Vanston*, p. 75. As the words "new buildings" are not employed in the present section as in Public Health Act, s. 41 (2), there is apparently nothing on the face of the section to prevent bye-laws being made to affect chimneys, buildings, &c., erected between the years 1878 and 1908, cf. Public Health Acts Amendment Act, c. 23 (2), but it is submitted that it can never have been the intention of the legislature to permit permanent structures erected *before the present Act* to be interfered with. Regard must be had to the general scope of Public Health Act, s. 41.

BYE-LAWS.—See s. 9 *ante*, and Public Health Act, 219-223; *Vanston*, pp. 230-234, s. 23 (4) of the Public Health Acts Amendment Act, 1890, *Vanston*, p. 342, provides that "Every local authority may make bye-laws to prevent buildings which have been erected in accordance with bye-laws made under the Public Health Acts from being altered in such a way that if at first so constructed they would have contravened the bye-laws," and bye-laws made under the present section will, it is submitted, be governed by that provision in districts where that part of the Act of 1890 has been adopted.

HEIGHT OF BUILDINGS.—As to Dublin, see as to this the provisions of s. 38 of the Dublin Corporation Act, 1890; *Vanston*, p. 792.

S. 42 OF THE PUBLIC HEALTH ACT.—This (the Irish section) is already in force in all districts.

Yards to be paved, &c.

s. 25.

25. If any yard in connection with, and exclusively belonging to, a dwelling-house shall not be so formed, flagged, asphalted, or paved, or shall not be provided with such works on, above, or below the surface of the yard, as to allow of the effectual drainage of the subsoil or surface of the yard by safe and suitable means to a proper outfall, the local authority may, by notice in writing, require the owner of the dwelling-house, within twenty-one days after the service of the notice, to execute all such works as are necessary for the effectual drainage of the subsoil or surface of the yard to a proper outfall.

If, within the said period of twenty-one days, the owner has failed to complete the execution of the works specified in the notice, the local authority may execute the works, and may recover from the owner in a summary manner as a civil debt the expenses incurred by the local authority in the execution of the works.

Cf. The power given to urban authorities to make bye-laws for "the paving of yards and open spaces in connection with dwelling-houses" in Public Health Acts Amendment Act, 1890, s. 23 (1). *Vanston*, p. 342.

DWELLING-HOUSE, unlike "house," is not defined in this Act or in the Public Health Act. The definition that it "means any inhabited building, and includes any yard, garden, outhouses, and appurtenances belonging thereto, or usually enjoyed therewith, and includes the site of the dwelling-house as so defined," as given in s. 29 of the Housing of the Working Classes Act, 1890, (*Vanston*, p. 728) is, of course, not incorporated in the present Act.

s. 25 note, 26.

OWNER.—See Public Health Act, s. 2, a definition incorporated in the present Act by s. 13 *ante*, *Vanston*, pp. 4-8. The definition is quoted in the note to that section.

MAY EXECUTE as to whether this imposes a duty, cf. *Vanston*, p. 55, and *Acton Local Board* v. *Lewsey*, 11 App. Cas. 93.

RECOVER . . . . IN A SUMMARY MANNER.—See s. 6 *ante*, and Public Health Act, ss. 249, 250, 260, *Vanston*, pp. 255, 256, 267.

EXPENSES.—See s. 10 *ante*, and Public Health Act, s. 216 *et seq.*, *Vanston*, p. 223 *et seq.*

Entrances to courts, &c., not to be closed.

26. After the commencement of this section the entrances to any court shall not, except with the consent of the local authority, be closed or narrowed or otherwise altered or affected by any permanent structure so as to impede the free circulation of air, and the height of any such entrance shall not, except with that consent, be lowered. The consent of the local authority under this section may be given subject to compliance with such conditions as the local authority by their consent prescribe with respect to the formation or provision of any other sufficient opening or means of access, or with respect to the provision of other sufficient means of securing free circulation of air throughout the court.

Nothing in this section shall have effect in relation to any court which by reason of its situation, use, architectural features, or other characteristics is, either wholly or in part, necessary for or ancillary to the ornament or amenity of any lands or premises.

Any person offending against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings. s. 27.

The word "court" occurs in Public Health Acts Amendment Act, 1890, s. 27 (1); *Vanston*, p. 345.

PENALTY.—See s. 6 *ante*, and Public Health Act, ss. 249-252, *Vanston*, p. 255 *et seq.*; as to appeal see s. 7 (1) *ante*.

DAILY PENALTY.—See s. 13 *ante*.

As to temporary buildings.

27.—(1) Before any person erects or sets up a temporary building he shall apply to the local authority for permission so to do.

The application shall be accompanied by a plan and sections of the proposed building drawn to a scale of not less than one inch to every eight feet, and a block plan, drawn to a convenient scale, showing the intended situations and surroundings of the proposed building, together with a specification describing the materials proposed to be used in the construction of the building, and the purpose for which the building is intended.

(2) The local authority shall, within one month after the delivery of the plans and sections and specification, signify in writing their approval or disapproval of the building to the person proposing to erect or set up the building.

(3) The local authority may attach to their approval any condition which they deem proper with regard to the sanitary arrangements of the building, the ingress

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thereto and the egress therefrom, protection against fire, and the period during which the building shall be allowed to stand.

(4) If any such building is begun, erected, or set up without such application accompanied by such plan, sections, and specification as this section requires, or after the disapproval of the local authority or before the expiration of one month without their approval, or is in any respect not in conformity with any condition attached by the local authority to their approval, the person who began, erected, or set up the building, or, if any such building is not removed within the period allowed by the local authority, the owner of the building shall for every such offence be liable to a penalty not exceeding forty shillings, and to a daily penalty not exceeding the like amount; and the local authority may cause the building to be pulled down or removed, and any expense incurred by them in and about the pulling down or removal of the building may, at their discretion, be recovered summarily as a civil debt from the owner of the building or from the person erecting or setting up the building.

(5) Where any such building is pulled down or removed by the local authority under the powers of this section the local authority may sell the materials or any part of the materials and shall apply the proceeds of the sale in or towards payment of the costs and expenses incurred by them in relation to the pulling down or removal of the building, and shall pay the balance to the owner of the building.

(6) The following buildings shall be exempt from the operation of this section:— s. 27.

(*a*) Any building expressly exempt from the operation of the Public Health (*Ireland*) Acts, 1878 to 1900, or the bye-laws made under those Acts and in force for the time being within the district;

(*b*) Any building erected or set up for the purpose of protecting or of preventing the acquisition of rights to light;

(*c*) Any temporary building set up as part of the plant to be used in or about or in connection with the construction, alteration, or repair of any building or other work; but so far as regards only so much of this section as relates to plans, sections, and specifications.

This, in effect, extends the powers of the local authority under Public Health Act, s. 41 (*Vanston*, p. 75), which applied only to buildings having some element of permanence. See *Vanston*, pp. 14, 79, and *Stevens* v. *Gourley*, 7, C.B. (N.S.) 99. For the purpose of the present section, however, it is not necessary to make bye-laws. Cf. note to s. 15 *ante*, and cases cited in the note to s. 23 *ante*.

Temporary building.—For a number of decisions as to what is "a wooden structure or erection of a movable character" within 45 and 46 Vic., c. 14, s. 13, see *Vanston*, *P.H. Suppl.*, p. 15, and *Hall* v. *Smallpiece*, 44 J.P. 710, *L.C.C.* v. *Pearce* [1892], 2 Q.B. 109, and *L.C.C.* v. *Humphreys* [1894], 2 Q.B. 755.

Signify . . . their approval.—Sub-sec. 2 is almost identical with the first part of Public Health Act, s. 42,

s. 27 note.

Vanston, p. 84. Under that section it was held that unless the local authority disapproved within the month they could not afterwards object, *Masters* v. *Pontypool L.G.B.*, 9 Ch. D. 677. Their disapproval must apparently have some reference to the nature of the plans, &c. See cases cited at *Vanston*, p. 85, but in applying them note the difference between sub-sec. 1 of the present section, and Public Health Act, s. 41.

PERSON WHO BEGAN, ERECTED OR SET UP.—See *Brown* v. *Edmonton Local Board*, 45, J.P. 553; cited *Vanston*, p. 85.

PENALTY.—See s. 6 *ante*, and Public Health Act, ss. 249-252; *Vanston*, p. 255 *et seq.*; and as to appeal, see s. 7 (1) *ante*.

DAILY PENALTY.—See s. 13 *ante*.

CAUSE . . . TO BE PULLED DOWN.—Before exercising the similar power in Public Health Act, s. 42, it was held that the local authority must give the owner an opportunity of showing cause against it. See *Hopkins* v. *Smethwick*, *L.B.* 24, Q.B.D. 712, and other cases cited at *Vanston*, p. 85.

OWNER.—S. 13 *ante* incorporates the definition in Public Health Act, s. 2, cited in the note to s. 13 *ante*. See *Vanston*, pp. 4, 8.

EXPENSES.—See ss. 6, 10 *ante* and Public Health Act, ss. 249, 250, 260; *Vanston*, pp. 255, 256, 267.

BUILDING EXPRESSLY EXEMPT.—The last clause of s. 41 of the Public Health Act provides that the provisions of Public Health Act, ss. 39, 40 & 41, "shall not apply to buildings belonging to any railway company and used for the purpose of such railway under any Act of Parliament." It seems questionable whether a temporary dwelling-house erected by a railway company falls within the section. S. 33, *post*, contains an express exemption from the provisions of this part of the Act of railway buildings other than dwelling-houses.

s. 27 note, 28.

And by Public Health (Ireland) Act, 1896, s. 32; *Vanston Public Health Suppl.*, p. 94, "all buildings, offices and premises vested in or in the occupation of *Her Majesty the Queen*, either beneficially or as part of the hereditary revenues of the Crown, or in trust for the public service, or for public purposes, or in the occupation of any department of *Her Majesty's* Government, or used or employed for public purposes" are "exempted from . . . the provisions of the Public Health (Ireland) Acts, 1878 to 1890," and see s. 12 *ante*; and see cases cited in App. 4, p. 221 *post*.

Removal of materials in streets.

28. The local authority may remove, appropriate, use, and dispose of all old materials existing in any street at the time of the execution by the local authority of any works in such street unless the owners of buildings and lands in such street within forty-eight hours after notice so to do served on them by the surveyor remove such materials or their respective proportions thereof, and the local authority shall allow such sum as may be the reasonable value thereof to such owners for any materials which have been used or removed by the local authority, and in case of dispute the amount to be allowed shall be settled in the manner provided by the Public Health (*Ireland*) Act, 1878, with respect to compensation for damage sustained by reason of the exercise of any powers of that Act.

See Public Health Act, s. 28, *Vanston*, p. 48.

STREET.—By s. 13 *ante*, the definition in Public Health Act, s. 2, which is cited in the note to s. 13 *ante*, is incorporated in the present Act. See *Vanston*, pp. 4, 11 and 49.

s. 28 note 29.

OWNER.—By s. 13 *ante*, the definition in Public Health Act, s. 2, which is cited in the note to s. 13, is incorporated. See *Vanston*, pp. 4, 8.

MANNER PROVIDED BY PUBLIC HEALTH ACT.—Public Health Act, s. 274, provides that "where any person sustains any damage by reason of the exercise of any of the powers of this Act, in relation to any matter as to which he is not himself in default, full compensation shall be made to such person by the sanitary authority exercising such powers; and any dispute as to the fact of damage or amount of compensation shall be settled by arbitration in manner provided by this Act, or if the compensation claimed does not exceed the sum of twenty pounds, the same may, at the option of either party, be ascertained by and recovered before a court of summary jurisdiction." And Public Health Act, s. 216, provides that "In case of dispute as to the amount of any compensation to be made under the provisions of this Act, except where the mode of determining the same is specially provided for, and in case of any matter which, by this Act, is authorised or directed to be settled by arbitration, then unless both parties concur in the appointment of a single arbitrator, each party shall appoint an arbitrator to whom the matter shall be referred."

And see also Public Health Act, ss. 217, 218, *Vanston*, p. 223 *et. seq.*

Deposit of building materials or excavations not to be made without consent.

29. It shall not be lawful for any person without the consent of the local authority in writing first obtained to lay any building materials, rubbish, or other thing, or make any excavation on or in any street repairable

s. 29.

y the inhabitants at large, and when with such con-
ent any person lays any building materials, rubbish,
r other thing, or makes any excavation on or in any
reet, he shall, at his own expense, cause the same to
e sufficiently fenced and a sufficient light to be fixed
n a proper place on or near the same and to be con-
inued every night from sunset to sunrise, and shall
emove such materials, rubbish, or thing or fill up such
xcavation (as the case may be) when required by the
ocal authority; and, if any person fails to comply in
ny respect with the requirements of this enactment,
e shall be liable to a penalty not exceeding five pounds
nd to a daily penalty not exceeding forty shillings,
nd the local authority may remove any such materials,
ubbish, or thing, or fill up such excavation (as the case
nay be), and recover the expenses from the offender
ummarily as a civil debt.

REPAIRABLE BY THE INHABITANTS AT LARGE.—See note to s. 18 *ante*.

STREET.—By s. 13 *ante*, the definition in Public Health Act, s. 2, cited in the note to s. 13, is incorporated in the present Act. See *Vanston*, pp. 4, 11, 49.

PENALTY.—See s. 6 *ante*, and Public Health Act, s. 249 *et. seq.*, *Vanston*, p. 255 *et. seq.*

DAILY PENALTY.—See s. 13 *ante*.

EXPENSES.—See ss. 6, 10 *ante*, and Public Health Act, s. 216 *et seq.*: *Vanston*, p. 223 *et seq.*

MAY RECOVER.—See s. 6 *ante*, and Public Health Act, ss. 249, 250, 260; *Vanston*, pp. 255, 256, 267.

Dangerous places to be repaired or enclosed.

s. 30.

30. With respect to the repairing or enclosing of dangerous places the following provisions shall have effect (namely): —

(1) If in any situation fronting, adjoining, or abutting on any street or public footpath, any building, wall, fence, steps, structure or other thing, or any well, excavation, reservoir, pond, stream, dam or bank is, for want of sufficient repair, protection, or enclosure dangerous to the persons lawfully using the street or footpath, the local authority may by notice in writing served upon the owner, require him, within the period specified in the notice and hereinafter in this section referred to as the "prescribed period," 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, he shall neglect to comply with the requirements thereof within the prescribed period, the local authority may cause such works as they think proper to be done for effecting such repair, removal, protection, or enclosure, and the expenses thereof shall be payable by the owner, and may be recovered summarily as a civil debt.

Under the former law it was held that the owner of the land is under no legal obligation to fence an excavation in it, unless it is made so near to a highway as to

be a public nuisance.—*Hounsell* v. *Smyth*, 7 C.B.N.S. 731. But in *Hadley* v. *Taylor*, L.R. 1 C.P. 53, the occupier of an unfurnished warehouse adjoining a highway was held liable for not fencing a "hoisthole" within 14 in. of the highway, used to raise goods from the cellar to the upper floor of the warehouse.

FRONTING, ADJOINING, OR ABUTTING.—See note to s. 18 *ante*, and *Vanston*, p. 53.

STREET.—See note to s. 29 *ante*.

BUILDING.—See note to s. 23 *ante*.

OWNER.—See note to s. 28 *ante*.

EXPENSES.—See note to s. 29 *ante*.

BE RECOVERED.—See note to s. 29 *ante* under "*may recover.*"

FOOTPATH.—The definition of "street" in Public Health Act, s. 2, incorporated in this Act by s. 13 *ante* includes "footway."

Fencing lands adjoining streets.

31. If any land (other than land forming part of any common) adjoining any street is allowed to remain unfenced or if the fences of any such land are allowed to be or remain out of repair, and such land is, owing to the absence or inadequate repair of any such fence, a source of danger to passengers, or is used for any immoral or indecent purposes, or for any purpose causing inconvenience or annoyance to the public, the Local Government Board *for Ireland* on the application of the local authority may by Order empower the local authority to proceed under this section, and, in that case, at any time after the expiration of fourteen days from the service upon the owner or occupier of

ss. 31, 32.

notice in writing by the local authority requiring the land to be fenced or any fence of the land to be repaired, the local authority may cause the land to be fenced or may cause the fences to be repaired in such manner as they think fit, and the reasonable expenses thereby incurred shall be recoverable from such owner or occupier summarily as a civil debt.

It is a common law duty of the owner of a vacant piece of land to prevent its being used as a public nuisance, *e.g.*, by the deposit of offal or ordure, and the local authority can obtain an injunction to restrain the continuance of the nuisance.

A. G. v. *Tod-Heatley* [1897], 1 Ch. 560. See *Vanston*, Public Health Suppl., p. XXIII.

ADJOINING.—See note to s. 18 *ante*.

STREET.—See note to s. 29 *ante*.

EXPENSES.—See note to s. 29 *ante*.

RECOVERABLE, &c.—See note to s. 29 *ante* under "*may recover.*"

OWNER.—See note to s. 28 *ante*.

Hoards to be securely erected.

32.—(1) A person shall not use any hoarding or similar structure which is in, or abuts on, or adjoins any street, for any purpose, unless it is securely fixed to the satisfaction of the local authority.

(2) If any person acts in contravention of this section he shall be liable, in respect of each offence, to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

s. 33.

ABUTS OR ADJOINS.—See note to s. 18 *ante* under "*fronting, adjoining, or abutting.*"

STREET.—See note to s. 29 *ante* and see case?

PENALTY: DAILY PENALTY.—See note to s. 29 *ante*. As to hoardings in Dublin, see s. 47 of the Dublin Corporation Act, 1890, *Vanston*, p. 795.

Exemption of buildings of railway companies and others.

33. Nothing in this Part or in any bye-laws to be made under any enactment extended by this Part shall apply to a building (other than a dwelling-house) belonging to a railway company, or to any company or other public body authorised to construct, maintain, or improve a harbour, pier or dock, or to the owners of any canal or inland navigation, and used by the company, public body, or owners as a part of or in connection with their railway, harbour, pier, dock, canal or inland navigation.

DWELLING-HOUSE.—See note to s. 25 *ante*.

OTHER THAN A DWELLING-HOUSE.—This adopts the principle of the decision in *Manchester, &c., Ry. C.*, v. *Guardians of the Barnsley Union*, 56 J.P. 679. See also note to s. 27 (6) *ante*.

CANAL.—See *Coole* v. *Lovegrave* [1893], 2 Q.B. 44, and *Vanston*, P. H. Suppl., p. 34.

PART III.

SANITARY PROVISIONS.

Extension of s. 51 of 41 & 42 Vic., c. 52.

s. 31.

34. Section fifty-one of the Public Health (*Ireland*) Act, 1878, shall have effect as if for the words "(but not otherwise)" there were substituted the words "or where on the report in writing of their surveyor or inspector of nuisances the local authority have reason to suspect that any such drain, water-closet, earth-closet, privy, ashpit, or cesspool is a nuisance or injurious to health."

As regards drains *in Dublin*, compare the very similar provisions of the Dublin Corporation Act, 1890, s. 61, *Vanston*, p. 802, permitting entry where there is reason to believe there is an escape of sewer gas, and see also s. 94 of that Act.

The First part of s. 51 (see *Vanston*, p. 94, and p. 246 *post*), will now read:—

"On the written application of any person to a sanitary authority, stating that any drain, water-closet, earth-closet, privy, ashpit or cesspool on or belonging to any premises within their district is a nuisance or injurious to health, OR WHERE ON THE REPORT IN WRITING OF THEIR SURVEYOR OR INSPECTOR OF NUISANCES THE LOCAL AUTHORITY HAVE REASON TO SUSPECT THAT ANY SUCH DRAIN, WATER-CLOSET, EARTH-CLOSET, PRIVY, ASH-PIT OR CESSPOOL IS A NUISANCE OR INJURIOUS TO HEALTH, it shall be lawful for any sanitary officer duly authorised in writing in that behalf by such sanitary authority after twenty-four hours' written notice to the occupier of such premises or in case of emergency without notice

s. 34 note, 35.

to enter such premises with or without assistants and cause the ground to be opened and examine such drain, water-closet, earth-closet, privy, ashpit or cesspool."

The effect of the change is to allow the local authority themselves to take the initiative. But one of the numerous difficulties arising from attempting to amend different provisions by the same words occur here. Our Public Health Act provides that in case the drain, etc., is not found defective, the person making the written application must bear the cost of opening it up. The English Act put that charge on the local authority. The Irish provision is clearly inapplicable to the new amendment, which is drawn exclusively with reference to the English section. When acting under the amendment, an Irish local authority must apparently themselves bear the cost in such a case. "Sewer" and "drain" are given special definitions for the purposes of Public Health Acts Amendment Act, 1890, s. 19. See *Vanston*, p. 338, and see note to s. 38 *post*.

As to Nuisances.

35. For the purposes of the Public Health (*Ireland*) Act, 1878—

(1) Any cistern used for the supply of water for domestic purposes so placed, constructed, or kept as to render the water therein liable to contamination, causing or likely to cause risk to health;

(2) Any gutter, drain, shoot, stack-pipe, or down-spout of a building which by reason of its insufficiency or its defective condition shall cause damp in such building or in an adjoining building; and

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(3) 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 a nuisance within the meaning of the said Act.

For the meaning of a "nuisance" within the meaning of the Public Health Act, 1878, see s. 107 of that Act (p. 250 *post*). In sub-ss. (1) and (3) of the present section the things, in order to constitute a nuisance, must be "causing or likely to cause risk to health," or "dangerous or injurious to health") a phrase which occurs in Public Health Act, s. 107 (5)) respectively. This narrows the definition of nuisance as far as sub-ss. (1) and (3) are concerned, so as to exclude nuisances of the character therein referred to, if they merely cause discomfort. On the other hand, discomfort alone might be sufficient to satisfy sub-s. 2. See *Bishop Auckland Local Board* v. *Bishop Auckland Iron Co.*, 10 Q.B.D. 138, 52 L.J.M.C. 38, and other cases cited at *Vanston*, p. 136. And see p. 227 *post*.

Since in both (2) and (3) the evil is the same, namely, damp, the distinction taken by the section seems most irrational.

It is sufficient to show that sick persons are injured to constitute injury to health, *per* Stephen, J., *Malton Board of Health* v. *Malton Manure Co.* 4 Ex. D. 302.

The fact that a nuisance is the necessary result of a business constitutes no defence, *Smith* v. *Waghorn*, 27 J.P. 744, save under the first proviso at the end of s. 107, which is as follows:—"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." (See p. 250 *post*.)

A nice question may arise as to whether sub-s. 3 of the present section, as to deposits causing damp, is governed by the proviso just quoted. On the whole it would seem that, as the proviso is an independent enactment affecting all proceedings relating to nuisances, sub-s. 3 of the present section will be governed by it.

Rain-water pipes not to be used as soil pipes.

36. 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 five pounds and to a daily penalty not exceeding forty shillings.

PENALTY.—See s. 6 *ante*; as to appeal, see s. 7.

DAILY PENALTY.—See s. 13 *ante*.

Water or stack-pipes not to be used as ventilating shafts.

37. No water pipe, stack-pipe, or down-spout in existence at the commencement of this section, used for conveying surface water from any premises, shall be used or be 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 the local authority of notice of such offence shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

s. 38.

COMMENCEMENT OF THIS SECTION—See s. 13.

PENALTY.—See s. 6 *ante*.

DAILY PENALTY.—See s. 13 *ante*.

VENTILATING SHAFT.—A power to require the ventilation of drains is given by Public Health Act, s. 25, *Vanston*, p. 44.

DRAIN.—See note to s. 38 below.

A drain was held to become a sewer from the point at which a rain-water pipe from an adjoining house was connected with it, *Holland* v. *Lazarus*, 13 T.L.R. 207.

Local authority may require old drains to be laid open for examination by surveyor before communicating with sewers.

38. Before any drain existing at the commencement of this section and then not communicating with any sewer of the local authority shall be made to communicate with any sewer of the local authority, the local authority may require the same to be laid open for examination by the surveyor, and no such communication shall be made until the surveyor shall certify that such drain may be properly made to communicate with such sewer.

As to joining a drain to a sewer, see Public Health Act, ss. 23-27, *Vanston*, p. 42 *et seq*.

DRAIN and SEWER have (by s. 13 of the present Act) the same meaning as in the Public Health (*Ireland*) Acts, 1878-1900.

"'Drain' means any drain of and used for the drainage of one building only, or of premises within the same curtilage and made merely for the purpose of communicating therefrom with a cesspool or other like

s. 38 note, 39.

receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed."—Public Health (Ireland) Act, 1878, s. 2. And see note to s. 45 *post*.

"'Sewer' includes sewers and drains of every description, except drains to which the word 'drain' as interpreted aforesaid applies, and except drains vested in or under the control of any authority having the management of roads and not being a sanitary authority under this Act."—Public Health Act, s. 2.

The distinction has been productive of much hair-splitting and learning; see the cases cited at *Vanston*, p. 15 *et seq.*, and *Vanston*, Public Health *Suppl.*, p. 8 *et seq.* and p. xxxi. *ib.* And see p. 228 *post*.

SURVEYOR—"means . . . the . . . surveyor . . . of the district of the local authority" (s. 13 *ante*).

Provision and conversion of closet accommodation.

39.—(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 "pail closet" means closet accommodation including a moveable receptacle for human excreta;

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

s. 39.

receptacle by means of a fresh water supply, and having proper communication with a sewer;

The expression "slop-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 slops or waste liquids of the household or rain-water, 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 and slop-closets, or from such one or more of either class of closet as, in pursuance of this section, may be required to be provided in any particular case.

(2) Within one month after the deposit of any plan by a person intending to erect a new building, the local authority, 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 and slop-closets, or with such one or more of either class of closet as the circumstances of the case may render necessary.

s. 39.

Any person who fails to comply with any requirement of the local authority under this sub-section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(3) If, on the report of the medical officer or the surveyor or the inspector of nuisances, the local authority 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 local authority, 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 and slop-closets, or with such one or more of either class of closet 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 local authority under this sub-section, the local authority 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 from the owner or owners the expenses incurred by the local authority in so doing.

s. 39.

(4) The local authority, 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 (other than a water-closet or a slop-closet) provided at or in connection with the building to be altered, so as to be converted into a water-closet or slop-closet.

If the owner or owners of the building fail to comply with any requirement of the local authority under this sub-section, the local authority may, at the expiration of a 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 local authority in default of the owner or owners in respect of a pail closet, the expenses of the work shall be borne by the local authority, and where in pursuance of this sub-section any work of alteration is done by the local authority in default of the owner or owners in respect of any existing closet accommodation other than a pail closet, one-half of the expenses of the work shall be borne by the local authority, and the remainder of the said expenses shall be borne by the owner or owners and shall be recoverable summarily as a civil debt.

