Epitome of the laws affecting health now in force in this country / compiled for the use of the general public by J.V. Vesey Fitzgerald.

EPITOME

OF THE

LAWS AFFECTING HEALTH

COMPILED FOR THE USE OF THE GENERAL PUBLIC

BY

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BARRISTER-AT-LAW.

LONDON.

WATERLOW BROS. & LAYTON

24 & 25, BIRCHIN LANE, E.C.

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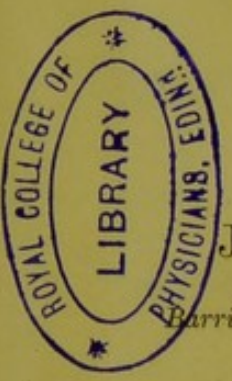

BY

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PREFACE.

HAVING frequently had occasion to refer to the statutes affecting sanitary matters, and to answer questions respecting them, I have found by experience that their provisions are neither accessible nor readily understood. Of writing on sanitary questions there has, of late, been no lack; but the writers have either treated of their subject irrespective of the law as it is, or have written in a manner unintelligible to the ordinary lay reader. I have attempted in this little work to supply the void above indicated, by offering to the public a sketch pointing out their principal rights and liabilities in sanitary matters. It would be impossible, without entirely altering its scope, to answer all the questions which may occur to the reader, or even to indicate the difficulties likely to arise under the various Acts of Parliament to which reference is made. For these, I must refer the reader to my larger work on the Public Health Act,[1] and to other treatises explanatory of those Acts. If this work supplies an answer to the simpler questions which constantly arise, it will satisfy the purpose for which it was compiled.

J. V. VESEY FITZGERALD.

June, 1885.

[1] Cited in the notes as P. H.

THE LAWS AFFECTING HEALTH.

CHAPTER I.

INTRODUCTORY.

The recognition of sanitary principles is comparatively modern, and legislation for the purpose of enforcing those principles is only of recent date. Such legislation however has, like other legislation in this country, been effected piecemeal. Statutes and clauses of great importance have been passed at different times, as defects in previous legislation became apparent; and sometimes have been passed without much reference to what had been done already. By diligent search of digests, or perusal of miscellaneous Acts of Parliament, a careful inquirer may come upon these various provisions; but to most readers, even to those who have had a legal training, the laws affecting health have always been difficult to comprehend. This difficulty and confusion is less now than it was formerly; many provisions which must be noticed in this book are still to be found scattered through different volumes of the "Statutes at large," but others, which formerly were scattered in the same way, have now been collected into

one Act of Parliament, though a very lengthy one. The Public Health Act of 1875 [1] was a codification of something like twenty previous Acts, which it repealed; but that code contains many provisions which relate primarily to other matters besides health, and even on sanitary points has been several times amended since it became law.

This Act only rules England, outside the Metropolis; for which, as well as for Scotland and Ireland, there has been separate legislation.[2] The provisions of these Acts, as regards the questions dealt with in this book, are, however, in the main the same as the provisions of the English Public Health Act; and the law, as stated in this book, may be taken as being practically the same throughout the whole of the United Kingdom, though the statutes by which it has been enacted are different. Other Acts, not engrafted into the Public Health Act, must also be referred to in this work.

LOCAL AUTHORITIES.

The plan which was initiated by the earlier Public Health Acts, and continued in the Act of 1875, of entrusting the administration of the sanitary laws to representative local authorities throughout Great

[1] 38 & 39 Vic. c. 55.

[2] The most important of these Acts are:—For the Metropolis, 18 & 19 Vic. c. 116, c. 120 and c. 121; 21 & 22 Vic. c. 97 and c. 104; 23 & 24 Vic. c. 77; 25 & 26 Vic. c. 102; 26 & 27 Vic. c. 117; 29 & 30 Vic. c. 41 and c. 90; 31 & 32 Vic. c. 115; 41 & 42 Vic. c. 32; 42 & 43 Vic. c. 54; for Scotland, 30 & 31 Vic. c. 101; 46 & 47 Vic. c. 11; and for Ireland, 41 & 42 Vic. c. 52; 42 & 43 Vic. c. 57; 46 & 47 Vic. c. 59.

Britain and Ireland, has been generally followed by these other Acts; and the same public bodies, and the same officers under them, have, as a rule, the duty of carrying out their provisions also. The powers of these local authorities are twofold—executive and administrative. They in some cases have duties, and in others discretionary powers of doing things which are necessary or advisable in the interests of the public health;—and they have also powers of seeing that individuals use their own property in such a way as to be in conformity with the general scope of the law, and of interfering to put matters right, or to have the offenders punished where this is not done. These local authorities can own property, and can impose rates for the purpose of defraying the expenses incurred in the exercise of their powers.

Districts.

The United Kingdom is, for the purposes of administering the Sanitary Acts, divided into districts, and each district is under the control of a representative body, which is the local authority for that district. England (except the Metropolis, which for many purposes is under separate Acts, and is ruled by its own local authorities, *i.e.*, Vestries and District Boards, and the Commissioners of Sewers for the City, with the Metropolitan Board of Works as a central authority) is divided into urban and rural districts. The latter are the Poor Law Unions, and in them the Board of Guardians are the local authority. Urban districts are—(1) Municipal

boroughs, under the mayor, aldermen, and burgesses acting by the council; (2) Improvement Act districts, under Improvement Commissioners; and (3) Local Government Districts, under Boards of Health.

Certain powers, noticed in this work, are entrusted to other authorities; but unless such authorities are specified, it may be taken that urban or rural authorities as here defined are those who have to administer the various powers under our consideration.

Bye-Laws.

Besides their general powers, local authorities may often make bye-laws for regulating and defining various matters in their own districts; and these bye-laws, if properly made, are, within the area to which they relate, as binding as Acts of Parliament.[1]

OFFICERS.

The local authorities above-mentioned are corporations, and, as other corporations do, act chiefly through their officers. Under the Public Health Act, urban authorities are bound to appoint fit and proper persons to be—(1) medical officer of health; (2) surveyor; (3) inspector of nuisances.[1] Rural authorities are bound to appoint — (1) a medical officer or officers of health; and (2) an inspector or inspectors of nuisances;[2] both authorities are also bound to appoint such assistants and other officers

[1] 38 & 39 Vic. c. 55, s. 189. [2] *Ib.* s. 190.

and servants as may be necessary and proper for the efficient execution of the Act.

Medical Officer of Health.

A medical officer of health may be appointed for two or more districts jointly. He must be a registered medical practitioner, qualified by law to practise both medicine and surgery; the appointment is for a fixed period, and at a salary approved by the Local Government Board. His duties are prescribed by a general order of that Board,[1] and as regards health they are as follows:—(1) To, as far as practicable, inform himself respecting all influences affecting or threatening to affect injuriously the public health within his district; (2) to inquire into and ascertain, by such means as are at his disposal, the causes, origin, and distribution of diseases in the district, and ascertain to what extent they have depended on conditions capable of removal or mitigation; (3) to keep himself informed, by periodical inspection, of the conditions injurious to health existing in the district; (4) to advise the local authority in all matters affecting the health of the district, and on all sanitary points involved in their action; also to certify as to any matter in respect of which the certificate of a medical officer of health or medical practitioner is required as the basis, or in aid of sanitary action; (5) to advise the local authority on any question relating to health involved in the framing or subsequent working of

[1] G. O. March 8, 1880.

their bye-laws and regulations; (6) to give advice and assist in carrying out the necessary precautions in case of an outbreak of infectious disease; (7) to supervise the inspector of nuisances, and when informed by him of the existence of a nuisance injurious to health, to take prompt steps to secure its abatement; (8) to inspect and examine articles intended for food suspected of being unsound, and if he finds them to be so, to take the necessary steps for getting them condemned; (9) to inquire into any offensive process of trade carried on within the district, and report on the appropriate means for the prevention of any nuisance or injury to health therefrom. The medical officer must also perform any special duties imposed upon him by any properly made bye-laws or regulations of his local authority, and make reports to that body and to the Local Government Board.