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

s. 39.

(5) Nothing in this section shall have effect with respect to a slop-closet, unless or until the Local Government Board *for Ireland* have been satisfied by the local authority, and have by order declared that the circumstances of the district of the local authority are such as to render it necessary or expedient that this section shall have effect with respect to a slop-closet.

Any order in pursuance of this sub-section shall be published in such manner as the Local Government Board *for Ireland* direct.

This section must be compared with the provisions as to sanitary accommodation in ss. 44-47 of the Public Health Act. *Vanston*, p. 87, *et seq.* See also p. 232 *post*.

Section 44 compels the provision of "sufficient water-closet, earth-closet or privy accommodation" in a newly-erected house, but it leaves to the person erecting the house the right to exercise his option as to which of these appliances he will have. *Molloy* v. *Gray*, 24 L.R.I. 266. So, too, it has been decided that the owner of an existing house required to provide proper sanitary accommodation has a similar option under the English section corresponding to s. 45. See p. 232. The present section empowers the local authority in both cases, to insist on *water-closets* or (where the Local Government Board have given a general consent to their use) *slop-closets, where there are a sufficient water supply and sewer*. And, differing from s. 44 of the Public Health Act, the present section gives the discretion as to the sufficiency of accommodation in the first instance to the local authority, but subject to an appeal (in accordance with s. 42, *post*) to a court of summary jurisdiction.

Sewer.—See note to last section.

s. 39 note,

Deposit of any Plan.—As to deposit of plans, see Public Health Act, s. 41, *Vanston*, p. 75, and see ss. 15, 16, *ante* p. 95, 100.

Erection of a New Building.—It may be noted that "house" and not "building" is the word used in Public Health Act, ss. 45, 46.

Public Health Act, s. 43, provides that—"For the purposes of this Act the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the frame-work is left down to the ground floor, or the conversion into a dwellinghouse of any building not originally constructed for human habitation, or the conversion into more than one dwellinghouse of a building originally constructed as one dwellinghouse only, shall be considered the erection of a new building; and, whenever any old building has been taken down to an extent exceeding one-half of such building, such half to be measured in cubic feet, the rebuilding thereof shall be considered the erection of a new building."

Having regard to the last words of s. 13 *ante*, this definition might be considered as incorporated in the present Act save for s. 23, *ante*, p. 109, which enumerates a list of operations slightly different from those in Public Health Act, s. 43, and declares that each of them shall be deemed to be the erection of a new building for the purposes of the present Act, and see note to s. 23. The word "building" itself is not defined; as to the meaning of it, see *Vanston*, p. 14, and *Vanston*, P. H. Suppl., p. 15, and *Fielding* v. *Rhyl Improvement Commrs.*, 3 C.P.D. 272; *Steevens* v. *Gourley*, 7 C.B. (N.S.) 99; *Richardson* v. *Brown*, 49 J.P. 661; *London C.C.* v. *Pearce* [1892] 2 Q.B. 109, and *The Dublin Corporation* v. *Irish Church Missions* [1901], 2 I.R., 410.

Owner (by s. 13 *ante*) "means the person for the time being receiving the rackrent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for

y other person, or who would so receive the same if ch lands or premises were let at a rackrent" (the finition in Public Health Act, s. 2), and as to the eaning of this, see *Vanston*, p. 8 *et seq.* Rackrent is ere defined to mean "rent which is not less than two-irds of the full net annual value of the property out which the rent arises as ascertained under the Acts lating to the valuation of rateable property in eland." And see note to s. 13 *ante*.

RECOVER SUMMARILY.—See s. 6 *ante* and Public ealth Act, ss. 249, 255; *Vanston*, pp. 255, 261 *et seq.*; nd see s. 40 (3) *post* as to declaring expenses "private mprovement expenses." But as to appeal, see s. 42 *ost*, and note carefully that the provisions as to appeal n s. 7 (2) *ante* are thereby excluded.

IN RESPECT OF A PAIL-CLOSET.—This clearly refers to he alteration of an existing pail-closet.

SLOP-CLOSET.—Note carefully the proviso at the end ff the section.

Payment for works of common benefit.

40.—(1) Where under section thirty-nine of this Act the local authority do any work for the common benefit of two or more buildings belonging to different owners, the expenses which under that section are recoverable by the local authority from the owners shall be paid by the owners of those buildings in such proportions as shall be determined by the surveyor, or in case of dispute by *a court of summary jurisdiction constituted in accordance with the provisions of section two hundred and forty-nine of the Public Health (Ireland) Act, 1878.*

Expenses.

ss. 40, 41.

(2) Any moneys expended by the local authority for the purposes of section thirty-nine of this Act shall, so far as they are not recoverable from the owner or owners, be part of the expenses of the local authority in the execution of the Public Health (*Ireland*) Act, 1878.

Private improvement expenses.

(3) The local authority may by order declare any expenses incurred by them under section thirty-nine of this Act, which are recoverable summarily as a civil debt from the owner or owners, to be expenses to which the provisions of section *two hundred and fifty-five* of the Public Health (*Ireland*) Act, 1878, shall apply, and thereupon those provisions shall apply, with the necessary modifications, as if they were herein re-enacted and in terms made applicable to the said expenses.

Expenses . . . in execution of Public Health Act. —See Public Health Act, ss. 226, 232, *Vanston*, pp. 235, 241, and Local Government Act, 1898, ss. 44, 46.

Section 255 of the Public Health Act, 1878.—See *Vanston*, p. 261. See the last clause as to "private improvement expense," and see Public Health Act, ss. 229-231, *Vanston*, pp. 239-241. See pp. 258, 261, 264 *post*.

Surveyor—*i.e.*, of the district of the local authority (s. 13).

Entry on premises.

41. Any person duly authorised in writing by the local authority shall, on production of his authorisation,

be admitted into any premises for the purposes of section thirty-nine of this Act, and the provisions of sections *one hundred and eighteen* and *one hundred and nineteen* of the Public Health (*Ireland*) Act, 1878, shall, with the necessary modifications, apply to his admission.

Compare *as regards Dublin* s. 94 of the Dublin Corporation Act, 1890 (53 & 54 Vic., c. 246), *Vanston*, p. 809.

Sections 118, 119, Public Health Act, 1878.—See *Vanston*, p. 153. If admission be refused to the authorised person, he must under those sections obtain a Justice's order before attempting to enter. See p. 233 *post*.

Appeals.

42.—(1) Where any person deems himself aggrieved by any requirement of the local authority under section thirty-nine of this Act, or objects to the reasonableness of any expenses wholly or partially recoverable from him under that section, that person may, within fourteen days after the service of notice of the requirement or of a demand for payment of the expenses, appeal to a court of summary jurisdiction, and the court may make such order in the matter as to them may seem equitable, and the order so made shall be binding and conclusive on all parties:

Provided nevertheless that the right of appeal, subsequent to the service of a demand for payment, shall be restricted to the ground of the reasonableness of the amount of the expenses, and the appellant shall be precluded from raising at that stage any other question.

ss. 42, 43.

(2) Pending the decision of the court upon the appeal the local authority shall not be empowered to execute any works to which the notice relates, and any proceeding which may have been commenced for the recovery of the expenses shall be stayed.

This section has the effect of excluding the appeal to the Local Government Board given in the case of other expenses recoverable summarily by Public Health Act, s. 268, and incorporated by s. 7 (2) *ante ad. fin. q. v.*

COURT OF SUMMARY JURISDICTION, by s. 13 *ante* and Public Health Act, s. 2, "means any Justice or Justices of the Peace or other magistrate or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts, or any Acts therein referred to," and the Summary Jurisdiction Acts mean "as regards the Police District of Dublin metropolis, the Acts regulating the powers and duties of Justices of the Peace for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and the Acts amending or affecting the same."

Local authority may require removal or alteration of urinals.

43.—(1) If any urinal or other sanitary convenience opening on any street (whether erected before or after the commencement of this section) is so placed or constructed as to be a nuisance or offensive to public decency, the local authority, by notice in writing, may require the owner to remove it within a reasonable time fixed by the local authority.

(2) If the owner fails to comply with the notice, he shall be liable to a penalty not exceeding twenty shillings and to a daily penalty not exceeding ten shillings.

NUISANCE.—See *Vanston*, p. 135 *et seq.*

The word "nuisance" would not appear to be confined as in s. 107 of the Public Health Act, but to have very nearly its common law meaning to some extent limited, perhaps by the context in which it occurs. Offensiveness or inconvenience, quite apart from any unhealthiness, will clearly be sufficient.

Cf. Public Health Act, s. 50, *Vanston*, p. 93.

COMMENCEMENT.—See s. 13.

PENALTY, DAILY PENALTY.—See note to next section.

Urinals to be attached to refreshment houses, &c.

44.—(1) Where any inn, public-house, beer-house, eating-house, refreshment-house, or place of public entertainment, whether built before or after the commencement of this section, has no urinal belonging or attached thereto, the local authority may, by notice in writing, require the owner of the premises to provide and maintain thereon one or more proper and sufficient urinals in a suitable position.

(2) If the owner fails within a reasonable time to comply with a notice under this section he shall be liable in respect of each offence to a penalty not exceeding twenty shillings and to a daily penalty not exceeding ten shillings.

Apparently there must be the absence of a urinal to bring the power into being, and mere insufficiency of accommodation would not entitle the local authority to take any steps.

PENALTY.—See s. 6 *ante*, and Public Health Act, s. 249, and *Vanston*, p. 255 *et seq.*; as to appeal, see s. 7 (1) *ante*.

s. 45.

DAILY PENALTY.—See s. 13 *ante*.

COMMENCEMENT.—See s. 13 *ante*.

Testing of drains on report of defects.

45.—(1) If the medical officer, surveyor, or inspector of nuisances reports to the local authority 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 local authority may authorise their medical officer, surveyor, or inspector of nuisances 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 having jurisdiction in the place where the building is situated must be obtained, authorising the application of the test.

(2) If on the application of the test the drains are found to be defective, the local authority may, by notice specifying generally the defect, require the owner of the premises to do all works necessary for remedying it within a reasonable time named in the notice, and if the owner fails so to do the work the local authority may themselves do the work, and the expense of so doing the work may either be recovered from the owner of the building summarily as a civil debt or may be declared by the local authority to be private improvement expenses, and may be recoverable accordingly.

s. 45.

(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 forty shillings and to a daily penalty not exceeding twenty shillings.

As regards Dublin, compare ss. 61, 94 of the Dublin Corporation Act, 1890; *Vanston*, pp. 802, 809.

MEDICAL OFFICER, SURVEYOR OR INSPECTOR OF NUISANCES—*i.e.*, "of the district of the local authority," s. 13 *ante*.

DRAINS . . . INJURIOUS OR DANGEROUS TO HEALTH.—*Cf.* the similar words in Public Health Act, s. 107: 2, and see *Vanston*, p. 138. For text of s. 107 see p. 250 *post*.

For the meaning of "drain," see note to s. 38 *ante*, and *Vanston*, pp. 15, 138, and *Vanston*, P.H. Suppl., p. 8 *et seq.* and xxi. (ad.), and see *Molloy v. Grey*, 24 L.R.I. 267.

It is a matter of evidence whether a thing is injurious to health. See *Malton Board of Health* v. *Malton Manure Co.*, 4 Ex. D. 302, and see *Vanston*, pp. 135-137.

BUILDING.—See note to s. 39 *ante*.

COURT OF SUMMARY JURISDICTION.—See note to s. 42 *ante*.

DEFECTIVE.—It would seem the most reasonable construction of sub-s. 2 that the drains must be defective to the extent mentioned in sub-s. 1, though the sub-s. does not in terms say so.

RECOVERABLE SUMMARILY.—See s. 6 *ante* and Public Health Act, ss. 249, 255; *Vanston*, pp. 255, 261 *et seq.*; and as to appeal, see s. 7 (2) *ante* and Public Health Act, s. 268, *Vanston*, p. 276.

s. 46.

PRIVATE IMPROVEMENT EXPENSES.—See Public Health Act, ss. 229-231; *Vanston*, pp. 239-241; and see preceding note. And see Public Health Act, s. 255 *ad fin.* And see pp. 258, 261, 264 *post.*

OWNER.—See note to s. 39 *ante.*

PENALTY—DAILY PENALTY.—See note to s. 44 *ante.*

Provision for filling up cesspools, &c.

46. If it shall appear to the local authority by the report of the medical officer, surveyor, or inspector of nuisances that any cesspool or other receptacle used or formerly used as a receptacle for excreta or other obnoxious matter, or for the whole or any part of the drainage of a house, or that any ashpit or any well or disused well belonging to any such house or part of a house is prejudical to health, or otherwise objectionable for sanitary reasons, and that it is desirable that the same should be filled up or removed, or so altered as to remove any such objection as aforesaid, the local authority may, if they think fit, by notice in writing, require the owner or occupier of such house or part of a house within a reasonable time, to be specified in the notice, to cause such cesspool, receptacle, ashpit, or well to be filled up or removed, and any drain communicating therewith to be effectually disconnected, destroyed, or taken away, or to cause such cesspool, receptacle, ashpit, or well to be so altered as to remove any such objection as aforesaid.

Where it appears that any such cesspool, receptacle, ashpit, or well is used in common by the occupiers of

two or more houses, or parts of houses, the notice for filling up or removal of any such cesspool, receptacle, ashpit, or well may be served on any one or more of the owners or occupiers of such houses, and it shall not be necessary to serve such notice on all such owners or occupiers. s. 46.

If default is made in complying with the requisitions of a notice under this section the local authority may themselves carry out the requisitions, and may recover the expenses incurred by them in so doing from the owners or occupiers in default in a summary manner as a civil debt, or, where the owners are the persons liable, as private improvement expenses are recoverable under the Public Health (*Ireland*) Acts, 1878 to 1900.

Medical Officer, Surveyor, &c.—See note to last section.

Ashpit is defined by s. 11 (1) of the Public Health Acts Amendment Act, 1890, *Vanston*, p. 329, to include "any ashtub or other receptacle for the deposit of ashes, fæcal matter or refuse," but the provisions of s. 13 *ante* do not seem to be sufficient to incorporate that definition here.

House, by s. 13 *ante* and Public Health Act, s. 2, "includes schools and also factories and other buildings in which persons are employed, whatever their number may be," and see *Vanston*, p. 14, and cases there cited.

Drain.—See note to s. 35 *ante*.

Owner.—See note to s. 39 *ante*.

In a Summary Manner.—Private Improvement Expenses.—See note to s. 45 *ante*, but Public Health Act, s. 229, referring to "private improvement expenses," treats of the liability of the *occupier* only. S. 255 (last paragraph), *Vanston*, p. 261, which deals with the

s. 47.

liability of the "owner," would appear to be more applicable. See p. 261 *post*.

Public conveniences and lavatories.

47. The local authority may provide and maintain in proper and convenient situations sanitary conveniences in or under any street repairable by the inhabitants at large, and may provide and maintain in proper and convenient situations lavatories in or under any such street for the use of the public, and may employ and pay attendants and make reasonable charges for the use of any sanitary conveniences (other than a urinal) or of any lavatory so provided. The local authority may make bye-laws for the management of the sanitary conveniences and lavatories, and as to the conduct of persons frequenting the same.

The local authority may let any such sanitary conveniences and any such lavatories for such periods, at such rents, and subject to such conditions as to the charges to be made for the use thereof and otherwise, as they think proper.

Cf. the similar but less extensive provisions of Public Health Act, s. 49 (English Act of 1875, s. 39); *Vanston*, p. 92, and Public Health Acts Amendment Act, 1890, s. 20 (1); *Vanston*, p. 339. And see p. 232 *post*.

The convenience must not be a nuisance. See *Vernon* v. *Vestry of St. James, Westminster*, 16 Ch. D. 449, and other cases cited at *Vanston*, p. 93.

proof that the situation is not proper and convenient will lie on the person objecting, *Pethick* v. *Mayor of*

Proper and Convenient Situations.—The *onus* of *Plymouth*, 70 L.T. (N.S.) 304.

s. 47 note, 48.

In or under any Street.—See *Mayor of Tunbridge Wells* v. *Baird* [1896], A.C. 434, where it was held that the Corporation could not, under the former provisions, erect a convenience under a promenade, the land not being vested in them.

Repairable by the Inhabitants, &c.—See note to s. 18 *ante*.

Bye-laws.—See s. 9 *ante*.

Sanitary Convenience is defined by Public Health Acts Amendment Act, 1890, s. 11 (3), to include "urinals, water-closets, earth-closets, privies, ashpits, and any similar convenience," and though this definition is *not* incorporated in the present Act (see s. 13 *ante*), it will probably be adopted, as no other is given.

Removal of trade refuse.

48. If the local authority are required by the owner or occupier of any premises to remove any trade refuse (other than sludge), the local authority shall do so, and the owner or occupier shall pay to them for doing so a reasonable sum, to be settled in case of dispute by order of 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.

Cf. Public Health Act, ss. 52-55; *Vanston*, p. 95 *et seq. and* ss. 59, 60, *Vanston*, p. 103. S. 52 of that Act is confined to "house refuse," and the local authority are not, unless by order of the Local Government Board, *compelled* to undertake its removal. See *London and Provincial Laundry Co.* v. *Willesden Local Board* [1892],

s. 49.

2 Q.B. 271. The present section makes the function compulsory and extends it to trade refuse.

COURT OF SUMMARY JURISDICTION.—See note to s. 42 *ante*.

Summary power to provide sinks and drains for buildings.

49. In addition to all other powers vested in a local authority, the local authority, if it shall appear to them on the report of the surveyor, medical officer, or inspector of nuisances, that any building built before or after the commencement of this section of this Act 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 local authority within the time specified in such notice he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings, and in case of default the local authority 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 recovered summarily as a civil debt.

By Public Health Act, s. 50, the sanitary authority must provide that every sink shall be kept so as not to be a nuisance.

Surveyor, Medical Officer, &c.—*i.e.*, "of the district of the local authority," s. 13 *ante*.

Drain.—See note to s. 38 *ante*.

Penalty.—See s. 6 *ante;* as to appeal, see s. 7 (1).

Daily Penalty.—See s. 13 *ante*.

Owner.—See note to s. 39 *ante*.

Recoverable Summarily.—See s. 6 *ante*, and note to s. 45 *ante*.

Local authority may provide an ambulance.

50. The local authority may provide and maintain an ambulance for use in any case of accident, or other sudden or urgent disability, together with suitable attendants, and means of traction, and other requisites; and may allow the ambulance to be used by any other local authority or person subject to such terms and conditions as may be agreed upon.

Power to declare a business to be an offensive business.

51.—(1) The words "any other trade, business, or manufacture, which the local authority declare by order confirmed by the Local Government Board *for Ireland*, and published in such manner as the Board direct, to be an offensive trade," shall be substituted for the words "any other noxious or offensive trade, business, or manufacture," in section *one hundred and twenty-eight* of the Public Health (*Ireland*) Act, 1878.

s. 51.

(2) The local authority may make bye-laws with respect to any trade which is an offensive trade under section *one hundred and twenty-eight* of the Public Health (*Ireland*) Act, 1878, as amended by this Act, whether established before or after the commencement of this Act, in order to prevent or diminish any noxious or injurious effects of the trade.

Section 128 will now read—"Any person who, after the passing of this Act, establishes within the district of an urban authority, without their consent in writing, any offensive trade; that is to say, the trade of—Blood boiler, or Bone boiler, or Fellmonger, or Soap boiler, or Tallow melter, or Tripe boiler, or Gut manufacturer, OR ANY OTHER TRADE, BUSINESS OR MANUFACTURE, WHICH THE LOCAL AUTHORITY DECLARE BY ORDER CONFIRMED BY THE LOCAL GOVERNMENT BOARD FOR IRELAND, AND PUBLISHED IN SUCH MANNER AS THE BOARD DIRECT, TO BE AN OFFENSIVE TRADE, shall be liable to a penalty not exceeding fifty pounds in respect of the establishment thereof, and any person carrying on a business so established shall be liable to a penalty not exceeding forty shillings for every day on which the offence is continued, whether there has or has not been any conviction in respect of the establishment thereof."

The provision can now be extended by the Local Government Board to rural districts. See Public Health (*Ireland*) Act, 1896, s. 1; *Vanston, Public Health Suppl.*, p. 74, and s. 33 of the Local Government Act, 1898.

ANY OTHER TRADE.—It had been held under the previous wording of the section that the trade must be (1) NECESSARILY offensive, *Cardell* v. *New Quay Local Board*, 39 J.P. 742 (2), *eiusdem generis* with the trades mentioned, which all include animal matter in some form, *Withington Local Board* v. *Corporation of Manchester* [1893], 2 Ch. 19. See *Vanston*, 164-165, and

Vanston, Public Health Suppl., p. 48. The present form is intended to meet these restrictions. s. 51 note.

BYE-LAWS.—See s. 9 *ante*.

A similar power to make bye-laws with regard to trades, which are offensive trades under s. 128 of the Public Health Act, is given by Public Health Act, s. 129, to urban authorities (and now may be extended to rural), but that section, unlike the present one, is *mandatory* and requires the sanction of the Local Government Board. The present section follows the lines of the English Act of 1875. But apparently s. 129 of the Public Health Act will apply to the new offensive trades, as well as the old ones. See *Vanston*, p. 165, and p. 252 *post*.

COMMENCEMENT OF THIS ACT.—See s. 13 *ante*.

PART IV.

INFECTIOUS DISEASES.

Infected person not to carry on occupation.

s. 52.

52.—(1) 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.

(2) If any person acts in contravention of this section, he shall be liable in respect of each offence to a penalty not exceeding forty shillings.

This is in effect an extension of the provisions of Public Health Act, s. 142 (1), *Vanston*, p. 176, which is confined to the offence of exposing oneself in a public place without proper precautions against spreading the infectious disorder. (See note to s. 62 *post*.)

Infectious Disease "means any infectious disease to which the Infectious Disease (Notification) Act, 1889, for the time being applies within the district of the local authority" (by s. 13 *ante*) and s. 6 of the Infectious Disease (Notification) Act, 1889, *Vanston*, p. 689, provides that "In this Act [*i.e.*, the I. D. N. Act, 1889] the expression, 'infectious disease, to which this Act applies,' means any of the following diseases, namely, small-pox, cholera, diphtheria, membraneous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric, relapsing, continued or puerperal, and includes, as respects any particular district, any infectious disease to which this Act has been applied by the local authority of the district in manner provided by this Act," and the next sect.

(s. 7 (1)) provides that "The local authority of any district to which this Act extends may, from time to time, by a resolution passed at a meeting of such authority . . . . order that this Act shall apply in their district to any infectious disease other than a disease specifically mentioned in this Act." The approval of the L. G. B. is necessary (sub-s. 3) to such an order, which order (sub-s. 2) may be either permanent or temporary. See *Vanston*, pp. 689-690. The provisions of the Infectious Disease (Notification) Act only extend to districts where the Act, or any of its provisions, have been adopted in accordance with the procedure set out in s. 5 of the Act. Under the definition of Infectious Disease in the present Act (which is less happy than the similar one in s. 2 of the Infectious Disease (Prevention) Act, 1890), must the Infectious Disease (Notification) Act be adopted in the district before any "infectious disease," to satisfy the definition of the present Act, *i.e.*, "any infectious disease to which the I. D. N. Act, 1889, for the time being applied within the district," can be said to exist?

s. 52, note, 53.

It is arguable that this is not the true construction, but that the words have reference to the special application of the I. D. N. Act to new diseases under s. 7 of I. D. N. Act.

PENALTY.—See s. 6 and Public Health Act, ss. 249-251; *Vanston*, p. 255 *et seq.*, and as to appeal, see s. 7 (1).

Power to require dairymen to furnish list of sources of supply.

53.—(1) If the medical officer certifies to the local authority that any person in the district is suffering from infectious disease which the medical officer has reason to suspect is attributable to milk supplied within

s. 53.

the district, the local authority may require the dairyman supplying the milk to furnish to the medical officer within a reasonable time fixed by them a complete list of all the farms, dairies, or places from which his supply of milk is derived or has been derived during the last six weeks, and, if the supply, or any part of it, is obtained through any other dairyman, may make a similar requisition upon that dairyman.

(2) The local authority shall pay to the dairyman for every list furnished by him under this section the sum of sixpence, and, if the list contains not less than twenty-five names, a further sum of sixpence for every twenty-five names contained in the list.

(3) Every dairyman shall comply with the requisition of the local authority under this section, and, if he fails to do so, shall be liable in respect of each offence to a penalty not exceeding five pounds and a daily penalty not exceeding forty shillings.

The section should be read in connection with s. 4 of the Infectious Diseases (Prevention) Act, 1890, *post*, p. 267; a section which, however, does not come into force in any district until it is adopted by the local authority (under s. 2 *ib.*). The present section is, in effect, an extension of the provisions of that section, which enabled the Medical Officer of Health to visit a suspected dairy, and the local authority to shut it up on his report. But see below.

Infectious Disease.—See note to s. 52.

Medical Officer, *i.e.*, "of the district of the local authority."—s. 13 *ante*.

Dairy "includes any farm, farmhouse, cow-shed, milk-store, milk-shop, or other place from which milk

s. 53 note, 54.

is supplied, or in which milk is kept for the purposes (*sic*) of sale within (unless otherwise expressed) the district of the local authority." (S. 13 *ante*.)

DAIRYMAN "includes any cowkeeper, purveyor of milk or occupier of a dairy within (unless otherwise expressed) the district of the local authority." As to whether a farmer who keeps cows, merely as incidental to his farming business, is a "dairyman," see *Umfreville* v. *London C.C.*, 66 L. J. Q. B. 177, where upon very similar words in the Public Health (London) Act, 1891, s. 141, it was held that he was not. And it has been held in Scotland that a seller of ice-cream, which is two-thirds milk, is not a "purveyor of milk," *Lang* v. *Pianta*, 21 Cri. Sess., Cas. 4th, Ser. J. C. 20.

DAIRYMAN SUPPLYING THE MILK.—S. 4 of the Infectious Diseases (Prevention) Act, 1890, applies to a "*dairy situate within or without the district*," and if the present section is to be of any real value, it should have a similar extension, but having regard to the definition of "dairy" and "dairyman" in the Act, and the fact that no such words as "within or beyond the district" in the next section, are used in this section, it seems impossible to construe the section as giving the local authority power over "dairies" and "dairymen" outside the district of the local authority. But the words "*farms . . . or places*" need not, if submitted, be similarly confined.

PENALTY.—See s. 6 *ante*, and Public Health Act, ss. 249-251, *Vanston*, p. 255 *et seq.*; and as to appeal, see s. 7 (1).

DAILY PENALTY.—See s. 13 *ante*.

Dairymen to notify infectious diseases existing among their servants.

54.—(1) Every dairyman supplying milk within the district of the local authority from premises whether

ss. 54, 55.

within or beyond the district aforesaid shall notify to the medical officer all cases of infectious disease among persons engaged in or in connection with his dairy as soon as he becomes aware or has reason to suspect that such infectious disease exists.

(2) Any dairyman who shall fail to comply with this section shall for every such offence be liable to a penalty not exceeding forty shillings.

Where the Infectious Disease (Notification) Act, 1889, is in force in the district, the duty of notification might in many cases be imposed by s. 3 of that Act, independently of the present section, but this section is much wider, as regards dairies, and moreover applies to dairy premises "beyond the district" of the local authority, the limitations on the definitions of "dairy" and "dairyman" in s. 13 being removed by this express provision. For a *case* dealing with the outbreak of infectious disease in the same building as a milk-shop, under an English Act, see *L. C. C.* v. *Edwards* [*1898*], 2, Q. B., 75.

Infectious Disease.—See note to s. 52 *ante*.

Penalty.—See s. 6 *ante*, and Public Health Act, ss. 249-251, *Vanston*, p. 255 *et seq.*; and as to appeal, see s. 7 (1) *ante*.

Infected clothes not to be sent to laundry.

55.—(1) A person shall not take or send to any public washhouse 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 local authority or their

medical officer, or of a legally qualified medical practitioner, 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 foregoing provision of this section he shall be liable in respect of each offence to a penalty not exceeding forty shillings.

(3) The local authority 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 direction.

LEGALLY QUALIFIED MEDICAL PRACTITIONER means by the provisions of the Medical Act of 1858 a person registered under that Act.

PENALTY.—See note to last sect.

Filthy and dangerous articles to be purified.

56. Where the local authority on the certificate of the medical officer are satisfied that the cleansing, purification, or destruction of any article in a dwellinghouse is, by reason of the filthy condition of the article, necessary to prevent injury or to remove or obviate risk of injury to the health of any person in the dwellinghouse, the local authority 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 local authority of their powers under this section, and the condition of the article with respect

ss. 56, 57.

to which those powers have been exercised is not attributable to his act or default, the local authority shall make reasonable compensation to that person.

This section may be compared with Public Health Act, ss. 137-138, *Vanston*, pp. 173-174, and s. 5 of the Infectious Disease (Prevention) Act, 1890, p. 268 *post*, which, however, relate only to infected, not to filthy, articles; s. 5 of the Infectious Disease (Prevention) Act repeals Public Health Act, 137, wherever adopted. The second clause of the section may be compared with the similar provision of Public Health Act, s. 274, and see next note.

See also s. 66 *post*.

COMPENSATION.—See s. 10 *ante*, and Public Health Act, ss. 216-218 *Vanston*, p. 223 *et seq.*, and see *note* to Public Health Act, s. 274 *Vanston*, p. 289. Compensation may be ascertained by arbitration before the question of liability is fought out, *Brierly Hill Local Board* v. *Pearsall*, 9 App. Ca. 595. But a decision of the arbitrator as to a point of law is not binding where the act is an unauthorised one. Under the statute no right of action (save the claim to compensation) lies. *Bold* v. *Williams*, 21 J. P. 84. No compensation can be claimed unless the damage is such as would be actionable but for the statute, *Hall* v. *Mayor of Bristol*, L. R. 2, C. P. 322.

Child suffering from infectious disease not to attend school.

57.—(1) No person being the parent or having the care or charge of a child within the district of the local authority who is or has been suffering from infectious disease or has been exposed to infection shall, after a notice from the medical officer that the child is not to

be sent to school, permit such child to attend school without having procured from the medical officer a certificate (which shall be granted free of charge upon application) that in his opinion such child may 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 forty shillings.

Section 146 of the Public Health Act, to which there is no corresponding section in the English Public Health Act, deals with the same matter as this section. The provisions are, as it will be seen, slightly different. Under the Public Health Act, for instance, no previous notice from the medical officer that the child is not to attend school is necessary. It would seem best that the present section should not be applied in this country.

List of scholars to be furnished where scholar in a school is suffering from an infectious disease.

58.—(1) The principal of a school in which any scholar is suffering from an infectious disease shall, if required by the local authority, furnish to them within a reasonable time fixed by them a complete list of the names and addresses of the scholars in or attending at the school or any specified department thereof other than boarders.

(2) The local authority of the district shall pay to the principal of the school for every list furnished by him under this section the sum of sixpence, and, if the list

ss. 58, 59.

contains not less than twenty-five names, a further sum of sixpence for every twenty-five names contained in the list.

(3) If the principal of a school fails to comply with any of the provisions of this section he shall be liable in respect of each offence to a penalty not exceeding forty shillings.

(4) In this section the expression "the principal" used in relation to a school means the person in charge of the school, and includes, where the school is divided into departments and there is no single person at the head of the whole school, as respects each department the head of that department.

INFECTIOUS DISEASE.—See note to s. 52 *ante*.

Provisions as to library books.

59.—(1) If any person knows that he is suffering from an infectious disease he shall not take any book or use or cause any book to be taken for his use from any public or circulating library.

(2) A person shall not permit any book which has been taken from a public or circulating library, and is under his control, to be used by any person whom he knows to be suffering from an infectious disease.

(3) A person shall not return to any public or circulating library any book which he knows to have been exposed to infection from any infectious disease, or permit any such book which is under his control to

be so returned, but shall give notice to the local authority that the book has been so exposed to infection, and the local authority shall cause the book to be disinfected and returned to the library, or to be destroyed.

(4) The local authority shall pay to the proprietor of the library from which the book is procured the value of any book destroyed under the power given by this section.

(5) If any person acts in contravention of or fails to comply with this section, he shall be liable in respect of each offence to a penalty not exceeding forty shillings.

INFECTIOUS DISEASE.—See note to s. 52.

VALUE OF ANY BOOK.—The determination of the value if in dispute would appear to be a question to be dealt with under s. 10 *ante*, and Public Health Act, ss. 216-218 and 274. *Vanston*, pp. 223, 289.

PENALTY.—See note to s. 52 *ante*.

Local authority may pay expenses of person in hospital.

60. Nothing in section *one hundred and fifty-six* of the Public Health (*Ireland*) Act, 1878, with respect to the recovery of the cost of maintenance in a hospital shall require the local authority to recover the cost of maintenance from a patient who is not a pauper where the local authority have satisfied themselves that the circumstances of the case are such as to justify the remission of the debt.

Under Public Health Act, s. 156, "any expenses . . . incurred in maintaining . . . . a patient, who is not a pauper shall be deemed to be a debt due from such

s. 61.

patient to the sanitary authority," and may be recovered from him or from his estate as therein provided. The present section leaves it optional with the sanitary authority whether they shall recover the debt or not.

As to the provision of an isolation hospital by the local authority, see *A. G.* v. *Corporation of Nottingham* [1904], 1., Ch. 673, where Farwell, J., following the decision of our Court of Appeal in *A. G.* v. *Rathmines, etc., Hospital Board* [1904], 1. I. R. 161, refused to regard the theory of the aerial convection of small-pox as established, and grant an injunction on that basis.

Removal of person from infected premises.

61.—(1) The local authority may exercise the powers of section fifteen of the Infectious Disease (Prevention) Act, 1890, whether that section has or has not been adopted in the district, and, where the local authority so determine, those powers may be exercised for providing temporary shelter or house accommodation with any necessary attendants for any person who, in any case to which this section applies, leaves a house after any infectious disease has appeared therein, and the local authority may borrow, subject to the provisions of the Public Health (*Ireland*) Acts, *1878 to 1900*, for the purpose of providing shelter or house accommodation under section fifteen of the Infectious Disease (Prevention) Act, 1890, or under this section.

Where the local authority 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, 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 two justices, on the application of the local authority and on being satisfied of the necessity of the removal, make an order for the removal, subject to such conditions (if any) as are imposed by the order. s. 61.

The local authority 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 five pounds.

(3) For the purpose of this section the word "house" includes any tent, van, shed, or similar structure used for human habitation or any boat lying in any canal or other water within the district of the local authority and used for the like purpose.

Section 15 is as follows:—"The local authority shall from time to time provide, free of charge, temporary shelter or house accommodation with any necessary attendants for the members of any family in which any infectious disease has appeared, who have been compelled to leave their dwellings for the purpose of enabling such dwellings to be disinfected by the local

s. 61 note, 62.

authority." (See p. 272 *post.*) Of course this section of the *present Act* has itself to be applied in a district before it comes into force. The present section is extended, as will be seen, to persons in the house not belonging to the family.

INFECTIOUS DISEASE.—See note to s. 52 *ante.*

BORROW, SUBJECT TO, &C.—See Public Health Act, ss. 237-247, *Vanston*, p. 246 *et seq.*

MEDICAL OFFICER, *i.e.*, of the urban sanitary district, urban district or rural district respectively (s. 13 *ante*).

CAUSE . . . TO BE REMOVED.—As in the case of Public Health Act, s. 141, there appears to be no power to *detain*, similar to that given by s. 12 of the Infectious Diseases (Prevention) Act, 1890.

PENALTY.—See s. 6 *ante* and s. 7 (1) as to appeal.

TENT, VAN, SHED, &C.—Cf. s. 9 (3) of the Housing of the Working Classes Act, 1885, as to searching for infectious disease in such tents, vans, &c., *Vanston*, p. 622.

Amendment of s. 142 of 41 & 42 Vict., c. 52.

62. Paragraph two of section *one hundred and forty-two* of the Public Health (*Ireland*) Act, 1878 (which imposes a penalty on the exposure of infected persons and things), shall be read as if the words "or causes or permits such sufferer to be so exposed" were added after the word "sufferer."

The first portion of s. 142 will now read, "Any person who (1) while suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor or driver

thereof that he is so suffering; or (2) being in charge of any person so suffering, so exposes such sufferer OR CAUSES OR PERMITS SUCH SUFFERER TO BE SO EXPOSED . . . . . shall be liable to a penalty not exceeding five pounds. . . .'' It may be noted that "exposes" alone is still the word used in paragraph (4) of the same section 142. It may be noted also that paragraph 2 contains no reference to the exposure of infected "things," this subject matter being dealt with by paragraph 3.

And as to "dangerous infectious disorder," see note to s. 65 *post*.

Prohibiting conveyance of infected persons in public vehicles.

63. The owner or driver of a public vehicle within the district of the local authority 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 offend against this section shall for every such offence be liable to a penalty not exceeding forty shillings.

USED FOR THE CARRIAGE . . . . AT SEPARATE FARES.—This apparently refers to a vehicle such as an omnibus or tram.

Cf. Public Health Act, ss. 142, 143, *Fanston*, pp. 176, 178.

PENALTY.—See s. 6 *ante* and s. 7 (1) *ante* as to appeal.

Driver, &c., of infected person to give notice.

s. 64.

64.—(1) If any person suffering from any infectious disease is conveyed in any public vehicle within the district of the local authority the owner or driver thereof as soon as it comes to his knowledge shall give notice to the medical officer, and shall cause such vehicle to be disinfected, and, if he fails so to do, he shall be liable to a penalty not exceeding five pounds, and the owner or driver of such vehicle shall be entitled to recover in a summary manner from the person so conveyed, or from the person causing that person to be so conveyed, a sufficient sum to cover any loss and expense incurred by him in connection with such disinfection.

(2) It shall be the duty of the local authority when so requested by the owner or driver of such public vehicle to provide for the disinfection of the same free of charge, except in cases where the owner or driver conveyed a person knowing that he was suffering from infectious disease.

The duty contained in sub-sec. 2 is new. Compare with sub-sec. 1. Public Health Act, ss. 142, 143; *Vanston*, pp. 176, 178.

Recover in a summary manner.—See s. 6 *ante*, and Public Health Act, ss. 249, 250; *Vanston*, p. 255 *et seq.*

Infectious Disease.—See note to s. 52 *ante*. Public Health Act, s. 143, refers to "dangerous infectious disorder."

Section 141 of 41 & 42 Vict., c. 52, to apply to persons who cannot be isolated.

s. 65.

65. Section *one hundred and forty-one* of the Public Health (*Ireland*) Act, 1878, shall extend and apply to all cases of persons suffering from any dangerous infectious disease, and being in or upon any house or premises where such persons cannot be effectually isolated so as to prevent the spread of the disease.

The effect of the present section is to enact that "Where any suitable hospital or place for the reception of the sick is provided within the district of a sanitary authority or within a convenient distance of such district (in addition to the cases mentioned in Public Health Act, s. 141), all persons SUFFERING FROM ANY DANGEROUS INFECTIOUS DISEASE AND BEING IN OR UPON ANY HOUSE OR PREMISES WHERE SUCH PERSONS CANNOT BE EFFECTUALLY ISOLATED SO AS TO PREVENT THE SPREAD OF THE DISEASE may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed by order of any justice to such hospital or place at the cost of the sanitary authority. An order under Public Health Act, s. 141, may be addressed to such constable or officer of the sanitary authority as the justice or sanitary authority making the same may think expedient; and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding ten pounds."

The cases mentioned in s. 141 are—"Any person who is suffering from any infectious disorder and is (1) without proper lodging or accommodation, (2) lodged in a room occupied by other persons not so suffering, (3) on board any ship or vessel, (4) lodged in any common lodging-house." See p. 253 *post*.

s. 65 note, 66.

The circumstance that a person suffering from scarlet fever was lodged in the parlour of a four-roomed house, the other three rooms of which were occupied by the rest of the family, was held in itself sufficient evidence that he was "without proper lodging or accommodation" within the meaning of the English section corresponding to Public Health Act, s. 141, for that section is directed to the protection of others as well as the patient. *Warwick* v. *Graham* [1899], 2, Q. B., 191.

A nice question arises as to whether dangerous infectious disease in the present section is to have the same meaning as dangerous infectious disorder in Public Health Act, s. 141, and therefore should not be confined (notwithstanding the definition of infectious disease in s. 13 *ante*) to infectious diseases within the meaning of the Infectious Diseases (Notification Act), 1889. It is clearly not so confined in s. 62 *ante*, and it is submitted that the rational construction is that it should not be so confined here. See also note to s. 52 *ante*.

HOUSE and PREMISES have, if not inconsistent with the context, by s. 13 *ante*, the same definition in this Act as in Public Health Act, s. 2, see *Vanston*, pp. 4, 8, 14. The definitions are cited in the note to s. 13 *ante*. "Premises" are there defined to "include messuages, buildings, lands, easements and hereditaments of any tenure." This creates a difficulty in the way of giving to "house" or "premises" in this section the extended meaning given in s. 61 (3), though "shed" might be included under "building." If this is so it is very unfortunate and irrational, and no doubt courts will struggle against such a construction.

Cleansing and disinfecting of premises, &c.

66.—(1) If the medical officer, or any other legally qualified medical practitioner certifies that the cleansing and disinfecting of any house, or part of a house, and of

s. 66.

any articles therein likely to retain infection, or the destruction of those articles would tend to prevent or check any dangerous infectious disease, the local authority shall serve notice on the master, or, where the house or part is unoccupied, on the owner of the house or part, that the house or part, and any such articles therein, will be cleansed and disinfected or (as regards the articles) destroyed, by the local authority unless he informs the local authority within twenty-four hours from the receipt of the notice that he will cleanse and disinfect the house or part and any such articles, or destroy the articles to the satisfaction of the medical officer or of any other legally qualified medical practitioner within a time fixed in the notice.

(2) If either—

(*a*) Within twenty-four hours from the receipt of the notice the person on whom the notice is served does not inform the local authority as aforesaid; or

(*b*) Having so informed the local authority, he fails to have the house or part thereof and any such articles disinfected, or the articles destroyed as aforesaid, within the time fixed in the notice; or

(*c*) The master or owner without any such notice gives his consent;

the house or part and articles shall be cleansed and disinfected, or the articles destroyed by the officers and at

s. 66.

the cost of the local authority under the superintendence of the medical officer.

(3) For the purpose of carrying into effect this section the local authority may enter by day on any premises.

(4) When the local authority have disinfected any house, part of a house, or article, under the provisions of this section, they shall compensate the master or owner of the house, or part of a house, or the owner of the article, for any unnecessary damage thereby caused to the house, part of a house, or article; and when the local authority destroy any article under this section they shall compensate the owner thereof, and the amount of any such compensation shall be recoverable in a summary manner.

(5) The expression "master" means the person in occupation of or having the charge, management, or control of the house or part of a house, and where the house is wholly let out in separate tenements, or is a lodging-house wholly let to lodgers, includes the person receiving the rent payable by the tenants or lodgers either on his own account, or as the agent of another person; and the expression "by day" means during the period between six o'clock in the morning and the succeeding nine o'clock in the evening.

The provisions of this section should be carefully compared with s. 5 of the Infectious Diseases (Prevention) Act, 1890, see *Vanston*, p. 705 (which applies in a district only when adopted), and with which they in large part coincide. That section, however, contains no provision for the destruction of articles, and in most cases

s. 66 note, 67.

throws the cost of disinfection on the owner instead of on the local authority, nor, unlike s. 6, does it contain any provision similar to sub-s. (4) of the present section.

See also s. 56 *ante*, as to "filthy articles."

LEGALLY QUALIFIED MEDICAL PRACTITIONER defined by the Medical Act of 1858 to mean a person registered under that Act.

INFECTIOUS DISEASE.—See note to s. 52 *ante*.

MASTER.—The definition given in sub-s. (5) is very similar to that of "occupier" in s. 16 of the Infectious Disease (Notification) Act, 1889, which applies in s. 5 of the Infectious Disease (Prevention) Act, 1890.

BY DAY.—Note the definition in sub-s. 5 *ad fin.*

COMPENSATION.—See note to s. 56 *ante*.

IN A SUMMARY MANNER.—See s. 6 *ante*, and Public Health Act, s. 249; *Vanston*, p. 255.

Provision of nursing attendance by local authority.

67.—(1) The local authority may provide nurses for attendance on patients suffering from any infectious disease in their district who, owing to want of accommodation at the hospital or danger of infection, cannot be removed to the hospital, or in cases where removal to the hospital is likely to endanger the patients' health.

(2) The local authority may charge such reasonable sums for the services of nurses provided by them as they think fit.

(3) Nothing in this section shall be deemed to take away or diminish the necessity of providing proper hospital accommodation for persons suffering from infectious disease.

s. 67 note, 68.

INFECTIOUS DISEASE.—See note to s. 52 *ante.*

THE NECESSITY OF PROVIDING.—See Public Health Act, ss. 149, 155; *Vanston*, pp. 182, 185, and see Local Government Act, 1898, s. 15, and *Vanston, Public Health Suppl.*, p. 51, and *R.* v. *Mayor of Rawtenstall*, 10 T.L.R. 643, there cited.

In *A. G.* v. *Corporation of Nottingham* [1904], 1 Ch. 673, Farwell, J. followed the decision of our court of appeal in *A. G.* v. *Rathmines, Etc., Hospital Board* [1904], 1, I.R. 161, and refused to regard the theory of the aerial convection of small-pox as established, in an action brought to prevent the erection of an isolation hospital.

Wake not to be held over body of person dying of infectious disease.

68. 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 forty shillings.

Public Health Act, s. 142, paragraph 5 (to which there is no corresponding provision in the English Act), contains a provision prohibiting such wakes under a penalty not exceeding five pounds. The present section extends a similar prohibition to England. The section of the Public Health Act is, however, more extensive in one respect, since "dangerous infectious disorder" in Public Health Act, s. 142, is not confined in the same way as is "infectious disease" in the present section, by virtue of the definition in s. 13 *ante*

s. 68 note.

.. *v.* But on the other hand, persons merely "attend-ng to take part in" the wake are subjected to a penalty y the present section, which was not the case under ur former Act (the Public Health Act). For the text f s. 142 see p. 253 *post*.

PART V.

COMMON LODGING-HOUSES.

Discretion as to registration of lodging-house keeper, 41 & 52 Vic., c. 52.

s. 69.

69.—(1) The local authority 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 commencement of this section, remain in force only for such time not exceeding one year as may be fixed by the local authority, but may be renewed from time to time by the local authority.

This section gives the local authority a new discretion to refuse to register the keeper of a common lodging-house. Previously the authority might refuse to register the premises on the ground of their unsuitability, or if the keeper had not procured the necessary certificate of character from three householders provided for (Public Health Act (1878), s. 89); but otherwise Wills, J., had declared: "This is a business anybody may carry on subject to registration"—*Blake* v. *Kelly*, 52, J.P. 263. The function, however, being a merely administrative one, the court would not grant *mandamus* where the authority refused to register.—*Ex parte, Kavanagh*, 10, T.L.R. 533. The provision as to obtaining a certificate from householders is now repealed by s. 75, *post*. So, too, sub-section (2) will, in effect, enable the authority

s. 69 note.

to remove names hereafter registered from the register, which they had not previously power to do, except in the special case mentioned in Public Health Act (1878), s. 92 (deficient water supply). As to removal of name by the court after conviction, see note to s. 72, *post*, and see *Coles* v. *Fibbens*, 52, L.T. (N.S.) 358. See also s. 72, below. But, unlike the registration of a "deputy" under s. 71, that of a lodging-house keeper cannot, seemingly, be cancelled by the local authority, till the period of registration, short as it is, has expired. But, if convicted of an offence, the court can expunge his name (s. 72).

COMMON LODGING-HOUSE will have the same meaning (see s. 13 *ante*) as in sect. 2 of the Public Health Act, 1878; *Vanston*, pp. 5 and 122.

"Common lodging-house means a house in which, or in any part of which, persons are harboured or lodged for hire for a single night, or for less than a week at a time."

"A lodging-house does not cease to be a lodging-house within" *the definition*, "if it is carried on for charity and not for purposes of gain," *per Cozens-Hardy*, L.J., *Parker* v. *Talbot* [1905], 2, Ch. 653, following on this point *Loysdon* v. *Booth* [1900], 1, Q. B., 401. But a house for the reception of destitute persons cannot be a common lodging-house if no payment of any kind is made by, or on behalf of, the persons admitted, *Parker* v. *Talbot*. "I should like, not at all by way of definition, but by way of illustration, to give some instances in which I think charitable institutions making a charge may or may not fall within the Act. In the first place, I think the persons receiving the benefit of the charity must be of the very poor and humble class, whose sanitary conditions call for special attention . . . . In the next place, I think the sleeping of members not of the same family in cubicles or beds in a common room, and having meals in a common room does not constitute a common lodging-house, unless such reception and accommodation can be

s. 69 note, 70.

deemed the substantial and main purpose of the charity," *per Cozens-Hardy*, L.J., *ib.* *Parker* v. *Talbot* turned on identically the same definition of common lodging-house as is implied in the present Act. *Booth* v. *Ferrett* (*Vanston*, p. 123) 25, Q. B. D., 87 is thus overruled.

COMMON LODGING-HOUSE KEEPER.—See Public Health Act, 1878, s. 87, *et seq.*; see *Halligan* v. *Ganly*, 2 I.L.T. 603, and *Vanston*, p. 123.

Obligation on common lodging-house keeper to provide for proper control of his house.

70.—(1) Either the keeper of a common lodging-house or a deputy registered under this Act 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 forty shillings, and to a daily penalty not exceeding twenty shillings.

This will do away with the law as laid down in *Halligan* v. *Ganly*, 2 I.L.T. 603, that the keeper of a common lodging-house need not reside on the premises. But the provision as to deputies in this and the following section meets the case of a keeper not desiring to

reside on the premises. The keeper, however, and not the deputy, will be liable for non-compliance with the section (sub-s. 2).

PENALTY.—See s. 6 *ante* and Public Health Act, ss. 249-251. *Vanston* p. 255 *et seq.*; and as to appeal see s. 7 (1) *ante*.

DAILY PENALTY.—See s. 13 *ante*.

Deputy lodging-house keepers.

71.—(1) The local authority 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 local authority may register more than one deputy for any common lodging-house keeper.

(3) The local authority, 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.

This section gives the local authority similar powers over the keeper's deputy to those they would have over the keeper himself, except as regards penalties.

Power of court convicting common lodging-house keeper to cancel registration.

72. Where the keeper of a common lodging-house is convicted of any offence against any provision of the Public Health (*Ireland*) Acts, 1878 to 1900, or this Act

ss. 72. 73

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.

Previously, even in the case of a grave offence (*Blake* v. *Kelly*, 52, J.P., 263), it was only on the third conviction that a name could be removed from the register. The present section, allowing removal after the first conviction, is much more stringent. But the facts of the case just mentioned, that of a house being kept as a house of bad repute, show the necessity for it. The former provisions contained in s. 99 of the Public Health Act, 1878, are now repealed as far as relates to any district to which this part of the Act is applied by s. 75 *post*.

Public Health (Ireland) Acts, 1878 to 1900.—See note to s. 2, *ante*.

Unregistered lodging-house keepers liable to penalties under section 97 of 41 & 42 Vic., c. 52.

73. If a person keeps a common lodging-house he shall, although he is not registered as a common lodging-house keeper under section *eighty-eight* of the Public Health (*Ireland*) Act, 1878, be liable to the penalties imposed under section *ninety-seven* of that Act for the offences named therein.

Section 88, Public Health Act.—See *Vanston*, p. 126.

Section 97, Public Health Act.—*Ib.*, p. 126.

As to recovery of penalties, see Public Health Act, s. 249; *ib.*, p. 255.

Provision of proper sanitary conveniences in a common lodging-house.

74.—(1) Every common lodging-house, whether registered before or after the commencement of this section, 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.

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

(3) If within twenty-eight days of the notice being served the default is not remedied to the satisfaction of the local authority, they may themselves do the work required to be done, and may recover in a summary manner from the keeper of the common lodging-house the expenses incurred by them in so doing, or may, by order, declare these expenses to be private improvement expenses.

s. 74 note, 75.

Public Health Act, s. 92, already required the provision of a proper water supply for a common lodging-house.

Sanitary Convenience is defined in s. 11 (3) of the Public Health Acts Amendment Act, 1890, to include "*urinals, water-closets, earth-closets, privies, ashpits, and any similar convenience,*" but that definition is not incorporated in the present Act. See s. 13 *ante*.

Appears to Local Authority.—We may compare the similar provisions of Public Health Act, s. 45, as to dwellinghouses. See *Vanston*, p. 88, and note on p. 89. The local authority would appear to be the sole judges of the sufficiency of the accommodation provided. See *Vanston*, p. 89, and *Bogle* v. *Sherborne Local Board*, 46 J.P. 675; *Vestry of St. John's, Hackney*, v. *Hutton* [1897], 1 Q.B. 210; but note that in that section the word is "shall" and not "may" give notice as here.