Inspector of Nuisances.

The special duties, with respect to sanitary matters, of the inspector of nuisances are as follows:[1]—(1) To keep himself informed of all nuisances existing in his district that require abatement under the Public Health Act; (2) on receiving notice of the existence of a nuisance, &c., to visit the spot, and inquire into it as early as possible; (3) to report to the local authority any noxious or offensive businesses, trades, or manufactories established in the district, and the breach or non-

[1] G. O. March 8, 1880.

observance of any bye-laws or regulations made in respect of them; (4) to report any damage done to works of water supply or other works belonging to the local authority, also any case of wilful or negligent waste of water supplied by them (if the water is supplied by a Company, its officials would see to this), also any fouling by gas, filth, or otherwise, of water used for domestic purposes; (5) from time to time, and *forthwith upon complaint*, to visit and inspect the shops and places kept or used for the sale of butcher's meat, poultry, fish, fruit, vegetables, corn, bread, flour, or milk, or as a slaughter-house, and examine provisions there, and if any article appears to be intended for the food of man, and to be unfit for such food, to have it seized and dealt with by a justice; in cases of doubt, the inspector is to report the matter to the medical officer, with a view of obtaining his advice; (6) to procure samples of food, drink, or drugs suspected of being adulterated, and to get them analyzed; and, if the analyst's certificate shows the suspicion to have been just, to take the other proceedings prescribed by the Adulteration Acts; (7) to give to the medical officer immediate notice of the occurrence within the district of any contagious, infectious, or epidemic disease; also, whenever it appears to him that the intervention of such officer is necessary in consequence of the existence of any nuisance injurious to health or of over-crowding in a house, forthwith to give him information of it. Besides these specific duties, he has to carry out the directions of the local authority

and of the medical officer in all matters relating to health and the removal of nuisances.

Mode of Enforcing Law.

From the above short analysis it will be seen that the powers of the medical officer and inspector of nuisances are ample; they are, however, often unable to do all that they ought to do, from the fact of their districts often being so large that no man, however zealous, could keep himself properly informed of all that goes on in it. The inspectors, moreover, are often men whose position and education is but slightly, if at all, superior to that of ordinary labourers; and, even if they understand their duties, they are unwilling to perform them thoroughly for fear of offending persons in a higher social position than themselves, on whose premises nuisances occur.

Any inhabitant of the district may, however, call the attention of the inspector or medical officer to the existence of a nuisance, or to any similar matter which ought to be remedied; and if attention is called, the officer must investigate the case and see whether it calls for further proceedings. Private individuals, by giving information to the proper officer, can do much to ensure that the laws as to health are carried out, and defects, which might have serious consequences, remedied in time. If the matter to be seen to is comparatively small, or requires prompt attention, it had better be notified to the inspector, either verbally or by letter; in

cases of greater moment, but which are less pressing as to time, a formal letter to the local authority is the preferable means of calling attention.

LOCAL GOVERNMENT BOARD.

General Powers.

Local authorities and their officers are subjected to the supervision, and to some extent to the control, of the Local Government Board. (In some matters also the Home Secretary has jurisdiction.) The Board acts through its inspectors, who hold local inquiries when necessary, and report and advise on such proceedings of the local authorities as may be necessary. It also exercises a control over their expenditure, except in municipal boroughs, by means of its auditors, whose duty it is periodically to investigate the accounts, and to disallow all payments improperly made. The Board has, however, a discretionary power of overruling such disallowances, which it exercises freely wherever the payment, though irregular, has been for the benefit of the district.

Enforcing Performance of Duty by Local Authority.

The Local Government Board may in certain cases oblige a local authority to perform its duty, if such authority has made default in so doing. The cases where such interference is authorized are as follows :[1]

[1] 38 & 39 Vic. c. 55, s. 299.