Recover in a summary manner.—Summary proceedings will, as provided by s. 6 *ante* of the present Act, be governed by ss. 249, 255 of the Public Health Act. See pp. 261-2 *post*. And, as provided by s. 7 (2) *ante* of the present Act, appeals against orders made under s. 74 (3) (the present section) will be governed by the provisions of s. 268 of the Public Health Act, for which see p. 263 *post*.

Private Improvement Expenses.—See Public Health Act, ss. 229-231; *Vanston*, p. 239. Rural authorities received power to levy a private improvement rate by Public Health (Ireland) Act, 1896, s. 4; *Vanston* Public Health Suppl., p. 77. See also *Vanston*, p. 58. See pp. 258, 261, 264 *post*.

Notice of commencement of Part V. and Repeal.

75.—(1) At a time not less than one month before the commencement of this Part of this Act the local authority shall give notice of the fact to the keeper of every common lodging-house in their district.

ss. 75, 76.

(2) On and after the commencement of this Part of this Act section *eighty-nine* from the words "and the local authority may" to the end of the section, and section *ninety-nine* of the Public Health (*Ireland*) Act, 1878, shall be repealed as far as relates to the district.

See notes to ss. 69, 72 *ante*.

COMMENCEMENT.—See sect. 13 *ante*.

"AND THE LOCAL AUTHORITY MAY."—The words in our Irish Act are "*and the sanitary authority may.*" S. 14 (9) *ante* provided for substituting these words for "and the local authority may" in the application of the Act to Ireland in s. 74, which is clearly a mistake for s. 75 of this Act. The matter is not of importance.

PART VI.

RECREATION GROUNDS.

Powers as to Parks and Pleasure Gardens.

76.—(1) The Local Government Board (*for Ireland*), for the purposes of this section, may make rules prescribing restrictions or conditions subject to which any powers conferred by the section shall with respect to any area in a public park or pleasure ground be exercisable in relation to the enclosure or setting apart of the area or in relation to the use of the area as the site of a building or convenience.

Subject to the restrictions or conditions prescribed by rules made under this section, the local authority shall, in addition to any powers under any general Act, have the following powers with respect to any public park or pleasure ground provided by them or under their management and control, namely, powers—

(*a*) To enclose during time of frost any part of the park or ground for the purpose of protecting ice

s. 76.

for skating, and charge admission to the part inclosed, but only on condition that at least three-quarters of the ice available for the purpose of skating is open to the use of the public free of charge;

(*b*) To set apart any such part of the park or ground as may be fixed by the local authority, and may be described in a notice board affixed or set up in some conspicuous position in the park or ground for the purpose of cricket, football, or any other game or recreation, and to exclude the public from the part set apart while it is in actual use for that purpose;

(*c*) To provide any apparatus for games and recreations, and charge for the use thereof, or let the right of providing any such apparatus for any term not exceeding three years to any person;

(*d*) To provide or contribute towards the expenses of any band of music to perform in the park or ground;

(*e*) To enclose any part of the park or ground, not exceeding one acre, for the convenience of persons listening to any band of music, and charge admission thereto;

(*f*) To place, or authorise any person to place, chairs or seats in any such park or ground, and charge for, or authorise any person to charge for, the use of the chairs so provided;

(*g*) To provide and maintain any reading rooms, pavilions, or other buildings and conveniences, and to charge for admission thereto, subject in the case of reading rooms to the limitation that such a charge shall not be made on more than twelve days in any one year, nor on more than four consecutive days;

(*h*) To let any pavilion or other building so provided by them to any person for the purpose of entertainments, and authorise that person to charge for admission thereto;

(*i*) To provide and maintain refreshment rooms in any such park, and either manage them themselves, or, if they think fit, let them to any person for any term not exceeding three years.

(2) Any expenses of the local authority incurred in the exercise of the powers given to them by this section shall be defrayed out of the fund or rate out of which the expenses of the park or ground as to which the powers are exercised are payable, and any receipts arising from the exercise of any such powers shall be carried to the credit of the same fund or rate.

(3) The expenses incurred by the council in the exercise of their power under this section to provide or contribute to a band shall not in any one year exceed an amount equal to that which would be produced by a rate of an amount which shall be approved by the Local Government Board (*for Ireland*), and shall not exceed a penny on the property liable to be assessed for the

s. 76.

purpose of the rate out of which the expenses of the park or ground are payable, as assessed for the time being for the purposes of that rate.

(4) No power given by this section shall be exercised in such a manner as to contravene any covenant or condition subject to which a gift or lease of a public park or pleasure ground has been accepted or made, without the consent of the donor, grantor, lessor, or other person or persons entitled in law to the benefit of such covenant or condition.

POWERS UNDER . . . GENERAL ACT.—Under s. 44 of the Public Health Acts Amendment Act, 1890, urban authorities and, therefore (by s. 1 of the Public Health (Ireland) Act, 1896), rural authorities, with the concurrence of the Local Government Board, can obtain power (by sub-sec. (1)) to close to the public, for public purposes, any park or pleasure ground provided by them, for not more than twelve days in the year and charge for admission, and can also obtain power (by sub-sec. 2) to provide, or regulate the use of, pleasure boats in such park or pleasure ground. See *Vanston*, p. 354-5; as to pleasure boats, see *Byrne* v. *Browne*, 57 J.P. 741.

PARK OR PLEASURE GROUND PROVIDED, &C.—Our Public Health Act contained no provision as to providing public walks and pleasure grounds corresponding to s. 164 of the English Public Health Act, 1875. But this power was given to Irish sanitary authorities, both urban and rural, by s. 12 of the Open Spaces Act, 1887 (50 & 51 Vic., c. 32), which provided that—"The *sanitary authority* may purchase or take on lease, lay out plant, improve and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever," the section being copied from s. 164 of

he English Public Health Act, 1875. See *Vanston*, pp. 355 and 658. Slightly fuller provisions have now been enacted by s. 36 of the Local Government Act, 1898, which is as follows: — s. 76 note.

(1) An urban district council, and if so authorised by order of the Local Government Board a rural district council, may

(*a*) acquire, purchase, or take on lease, lay out, plant, improve and maintain land for a recreation ground or public walk; and

(*b*) support or contribute to the support of a recreation ground or public walk, or contribute towards the purchase or cost of the laying out, planting, or the improvement of any recreation ground or public walk, when provided by any person and permanently dedicated as such; and

(*c*) make bye-laws for the regulation of any such recreation ground or public walk, and by such bye-laws provide for the removal from such recreation ground or public walk, by any officer of the said council or a constable, of any person infringing any such bye-law.

(2) The recreation ground or public walk may be either within or without the district of the council, if it is convenient for the use of the inhabitants of such district.

(3) Any expenses incurred under this section by a district council shall be defrayed as expenses under the Public Health Act, 1878.

(4) The acquisition of land for the purpose of this section shall be deemed to be a purpose for which land may be acquired under the Public Health Act, 1878, and the provisions of that Act with respect to the acquisition of land shall apply accordingly.

(5) Sections two hundred and nineteen to two hundred and twenty-three of the Public Health Act,

s. 76 note, 77.

1878, shall apply to the bye-laws made under this section.

As to expenses, see note to "*rate out of . . . which*" below. A rural district council may still find it more convenient to rely on the provisions of the Open Spaces Act, 1887, *supra*. As to the transfer to a local authority of spaces held by trustees for purposes of public recreation, see the Open Spaces Act, 1890 (53 and 54 Vic., chap. 15), s. 3, *et seq.*; *Vanston*, p. 698.

CONVENIENCE.—See *Vanston*, pp. 92, 142, and *Vanston Suppl.*, p. 36, and cf. Public Health Act, s. 49, and note to s. 74 of the present Act, *supra*.

76 (2) RATE OUT OF WHICH EXPENSES . . . PAYABLE.—See sub-sec. 3 of s. 36 of the Local Government Act, 1898, *supra*. The provisions of the Open Spaces Act in this matter are similar. See s. 8 (50 & 51 Vic., chap. 32), *Vanston*, p. 657. As to "*expenses under the Public Health Act*, 1878," referred to in Local Government Act, s. 3 (3), *supra*, for urban districts, see s. 226 of the Public Health Act; *Vanston*, p. 235, *et seq.*; and, as to rural districts, see s. 232 of the Public Health Act; *Vanston*, p. 241, *et seq.*

Power to appoint Officers.

77. The local authority may appoint officers for securing the observance of this Part of this Act, and of the regulations and bye-laws made thereunder, and may procure such officers to be sworn in as constables for that purpose, but any such officer shall not act as a constable unless in uniform or provided with a warrant.

UNLESS IN UNIFORM.—A constable may, therefore, act, though not in uniform, if he is provided with a warrant.

OFFICERS.—Cf. s. 36 (1) (*c*) of the Local Government Act, 1898, cited in the note to s. 76 (1), *supra*.

PART VII.*

POLICE.

Regulations as to Street Traffic.

s. 78.

78. The local authority may from time to time make regulations with respect to such streets, to be specified in the regulations, as are specially liable to be obstructed by reason of the amount and nature of the traffic:—

(*a*) Prescribing the line to be kept at any street crossing by all persons riding or driving;

(*b*) Requiring the drivers of heavy and slow-moving vehicles to keep their vehicles to a particular portion of the street.

All regulations under this section shall be subject to the approval of the *Chief Secretary*.

Any person who shall contravene any such regulation after warning given by word or signal by a police constable stationed in the street to direct the traffic shall be liable to a penalty not exceeding forty shillings.

STREET.—See s. 13 *ante* and the definition quoted in the note thereto, and Public Health Act, s. 2; *Vanston*, pp. 4, 11.

RIDING OR DRIVING.

Riding a bicycle is driving. *Taylor* v. *Goodwin*, 4 Q.B.D. 228; *McKee* v. *McGrath*, 30 L.R.I. 41; and see the provisions of s. 88 of the Local Government Act, 1898, which gives power to the council of a county

* As to the application of Part VII. in a district by the Chief Secretary, see s. 3 (4) and 14 (4) *ante*.

ss. 79, 80.

borough to make regulations for bicycles, tricycles, velocipedes and similar machines.

PENALTY.—See s. 6 *ante* and Public Health Act, s. 249, *et seq.*, and *Vanston*, p. 255; as to appeals, see s. 7 (1).

Dangerous Riding and Driving.

79. Every person who shall ride or drive so as to endanger the life or limb of any person or to the common danger of the passengers in any thoroughfare shall be liable to a penalty not exceeding forty shillings and may be arrested without warrant by any constable who witnesses the offence.

DRIVE.—See note to s. 78 above.

PENALTY.—See note to s. 78 above.

As to Leading or Driving Animals.

80. The local authority may, by order, prescribe the streets in which, and the manner according to which, the leading or driving of animals shall be permitted within their district, provided that the route or routes which it shall be lawful for the local authority so to prescribe shall not be such as would prevent the passage of cattle between any market on the one hand, and any railway station or landing wharf in the district, or any place beyond the district, on the other hand, when such animals are merely passing between such market and railway station, landing wharf, or other place aforesaid, and the local authority shall be bound to allow at all times a reasonably short and efficient route

or routes for the passage of such animals. Provided also that any such order shall only operate between the hours of nine in the morning and nine in the evening, and shall not prevent the owner of any animals driving the same to or from his own premises, and nothing in this enactment contained shall authorise the local authority to interfere with the leading or driving of any animals to any duly licensed slaughter-house.

STREET.—See s. 13 *ante* and definition quoted in note thereto, and Public Health Act, s. 2; *Vanston*, pp. 4, 11.

PREMISES.—See s. 13 *ante* and definition quoted in note thereto, and Public Health Act, s. 2; *Vanston*, p. 4.

SLAUGHTER-HOUSE.—See s. 13 *ante* (*ad fin.*) and Public Health Act, s. 2; *Vanston*, p. 5. Slaughter-house includes the buildings and places commonly called slaughter-houses and knackers' yards and any building or place used for slaughtering cattle, horses, or animals of any description for sale.

DULY LICENSED.—See Public Health Act, s. 105, and Towns Improvement Clauses Act, s. 125; *Vanston*, pp. 133, 442. As to Dublin, see Dublin Corporation Act, 1890, s. 88; *Vanston*, p. 807.

Extending definition of public place and street for certain purposes.

81. Any place of public resort or recreation ground belonging to, or under the control of the local authority, and any unfenced ground adjoining or abutting upon any street in an urban district shall for the purpose of the Vagrancy Act, 1824, and of any Act for the time being in force altering or amending the same, be deemed to be an open and public place, and shall be

s. 81.

deemed to be a street for the purposes of section twenty-nine of the Town Police Clauses Act, 1847, and also for the purposes of so much of section twenty-eight of that Act (*and the provisions with respect to section twenty-eight of the Town Police Clauses Act*, 1847, *shall extend to section seventy-two of the Towns Improvement* (*Ireland*) *Act*, 1854) as relates to the following offences: —

Every person who suffers to be at large any unmuzzled ferocious dog, or urges any dog or other animal to attack, worry, or put in fear any person or animal:

Every person who rides or drives furiously any horse or carriage, or drives furiously any cattle:

Every common prostitute or night walker loitering and importuning passengers for the purpose of prostitution:

Every person who wilfully and indecently exposes his person:

Every person who publicly offers for sale or distribution, or exhibits to public view, any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sings any profane or obscene song or ballad, or uses any profane or obscene language:

Every person who wantonly discharges any firearm or discharges any missile or makes any bonfire:

Every person who throws or lays any dirt, litter, ashes, or night soil, or any carrion, fish, offal, or rubbish, on any street.

s. 81 note.

THE VAGRANCY ACT (except s. 4) does not apply to this country. The relevant provisions of s. 4 of the Vagrancy Act are as follows:—

S. 4.—"... Every person wilfully exposing to view in any street, road, highway or public place, any obscene print, picture or other indecent exhibition; every person wilfully, openly, lewdly and obscenely exposing his person in any street, road or public highway or in view thereof, or in any place of public resort, with intent to insult any female .... **every person playing or betting in any street, road, highway or other open and public place, at or with any table or instrument of gaming, at any game or pretended game of chance;** every suspected person or reputed thief frequenting any river, canal or navigable stream, dock or basin, or any quay, wharf or warehouse near or adjoining thereto, or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading thereto, or any street, *highway or place adjacent*, with intent to commit felony ... shall be deemed a rogue and a vagabond, within the true intent and meaning of this Act; and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him, by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses) to *the house of correction*, there to be kept to hard labour for any time not exceeding three calendar months. ..."

And by s. 15 of the Prevention of Crime Act, 1871 (34 & 35 Vic., cap. 112), it is provided that the section just quoted (s. 4) "shall be construed as if instead of the words 'highway or place adjacent' there were inserted the words 'or any highway or any place adjacent to a street or highway,'" and it further provided "that in proving the intent to commit a felony it shall not be necessary to show that the person suspected was guilty of any particular act or acts tending to show his purpose or intent, and he may be convicted if from the circumstances of the case, and from his known character

s. 81 note.

as proved to the justice of the peace or court before whom or which he is brought, it appears to such justice or court that his intent was to commit a felony; and the provisions of the said section, as amended by this section, shall be in force in Scotland and Ireland."

And see further s. 7 of the Penal Servitude Act, 1891 (54 and 55 Vic., cap. 70).

Though, however, several phrases referring to "public place" occur in the section of the Vagrancy Act, the extension provided by the present Act will probably be held to be confined to the one clause in which "OPEN AND PUBLIC PLACE" occurs. The extension of the provisions is therefore aimed at gaming in public resorts or recreation grounds.

IN AN URBAN DISTRICT.—A nice question may arise as to whether these words govern "place of public resort, etc." The safer construction would appear to be that they do. See *G. W. R.* v. *Swindon, &c., R. Co.*, 9 App. Ca., p. 808.

S. 29. TOWN POLICE CLAUSES ACT, 1847.—It is as follows:—

"S. 29. Every person drunk in any street and guilty of any riotous or indecent behaviour therein, and also every person guilty of any violent or indecent behaviour in any Police office or Police station-house within the limits of the special Act, shall be liable to a penalty not exceeding forty shillings for every such offence, or, in the discretion of the justice before whom he is convicted, to imprisonment for a period not exceeding seven days.

S. 28. TOWN POLICE CLAUSES ACT, 1847.—It commences as follows:—

"S. 28. Every person who in any street, to the obstruction, annoyance or danger of the residents or passengers, commits any of the following offences, shall be liable to a penalty not exceeding forty shillings for each offence, or in the discretion of the justice before whom he is convicted may be committed to prison, there to remain

s. 81, note.

or a period not exceeding fourteen days, and any constable or other officer appointed by virtue of this or the special Act shall take into custody, without warrant, and forthwith convey before a justice any person, who within his view commits any such offence; (that is to say)—

Every person who exposes . . .

Every person who suffers to be at large . . . &c.

Then follow a number of clauses beginning "every person who . . ." among which those set forth above in the present section occur.

The clauses of the Town Police Clauses Act, 1847, only apply when incorporated in a special Act.

S. 72. Towns Improvement (Ireland) Act, 1854.—Those portions of the section to which alone s. 81 of the present Act seems to apply are as follows:—

"S. 72. Every person who in any street to the obstruction, annoyance or danger of the residents or passengers, commits any of the following offences shall be liable to a penalty for each offence as hereinafter mentioned; and any constable or other officer appointed by virtue of this Act shall take into custody, without warrant, and forthwith convey before a justice or justices any person who within his view commits any such offence; (that is to say) . . . .

2. Every person who suffers to be at large any unmuzzled ferocious dog or sets on or urges any dog or other animal to attack, worry or put in fear any person or animal, shall be liable to a fine not exceeding ten shillings . . . .

8. Every person who rides or drives furiously any horse or carriage or drives furiously any cattle, shall be liable to a fine not exceeding twenty shillings . . .

16. Every common prostitute or night-walker loitering and importuning passengers, for the purpose of prostitution or being otherwise offensive, shall be liable to a fine not exceeding forty shillings . . .

s. 81, note.

17. Every person who wilfully and indecently exposes his person, or who commits any act contrary to public decency, shall be liable to a fine not exceeding forty shillings . . . .

18. Every person who publicly offers for sale or distribution or exhibits to public view any profane, indecent, or obscene book, paper, print, drawing, painting or representation, or sings any profane or obscene song or ballad, shall be liable to a fine not exceeding forty shillings . . . .

19. Every person who wantonly discharges any firearm or throws or discharges any stone or other missile . . . shall be liable to a fine not exceeding ten shillings . . .

28. Every person who throws or lays any dirt . . . litter, or ashes, or night-soil, or any carrion, fish, offal, or rubbish on any street . . . shall be liable to a fine not exceeding ten shillings.

See Vanston, Municipal Towns, p. 50.

The first clause of s. 72 of the T. I. I. Act governs and controls every subsequent part of the section. It is essential that the offence should be committed in a "street" (subject of course to the extension of the definition of "street" given by the present section), *and* "to the obstruction, etc., of the residents or passengers," *per* Palles, C.B., *Stevenson* v. *O'Neill*, I.R. 11, C.L., p. 140; but it need not be proved that any person was *actually* obstructed, etc. See *Reg.* v. *Fermanagh*, J.J. 14 L.R. Ir. 50; *James* v. *Newman* [1894], 2 Q.B. 202, and other cases cited at Vanston M. T., p. 58.

Riding a bicycle furiously is driving a carriage furiously within the meaning of clause (8) of s. 72 above. *Taylor* v. *Goodwin*, 4 Q.B.D. 228; *McKee* v. *McGrath*, 30 L.R.I. 41.

Bye-laws as to Sea-shore.

s. 82.

82. The local authority for the prevention of danger, estruction, or annoyance to persons using the sea-ore may make and enforce bye-laws to—

(1) Regulate the erection or placing on the sea-shore, or on such part or parts thereof as may be prescribed by such bye-laws, of any booths, tents, sheds, stands, and stalls (whether fixed or movable), or vehicles for the sale or exposure of any article or thing, or any shows, exhibitions, performances, swings, roundabouts, or other erections, vans, photographic carts, or other vehicles, whether drawn or propelled by animals, persons or any mechanical power, and the playing of any games on the seashore, and generally regulate the user of the seashore for such purposes as shall be prescribed by such bye-laws;

(2) Regulate the user of the seashore for riding and driving;

(3) Regulate the selling and hawking of any article, commodity, or thing on the seashore;

(4) Provide for the preservation of order and good conduct among persons using the seashore. Provided that no bye-laws affecting the foreshore below high-water mark shall come into operation until the consent of the Board of Trade has been obtained.

ss. 83, 84.

See note to s. 92 *post* and *Mace* v. *Philcox*, 15 C.B., N.S. 600.

Local Authority.—See s. 13 *ante*.

Bye-Laws.—See s. 9 *ante* and ss. 219-223 of the Public Health Act and *Vanston*, p. 230, *et seq*. The Chief Secretary is to be the confirming authority (s. 9 *ante*.) As to a bye-law dealing with whirligigs and swings being held unreasonable because it required the erection of a permanent structure. See *Enniscorthy U.D.C.* v. *Field* [1904], 2 I.R., 518.

Bye-laws as to Promenades.

83. The local authority may, for the prevention of danger, obstruction, or annoyance to persons using the esplanades or promenades within the district, make bye-laws prescribing the nature of the traffic for which they may be used, regulating the selling and hawking of any article, commodity, or thing thereon, and for the preservation of order and good conduct among the persons using the same.

Bye-laws.—See s. 9 *ante* and Public Health Act, ss. 219-223, and *Vanston*, p. 230, *et seq*. The Chief Secretary is to be the confirming authority (s. 9 *ante*).

Licences to Porters.

84.—(1) The local authority may from time to time grant to any person whom they think fit a licence to carry on the calling of a luggage porter, light porter, public messenger, or commissionaire, and may charge a fee of one shilling for any such licence.

(2) The local authority may from time to time make bye-laws for regulating the conduct of any persons so licensed and for fixing the charges to be made by them.

(3) Every such licence may be granted for a year or for any less period according as the local authority may

ss. 84, 85.

ink fit, and may be suspended or revoked or endorsed the local authority for a breach of such bye-laws or henever they shall deem such suspension or revocation endorsement to be necessary or desirable in the terests of the public: Provided that the existence of his power to suspend or revoke or endorse a licence all be plainly set forth in the licence itself.

(4) Every such licence whensoever issued shall expire the thirty-first day of March next following the date its issue, and may contain conditions as to the badge hich the holder of any such licence shall wear.

(5) If any person while unlicensed represents himself be licensed, or wears any badge for the purpose of presenting himself as licensed to carry on any of the llings specified in this section, he shall be liable to a nalty not exceeding twenty shillings.

S. 88 of the Towns Improvement (Ireland) Act, 1854, so contains provisions as to licensing porters.

LOCAL AUTHORITY.—See s. 13 *ante*.

BYE-LAWS.—See s. 9 *ante* and Public Health Act, ss. 9-223, and *Vanston*, p. 230, *et seq.* The Chief cretary is to be the confirming authority (s. 9 *ante*).

PENALTY.—See s. 6 *ante* and Public Health Acts, 249, *seq.*, and *Vanston*, p. 255. As to appeals, see s. 7) *ante*.

Registries for Servants.

85.—(1) Every person who shall carry on for the rpose of private gain, the trade or business of keeper a female domestic servants' registry shall register his me and place of abode, and also the premises in which ch trade or business is carried on, in a book to be pt at the offices of the local authority for the purpose.

s. 85.

(2) The local authority may make bye-laws prescribing the books to be kept and the entries to be made therein, and any other matter which the local authority may deem necessary for the prevention of fraud or immorality in the conduct of such trade or business and for regulating any premises used for the purposes of or in connection with such trade or business.

(3) The person registered shall keep a copy of the bye-laws made by the local authority under this section hung up in a conspicuous place in the registered premises.

(4) Any officer of the local authority or other person duly authorised in writing in that behalf by the local authority, and if so required exhibiting his authority, shall at all reasonable times be afforded by the person registered full and free power of entry into the registered premises for the purpose of inspecting the registered premises and the books required to be kept by such person.

(5) Any person carrying on such trade or business as aforesaid whose name, place of abode, and premises in which such trade or business is carried on have not been registered in accordance with sub-section one of this section, or whose registration has been cancelled or suspended as hereinafter provided, or acting in contravention of any of the provisions of this section or of any bye-law made thereunder, shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings, and the court may (in lieu of or in addition to imposing a penalty) order the suspension or cancellation of the registration.

ss. 85, 86.

(6) The local authority shall give public notice of the provisions of this section by advertisement in two newspapers circulating in the district, and by handbills and otherwise in such manner as they think sufficient.

Local Authority, Bye-law, Penalty.—See note to last section above.

Daily Penalty.—By s. 13 this is defined to mean a penalty for each day on which an offence is continued after conviction therefor.

As to Dealers in Old Metal and Marine Stores.

86.—(1) Every person who shall carry on business as a dealer in old metal or as a marine store dealer shall register his name and place of abode and every place of business, warehouse, store, and place of deposit occupied or used by him for the purpose of such business, in a book to be kept for the purpose at the offices of the local authority.

(2) Every person carrying on business as aforesaid shall correctly enter in a book to be kept by him for that purpose the description and price of all articles purchased or otherwise acquired by him, and the name, address, and occupation of the person from whom the same were purchased or otherwise acquired.

(3) Every person who shall carry on such business without having so registered or without keeping such book and making such entries as required by this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

s. 86.

(4) Any officer of the local authority or other person duly authorised in writing in that behalf by the local authority, and if so required exhibiting his authority, shall have free access at all reasonable times to every such place of business, warehouse, store, and place of deposit, to inspect the same and the books by this section required to be kept, and every person who shall prevent, hinder, or obstruct any officer or person so authorised in the execution of his duty under this sub-section shall be liable to a penalty not exceeding five pounds.

(5) The local authority shall give public notice of the provisions of this section by advertisement in two newspapers circulating in the district, and by handbills and otherwise in such manner as they think sufficient.

Having regard to the much fuller provisions of the General Dealers (Ireland) Act, 1903 (3 Edw. VII., cap. 44), see p. 276, it may be presumed that this section will not as a rule be applied. Under that Act, however, the magistrates are the licensing authority. S. 12 of that Act contains a very full definition of "general dealer." As to that definition, which was held to be *exclusive*, see *R.* (*Rice*) v. *Kelly*, 39 I.L.T.R. 247. As to a general dealer trading away from his premises and outside the district of the licensing authority under that Act, see *Hall* v. *O'Brien* (1906), 2 I.R., p. 6. The statute does not touch a business act done away from the premises, *ib.*

Local Authority.—See s. 13 *ante.*

Daily Penalty.—See s. 13 *ante.*

PART VIII.*

FIRE BRIGADE.

Power to Police Constable to Enter and Break Open Premises in Case of Fire.

s. 87.

87. Any police constable acting under the orders of his superior officer, and any member of the fire brigade of the local authority being on duty, and any officer of the local authority, may enter and if necessary break into any building in the district being or reasonably supposed to be on fire, or any building or land adjoining or near thereto, without the consent of the owner or occupier thereof respectively, and may do all such acts and things as they may deem necessary for extinguishing fire in any such building or for protecting the same or rescuing any person or property therein from fire.

Our Irish Public Health Act does not contain any section similar to s. 171 of the English Public Health Act, 1875, which incorporated ss. 32 and 33 of the Towns Police Clauses Act, 1847, which give powers as to establishing a fire brigade. The sections of the Towns Police Clauses Act, 1847, can, however, be incorporated in an Irish local Act. Irish towns received the power to establish a fire brigade by s. 73 of the *Towns* Improvement (Ireland) Act, 1854, which contains provisions almost identical with ss. 32-33 of the Towns Police Clauses Act, 1847, above mentioned. See *Vanston, Municipal Towns*, p. 61, and as to rural districts see s. 33 (2) of the Local Government Act, 1898. The

*As to the application of this part of the Act by the Chief Secretary, see s. 3 (4) and s. 14 (4) *ante*.

s. 87 note, 88.

powers of a fire brigade thus established are slightly extended by these sections of the present Act. The new powers given by the present section correspond to those given to the London fire brigade by s. 12 of the 28 and 29 Vic., cap. 90, as to which Act, Grove, J., said, in *Joyce* v. *Metropolitan Board of Works*, 44 L.T. 811:—"I do not read sects. 12 or 29 of the statute as throwing on the fire brigade an imperative duty to take possession of property in a house or on the premises where a fire takes place, but as giving them power to do so, and this seems very reasonable and sensible, because not only might very valuable property be lost by the rabble coming in, but in cases where the fire has been occasioned by arson, if the fire brigade had no control over the property a man could remove evidences of his guilt. . . . It seems to me the statute does not compel them to exercise the power, but merely gives them power to accept a temporary control over the premises." But *note* there is nothing corresponding to s. 29 of that Act in the present one.

See note to s. 88 below.

Power to Police Officer to Control Street Traffic at Fires.

88. The officer in charge of the police at any fire in the district shall have power to stop or regulate the traffic in any street whenever in his opinion it is necessary or desirable to stop or regulate such traffic for the purpose of extinguishing the fire or for the safety or protection of life or property, and any person who wilfully disobeys any order given by such officer in pursuance of this section shall be liable to a penalty not exceeding five pounds.

Where a fire brigade is established under s. 73 of the Towns Improvement Act, 1854 (see note to last section)

the fire brigade can exclude from the premises on fire all persons, whose presence would interfere with their operations. *Carter* v. *Thomas* [1893], 1 Q.B. 673; 57 J.P. 438.

PENALTY.—See s. 6 *ante* and Public Heaith Act, s. 249, *et seq.*, and *Vanston*, p. 255.

Captain of Fire Brigade or other Officer to have Control of Operations.

89. The captain or superintendent of the fire brigade of the local authority or other officer of such fire brigade for the time being in charge of the engine or other apparatus for extinguishing fires attending at any fire within the district shall from the time of his arrival and during his presence thereat have the sole charge and control of all operations for the putting out of such fire, whether by the fire brigade of the local authority or any other fire brigade, including the fixing of the positions of fire engines and apparatus, the attaching of hose to any water pipes or water supply, and the selection of the parts of the building on fire or of adjoining buildings against which the water is to be directed.

Agreements with Local Authorities for Common Use of Fire Appliances.

90. The local authority of the district and the local authority of any borough or urban or rural district or the parish council of any parish may enter into and carry into effect agreements for the common use of any

fire engines with their appurtenances and firemen or for mutual assistance in case of fire.

Under s. 73 of the Towns Improvement Act (see note under s. 87 *supra*) there is power to send a fire brigade outside the district.

Parish Councils are institutions we (in this country) do not possess.

PART IX.*

SKY-SIGNS.

s. 91.

91.—(1) (*a*) It shall not be lawful to erect or fix to, upon, or in connection with any building or erection any sky-sign, and it shall not be lawful to retain any existing sky-sign so erected or fixed for a longer period than three years after the commencement of this section, nor during that period except with the licence of the local authority, and in the event of such licence being granted then only for such period not exceeding three years from the commencement of this section and under and subject to such terms and conditions as shall be therein prescribed.

(*b*) Provided that in any of the following cases a licence of the local authority under this sub-section shall become void (namely):—

(i) If any addition to any sky-sign be made except for the purpose of making it secure under the direction of the surveyor;

(ii) If any change be made in the sky-sign or any part thereof;

(iii) If the sky-sign or any part thereof fall either through accident, decay, or any other cause;

*As to the application of Part IX. by the Chief Secretary in a district see s. 3 (4) *ante*.

s. 91.

(iv) If any addition or alteration be made to or in the house, building, or structure on, over, or to which any sky-sign is placed or attached if such addition or alteration involves the disturbance of the sky-sign or any part thereof; or

(v) If the house, building, or structure over, on, or to which the sky-sign is placed or attached become unoccupied or be demolished or destroyed.

(*c*) Provided also that if any sky-sign be erected or retained contrary to the provisions of this Act, or after the licence for the erection, maintenance, or retention thereof for any period shall have expired or become void, it shall be lawful for the local authority to take proceedings for the taking down and removal of the sky-sign in the same manner and with the same consequence as to recovery of expenses and otherwise in all respects as if it were an obstruction within the meaning of section sixty-nine (Future projections of houses, etc., to be removed on notice) of the Towns Improvement Clauses Act, 1847.

(2) Any person acting in contravention of any of the provisions of this section, or of the terms and conditions (if any) of any approval, licence, or consent under this section, shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

s. 91.

(3) For the purposes of this section—

"Sky-sign" means—

Any word, letter, model, sign, device, or representation in the nature of an advertisement, announcement, or direction supported on or attached to any post, pole, standard, frame-work, or other support wholly or in part upon, over, or above any house, building or structure which or any part of which sky-sign shall be visible against the sky from some point in any street or public way, and includes all and every part of any such post, pole, standard, frame-work, or other support;

The expression "sky-sign" shall also include—

Any balloon, parachute, or other similar device employed wholly or in part for the purposes of any advertisement or announcement on, over, or above any house, building, structure, or erection of any kind, or on or over any street or public way;

But shall not include—

(*a*) Any flagstaff, pole, vane, or weathercock unless adapted or used wholly or in part for the purpose of any advertisement or announcement;

(*b*) Any sign or any board, frame, or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall, or to

s. 91.

the ridge of a roof: Provided that such board, frame, or other contrivance be of one continuous face and not open work, and do not extend in height more than three feet above any part of the wall or parapet or ridge to, against, or on which it is fixed or supported;

(*c*) Any word, letter, model, sign, device, or representation as aforesaid relating exclusively to the business of a railway or canal company, and placed wholly upon or over any railway, canal, railway station, wharf, quay, yard, platform, or station or wharf or quay approach belonging to a railway or canal company, and so placed that it cannot fall into any street or public place.

The provisions of section 91 are copied in the main from the London Sky Signs Act, 1891 (54 and 55 Vic., cap. 77), since repealed, and from the similar provisions of the London Building Act, 1894 (57-8) Vic., cap. 213), ss. 125-135 (a local Act). The definition sub-section above (sub-s. 3) is identical with that in the London Building Act, 1894, except for clause (c), and differs from that in the Sky Signs Act, 1891 (except as to clause (c)), only in slight particulars, such as the use of the phrase "upon, over or above," instead of "over" *any house*, etc., but see *per* Cave, J., below. The provision in s. 91 (1) (b) above is identical with s. 12 of the London Sky Signs Act, 1891, and s. 133 of the London Building Act, 1894. The provisions of s. 91 (1) (c) above are similar to those of s. 14 of the London Sky Signs Act and s. 134 of the London Building Act, 1894.

The Commencement.—See s. 13 *ante*.

Penalty.—See s. 6 *ante* and Public Health Act, s. 249, *et seq.*, and *Vanston*, p. 255. As to appeals see s. 7 (1).

s. 91 note.

Sky-sign.—"The definition of sky-sign is not exhaustive by any means. It indicates what words are to be included in sky-sign . . . It seems to be perfectly clear that what was intended to be dealt with were advertisements 'sustained' by means of any support over a house," *per* Matthew, J., *L.C.C.* v. *Carwardine*, 57 J.P., 181. In that case, where a merchant's name was inscribed on the rudder of a wind-mill, *used primarily for trade purposes*, erected on a tower over his premises, and, on a gallery half way up the tower, he had his name inscribed in large letters visible against the sky, the erection was held to constitute a sky-sign within the meaning of 54 and 55 Vic., cap. 77, above. For a case where a sky-sign was held not to be such, as not being "over a building," under the Sky Signs Act, see *Tussaud* v. *L.C.C.*, 57 J.P., 184. "Each case must depend on its own particular circumstances," said Hawkins, J., in that case. This case, however, was considered in *L.C.C.* v. *Savoy Hotel Co., Ltd.*, 60 J.P., 457, where Cave, J., said that to draw an inference that the definition of sky-sign in the London Building Act, 1894, was nearly the same as the definition in the repealed Sky Signs Act was rash. And it was there held that is sufficient to constitute a sky-sign if the board to which the letters are affixed is "visible against the sky," even though no part of the letters themselves is so visible.

S. 69 of the Towns Improvement Clauses Act, 1847.—It is as follows:—"The Commissioners may give notice to the occupier of any house or building to remove or alter any porch, shed, projecting window, step, cellar door or window, sign, sign-post, sign iron, showboard, window shutter, wall, gate, or fence, or any other obstruction or projection erected or placed after the passing of the special Act, against or in front of any house or building within the limits of the special Act, and which is an obstruction to the safe and convenient passage along any street; and such occupier shall, within fourteen days of the service of such notice upon him,

s. 91 note.

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 forty shillings; AND THE COMMISSIONERS IN SUCH CASE MAY REMOVE SUCH OBSTRUCTION OR PROJECTION, AND THE EXPENSE OF SUCH REMOVAL SHALL BE PAID BY THE OCCUPIER SO MAKING DEFAULT AND SHALL BE RECOVERABLE AS DAMAGES. Provided always that, except in the case in which such obstructions or projections were made or put up by the occupier, such occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building."

And the word "owner" is defined in that Act (s. 3) to mean "the person for the time being entitled to receive or who, if such lands or buildings were let to a tenant at a rack rent, would be entitled to receive the rack rent from the occupier thereof," but it is doubtful if this definition is to be incorporated rather than that in the Public Health Act, 1878 (for which see *Vanston*, p. 4). See *Sale* v. *Phillips* [1894] 1 Q.B. 349.

Query whether ss. 10 and 6 *ante* apply to proceedings under the incorporated section.

See Towns Improvement Clauses Act, 1847, ss. 147-152, *Vanston*, Municipal Towns, p. 196 *et seq.*

SURVEYOR.—See s. 13 *ante*.

PART X.

MISCELLANEOUS.

Bathing Places.

92. The local authority—

(*a*) may make bye-laws with regard to any public bathing, whether from bathing machines or not, for any of the purposes mentioned in section sixty-nine of the Town Police Clauses Act, 1847, and also for the purpose of regulating the hours of bathing and enforcing the provision and maintenance of any life-saving apparatus or other means of protecting bathers from danger by persons providing accommodation for public bathing; and s. 92.

(*b*) may, if they think fit, provide and maintain on or at any place within their district which abuts on the sea or any river, bathing-sheds or other conveniences with all necessary appliances, and may charge for the use thereof.

SECTION 69 is as follows:—

"Where any part of the seashore or strand of any river used as a public bathing place is within the limits of the special Act the Commissioners may make bye-laws for the following purposes (that is to say):—

"For fixing the stands of bathing machines on the seashore or strand, and the limits within which persons of

s. 92, note.

each sex shall be set down for bathing, and within which persons shall bathe:

"For preventing any indecent exposure of the persons of the bathers:

"For regulating the manner in which the bathing machines shall be used, and the charges to be made for the same:

"For regulating the distance at which boats and vessels let to hire for the purpose of sailing or rowing for pleasure shall be kept from persons bathing within the prescribed limits."

The limitation "*with regard to any public bathing*" seems under the present section to be substituted for "*where any part . . . used as a public bathing place is within . . .*" in the incorporated section.

Section 77 of the Towns Improvement (Ireland) Act, 1854 (see *Vanston*, Municipal Towns, p. 64), contains similar but slightly more extended provisions. Rural districts can avail of the provisions of the present Act (see ss. 3, 13).

The present section gives the local authority no power to place bathing machines on portions of the foreshore which are private property—(*Mace* v. *Philcox*, 15 C.B. N.S. 600)—or, without permission, to interfere with the foreshore belonging to the Crown (see s. 12 *ante*). As to bathing without costume, amounting to the indictable offence of indecent exposure, see *Vanston*, Municipal Towns, p. 65, and *R.* v. *Crunden*, 2 Camp. 89, and *R.* v. *Reed*, 12 Cox, C.C. 1.

For model bye-laws for public bathing, issued by the Local Government Board of England, see Lumley on Bye-laws, p. 308, and Mackenzie and Handfort's Model Bye-laws, Vol. 1, p. 299.

District.—See s. 13, *ante*.

Bathing-sheds.—Compare the provisions of the Baths and Washhouses Act, 1846 (9 & 10 Vic. c. 87), *Vanston*, p. 387, and especially s. 11 thereof; *Vanston*, p. 392. That Act, however, unlike the present Act, was

not applicable to rural districts (but see now s. 33 of the Local Government Act, 1898). ss. 93, 94.

Provision of Life-saving Appliances.

93. The local authority of any district may provide and maintain life-saving appliances at any place in their district where they think those appliances are likely to be of use.

Power to License Pleasure Boats.

94.—(1) The local authority may grant upon such terms and conditions as they may think fit licences for pleasure boats and pleasure vessels to be let for hire or to be used for carrying passengers for hire, and to the boatmen or persons assisting in the charge or navigation of such boats and vessels, and may charge annual fees for such licences, for a boat or vessel a fee not exceeding the sum of five shillings, and for a boatman or other person a fee not exceeding the sum of one shilling.

(2) Any such licence may be granted for such period as the local authority may think fit, and may be suspended or revoked by the local authority whenever they shall deem such suspension or revocation to be necessary or desirable in the interests of the public: Provided that the existence of the power to suspend or revoke the licence shall be plainly set forth in the licence itself.

(3) No person shall let for hire any pleasure boat or pleasure vessel not so licensed or at any time during the suspension of the licence for the boat or vessel, nor shall

s. 94.

any person carry or permit to be carried passengers for hire in any pleasure boat or vessel not so licensed or at any time during the suspension of the licence for the boat or vessel.

(4) A licence under this section shall not be required for any boat or vessel duly licensed by or under any regulations of the Board of Trade.

(5) No person shall carry or permit to be carried in any pleasure boat or pleasure vessel a greater number of passengers for hire than shall be specified in the licence applying to such boat or vessel, and every owner of any such boat or vessel shall, before permitting the same to be used for carrying passengers for hire, paint or cause to be painted, in letters and figures not less than one inch in height and three-quarters of an inch in breadth, on a conspicuous part of the said boat or vessel, his own name and also the number of persons which it is licensed to carry, in the form "Licensed to carry persons."

(6) Every person who shall act in contravention of the provisions of this section shall for each offence be liable to a penalty not exceeding forty shillings.

(7) Any person deeming himself aggrieved by the withholding, suspension, or revocation of any licence under the provisions of this section may appeal to a *court of summary jurisdiction constituted in accordance with the provisions of section two hundred and forty-nine of the Public Health (Ireland) Act, 1878,* held after the expiration of two clear days after such withholding, suspension, or revocation: Provided that the

person so aggrieved shall give twenty-four hours' written notice of such appeal, and the ground thereof, to the clerk, and the court shall have power to make such order as they see fit and to award costs, such costs to be recoverable summarily as a civil debt. s. 94.

Section 88 of the Towns Improvement Act, 1854, also contains provisions as to licensing boatmen, &c., of a somewhat similar character. See *Vanston*, Municipal Towns, p. 75, and see, as to regulating the distance to be kept by boats from bathers, the note to s. 92, *ante*.

Section 35 of the Local Government Act, 1898, provides that "The provisions of the Towns Improvement (Ireland) Act, 1854, as amended by the Local Government Board (Ireland) Act, 1872, respecting bye-laws in relation to boats plying for hire and the owners and boatmen thereof, shall apply to every rural district in like manner as if the council of the district were commissioners under the first-mentioned Act."

Local Authority.—See s. 13.

Letters.—These must be "*English*" letters. *M'Bride* v. *M'Govern* [1906], 2 K.B. 181. Local authorities should consider this before adopting the section.

Penalty.—See s. 6 *ante* and Public Health Act, s. 249, *et seq.*, and *Vanston*, p. 255.

May appeal.—This supersedes the right of appeal given in s. 7 (1).

Clerk.—See s. 13.

Recoverable summarily.—See s. 6 and note under Penalty above, and Public Health Act, s. 260; *Vanston*, p. 267.

Public Health Act, s. 249.—See *Vanston*, p. 255.

s. 95.

Extension and amendment of s. 202 and s. 203 of 41 & 42 Vict., c. 52.

95. The powers of a local authority under sections *two hundred and two* and *two hundred and three of the Public Health (Ireland) Act*, 1878, shall extend to highway purposes, and notwithstanding anything in section *two hundred and two of the Public Health (Ireland) Act*, 1878, or any general provision in any local Act, any lands acquired by a local authority and not required for the purposes for which those lands have been acquired may be appropriated for any purpose approved by the Local Government Board *for Ireland*, subject, nevertheless, to any special covenant or condition affecting the use of the lands attached thereto at the time of the purchase by the local authority, or to any special provision affecting the use of the lands contained in any local Act: Provided that the local authority shall not, on any lands so appropriated, create or permit any nuisance; and that the local authority shall not, on any such lands, sink any well for the public supply of water, or construct any cemetery, burial ground, destructor, station for generating electricity, sewage farm, or hospital for infectious disease, unless after local inquiry and consideration of any objections made by persons affected, the Local Government Board *for Ireland*, subject to such conditions as they think fit, authorise the work or construction.

Nothing in this section shall affect any rights acquired before the commencement of this section under any judgment or order of a court of competent jurisdiction,

or under any agreement in writing, but if a dispute, one of the parties to which is a local authority, arises under such an agreement as to any such right, the dispute shall, if either party so require, be settled by the Local Government Board *for Ireland* as if it were a doubt or difference within the meaning of section *two hundred and seventy-seven* of the Public Health (*Ireland*) Act, 1878, and the Local Government Board *for Ireland* may for that purpose deal by Order with any matters which may be dealt with by an Order or Provisional Order under the said section. s. 95.

Section 202 required that lands acquired by a sanitary authority under the powers in the Act and not required for the purpose for which they were acquired should be sold at the best price that could be got for them.—See *Vanston*, p. 210, and p. 254 *post*.

The method of acquiring the land is in accordance with the provisions of the Lands Clauses Acts. But see Public Health (Ireland) Act, 1896, s. 8, p. 265 *post*. The matter is discussed at p. 66. And as to the purchase of lands under the Public Health Acts, see further *Vanston*, Local Government, vol. 2, p. 909.

Land compulsorily acquired by a local authority under the English section corresponding to Public Health Act, s. 203, for a particular purpose cannot be permanently used for another purpose inconsistent with that for which it was acquired.—*A. G.* v. *Hanwell U.C.* [1900] 2 Ch. 377.

Nor can the Local Government Board under the English section corresponding to Public Health Act, s. 202, give them power to do so, *ib.*

"The local authority having got a power for one purpose, and having acquired land for that purpose, cannot use the land so acquired for any other purpose without special leave—that is unless the special Act of Parliament has provided for such leave to be given,"

per Farwell, J., *A. G.* v. *Pontypridd U.C.* [1905], 2. Ch. 441. And cf. *Westminster Corp.* v. *L.N.W.R.* [1905], A.C. 426. This was the former law which is now met by the provisions of the present sect., where it is adopted.

Public Health Act, s. 277.—See *Vanston*, p. 293.

A Provisional Order cannot be quashed on certiorari.—See *Vanston*, Local Government, Vol. II., p. 914, and *Frewen* v. *Hastings Local Board*, 34 L.J.Q.B. 159; *R.* (*Jordan*) v. *Enniskillen U.D.C.* [1902] 2 I.R. 452, 35 I.L.T. R. 241; *R.* (*Coddington*) v. *Local Government Board* [1902] 2 I.R. 222, 36, I.L.T.R. 91; *R.* (*Wexford C.C.*) v. *Local Government Board* [1902] I.R. 349, 35, I.L.T.R. 87, and other cases there cited.

SUMMARY OF RECENT DECISIONS.

I. "CONTRIBUTORY PLACE."

II. "BYE-LAWS."

III. "COMPENSATION."

IV. "CROWN RIGHTS."

V. "OWNER: OCCUPIER."

VI. "STREET: FRONTAGER."

VII. "STREET AND BUILDING BYE-LAWS."

VIII. "NUISANCE."

IX. "SEWER AND DRAIN."

X. "WATER-CLOSET: LAVATORY."

XI. "POWER OF ENTRY."

I. CONTRIBUTORY PLACE.

(Cf. note to s. 3 *ante*.)
(Cf. Public Health Act, s. 232.)

"If the *Ballycastle Case* [1904], 2 I.R. 270, decided anything, it decided that no portion of the earth's surface can be made a contributory place for the purposes of the Public Health Act, 1878, s. 232, unless it is a place to which water is to be supplied, or in which sewers are to be constructed, maintained or cleansed." —*Per* Fitzgibbon, L.J., *R.* (*Potts*) v. *L.G.B.* [1906] 2 I.R. 206.

"The Local Government Board have power to fix the area of charge before the money is actually required to be paid; and to put it briefly I think that this power is exercisable, at latest, when the works have been sanctioned and the plans approved and estimates have been made approximately, showing the amount required to meet the expenses, which it is intended to incur for the benefit of the area to be charged."—*Per* Fitzgibbon, L.J., *ib.*

"It follows from the decision in the *Ballycastle Case* that, if the expenses are to be incurred in respect of two contributory places, both might, and indeed ought to, be placed in the area of charge."—*Per* Holmes, L.J., *ib.*

II. BYE-LAWS.

(Cf. note to s. 9 *ante*.)

In *Nokes* v. *Corporation of Islington* [1904], 1 K.B. 610, a sanitary bye-law under the Public Health (London) Act, 1891, s. 39 (1), was held bad because it contained no provision for giving notice of the requirements of the sanitary authority to the person against whom it was contemplated that proceedings should be taken for breach of the bye-laws.

And see under "Street and Building Bye-laws" below.

See also *Vanston*, Local Government, vol. 2, p. 915.

See also *Enniscorthy U.D.C.* v. *Field*, cited p. 196 *ante*.

III. COMPENSATION.

(Cf. note to s. 10 *ante*.)
(Cf. Public Health Act, s. 274.)

Where a person against whom a local authority had instituted proceedings under the Public Health Act obtained judgment therein with costs, it was held that the provision of the English section, identical with Public Health Act, s. 274, did not entitle him to recover in an arbitration under the section to settle the amount of compensation, the difference between party and party costs and all the expenses reasonably and properly incurred by him throughout the proceedings.—*Barnett* v. *Eccles Corporation* [1900] 2 Q.B. 423.

Where, in pursuance of a sewage scheme, a part of the claimant's land was taken by the local authority, and the value of other land of the claimant was depreciated by the erection of another portion of the same sewage scheme on land which never belonged to the claimant, under conditions which did not create a nuisance, it was held that the claimant was not entitled to compensation, and that the depreciation thus caused was not "damage sustained by reason of the exercise of any of the powers of this Act" within the meaning of the section of the English Public Health Act, which is practically identical with our Public Health Act, s. 274. —*Horton* v. *Colwyn Bay, &c., Council* [1907] 1 K.B. 14.

IV. CROWN RIGHTS.

(Cf. s. 12 *ante*.)
(Cf. Public Health Act, s. 281 (2).)

"We are far from saying that there may not be provisions in public Acts of Parliament so framed as to bind

the Crown, even though the Crown may not be specially named. But, in our opinion, the intention that the Crown shall be bound, or has agreed to be bound, must appear clearly either from the language used or the nature of the enactments. . . . The limited language of the exemption in s. 327 [identical with our Public Health Act, s. 281] appear to us to support the view that they (*sic*) were inserted *ex majori cautela*. . . . There is, in our opinion, no such general practice as to lead to the view that the original doctrine of Crown exemption has ceased to exist or been infringed upon, or that the insertion of a particular protecting clause is intended to show that only that class of Crown property was intended to be exempt."—*Per Lord Alverstone, C.J., Hornsey U.D.C.* v. *Hennell* [1902] 2 K.B. 73.

V. OWNER: OCCUPIER.

(Cf. note to s. 13 *ante*.)

(Cf. Public Health Act, ss. 2, 110.)

A person who collects the rents of property for another is "owner" within the meaning of the English section identical with the Public Health Act, s. 110.

Where Justices erroneously refused to order the agent of the owner to abate a nuisance, and the case was sent back to them by the King's Bench, it was held that they had then jurisdiction to make the order on the former agent, even though he had ceased to be agent since the first hearing.—*Broadbent* v. *Shepherd* [1901] 2 K.B. 274.

Where a tenant covenanted to pay (*inter alia*) "all impositions charged or imposed on the landlord in respect of the demised premises," he was held liable for the cost incurred by the landlord in abating a nuisance (a foul privy) at the instance of the local authority.—*Foulger* v. *Arding* [1902] 1 K.B. 700.

Where a tenant covenanted to pay (*inter alia*) "all impositions whatsoever . . . that might become due . . . in respect of the premises during the tenancy," he was held liable in a similar case notwithstanding the absence of such words as "imposed on the landlord or tenant." *In re Warriner, Brayshaw* v. *Ninnis* [1903] 2 Ch. 367.

But a covenant of this nature would not be attracted into a tenancy from year to year, arising where the tenant holds over on the expiration of his lease, nor can the landlord act before he has been served with notice to abate by the sanitary authority.—*Harris* v. *Hickman* [1904] 1 K.B. 13.