(1) where a local authority have made default in providing their district with sufficient sewers, or in the maintenance of existing sewers; (2) where the default is in providing the district with a supply of water (this applies only in cases where danger arises to the health of the inhabitants from the *insufficiency or unwholesomeness* of the existing supply, and a proper supply can be got at a reasonable cost); (3) where the default is in enforcing any other of the provisions of the Public Health Act which it is the duty of the local authority to enforce;—these provisions relate to (*a*) seeing that dwelling-houses are provided with proper drains; (*b*) looking after common lodging-houses; (*c*) taking proceedings for preventing nuisances injurious to health or caused by offensive trades; (*d*) adopting measures for meeting outbreaks of infectious diseases or epidemics; and (*e*), in urban districts, the proper levelling, paving and repairing of streets—in several of these, the Act only *requires* the local authority to give the person in default notice to do what is requisite; if he neglects to comply with such notice, the local authority *may* do the work themselves at his expense, but it does not expressly oblige them to do so; the courts would, however, no doubt hold, if any flagrant case of neglect to put these powers in force were proved, that the power to abate a nuisance implied a duty, and consequently that the Local Government Board might intervene, although a local authority professed in its discretion to think it might do nothing. In case a local authority makes default in dealing with a nuisance, a police officer

may be empowered to act for them.[1] This power is further noticed in the chapter on nuisances (*post*).

The attention of the Local Government Board must be called to such neglect of duty by a complaint. This need not be formal, but usually takes the form of a letter or memorial stating the alleged default. If satisfied, after due inquiry, that the local authority has been guilty of such default, the Local Government Board *shall* make an order for them to perform their duty within a time to be stated in the order.[2] If within that time the duty is not performed, the Local Government Board may appoint some person to perform it at the expense of the defaulting local authority, and he may be given all the powers of that authority. The Local Government Board may, if they prefer it, proceed against the defaulting local authority by way of *mandamus*, and have adopted this course in matters relating to health not included in those above-mentioned, as, for instance, in obliging an unwilling local authority to enforce the provisions of the Vaccination Acts.

LEGAL PROCEEDINGS.

The Local Government Board, as we have seen, may be set to work by memorials or complaints from people who see that things are going wrong, and so also may local authorities. The liability to legal proceedings, with the possibility of having to pay

[1] 38 & 39 Vic. c. 55, s. 106. [2] *Ib.* s. 299.

penalties or damages, and costs, is, however, often a most efficient stimulus for making people perform their legal obligations; and it is well to remember that such proceedings may be instituted.

What Proceedings possible.

These proceedings may take the form (1) of criminal proceedings for the penalties provided by the different Acts of Parliament; and (2), in some cases, of civil actions brought to recover damages consequent on the non-observance of these statutory requirements.

Except where it is expressly enacted otherwise, criminal proceedings to recover any penalty can only be brought (*a*) by the local authority of the district in which the offence is committed, or (*b*) by a party aggrieved.[1] The Attorney-General may, however, in cases of sufficient importance, himself institute such proceedings, or *allow any other person to do so.* These proceedings to recover the penalties are to be taken before a court of summary jurisdiction, *i.e.*, before two justices of the peace or a stipendiary magistrate. They are commenced by summons, which is procured on applying to the magistrates' clerk of the district in which the alleged offence was committed. The complainant, if a party aggrieved, may conduct his own case or be professionally represented by a solicitor or barrister. Unless the case is simple, he had better secure professional assistance; if not

[1] 38 & 39 Vic. cap 55, s. 253.

before applying for the summons, at any rate when it comes on to be heard.

Time for Proceedings.

It must be remembered that in all cases the summons must be taken out within six months *at the latest*, from the time when the alleged offence was committed; in some cases, as for instance under the Adulteration Acts, the period for commencing proceedings may be shorter. If the offence complained of is a continuing one—as for instance the keeping of an accumulation which is a nuisance—the time for proceedings runs not from the date when the offence began, which might often be difficult to ascertain, but from the time when it ceased.

Civil Actions.

Civil actions for damages can only be brought by the person injured, or, in other words, by the person aggrieved by the breach of the law. It is impossible here to lay down any general rules as to the cases in which such actions may be maintained, and persons wishing to bring them are referred to their legal advisers. They should, however, remember that in such cases it is as important to bring their cases forward promptly, or at any rate to complain at once of being injured, as in criminal proceedings. The courts are very apt to regard stale complaints as unreal, or at any rate trivial.