VI. STREET: FRONTAGER.

(Cf. note to s. 18 *ante*.)
(Cf. Public Health Act, ss. 28, 41.)

The local authority cannot when acting under Public Health Act, s. 28, alter the dimensions of the street.

"In my opinion it is clear that an urban authority must deal with a street as they find it, that is, as dedicated to the public, and it is the street so dedicated which they have power under s. 150 [the English section corresponding to our Public Health Act, s. 28] to sewer, level, pave, metal, flag, channel or make good."—*Per* Vaughan Williams, L.J., *Robertson* v. *Bristol Corporation* [1900] 2 Q.B. 198.

Where a local authority declared a road a highway, "repairable by the inhabitants at large," having previously contracted with the frontagers that the frontagers should nevertheless remain liable as if it were a private street, it was held that, notwithstanding this agreement, the road having become a "highway repairable by the inhabitants at large" (see s. 18 *ante* and note thereto, p. 104), the local authority could not proceed against the frontagers under sections corresponding to s. 28 of our Public Health Act.—*Folkestone Corporation* v. *Marsh*, 94 L. T. 511.

A local authority was held under the English section corresponding to Public Health Act, s. 28, to have no jurisdiction to charge a proportion of the expenses of making up a street on the owners or occupiers of premises which, though fronting, adjoining or abutting on the street, are outside the boundary of the local authority.—*Mayor, &c., Hornsey* v. *Birkbeck, &c., Society* [1906] 1 K.B. 521.

Where a street had been made up by the local authority, under the section of the English Public Health Act corresponding to Public Health Act, s. 28, a person who was the owner of premises fronting the street, *at the date of the completion of the works*, was held liable to pay an apportioned part of the expense, under the English section corresponding to Public Health Act, s. 255, although he was not the owner when the notice requiring the works to be executed was served. —*East Ham U.D.C.* v. *Aylett* [1905] 2 K.B. 22.

And see *Millard* v. *Balby, &c., U.D.C.* [1905] 1 K.B. 60, where it was held that an owner of premises in a street to whom notice under the English section corresponding to s. 28 had been given, and who had been owner *at the date of the completion of the works*, but had subsequently sold the premises (before the apportionment) was liable to pay his apportioned share notwithstanding.

For a case where it was held on the facts that persons building a row of houses, fenced in from the road, upon land belonging to them abutting on the road, were not constructing a new street, see *Devonport Corporation* v. *Tozer* [1903] 1 Ch. 759.

The Crown, not being named, has been held not to be bound by the provisions of the corresponding and closely similar section of the English Public Health Act, and, therefore, not liable to pay in respect of property owned and occupied for purposes of the Crown, *e.g.*, lands used for military purposes.—*Hornsey U.D.C.* v. *Hennell* [1902] 2 K.B. 73.

The decision in *Westminster Vestry* v. *Hoskins* [1899] 2 Q.B. 474 was doubted in the last-mentioned case.

See also *Mayor of Blackburn* v. *Sanderson* [1902] 1 K.B. 794, which turns, however, on the provisions of a local Act. As to Private Improvement Expenses, see pp. 258, 261, 264. As to appeal by frontager to L.G.B., see *R.* (*Thynne*) v. *L.G.B.*, 37 I.L.T.R. 89.

VII. STREET AND BUILDING BYE-LAWS.

(Cf. note to s. 13 *ante*.)
(Cf. Public Health Act, s. 41.)

A building bye-law under Public Health Act, s. 41, is not unreasonable and void, because it does not reserve any power to the sanitary authority to exempt exceptional cases.—*Salt* v. *Scott Hall* [1903] 2 K.B. 245.

Where street bye-laws, made by a local authority under the corresponding English section, prescribe a penalty for infringement by summary proceedings before Justices, the bye-law can, none the less, be enforced by injunction in an action in the High Court, brought by the Attorney-General at the relation of the local authority and by the local authority.—*A. G.* v. *Ashborne Recreation Ground Co.* [1903] 1 Ch. 101.

This case was approved by the C.A. in *Devonport Corporation* v. *Tozer* [1903] 1 Ch. 759, and followed in *A.G.* v. *Wimbledon House Estate Co.* [1904] 2 Ch. 34, a case where the defendants were injuncted from violating a building line under an English public statute.

But where a local authority who have certain special rights to sue in their own name for certain special remedies, but have not done so, and are trying to put in suit a public wrong, they must do it in the recognised way, namely, at the suit of the A.G.—*Devonport Corporation* v. *Tozer* [1903] 1 Ch. 759, followed in *A.G.* v. *Wimbledon House Estate Co.* [1904] 2 Ch. 34.

And a private individual cannot maintain an action for an injunction under a section of a local Act similar in terms to Public Health Act, s. 40.—(Farwell, J.) *Mullis* v. *Hubbard* [1903] 2 Ch. 431.

Approval of the plans by the local body is (*semble*) sufficient "written consent" within the meaning of that section, *ib.*

Where the same person is responsible for the breach of a street bye-law and the continuance of the offence, he may, in virtue of *Public Health Act, s. 42*, be convicted, both of a continuing offence and of the original offence, upon an information charging him only with the original offence.—*Airey* v. *Smith* [1907] 2 K.B. 273.

But a builder, who had been convicted for building a house contrary to a bye-law, was held not guilty of a continuing offence, under the English section corresponding to Public Health Act, s. 42, in allowing it to remain unaltered, where he could not have altered it, without trespassing on land not belonging to him.—*Welsh* v. *West Ham Corporation* [1900] 1 Q.B. 324.

For a case in regard to bye-laws as to air-space, see *A.G.* v. *Melville & King*, 93 L.T. 612.

For a case as to bye-laws coming into force after the laying of the foundations of new buildings, see *Hubbard* v. *Bromley D.C.*, 69 J.P. 437.

As to the exercise of its powers in regard to streets and buildings by the local authority, where a statute vests in a local authority the duty and power of deciding whether or not its sanction shall be given to plans sent in, no action will lie against that authority in respect of its decision, even if there is some evidence to show that the individual members of the authority were actuated by bitterness or some indirect motive. "But if, although the local authority has made a pretence of exercising its power, it has, nevertheless in truth and in fact, never addressed its mind to the question before it; in such a case a mandamus to hear and determine the matter might be obtained in the King's Bench Division." *Per* Vaughan Williams, L.J., *Davis* v *Bromley Corporation* [1908] 1 K.B. 170.

VIII. NUISANCE.

(Cf. s. 35 *ante*.)
(Cf. Public Health Act, ss. 23, 107, 112, 114, 121.)

It was held, under ss. 96 and 251 of the English Public Health Act, 1878, which are identical with ss. 112 and 249 of our Public Health Act, that an order to abate a nuisance must be signed by two Justices (subject, it may be presumed, to the exception mentioned at the end of s. 249).—*Wing* v. *Epsom Urban Council* [1904] 1 K.B. 798.

And as to the matter of the order, in the case of an order to abate a nuisance, the order must specify the necessary works. "Not only must the notice specify the works to be done, but the Justices must exercise a judicial discretion, and having so exercised it, the works ordered to be done must be stated in the order, and in all the cases under the Public Health Acts it has been assumed that the works must be so stated. There is an exact decision on the point that the notice being good is not sufficient.—*The Queen* v. *Wheatley*, 16 Q.B.D. 34."—*Per Palles, C.B.; R.* v. *J.J. of Co. Meath*, 34 I.L.T.R. 47.

But though an order of Justices upon the complaint of a private individual, on his own behalf, under the English section identical with Public Health Act, s. 121, directing the abatement of a nuisance, must specify the works or things necessary to be done to abate it; yet so much of the order as goes on to prohibit the recurrence of the nuisance need not specify them, where the recurrence can be prevented by the mere refraining on the part of the aggressor from doing an act of a particular nature, *e.g.*, not accumulating slaughter-house offal.—*R.* v. *Horrocks*, 69 L.J.Q.B. 688.

As to what constitutes nuisance under Public Health Act, s. 107, a summons will not lie under Public Health Act, s. 107, against a railway company for merely loading and unloading manure in their station. "Sub-s. 4

. . . speaks of 'any accumulation or deposit which is a nuisance or injurious to health.' I fail to see, however, how these words, in their ordinary and natural meaning, can apply to such a case as the present. 'Accumulation' implies some gradual accretion, a heaping up of matter, increasing from day to day; and 'deposit' means something that is put down in some place and left there. Both these words involve the idea of a certain degree of permanency, and cannot, in our judgment, be held to touch the case of loading and unloading manure from the company's waggons for the purpose of its delivery to the farmers, who come to take it.—*Per Lord O'Brien, C.J., G.N.R.* v. *Lurgan Commissioners* [1897] 2 I.R. 351.

A municipal authority, who pour sewage into a channel proved over and over again to be insufficient to hold it and pass it on, are guilty of actionable negligence, notwithstanding that the channel when first formed was sufficient for its purpose.—*Mayor, &c., of Hawthorne* v. *Kannuluik* [1906] A.C. 105.

See also *O'Neill* v. *Waldron*, cited p. 232 *post*.

IX. SEWER: DRAIN.

(Cf. ss. 13, 38 *ante*.)
(Cf. Public Health Act, ss. 2, 23.)

An open channel or surface-water drain alongside of a public road, and taking surface-water from the road and rain-water from adjoining houses, is a "sewer" within the meaning of the Public Health Act.—*Wilkinson* v. *Llandaff, &c., R.C.* [1903] 2 Ch. 695.

And a natural stream may become a sewer within the meaning of the Public Health Acts if it has substantially ceased to be a channel for water and become a channel for sewage.—*West Riding Rivers Board* v. *Gaunt*, 67 J.P. 183.

Cf. *Mayor of Hawthorne* v. *Kannuluik* [1906] A.C. 105, cited above.

And though underground pipes or drains, which carry sewage matter from different points on an estate into a ditch on the same estate, from which ditch there is no outflow, are not a sewer within the English section corresponding to Public Health Act, s. 2.—*Pakenham* v. *Ticehurst R.C.*, 67 J.P. 448, yet, where a system of pipes has been laid by one man in the land of another for the conveyance of sewage matter, such system will constitute a sewer and be vested in the local authority, if the second landowner consents to such system being laid either at the time the work is done or subsequently. *Ib.*

And where, in 1859 or 1860, an estate was laid out for building purposes and a road constructed through it, and a twelve-inch drain was at the same time laid from end to end of the road, which discharged its contents into a culvert and then into a river, and houses were built from time to time in the road, and some of the owners of these houses, as early as 1876, connected their drains with the twelve-inch drain, but some of the other houses in the road drained into cesspools, and in 1882 the local authority's surveyor was aware of at least one connection from a house with the twelve-inch drain, it was *held* that the twelve-inch drain was a sewer and had vested in the local authority, and that it must be inferred that the local authority had accepted it as laid to their satisfaction.—*Wilmslow U.C.* v. *Sidebottom*, 70 J.P. 537.

Again, the question whether a pair of semi-detached houses are "one building only" within the English section corresponding to Public Health Act, s. 2, so as to make a pipe used for draining them a "drain" to which the provisions of the English section corresponding to Public Health Act, s. 51, can be applied, is a question of fact depending upon the circumstances of each case.—*Humphrey* v. *Young* [1903] 1 K.B. 44.

A house connected with a public sewer by means of a pipe, which is a sewer within the English section corresponding with Public Health Act, s. 2, discharging into

another pipe, which is a single private drain within the meaning of section 19 of the Public Health Acts Amendment Act, 1890, is not "connected with a public sewer by a single private drain" within the meaning of the Public Health Acts Amendment Act, 1890.—*Wood Green U.C.* v. *Joseph*, 74 L.J.K.B. 954. [1907] 1 K.B. 182.

And a pipe conveying the drainage from several houses belonging to one owner, which is a sewer within the meaning of the English section corresponding to Public Health Act, s. 2, does not cease to be so, and become a single private drain within the meaning of section 19 of the Public Health Acts Amendment Act, 1890, and so repairable by the owner of the houses, because the sewage from it passes on its way to the public sewer through a single private drain conveying the drainage from houses belonging to different owners to which section 19 of the Act of 1890 applies.—*Jackson* v. *Wimbledon U.C.* [1905] 2 K.B. 27.

It was held that where two or more houses belonging to different owners were drained by a single pipe passing through the lands on which the houses were situate into the sewer of a local authority, the authority might, if it had adopted s. 19 of the Public Health Acts Amendment Act, 1890, upon written application complaining of the nuisance being made to them, treat the pipe as a single private drain within the meaning of that section, and might follow the procedure of the English section corresponding to Public Health Act, s. 51, with respect to it, and, if it were found that the whole defect might be remedied by works executed upon the premises of one owner only, might serve that one owner only with notice to abate the nuisance, and, if he did not comply with the notice, might execute the necessary works, and recover the whole of the expenses incurred from that one owner only.—*Thompson* v. *Eccles Corporation*; *Haedicke* v. *Friern Barnet U.C.*, 74 L.J.K.B. 130 [1905] 1 K.B. 110.

Where a pipe constructed by the road authority for

the purpose of carrying away the surface water from the road, before 1894, was admittedly not a sewer before that date, as being under the control of a road authority not a sanitary authority, and, therefore, falling within the exception to the definition of sewer in the English Public Health Act, which is practically identical with that in our Public Health Act, s. 2, it was held that s. 25 of the English Local Government Act, 1894, which transferred to the district council the powers, duties and liabilities, both of the rural sanitary authority of the district and also of the highway authority, did not alter the status of any existing drain, such as this pipe, so as to make it a sewer.—*Williamson* v. *Durham Rural Council* [1906] 2 K.B. 65. In view of the similar provisions of our Local Government Act, this decision is most important.

The owner or occupier of premises was held not entitled, under the English section corresponding to Public Health Act, s. 23, to connect his drains with a sewer on private ground where that sewer had only become such by reason of the fact that it received the drainage of two or more buildings. And, where such a connection was made by a local authority at the request of the owner of the premises, the owners of the land in which the sewer was situated were held to be justified in removing the connecting pipe.—*Wood* v. *Ealing Tenants, Ltd.* [1907] 2 K.B. 390.

The English section similar in terms to Public Health Act, s. 27, was held to require a separate drain to be constructed for each house.—*Woodford U.C.* v. *Stark*, 86 L.T. 685.

A sewer constructed by a landowner upon his land for the purpose of diverting surface water running on to his land from a public road into a quarry on the land is a sewer "made by any person for his own profit" within the English section corresponding to Public Health Act, s. 15.—*Sykes* v. *Sowerby U.C.* [1900] 1 Q.B. 584, and see *Croysdale* v. *Sunbury-on-Thames U.C.* [1898] 2 Ch. 515.

As to sewers, see also *Wilmslow U.C.* v. *Sidebottom*, 70 J.P. 537.

And *Pemsel* v. *Tucker* [1907] 2 Ch. 191.

As to open ditch, into which fæcal matter drains not being sewer, see *O'Neill* v. *Waldron*, 39 I.L.T.R. 252.

X. WATER-CLOSET: LAVATORY.

(Cf. ss. 39, 47 *ante*.)
(Cf. Public Health Act, ss. 45, 271.)

Smith v. *Greenwood* [1907] 2 K.B. 385 was a case where, on the words of a local Act, it was held, following *Agnew* v. *Manchester Corporation*, 67 J.P. 174, that the local authority had power to require a water-closet to be substituted for a privy. But under the section of the English Public Health Act, 1875, corresponding to s. 45 of our Public Health Act, "all that the local authority can require is that the particular convenience provided by the owner shall be sufficient, but, subject to the requirement that it must be sufficient, it is left to the owner to select which of the several kinds of convenience, privies, water-closets, or earth-closets, he will adopt."—*Per Ld. Alverstone, C.J., Smith* v. *Greenwood*, at p. 385.

See also *Robinson* v. *Sunderland Corporation* [1899] 1 Q.B. 751, cited under the next heading.

As to the construction of Public Health Acts Amendment Act, 1890, s. 21, sub-s. 2, see *per Palles, C.B., in Smith* v. *Caffrey*, 33 I.L.T.R. 143. The words "or by other persons" therein do not extend the provisions of the sect. to the occupants of a single dwelling-house.

Lavatory.

A public body invested with statutory powers must take care not to exceed or abuse those powers, and must act in good faith within the limits of its authority. But where a corporation under the Public Health (London)

Act, 1891, constructs public conveniences, the mere provision in connection with such a convenience of a sub-way capable of being used as a thoroughfare under a crowded street is not evidence of bad faith or excess of authority. To establish such a case it would have to be shown that the corporation constructed the sub-way as a means of crossing the street, under colour of providing public conveniences.—*Westminster Corporation* v. *L.N.W.R.* [1905] A.C. 426. For underground lavatories as affected by English Acts, see *Westminster Corporation* v. *Johnson* [1904], 2 K.B. 737.

XI. POWER OF ENTRY.

(Cf. note to s. 41 *ante*.)
(Cf. Public Health Act, ss. 18, 141, 271, 272.)

On the hearing of a summons, under the English section corresponding to Public Health Act, s. 141, for obstructing the execution of an order, the Justices have no jurisdiction to go behind the order and enquire into the truth of the facts on which it was based.—*R.* v. *Davey* [1899] 2 Q.B. 301.

Where the occupier of lands refuses to allow the sanitary authority to enter thereon for the purposes mentioned in Public Health Act, s. 18, the sanitary authority must obtain a magistrate's order, under s. 271 of that Act, before they can recover a penalty for obstruction under s. 272. "I am prepared to allow my brethren on the English bench to construe their Act in any way that seems right to them, but in this case I have arrived at a very clear conclusion on the language of the Irish Act. The case is put for the complainants as the case of an implied power of entry under s. 18. . . . . Section 271 gives a power of entry 'whenever it becomes necessary' for the purpose of 'making any works,' and gives an express power for the purpose of doing the very thing to which s. 18 applies—*i.e.*, the

making of works. On all principles of construction I do not entertain any doubt that s. 271 rebuts the implication of a right of entry under s. 18."—*Per Palles, C.B., Lismore R.D.C.* v. *O'Malley*, 36 I.L.T.R., p. 56.

Where a local authority applied for an order under the English section corresponding to Public Health Act, s. 271, entitling them to enter a house and substitute a new water-closet, their notice under the English section corresponding to Public Health Act, s. 45, not having been complied with, and permission to enter having been refused, it was held that the Justices were not entitled, at the hearing, to review the notice.—*Robinson* v. *Sunderland Corporation* [1899] 1 Q.B. 751.

THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1907.

The Local Government Board in England and Wales has issued the following circular letter to Councils of Municipal Boroughs and Urban and Rural Districts:

Local Government Board,
Whitehall, S.W.,
December 23rd, 1907.

Sir,

I am directed by the Local Government Board to communicate with the Council on the subject of the Public Health Acts Amendment Act, 1907 (7 Edw. 7, c. 53), which comes into force on the 1st day of January next.

The object of the Act is to enable Sanitary Authorities outside London to obtain when requisite, and without incurring the trouble and expense involved in promoting Bills for local Acts, various additional powers which are based upon provisions in local Acts passed in recent Sessions of Parliament.

The Act, which is to be construed as one with the Public Health Acts, is divided into ten Parts. The first, which contains enactments of a general character necessary for giving effect to the rest of the measure, extends to the whole of England and Wales exclusive of the Administrative County of London. The other Parts, or any sections in them, only extend to the district of any local authority to which all or any of them are applied by an Order of the Board, or, as regards Parts VII., VIII., and IX., or any sections of those Parts, by an Order of the Secretary of State.

By "Local Authority" in the Act and in this Circular is meant an Urban Sanitary Authority, an Urban

District Council or a Rural District Council. Consequently any Part or section of the Act may be applied to any borough outside London, or to any other urban district, or to the district of any Rural District Council. Moreover, in the case of a rural district, any Part or section may be applied to any contributory place in the district.

Parts II. to X. of the Act relate to Streets and Buildings (Part II.), Sanitary Provisions (Part III.), Infectious Diseases (Part IV.), Common Lodging Houses (Part V.), Recreation Grounds (Part VI.), Police (Part VII.), Fire Brigade (Part VIII.), Sky Signs (Part IX.), and Miscellaneous Provisions (Part X.).

Parts VII., VIII. and IX. do not come within the jurisdiction of the Board. As already mentioned, these Parts or any sections of them can only be put in force by an Order of the Secretary of State, and any correspondence in relation to them should be addressed to the Home Office and not to the Board.

In what follows, references to Parts of the Act are not intended to include references to Parts VII., VIII., and IX.

The Board do not think it necessary in this circular to give in detail the effect of the provisions in the several Parts of the Act. The general object of them will be gathered from the headings of the Parts. The Board's present purpose is to draw attention more particularly to those provisions of the Act which prescribe the procedure for applying enactments in it to any particular locality, and which are contained in Section 3.

Under that Section the Board are empowered, upon the application of a Local Authority, by Order to be published in such manner as the Board direct, to declare any Part or any section of the Act to be in force in the district of the Authority, or where they are a Rural District Council in any contributory place in their district, and also to declare any enactments in any local Act which appear to the Board to contain provisions similar to or inconsistent with any such Part or section

to be no longer in force in that district or contributory place (Section 3 (1)).

In considering whether application should be made to have any Part or section of the Act put in force, the Local Authority should have regard to the circumstances and needs of the locality. They should cause any local Act in force in their district to be carefully examined in order to ascertain whether it contains any provision bearing on the subject matter of any Part or section of the present Act which they desire to have put in force.

The Board will be ready to give attention to applications under the Act, but they think that such applications should not be made unless the Local Authority are satisfied that the powers sought are really needed.

It is necessary that the Local Authority should, two weeks at least before applying to the Board for an Order, give notice of their intention to make the application by advertising the same once at least in one or more of the newspapers circulating in their district in each of two successive weeks, and no Order is to be made until proof of the advertisement has been given to the satisfaction of the Board, and until at least one month has elapsed after the date of such advertisement (Section 3 (2)).

The application, which should not be made until after the expiration of two weeks from the date of the second week's advertisement, should be by resolution of the Local Authority asking the Board to put in force any specified Part or section of the Act which the Local Authority desire to have applied to their district, and in the case of a Rural District Council should state whether the application relates to the whole district, or to specified contributory places in it. A copy of the resolution, certified by the Clerk, should be forwarded to the Board, and at the same time they should be furnished with a Statutory Declaration to be made by the Clerk, verifying the fact of the issue of the necessary advertisements, and having copies of the newspapers in which the advertisements were published annexed to it as exhibits.

The Board think that it will be found convenient if before a Local Authority publish any advertisement or make any formal application for an Order under Section 3 they forward to the Board drafts of the proposed advertisement and resolution. These should be accompanied by a statement setting out as regards each Part or each section of the Act to which the proposal relates the grounds upon which it is made. A list of any local Acts in force in the district and of any Provisional Orders altering such Acts should also be supplied, and if any of them contain provisions bearing on the subject matter of any Part or section included in the proposed application, a copy of the local Act or Order should be forwarded, and a reference should be given to the provisions in it which are in question. If there is no local Act in force, this should be stated. This procedure will enable the Board to consider the proposal before any advertisement is issued, and, if necessary, to make suggestions for its amendment.

The Board's Order may specify conditions subject to which any Part or any section of the Act is to be in force in the district, and where, in the opinion of the Board, the circumstances so require, the Order may, in relation to that district, declare any Part or any section of the Act to be in force subject to such necessary adaptations as are specified in it. A statement of the effect of each Order specifying conditions or adaptations that may thus be made is to be published in the *London Gazette* as well as in any other manner directed by the Board (Section 3 (3)).

The Board will, when making any Order under the provisions of the Act, give all necessary directions as to the manner of its publication.

The Board desire to take this opportunity of calling attention shortly to various other provisions contained in Part I. of the Act, which, as already explained, is of general application.

Section 2 (4) provides that any bylaws made under any enactment for which any provisions of the Act are

substituted shall remain in force if the bylaws had been made under the corresponding provisions of the present Act.

Section 4 provides for the expenses incurred or payable by local authorities in the execution of the Act. It directs that all such expenses not otherwise provided for may be charged and defrayed, in the case of an Urban Sanitary Authority or Urban District Council, as part of the expenses incurred by them in the execution of the Public Health Acts, and that, in the case of a Rural District Council, they shall, subject to any power of the Board under any Act to order the contrary, be charged and defrayed as a part of their general expenses under those Acts.

Section 5 empowers the Board to direct any inquiries to be held by their Inspectors which they deem necessary in regard to the exercise of any powers conferred upon them under the Act, and makes the necessary provisions on the subject.

Section 6 provides that offences under the Act or under any bylaw made under its power or under the powers of the Public Health Act, 1875, or any enactment amending or extending that Act, may be prosecuted, and penalties, forfeitures, costs, and expenses recovered, in like manner and subject to the same provisions as offences which may be prosecuted, and penalties, forfeitures, costs, and expenses which may be recovered, in a summary manner, under the Public Health Acts.

Sub-section (1) of Section 7 gives a power of appeal in certain cases to a Court of Quarter Sessions. It applies where any person is aggrieved (*a*) by any order, judgment, determination, or requirement of a local authority under the Act; (*b*) by the withholding of any order, certificate, licence, consent, or approval which may be made, granted, or given by a local authority under the Act; or (*c*) by any conviction or order of a court of summary jurisdiction under any provision of the Act. Subsection (2), however, provides that where a person deems

himself aggrieved by the decision of the authority in any case in which, under the present Act, they are empowered to recover in a summary manner any expenses incurred by them, or to declare the expenses to be private improvement expenses, Section 263 of the *Public Health Act, 1875, shall apply. The power of appeal given by Sub-section (1) of Section 7 of the present Act will not apply in any such case whether arising under that Act or under the Public Health Act, but cases in which an appeal to a court of summary jurisdiction in relation to any requirement of the local authority, or to any expenses as above mentioned, is expressly authorized by the present Act, are excepted from the operation of Sub-section (2).

Section 9 makes applicable to bylaws made by a local authority under the present Act the provisions with respect to bylaws contained in Sections 182 to 186 of the Public Health Act, 1875, and any enactment amended or extended by those sections.

Section 13 defines several of the expressions used in the Act, and provides that other expressions to which a special meaning is assigned by the Public Health Act, 1875, shall have the same meaning in the present Act as they have in that Act.

This circular will be placed on sale, so that copies may shortly be obtained from Messrs Wyman and Sons, Limited, Fetter Lane, E.C., either directly or through any bookseller.

I am, Sir,
Your obedient Servant,

S. B. Provis,
Secretary.

The Town Clerk, *or*
The Clerk to the Urban District Council, *or*
The Clerk to the Rural District Council.

*N.B.—In this country it is, of course, the sections of our Public Health Act of 1878 that apply.

APPENDIX.

SECTIONS OF THE PUBLIC HEALTH (IRELAND) ACTS, 1878 and 1896, referred to in the present Act, and the notes thereto.

REFERENCES TO THE PUBLIC HEALTH (IRELAND) ACT, 1878, TO BE SUBSTITUTED FOR REFERENCES TO THE PUBLIC HEALTH ACT, 1875.

Sections of the Public Health Act, 1875.	Corresponding Sections of Public Health (Ireland) Act, 1878
Forty-one . . .	Fifty-one.
Seventy-seven . . .	Eighty-eight.
Seventy-eight . . .	Eighty-nine.
Eighty-six . .	Ninety-seven.
Eighty-eight . .	Ninety-nine.
One hundred and two . .	One hundred and eighteen.
One hundred and three . .	One hundred and nineteen.
One hundred and twelve . .	One hundred and twenty-eight.
One hundred and twenty-four	One hundred and forty-one.
One hundred and twenty-six .	One hundred and forty-two.
One hundred and thirty-two .	One hundred and fifty-six.
One hundred and fifty . .	Twenty-eight.
One hundred and fifty-seven .	Forty-one.
One hundred and fifty-eight .	Forty-two.
One hundred and seventy-five .	Two hundred and two.
One hundred and seventy-six .	Two hundred and three.
One hundred and eighty-two .	Two hundred and nineteen.
One hundred and eighty-six .	Two hundred and twenty-three.
Two hundred and fifty-seven .	Two hundred and fifty-five.
Two hundred and sixty-eight .	Two hundred and sixty-eight.
Three hundred and four . .	Two hundred and seventy-seven.

Power of owners and occupiers within district to drain into sewers of sanitary authority.

23. The owner or occupier of any premises within the district of a sanitary authority shall be entitled to cause his drains to empty into the sewers of that authority on condition of his giving such

notice as may be required by that authority of his intention so to do, and of complying with the regulations of that authority in respect of the mode in which the communications between such drains and sewers are to be made, and subject to the control of any person who may be appointed by that authority to superintend the making of such communications.

Any person causing a drain to empty into a sewer of a sanitary authority without complying with the provisions of this section shall be liable to a penalty not exceeding twenty pounds, and the sanitary authority may close any communication between a drain and sewer made in contravention of this section, and may recover in a summary manner from the person so offending any expenses incurred by them under this section.

Use of sewers by owners and occupiers without district.

24. The owner or occupier of any premises without the district of a sanitary authority may cause any sewer or drain from such premises to communicate with any sewer of the sanitary authority on such terms and conditions as may be agreed on between such owner or occupier and such sanitary authority, or as in case of dispute may be settled, at the option of the owner or occupier, by a court of summary jurisdiction or by arbitration in manner provided by this Act.

Power of sanitary authority to enforce drainage of undrained houses.

25. Where any house within the district of a sanitary authority is without a drain sufficient for effectual drainage, the sanitary authority may by written notice require the owner or occupier of such house, within a reasonable time therein specified, to make a covered drain or drains emptying into any sewer which the sanitary authority are entitled to use, and which is not more than one hundred feet from the site of such house; but if no such means of drainage are within that distance, then emptying into such covered cesspool or other place not being under any house as the sanitary authority direct; and the sanitary authority may require any such drain or drains, cesspool or cesspools, to be of such materials and size, and to be so ventilated, and to be laid at such level, and with such fall as may appear to them to be necessary: Provided that where, in the opinion of the sanitary authority, greater expense would be incurred in the construction of such cesspool or cesspools than in the making of a drain emptying into a sewer which they are entitled to use, the sanitary authority may require the owner or occupier to make such drain, notwithstanding that the sewer

into which it is to empty is not within one hundred feet of the site of the house.

If such notice is not complied with, the sanitary authority may, after the expiration of the time specified in the notice, do the work required, and may recover in a summary manner the expenses incurred by them in so doing from the owner, or may by order declare the same to be private improvement expenses.

Provided that where in the opinion of the sanitary authority greater expense would be incurred in causing the drains of two or more houses to empty into an existing sewer pursuant to this section than in constructing a new sewer and causing such drains to empty therein, the sanitary authority may construct such new sewer, and require the owners or occupiers of such houses to cause their drains to empty therein, and may apportion as they deem just the expenses of the construction of such sewer among the owners of the several houses, and recover in a summary manner the sum apportioned from such owners, or may by order declare the same to be private improvement expenses.

Power to compel paving, &c., of private streets.

28. Where any street within any urban district (not being for such purposes in charge of the sanitary authority, or of any grand jury or other public body), or the carriageway, footway, or any other part of such street is not sewered, levelled, metalled, paved, flagged, channelled, and made good, or is not lighted to the satisfaction of the urban authority, such authority may by notice addressed to the respective owners or occupiers of the premises fronting, adjoining, or abutting on such parts thereof as may require to be sewered, levelled, paved, metalled, flagged, or channelled, or to be lighted, require them to sewer, level, pave, metal, flag, channel, or make good, or to provide proper means for lighting the same within a time to be specified in such notice.

Before giving such notice the urban authority shall cause plans and sections of any structural works intended to be executed under this section, and an estimate of the probable cost thereof, to be made under the direction of their surveyor or other duly appointed officer, such plans and sections to be on a scale of not less than one inch for eighty-eight feet for a horizontal plan, and on a scale of not less than one inch for ten feet for a vertical section, and in case of a sewer showing the depth of such sewer below the surface of the ground; such plans, sections, and estimate shall be deposited in the office of the urban authority, and shall be open at all reasonable hours for the inspection of all persons interested therein during the time specified in such notice, and a reference to such plans and sections in such notice shall be sufficient without requiring any copy of such plans and sections to be annexed to such notice.

If such notice is not complied with, the urban authority may, if they think fit, execute the works mentioned or referred to therein, and may recover in a summary manner the expenses incurred by them in so doing from the owners in default, according to the frontage of their respective premises, and in such proportion as is settled by the surveyor of the urban authority, or (in case of dispute) by arbitration in manner provided by this Act, or the urban authority may by order declare the expenses so incurred to be private improvement expenses.

The same proceedings may be taken and the same powers may be exercised in respect of any such street or road of which a part is or may be a public footpath, under charge of the sanitary authority, or grand jury, or other public body, as fully as if the whole of such street or road was a highway not in charge of the sanitary authority, or grand jury, or other public body.

Power to make byelaws respecting new buildings, &c.

41. Every sanitary authority may make byelaws with respect to the following matters; (that is to say,)

(1.) With respect to the level, width, and construction of new streets, and the provisions for the sewerage thereof, and the preventing of the opening thereof for public use until such bylaws have been complied with:

(2.) With respect to the structure, and description and quality of the substances used in the construction of new buildings for securing stability and the prevention of fires, and for purposes of health:

(3.) With respect to the sites of houses, buildings, and other erections, and the mode in which, and the materials with which such foundations and sites shall be made, formed, excavated, filled up, prepared, and completed for securing stability, the prevention of fires, and for purposes of health.

For the purposes of this Act—

The term "foundations" shall mean the space immediately beneath the footings of a wall;

The term "site" in relation to a house, building, or other erection shall mean the whole space to be occupied by such house, building, or other erection between the level of the bottom of the foundations and the level of the base of the walls:

(4.) 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:

(5.) With respect to the drainage of buildings, to waterclosets, earthclosets, privies, ashpits, and cesspools in connexion with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation:

And they may further provide for the observance of such byelaws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the sanitary authority, and as to the power of such authority (subject to the provisions of this Act) to remove, alter, or pull down any work begun or done in contravention of such byelaws: Provided that no byelaw made under this section shall affect any building erected before the passing of this Act. The provisions of this section and the two last preceding sections shall not apply to buildings belonging to any railway company and used for the purpose of such railway under any Act of Parliament.

As to commencement of works and removal of works made contrary to byelaws.

42. Where a notice, a plan, or description of any work is required by any byelaw made by a sanitary authority to be laid before that authority, the sanitary authority shall, within one month after the same has been delivered or sent to their clerk, signify in writing their approval or disapproval of the intended work to the person proposing to execute the same; and if the work is commenced after such notice of disapproval, or before the expiration of such month without such approval, and is in any respect not in conformity with any byelaw of the sanitary authority, the sanitary authority may cause so much of the work as has been executed to be pulled down or removed.

Where a sanitary authority incur expenses in or about the removal of any work executed contrary to any byelaw, such authority may recover in a summary manner the amount of such expenses either from the person executing the works removed or from the person causing the works to be executed, at their discretion.

Where a sanitary authority may under this section pull down or remove any work begun or executed in contravention of any byelaw, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable in respect of any

byelaw to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the byelaw shall be deemed to be a continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of one year from the day when the offence was committed or the byelaw was broken.

Examination of drains, &c., on complaint of nuisance.

51. On the written application of any person to a sanitary authority, stating that any drain, watercloset, earthcloset, privy, ashpit, or cesspool on or belonging to any premises within their district is a nuisance or injurious to health (but not otherwise), it shall be lawful for any sanitary officer duly authorised in writing in that behalf by such sanitary authority, 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, watercloset, earthcloset, privy, ashpit, or cesspool. If the drain, watercloset, earthcloset, privy, ashpit, or cesspool on examination is found to be in proper condition, he shall cause the ground to be closed, and any damage done to be made good as soon as can be, and the expenses of the work shall be defrayed by the person making the above-mentioned written application. If the drain, watercloset, earthcloset, privy, ashpit, or cesspool on examination appear to be in bad condition, or to require alteration or amendment, the sanitary authority shall forthwith cause notice in writing to be given to the owner or occupier of the premises requiring him forthwith or within a reasonable time therein specified to do the necessary works; and if such notice is not complied with, the person to whom it is given shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default, and the sanitary authority may, if they think fit, execute such works, and may recover in a summary manner from the owner the expenses incurred by them in so doing, or may by order declare the same to be private improvement expenses, as well as the expenses incurred in the previous examination.

Houses to be purified, on certificate of officer of health or of two medical practitioners.

56. Where, on the certificate of the medical officer of health or of any two medical practitioners, it appears to any sanitary authority that any house or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing, cleansing, or purifying of any

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

If the person to whom notice is so given fails to comply therewith within the time therein specified, he shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default; and the sanitary authority shall 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.

Removal of filth on certificate of inspector of nuisances or sanitary officer.

59. Where in any urban district it appears to the inspector of nuisances or sanitary officer that any accumulation of manure, dung, soil, or filth, or other offensive or noxious matter, ought to be removed, he shall give notice to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove the same; and if such notice is not complied with within twenty-four hours from the service thereof, the manure, dung, soil, or filth, or matter referred to, shall be vested in and be sold or disposed of by the urban authority, and the proceeds thereof shall be applied in payment of the expenses incurred by them in the execution of this section; and the surplus (if any) shall be paid on demand to the owner of the matter removed.

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

All common lodging-houses to be registered and to be kept only by registered keepers.

88. 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 Act; nor unless his name as the keeper thereof is entered in the register kept under this Act: Provided that when the person so registered dies, his widow or any member of his family may keep the house as a common lodging-house for not more than four weeks after his death without being registered as the keeper thereof.

Sanitary authority may refuse to register houses.

89. A house shall not be registered as a common lodging-house until it has been inspected and approved for the purpose by some officer of the sanitary authority; and the sanitary authority may refuse to register as the keeper of a common lodging-house a person who does not produce to the sanitary authority a certificate of character, in such form as the sanitary authority direct, signed by three inhabitant householders of the union respectively rated to the relief of the poor of the union within which the lodging-house is situate for property of the yearly rateable value of six pounds or upwards.

Notice of registration to be affixed to houses.

90. The keeper of every common lodging-house shall affix and keep undefaced and legible a notice with the words "Registered 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 sanitary authority, refuses or neglects to affix or renew such notice shall be liable to a penalty not exceeding five pounds, and to a further penalty of ten shillings for every day that such refusal or neglect continues after conviction.

Byelaws to be made by sanitary authority.

91. Every sanitary authority shall from time to time make byelaws—

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

(2.) For promoting cleanliness and ventilation in such houses; and,

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

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

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

95. 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 an officer of the sanitary authority, and also to the poor law relieving officer of the union in which the common lodging-house is situated.

As to inspection.

96. 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 sanitary authority, give him free access to such house or any part thereof; and any such keeper or person who refuses such access shall be liable to a penalty not exceeding five pounds.

Offences by keepers of houses.

97. Any keeper of a common lodging-house who—

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

(2.) Fails to make a report, after he has been furnished by the sanitary authority with schedules for the purpose in pursuance of this Act, of the persons resorting to such house; or,

(3.) Fails to give the notices required by this Act where any person has been confined to his bed in such house by fever or other infectious disease,

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

Evidence as to family in proceeding.

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

Conviction for third offence to disqualify persons from keeping common lodging-house.

99. Where the keeper of a common lodging-house is convicted of a third offence against any of the provisions of this Act relating to common lodging-houses, the court before whom the conviction for such third offence takes place may, if it thinks fit, adjudge that he shall not at any time within five years after the conviction, or within such shorter period after the conviction as the court thinks fit, keep a common lodging-house without the previous license in writing of the sanitary authority, which license the sanitary authority may withhold or grant on such terms and conditions as they think fit.

NUISANCES.

Definition of nuisances.

107. For the purposes of this Act,—

1. Any premises in such a state as to be a nuisance or injurious to health:

2. Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit so foul or in such a state as to be a nuisance or injurious to health:

3. Any animal so kept as to be a nuisance or injurious to health:

4. Any accumulation or deposit which is a nuisance or injurious to health:

5. Any house or part of a house so overcrowed as to be dangerous or injurious to the health of the inmates, whether or not members of the same family:

6. Any factory, 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:

7. Any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, on in any mill, factory, dyehouse, brewery, bakehouse, or gaswork, or in any manufacturing or trade process whatsoever; and

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

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

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

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

Power of entry of sanitary authority.

118. The sanitary authority, or any of their officers, shall be admitted into any premises for the purpose of examining as to the existence of any nuisance thereon, or of enforcing the provisions of any Act in force within the district requiring fireplaces and furnaces to consume their own smoke, at any time between the hours of 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.

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

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

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

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

Penalty for disobedience of order.

119. Any person who refuses to obey an order of a justice for admission of the sanitary authority or, any of their officers, on any premises shall be liable to a penalty not exceeding five pounds.

OFFENSIVE TRADES.

Restriction on establishment of offensive trade in urban district.

128. Any person who, after the passing of this Act, establishes within the district of an urban authority, without their consent in writing, any offensive trade; that is to say, the trade of—

Blood boiler, or
Bone boiler, or
Fellmonger, or
Soap boiler, or
Tallow melter, or
Tripe boiler, or gut manufacturer, or
Any other noxious or offensive trade, business, or manufacture,

shall be liable to a penalty not exceeding fifty pounds in respect of the establishment thereof, and any person carrying on a business so established shall be liable to a penalty not exceeding forty shillings for every day on which the offence is continued, whether there has or has not been any conviction in respect of the establishment thereof.

Byelaw as to offensive trades in urban district.

129. Every urban authority shall from time to time, with the sanction of the Local Government Board, make byelaws with respect to any offensive trades established with their consent either before or after the passing of this Act, in order to prevent or diminish the noxious or injurious effects thereof.

Removal of infected persons without proper lodging to hospital by order of justice.

141. Where any suitable hospital or place for the reception of the sick is provided within the district of a sanitary authority, or within a convenient distance of such district, any person who is suffering from any dangerous infectious disorder, and is without proper lodging or accommodation, or lodged in a room occupied by other persons not so suffering, or is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed, by order of any justice, to such hospital or place at the cost of the sanitary authority; and any person so suffering, who is lodged in any common lodging-house, may, with the like consent and on a like certificate, be so removed by order of the sanitary authority.

An order under this section may be addressed to such constable or officer of the sanitary authority as the justice or sanitary authority making the same may think expedient; and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding ten pounds.

Penalty on exposure of infected persons and things.

142. Any person who—

(1.) While suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor, or driver thereof that he is so suffering; or

(2.) Being in charge of any person so suffering, so exposes such sufferer; or

(3.) Gives, lends, sells, transmits, or exposes, without previous disinfection any bedding, clothing, rags, or other things which have been exposed to infection from any such disorder; or

(4.) Exposes or conveys without proper precaution the body of any person who has died of any dangerous infectious disorder; or

(5.) Wakes, or permits to be waked, in any house, room, or place, over which he has control, the body of any person who has died of any dangerous infectious disorder,

shall be liable to a penalty not exceeding five pounds; and a person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, may be summarily ejected therefrom, and shall in addition be ordered by the court to pay such owner and driver the amount of any loss and expense they may incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance.

Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags, or other things for the purpose of having the same disinfected.

Recovery of cost of maintenance of patient in hospital.

156. Any expenses incurred by a sanitary authority in maintaining in a hospital, or in a temporary place for the reception of the sick (whether or not belonging to such authority), a patient who is not a pauper shall be deemed to be a debt due from such patient to the sanitary authority, and may be recovered from him at any time within six months after his discharge from such hospital or place of reception, or from his estate in the event of his dying in such hospital or place.

PURCHASE OF LANDS.

Power to purchase lands.

202. Any sanitary authority may for the purposes and subject to the provisions of this Act purchase or take on lease, sell or exchange any lands, whether situated within or without their district; they may also buy up any water-mill, dam, or weir which interferes with the proper drainage of or the supply of water to their district; and may, for the purpose of supplying their district with water for drinking and domestic purposes, purchase either within or without their district any land covered with water or any water or right to take or convey water.

Any lands acquired by a sanitary authority in pursuance of any powers in this Act contained and not required for the purpose for which they were acquired shall, except where otherwise expressly provided by this Act (unless the Local Government Board otherwise direct), be sold at the best price that can be gotten for the same, and the proceeds of such sale shall be applied towards the discharge of any principal moneys which have been borrowed by such authority on the security of the fund or rate applicable

by them for the general purposes of this Act, or if no such principal moneys are outstanding shall be carried to the account of such fund or rate.

Regulations as to purchase of land.

203. With respect to the purchase of lands, or of any of the other properties aforesaid (herein included under the term "lands"), by a sanitary authority for the purposes of this Act, the following regulations shall be observed; (that is to say,)

(1.) The Lands Clauses Acts shall be incorporated with this Act, except the provisions relating to access to the special Act, and except section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845:

8 & 9 Vict. c. 18, s. 127.

(2.) The sanitary authority, before putting in force any of the powers of the said Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement shall

Publish once at the least in each of three consecutive weeks in the month of November, in some newspaper or newspapers circulating in their district, an advertisement describing shortly the purposes in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the denominations and quantity of lands that they require; and shall further

Serve a notice in the month of December on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of the taking such lands:

(3) On compliance with the provisions of this section with respect to advertisements and notices, and not sooner than fourteen days after the service of the last-mentioned notices, the sanitary authority may, if they think fit, present a petition under their seal to the Local Government Board. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the owners, lessees, and occupiers of lands who have assented, dissented, or are neuter in respect of

the taking such lands, or who have returned no answer to the notice; it shall pray that the sanitary authority may, with reference to such lands, be allowed to put in force the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Local Government Board requires:

(4.) On the receipt of such petition, and on due proof of the proper advertisements having been published, and notices served, the Local Government Board shall take such petition into consideration, and may either dismiss the same, or direct a local inquiry as to the propriety of assenting to the prayer of such petition; but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners, lessees, and occupiers thereof:

(5.) After the completion of such inquiry the Local Government Board may, by provisional order, empower the sanitary authority to put in force, with reference to the lands referred to in such order, the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as the Board may think fit, and it shall be the duty of the sanitary authority to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served:

Provided that the notices by this section required to be given in the months of November and December may be given in the months of September and October, or of October and November, but in either of such last-mentioned cases an inquiry preliminary to the provisional order to which such notices refer shall not be held until the expiration of one month from the last day of the second of the two months in which the notices are given; and any notices or orders by this section required to be served on a number of persons having any right in, over, or on lands in common, may be served on any three or more of such persons on behalf of all such persons.

ARBITRATION.

Mode of reference to arbitration.

216. In case of dispute as to the amount of any compensation to be made under the provisions of this Act (except where the mode

of determining the same is specially provided for), and in case of any matter which by this Act is authorised or directed to be settled by arbitration, then, unless both parties concur in the appointment of a single arbitrator, each party shall appoint an arbitrator to whom the matter shall be referred.

BYELAWS.

Authentication and alteration of byelaws.

219. All byelaws made by a sanitary authority under and for the purposes of this Act shall be under their common seal; and any such byelaw may be altered or repealed by a subsequent byelaw made pursuant to the provisions of this Act: Provided that no byelaw made under this Act by a sanitary authority shall be of any effect if repugnant to the laws of Ireland or to the provisions of this Act.

Power to impose penalties on breach of byelaws.

220. Any sanitary authority may, by any byelaws made by them under this Act, impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of five pounds for each offence, and in the case of a continuing offence a further penalty not exceeding forty shillings for each day after written notice of the offence from the sanitary authority; but all such byelaws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty.

Nothing in the provisions of any Act incorporated herewith shall authorise the imposition or recovery under any byelaws made in pursuance of such provisions of any greater penalty than the penalties in this section specified.

Confirmation of byelaws.

221. Byelaws made by a sanitary authority under this Act shall not take effect unless and until they have been submitted to and confirmed by the Local Government Board, which Board is hereby empowered to allow or disallow the same as it may think proper; nor shall any such byelaws be confirmed—

Unless notice of intention to apply for confirmation of the same has been given in one or more of the local newspapers circulating within the district to which such byelaws relate, one month at least before the making of such application; and

Unless for one month at least before any such application a copy of the proposed byelaws has been kept at the office of the sanitary authority, and has been open during office hours thereat to the inspection of the ratepayers of the district to which such byelaws relate, without fee or reward.

The clerk of the sanitary authority shall, on the application of any such ratepayer, furnish him with a copy of such proposed byelaws or any part thereof, on payment of sixpence for every hundred words contained in such copy.

A byelaw required to be confirmed by the Local Government Board shall not require confirmation, allowance, or approval by any other authority.

Byelaws to be printed, &c.

222. All byelaws made by a sanitary authority under this Act, or for purposes the same as or similar to those of this Act under any local Act, shall be printed and hung up in the office of such authority; and a copy thereof shall be delivered to any ratepayer of the district to which such byelaws relate, on his application for the same, and on payment of a sum not exceeding one shilling, to be fixed by the sanitary authority.

Evidence of byelaws.

223. A copy of any byelaws made under this Act by a sanitary authority, signed and certified by the clerk of such authority to be a true copy and to have been duly confirmed, shall be evidence until the contrary is proved in all legal proceedings of the due making, confirmation, and existence of such byelaws without further or other proof.

As to regulations of sanitary authority.

225. The provisions of this Act relating to byelaws shall not apply to any regulations which a sanitary authority is by this Act authorised to make; nevertheless, any sanitary authority may cause any regulations made by them under this Act to be published in such manner as they see fit.

PRIVATE IMPROVEMENT EXPENSES.

Power to make private improvement rates.

229. Whenever an urban authority have incurred or become liable to any expenses which by this Act are or by such authority may be declared to be private improvement expenses, such authority may, if they think fit, make and levy on the occupier of the

premises in respect of which the expenses have been incurred, in addition to all other rates, a rate or rates to be called private improvement rates, of such amount as will be sufficient to discharge such expenses, together with interest thereon at a rate not exceeding five pounds per centum per annum, in such period not exceeding thirty years as the urban authority may in each case determine.

Provided that whenever any premises in respect of which any private improvement rate is made become unoccupied before the expiration of the period for which the rate was made, or before the same is fully paid off, such rate shall become a charge on and be paid by the owner for the time being of the premises so long as the same continue to be unoccupied.

Proportion of private improvement rate may be deducted from rent.

230. Where the occupier by whom any private improvement rate is paid holds the premises in respect of which the rate is made at a rent not less than the rackrent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such rate from the rent payable by him to his landlord, and if he hold at a rent less than the rackrent he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the rate as his rent bears to the rackrent; and if the landlord from whose rent any deduction is so made is himself liable to the payment of the rent for the premises in respect of which the deduction is made, and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof.

Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

Redemption of private improvement rates.

231. At any time before the expiration of the period for which any private improvement rate is made, the owner or occupier of the premises assessed thereto may redeem the same, by paying to the urban authority the expenses in respect of which the rate was made, or such part thereof as may not have been defrayed by sums already levied in respect of the same:

Provided that money paid in redemption of any private improvement rate shall not be applied by the urban authority otherwise than in defraying expenses incurred by them in works of private improvement or in discharging the principal of any moneys borrowed by them to meet those expenses, whether by means of a sinking fund or otherwise.

PROSECUTION OF OFFENCES AND RECOVERY OF PENALTIES, ETC.

Summary proceedings for offences, penalties, &c.

249. All offences under this Act, and all penalties, forfeitures, costs, and expenses under this Act directed to be recovered in a summary manner, or the recovery of which is not otherwise provided for, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction. The court of summary jurisdiction, when hearing and determining an information or complaint under this Act, shall be constituted of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty sessions, or of some magistrate or officer for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace sitting at some court or other place appointed for the administration of justice.

General provisions as to summary proceedings.

250. Any complaint or information made or laid in pursuance of this Act shall be made or laid within six months from the time when the matter of such complaint or information respectively arose.

The description of any offence under this Act in the words of this Act shall be sufficient in law.

Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information; and, if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant.

Restriction on recovery of penalties.

251. Proceedings for the recovery of any penalty under this Act shall not, except as in this Act is expressly provided, be had or

taken by any person other than by a party aggrieved, or by the sanitary authority of the district in which the offence is committed, without the consent in writing of the Attorney General for Ireland: Provided that such consent shall not be required to proceedings which are by the provisions of this Act relating to nuisances or offensive trades authorised to be taken by a sanitary authority in respect of any act or default committed or taking place without their district, or in respect of any house, building, manufactory, or place situated without their district.

Recovery of expenses by sanitary authority from owners.

255. Where any sanitary authority have incurred expenses for the repayment whereof the owner of the premises for or in respect of which the same are incurred is made liable under this Act or by any agreement with the sanitary authority, such expenses may be recovered, together with interest at a rate not exceeding five pounds per centum per annum, from the date of service of a demand for the same till payment thereof, from any person who is the owner of such premises when the works are completed for which such expenses have been incurred, and until recovery of such expenses and interest the same shall be a charge on the premises in respect of which they were incurred. In all summary proceedings by a sanitary authority for the recovery of expenses incurred by them in works of private improvement, the time within which such proceeding may be taken shall be reckoned from the date of the service of notice of demand.

Where such expenses have been settled and apportioned by the sanitary authority as payable by such owner, such apportionment shall be binding and conclusive on such owner, unless within three months from service of notice on him by the sanitary authority, of the amount settled to be due from such owner, he shall by written notice dispute the same.

The sanitary authority may, by order, declare any such expenses to be payable by annual instalments within a period not exceeding thirty years, with interest at a rate not exceeding five pounds per centum per annum, until the whole amount is paid; and any such instalments and interest, or any part thereof, may be recovered in a summary manner from the owner or occupier for the time being of such premises, and may be deducted from the rent of such premises, in the same proportions as are allowed in the case of private improvement rates under this Act.

Name of sanitary authority need not be proved.

259. In any proceeding instituted by or against a sanitary authority under this Act it shall not be necessary for the plaintiff to

prove the corporate name of the sanitary authority, or the constitution or limits of their district: Provided that this section shall not abridge or prejudice the right of any defendant to take or avail himself of any objection which he might have taken or availed himself of if this Act had not been passed.

Demands may be recovered in civil bill court.

260. Proceedings for the recovery of demands within the jurisdiction of the civil bill court, which sanitary authorities are empowered to recover in a summary manner, may, at the option of the sanitary authority, be taken in the civil bill court as if such demands were debts within the cognizance of such court.

Proceedings not to be quashed for want of form.

261. No rate, order, conviction, or thing made or done or relating to the execution of this Act shall be vacated, quashed, or set aside for want of form, or (unless otherwise expressly provided by this Act) be removed or removable by certiorari, or any other writ or process whatsoever, into any of the superior courts: Provided that nothing in this section shall prevent the removal of any case stated for the opinion of a superior court, or of any rate, order, conviction, or thing to which such special case relates.

False evidence punishable as perjury.

262. Any person who on any examination on oath, under any of the provisions of this Act, wilfully and corruptly gives false evidence shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury.

Service of notices.

267. Notices, orders, and any other documents required or authorised to be served under this Act may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or where addressed to the owner or occupier of premises, by delivering the same or a true copy thereof to some person on the premises, or if there is no person on the premises who can be so served, by fixing the same on some conspicuous part of the premises; they may also be served by post by 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 by post, and in proving such service it shall be

sufficient to prove that the notice, order, or other document was properly addressed and put into the post.

Any notice by this Act required to be given to the owner or occupier of any premises may be addressed by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given, without further name or description.

APPEAL.

Appeal in certain cases to Local Government Board.

268. Where any person deems himself aggrieved by the decision of the sanitary authority in any case in which the sanitary authority are empowered to recover in a summary manner any expenses incurred by them, or to declare such expenses to be private improvement expenses, he may, within twenty-one days after notice of such decision, address a memorial to the Local Government Board stating the grounds of his complaint, and shall deliver a copy thereof to the sanitary authority; the Local Government Board may make such order in the matter as to the said Board may seem equitable, and the order so made shall be binding and conclusive on all parties; provided that if such order should repeal, in whole or in part, the decision appealed against, the Local Government Board, before making such order, shall afford to the sanitary authority opportunity of giving such evidence as it may desire in support of its decision.

Any proceedings that may have been commenced for the recovery of such expenses by the sanitary authority shall, on the delivery to them of such copy as aforesaid, be stayed; and the Local Government Board may, if it thinks fit, by its order direct the sanitary authority to pay to the person so proceeded against such sum as the said Board may consider to be a just compensation for the loss, damage, or grievance thereby sustained by him.

Settlement of differences arising out of transfer of powers or property to sanitary authority.

277. Upon the application of any authority from whom or to whom any powers, rights, duties, capacities, liabilities, obligations, and property, or any of them, are transferred or alleged or claimed to be transferred in pursuance of the Sanitary Acts or this Act, upon the passing of this Act, or at any time thereafter by the operation of this Act, or of any provisional order made under the authority of this Act, or of any person affected by such transfer, the Local Government Board may by order settle any doubt or difference and

adjust any accounts arising out of or incidental to such powers, rights, duties, capacities, liabilities, obligations, or property, or to the transfer thereof, and direct the parties by whom and to whom any moneys found to be due are to be paid, and the mode of raising such moneys; and any provisions contained in any order so made shall be deemed to have been made in pursuance of and to be within the powers conferred by this section, subject to this proviso, that where any such order directs any rate to be made or other act or thing to be done which the party required to make or do would not, apart from the provisions of this Act, have been enabled to make or do by law, such order shall be provisional only until it has been confirmed by Parliament.

———

THE PUBLIC HEALTH (IRELAND) ACT, 1896.

1. The Local Government Board may on the application of the sanitary authority of any rural district, or of persons rated to the relief of the poor, the assessment of whose hereditaments amounts at the least to one-tenth of the net rateable value of such district, or of any contributory place therein, by order to be published in the Dublin Gazette, or in such other manner as the Local Government Board may direct, declare any provisions of the Public Health (Ireland) Acts, 1878 to 1890, in force in urban districts to be in force in such rural district or contributory place, and may invest such authority with all or any of the powers, rights, duties capacities, liabilities, and obligations of an urban authority under those Acts; and such investment may be made either unconditionally or subject to any conditions to be specified by the Board as to the time, portion of the district, or manner, during, at, and in which such powers, rights, duties, liabilities, capacities, and obligations are to be exercised and attach: Provided that an order of the Local Government Board made on the application of persons rated to the relief of the poor in any contributory place, shall not invest the rural authority with any new powers beyond the limits of such contributory place.

4. Whenever a rural authority have incurred or become liable to any expenses which by the Public Health (Ireland) Acts, 1878 to 1890, are, or by such authority may be declared to be, private improvement expenses, such authority may make and levy a private improvement rate in the same manner as private improvement rates may be made and levied by an urban authority; and all the provisions of the said Acts applicable to private improvement rates leviable by an urban authority shall apply accordingly to any private improvement rate leviable by a rural authority.

8. (1.) For the purpose of taking lands compulsorily by purchase under the Public Health (Ireland) Acts, 1878 to 1890 (in this section referred to as "the principal Acts") the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement shall be deemed to be amended by the provisions contained in the second schedule of the Housing of Working Classes Act, 1890, and such provisions shall (subject as by this section provided) be deemed to form part of the principal Acts in like manner as if therein expressly enacted.

(2.) In the construction for the purposes of the principal Acts of the provisions contained in the said second schedule to the said Act of 1890, the "local authority" shall mean the sanitary authority, the "confirming Act" shall mean the Act of Parliament confirming the provisional order of the Local Government Board empowering the sanitary authority to put in force the powers of the Lands Clauses Acts, the "confirming authority" shall mean the Local Government Board, and references to the said Act of 1890 or to Part I. thereof shall be deemed references to the principal Acts.

CHAPTER 34.

An Act to prevent the Spread of Infectious Disease.

[4th August, 1890.]

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

Short title.

1. This Act may be cited as the Infectious Disease (Prevention) Act, 1890.

Definitions.

2. Expressions used in this Act shall, unless the context otherwise requires, have the same meaning as the like expressions used in the Infectious Disease (Notification) Act, 1889; and the provisions of this Act shall apply to the infectious diseases specifically mentioned in that Act, and may be applied to any other infectious disease in the same manner as that Act may be applied to such disease.

In this Act—

"Dairy" shall include any farm, farmhouse, cowshed, milk-store, milk-shop, or other place from which milk is supplied, or in which milk is kept for purposes of sale:

"Dairyman" shall include any cowkeeper, purveyor of milk, or occupier of a dairy:

"Medical officer of health" shall include any person duly authorised to act temporarily as medical officer of health:

"*Local authority*" *shall include the Local Board of Woolwich, and the parish of Woolwich shall be deemed to be a London district.*

Extent of Act.

3. The provisions of this Act shall extend—

(*a*) *to every London district after the expiration of four months from the passing of this Act; and*

(*b*) to any urban or rural sanitary district after the adoption thereof;

and the local authority of any urban or rural sanitary district may adopt all or any of the sections of this Act by a resolution passed at a meeting of such authority. Fourteen clear days at least before such meeting special notice of the meeting, and of the intention to propose such resolution, shall be given to every member of the local authority, and the notice shall be deemed to have been duly given to a member if it is either—

(*a*) given in the mode in which notices to attend meetings of the local authority are usually given; or

(*b*) where there is no such mode, then signed by the clerk of the local authority and delivered to the member or left at his usual or last known place of abode in England, or forwarded by post in a prepaid letter addressed to the member at his usual or last known place of abode in England.

Every such resolution shall be published by advertisement in a local newspaper, and by handbills, and otherwise in such manner as the local authority think sufficient for giving notice thereof to all persons interested, and shall come into operation at such time not less than one month after the first publication of the advertisement of the resolution, as the local authority may fix; and upon its coming into operation such of the sections of this Act as are mentioned in such resolution shall extend to the district.

A copy of the resolution shall be sent to the Local Government Board when it is published.

A copy of the advertisement shall be conclusive evidence of the resolution having been passed, unless the contrary be shown; and no objection to the effect of the resolution, on the ground that notice of the intention to propose the same was not duly given, or on the ground that the resolution was not sufficiently published, shall be made after three months from the date of the first advertisement.

Inspection of dairies in certain cases: power to prohibit supply of milk.

4. In case the medical officer of health is in possession of evidence that any person in the district is suffering from infectious disease attributable to milk supplied within the district from any

dairy situate within or without the district, or that the consumption of milk from such dairy is likely to cause infectious disease to any person residing in the district, such medical officer shall, if authorised in that behalf by an order of a justice having jurisdiction in the place where such dairy is situate, have power to inspect such dairy, and if accompanied by a veterinary inspector or some other properly qualified veterinary surgeon to inspect the animals therein, and if on such inspection the medical officer of health shall be of opinion that infectious disease is caused from consumption of the milk supplied therefrom, he shall report thereon to the local authority, and his report shall be accompanied by any report furnished to him by the said veterinary inspector or veterinary surgeon, and the local authority 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 within the district until such order has been withdrawn by the local authority, and if, in the opinion of the local authority, he fails to show such cause, then the local authority may make such order as aforesaid; and the local authority shall forthwith give notice of the facts to the sanitary authority and county council (if any) of the district or county in which such dairy is situate, and also to the Local Government Board. An order made by a local authority in pursuance of this section shall be forthwith withdrawn on the local authority 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, or if so accompanied as aforesaid to inspect the animals kept there, or after any such order not to supply milk as aforesaid has been given, supplying any milk within the district in contravention of such order, or selling it for consumption therein, shall be deemed guilty of an offence against this Act. Provided always, that proceedings in respect of such offence shall be taken before the justices of the peace having jurisdiction in the place where the said dairy is situate. Provided also, that no dairyman shall be liable to an action for breach of contract if the breach be due to an order from the local authority under this Act.

Cleansing and disinfecting of premises, &c.

29 & 30 Vict. c. 90.

38 & 39 Vict. c. 55.

5. *Section twenty-two of the Sanitary Act,* 1866, *so far as it relates to any London district,* and section one hundred and twenty of the Public Health Act, 1875, so far as it applies to any urban

or rural sanitary district in which this section is adopted, shall be repealed, and the following provisions shall be in force instead thereof, viz. :

(1) Where the medical officer of health of any local authority, 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 clerk to the local authority 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 local authority at the cost of such owner or occupier, unless he informs the local authority 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.

(2) If, within twenty-four hours from the receipt of the notice, the person to whom the notice is given does not inform the local authority as aforesaid, or if, having so informed the local authority, he fails to have the house or part thereof and any such articles 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 local authority 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.

(3) Provided that where the owner or occupier of any such house or part thereof is unable in the opinion of the local authority, or of their 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 local authority.

Disinfection of bedding, &c.

6. Any local authority, or the medical officer of health of any local authority generally empowered by the authority in that behalf, 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 local authority 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 ten pounds.

The bedding, clothing, and articles shall be disinfected by the authority, and shall be brought back and delivered to the owner free of charge, and if any of them suffer any unnecessary damage the authority shall compensate the owner for the same and the amount of compensation shall be recoverable in, and in case of dispute shall be settled by, a court of summary jurisdiction.

Penalty on persons ceasing to occupy houses without previous disinfection or giving notice to owner, or persons making false answers.

7. 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 any 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 a registered medical practitioner, as testified by a certificate signed by him, or without first 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 ten pounds.

Prohibiting retention of dead bodies in certain cases.

8. No person without the sanction in writing of the medical officer of health or of a registered medical practitioner, shall retain unburied elsewhere than in a public mortuary or in a room not used at the time as a dwelling-place, sleeping-place, or workroom, for more than forty-eight hours, the body of any person who has died of any infectious disease.

Bodies of persons dying of infection diseases in hospitals, &c., to be removed only for burial.

9. If any person shall die from any infectious disease in any hospital or place of temporary accommodation for the sick, and the medical officer of health, or any other registered medical practitioner, 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 for that purpose it shall be forthwith carried or taken direct to some 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 ten pounds. Nothing in this Act shall prevent the removal of any dead body from any hospital or temporary place of accommodation for the sick to any mortuary, and such mortuary shall, for the purposes of this section, be deemed part of such hospital or place as aforesaid.

Justices may in certain cases order dead bodies to be buried.

10. 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 forty-eight hours after death without the sanction of the medical officer of health or of a registered medical practitioner, 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 medical officer of health, order the body to be removed at the cost of the local authority to any available 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, it shall be the duty of the relieving officer of the relief district from which the body has been removed to the mortuary or in which the body shall be, if it has not been so removed, to bury such body, and any expense so incurred may be charged by the relieving officer in his accounts, and may be recovered by the board of guardians in a summary manner from any person legally liable to pay the expenses of such burial.

Disinfection of public conveyances if used for carrying corpses.

11. Any person who 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, and after any such notification as aforesaid, any

owner or driver of a public conveyance, other than a hearse, which has been used for conveying the body of a person who has died from infectious disease, who shall not immediately afterwards provide for the disinfection of such conveyance, shall be guilty of an offence under this Act.

Detention of infected person without proper lodging in hospital by order of justice.

12. Any justice of the peace acting in and for the district of the local authority, upon proper cause shown to him, may make an order directing the detention in hospital at the cost of the local authority of any person suffering from any infectious disease, who is then in an hospital for infectious disease and would not on leaving such hospital 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 local authority or inspector of the police acting in the district, or for any officer of the hospital, on any such order being made to take all necessary measures and do all necessary acts for enforcing the execution thereof.

Infectious rubbish thrown into ashpits, &c., to be disinfected.

13. Any person who shall knowingly cast, or cause or permit to be cast, into any ash-pit, ash-tub, or other receptacle for the deposit of refuse matter any infectious rubbish without previous disinfection, shall be guilty of an offence under this Act.

Notice of certain provisions.

14. Where sections seven and thirteen of this Act, or either of them, are in force in any district, the local authority shall give notice of the provisions thereof to the occupier of any house in which they are aware that there is a person suffering from an infectious disease.

Temporary shelter, &c.

15. The local authority shall from time to time provide, free of charge, temporary shelter or house acommodation with any necessary attendants for the members of any family in which any infectious disease has appeared, who have been compelled to leave their dwellings for the purpose of enabling such dwellings to be disinfected by the local authority.

Penalties.

16. Every person who shall wilfully obstruct any duly authorised officer of the local authority in carrying out the provisions of this Act, or who shall obstruct the carrying out of an order made by a justice under this Act, or who shall offend against any enactment of this Act for the time being in force in any district by which no penalty is specifically imposed, shall be liable to a penalty not exceeding five pounds, and if the offence is a continuing one, to a daily penalty not exceeding forty shillings a day so long as the offence continues.

Power of entry for purposes of s. 5.

17. For the purpose of carrying into effect the provisions of section five of this Act the local authority may, by any officer appointed in that behalf, who shall produce his authority in writing, enter on any premises between the hours of ten o'clock of the forenoon and six o'clock of the afternoon.

Recovery and application of penalties.

18. Every penalty imposed by this Act shall be recoverable in a court of summary jurisdiction on the information or complaint of the local authority, or of their duly authorised officer, but not otherwise, and shall be paid to the local authority.

Superseding in certain cases of provisions in local Acts.

19. Where a provision of this Act is put in force in any district in which there is any similar provision in force contained in any local Act, such last-mentioned provision shall cease to be in operation.

Expenses.

20. Any expenses incurred by a local authority in the execution of any of the provisions of this Act, including the reasonable remuneration of any veterinary inspector or surgeon employed under section four, shall be paid as part of the expenses of such authority in the execution of the Acts relating to public health and in the case of a rural authority shall be general expenses.

Power of local authority to rescind adoption of Act.

21. Any resolution adopting all or any of the sections of this Act may be rescinded, either wholly or as regards any of the adopted sections, by resolution of the local authority, but notice of the meeting at which such resolution is to be proposed, and of the intention to propose the same, shall be given, and such resolution shall be published, and shall come into operation, in like manner and at such time as is herein-before provided with respect to resolutions adopting this Act, and a copy of the resolution shall be sent to the Local Government Board when it is published.

On the resolution coming into effect the sections of this Act, the adoption of which is thereby rescinded, shall cease to extend to the district.

The provisions herein-before contained, as to evidence of and objections to the effect of a resolution adopting this Act, shall apply to any resolution rescinding such adoption.

Extent of Act.

22. This Act shall not apply to Scotland.

Application of Act of Ireland.

52 & 53 Vict. c. 72.

23. This Act shall apply to Ireland, with the same modifications as are made in the Infectious Disease (Notification) Act, 1889, for the purpose of its application to Ireland, and with the following additional modifications:—

In this Act, unless the context otherwise requires—

The expression "Her Majesty's Privy Council" means the Lord Lieutenant acting by the advice of Her Majesty's Privy Council in Ireland:

The expression "inspector of police" includes a member of the Royal Irish Constabulary Force and a member of the Dublin Metropolitan Police.

41 & 42 Vict. c. 52.

The reference to section one hundred and twenty of the Public Health Act, 1875, shall be taken to be a reference to section one hundred and thirty-seven of the Public Health (Ireland) Act, 1878.

Saving for Acts relating to dairies, animals, &c.

24. Nothing in or done under this Act, shall interfere with the operation or effect of the Contagious Diseases (Animals) Acts, 1878 to 1886, or of any order, licence, or act of Her Majesty's Privy Council or the Local Government Board made, granted, or done, or to be made, granted, or done, thereunder; or of any order, regulation, licence, or act of a local authority made, granted, or done under any such order of the Privy Council or the Local Government Board; or exempt any dairy, or building, or thing whatsoever, or any body or person from the provisions of any general Act relating to dairies, milk, or animals, already passed, or to be passed in this or any future session of Parliament.

CHAPTER 44.

[N.B.—*For cases on this Act, see p.* 200 *ante.*]

An Act for regulating the business of Marine Store Dealers and Dealers in Second-hand Goods in Ireland.

[14th August, 1903.]

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

General Dealers to be Licensed.

1.—(1) No person shall carry on the business of a general dealer without having in force a licence under this Act.

(2) An application for a licence under this Act or a renewal thereof shall be made, in the prescribed manner and at the prescribed time, to the licensing authority, and may be granted or refused at the discretion of that authority.

(3) A licence under this Act may be revoked or suspended by a court of summary jurisdiction, on conviction before such court of any violation of the terms of the licence, or of any provision of this Act.

(4) Every person applying for a licence under this Act, or a renewal thereof, shall pay to the clerk to the licensing authority a sum not exceeding two shillings and sixpence as the expense attending such application and of recording the prescribed particulars relating thereto.

(5) A licence under this Act shall be in the prescribed form, shall be dated on the day on which it is issued,

and shall determine on the first day of January unless sooner revoked or suspended.

(6) If a person acts as a general dealer without having in force a licence under this Act, or contravenes the terms of his licence, he shall be liable on summary conviction to a fine not exceeding five pounds.

General Dealers to Furnish a Description of their Premises and Keep Books.

2.—(1) Every person applying for a licence under this Act or a renewal thereof shall, at the time of his application, furnish to the clerk to the licensing authority a description in writing of his premises, including all cellars, closets, and other places proposed to be used by him in the course of his business.

(2) Every general dealer shall enter in a book to be kept by him on his premises the particulars of each transaction in his business, including—

(*a*) a proper and distinctive description of each article purchased or received by him;

(*b*) the name and place of abode of the person from whom he purchased or received the article;

(*c*) the date and hour of the day of each transaction; and

(*d*) the price paid or agreed to be paid for the article:

Provided that, where articles of the same kind, value, and description are on any particular occasion bought or sold in a lot or parcel, it shall be sufficient to describe such lot or parcel without describing each of the several articles comprising same.

(3) If any general dealer fails to comply with any requirement of this section, he shall for each offence be liable on summary conviction to a fine not exceeding five pounds.

General Dealers to Retain Articles for Seven Days after having received them.

3.—(1) Every article purchased or received by a general dealer shall be kept by him in his shop, or other place where his ordinary business is carried on, for seven days from the date on which it was so purchased or received, unless in the meantime he shall on giving twenty-four hours previous notice to the licensing authority have received from that authority permission to dispose of such article.

(2) Every general dealer shall attach to each article a ticket or label with the date of purchase or receipt written thereon.

(3) Every general dealer shall, when required so to do by a police constable, produce to him any such article before the expiration of the said period of seven days.

(4) If any general dealer fails to comply with any requirement of this section he shall be liable for each offence on summary conviction to a fine not exceeding five pounds.

General Dealers to Enter Names of Purchasers, &c.

4.—(1) Every general dealer shall enter in his book the name and address of the person to whom any article, lot, or parcel is sold or delivered by him and also the date of the sale.

(2) If any general dealer fails to comply with the requirement of this section he shall be liable for each offence on summary conviction to a fine not exceeding twenty shillings.

General Dealers to Produce Articles and Books on Demand.

5.—(1) Every general dealer shall at all reasonable times produce on demand to any police constable, having the general or special authority of a justice of the

peace to make the demand, all articles in his possession, and also the book in which the description of any article is or ought to have been entered.

(2) Any police constable obtaining the production of any such book shall on each occasion subscribe his name immediately after the last entry therein.

(3) Whenever any articles which have been stolen, embezzled, or fraudulently obtained are found in the possession of any general dealer, he shall, on being informed by a police constable authorised as aforesaid that such articles were stolen, embezzled, or fraudulently obtained, deposit the same with the constable.

(4) If any general dealer fails to comply with any requirement of this section, he shall be liable for each offence, on summary conviction, to a fine not exceeding five pounds, without prejudice to his being also proceeded against according to law as a receiver of stolen goods.

General Dealers to Report Stolen Goods.

6.—(1) If any articles, with respect to which information in writing is given by any police constable to a general dealer that they have been stolen, embezzled, or fraudulently obtained, are then in, or subsequently come into, the possession of the dealer, he shall as soon as may be give information to a police constable that articles answering to the description of the said articles are in his possession, and shall also state the name and address given by the person from whom the articles were received.

(2) If any general dealer contravenes the provisions of this section he shall be liable for each offence on summary conviction to a fine not exceeding five pounds: Provided that, in the case of articles which it may be difficult to trace out and identify, no fine shall be imposed under this section unless it appears to the court that the articles were knowingly concealed by the dealer.

General Dealers not to Alter or Deface Articles without Permission.

7. If any general dealer, after receiving information of the theft, embezzlement, or fraudulent obtaining of any metals or other articles, melts, alters, defaces, or puts away any metals or articles answering to the description of the aforesaid metals or articles, or causes the same to be melted, altered, defaced, or put away, without having been authorised in writing by a justice of the peace so to do, and if it is found that the said metals or articles were stolen, embezzled, or fraudulently obtained by the person from whom the general dealer received the same, or by any other person, then in such case it shall be held that the general dealer knew that the said metals or articles were stolen, embezzled, or fraudulently obtained, and he shall be proceeded against, according to law, as a receiver of stolen goods, and no evidence of his guilt shall be necessary other than the evidence of such melting, altering, defacing, or putting away after receiving such information as aforesaid.

Business not to be Transacted with Persons under Fourteen Years of Age.

8.—(1) A general dealer shall not sell to or purchase from any person apparently under the age of fourteen years, whether such person is acting on his own behalf or on behalf of any other person.

(2) If any general dealer contravenes the provisions of this section, either by himself or any agent or servant, he shall be liable for each offence on summary conviction to a fine not exceeding five pounds.

General Dealers not to Transact Business between certain hours.

9.—(1) A general dealer shall not sell to or purchase from, or have any business transactions whatsoever

with, any person between ten o'clock on Saturday night and nine o'clock in the morning of the following Monday, or between ten o'clock on any other night and eight o'clock on the following morning: Provided that it shall be permissible to make delivery within the said hours of goods previously sold.

(2) If any general dealer contravenes the provisions of this section, either by himself or any agent or servant, he shall be liable for each offence on summary conviction to a fine not exceeding five pounds.

General Dealers to have their Names Painted over Shop Doors.

10.—(1) Every person licensed as a general dealer under this Act shall have his name, with the words "licensed general dealer," painted over the door or principal entrance of his premises in large characters, either black upon a white ground, or white upon a black ground, and shall replace the same if removed, obliterated, or defaced.

(2) If any person fails to comply with the requirements of this section he shall be liable for each offence on summary conviction to a fine not exceeding twenty shillings.

Rules.

11. The Lord Chancellor may make rules for prescribing anything which may under this Act be prescribed, and all rules so made shall be laid so soon as may be before both Houses of Parliament.

Definitions.

12. In this Act, unless the context otherwise requires:—

The expression "general dealer" means any person buying, otherwise than at a public auction held by

a licensed auctioneer, or selling old metal, scrap metal, broken metal, or partly manufactured metal goods in quantities at each particular purchase or sale of less, in the case of iron, than ten hundredweight, or in the case of copper of less than fifty-six pounds weight, or in the case of lead, zinc, spelter, machinery, or tools, respectively, of less than one hundred and twelve pounds weight, or buying or selling in any quantities bottles, syphons, tools, bags, sacks, packing cases, boxes, articles of pottery or glass, whether such person deals in those articles only or together with second-hand goods or marine stores, but the said expression does not include a pawnbroker or a licensed dealer in plate; and

The expression "licensing authority" means, in the police district of Dublin Metropolis, any divisional justice of that district, and in any other place two or more justices of the peace sitting in petty sessions.

Short Title.

13. This Act may be cited as the General Dealers (Ireland) Act, 1903.

Commencement of Act.

14. This Act shall come into operation on the first day of January one thousand nine hundred and four.

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[NOTE.—*The figures in darker type refer to the text of the Act.*]

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