CHAPTER II.

DWELLINGS.

A GREAT deal of attention has recently been devoted to the question of the housing of the poor, which is only a branch of the larger subject of the laws affecting dwelling-houses generally. The restrictive powers of these laws vary greatly according to circumstances.

BUILDINGS.

In rural districts, as a rule, no control can be exercised over the *erection* of buildings, though local authorities can to some extent regulate their use: in urban districts there are ample powers of preventing the erection of insanitary or detrimental buildings, as well as of getting rid of such buildings where they already exist.

Erection of Buildings.

The powers to regulate the erection of buildings are given by the Public Health Act, which enables *urban* authorities to make bye-laws;[1] (1) with respect to the level, width, and construction of new streets, and the provisions for the sewerage thereof; (2) with respect to the structure of walls, foundations, roofs, and chimneys of new buildings, (*a*) for securing stability and prevention of fires, (*b*) for *purposes of health;* (3) with respect to (*a*) the sufficiency of space

[1] 38 & 39 Vic. c. 55, s. 157.

about buildings to secure a free circulation of air, (*b*) the ventilation of the buildings themselves; (4) with respect to (*a*) the drainage of buildings, (*b*) water-closets, earth-closets, privies, ashpits, and cesspools in connection with buildings, and (*c*) the closing of buildings or parts of buildings unfit for human habitation, and prohibition of their use for such habitation. In case of new streets or buildings, the bye-laws may require the deposit of plans before the work is commenced, and if anything is erected after the urban authority have disapproved of the plan, the building may be pulled down.

The Local Government Board have issued a set of model bye-laws which provide for the various matters set out above, and many local authorities have wholly or in part adopted them; but their adoption is not compulsory, and other laws are often used. The bye-laws in force in different districts vary greatly, and many of them are so framed as to be practically unworkable. Local authorities may at any time, with the consent of the Local Government Board, repeal all or any of their bye-laws and enact fresh ones, and it would in many cases be desirable for them to do so.

The general law gives powers which enable urban authorities to regulate the erection of new buildings properly, and so protect the health of their districts; where they fail to do so the fault lies with the inefficiency of their bye-laws, or with the indifference of those who have to administer them.

Power to Remove Old Buildings.

Existing buildings, though they contravene the requirements which bye-laws might exact if they were being newly erected, cannot, as a rule, be interfered with. In case a nuisance is proved to exist, which renders a house or building unfit for human habitation, a court of summary jurisdiction may prohibit its use as a dwelling-house until rendered fit for that purpose.[1] But unless the house is, by reason of a nuisance as defined by the Public Health Act,[2] unfit for habitation, local authorities have generally no power to act. Parliament has, however, provided two series of Acts, which are intended to enable the local authorities of *crowded districts* to effect clearances and improvements in the quarters inhabited by the labouring classes. No special provision has been made for other dwelling-houses, or for business premises, which are left to be dealt with under the general law.

ARTISANS' AND LABOURERS' DWELLINGS ACTS.

Torrens' Acts.

The first of these special Acts is the Artisans' and Labourers' Dwellings Act, 1868, commonly known as Torrens' Act.[3] The preamble is as follows :—

"Whereas it is expedient to make provision for taking down or improving dwellings occupied by working men and their families, which are unfit for human habitation, and for the building and maintenance of better dwellings instead thereof; be it enacted, &c."

The Act has been twice amended, in 1879 and

[1] 38 & 39 Vic. c. 55, s. 97. [2] *See* chapter on Nuisances (*post*).
[3] 31 & 32 Vic, c. 130.

again in 1882, and in its present shape may be said to be efficient for the purpose of getting rid of insanitary dwellings, but not always for providing the erection of others in their place. The Acts only affect urban districts, and their execution is entrusted to the local authorities of those districts.

Report of Medical Officer.

They are put in motion by a report from the medical officer of health of the district, to the effect that premises are in a condition or state dangerous to health so as to be unfit for human habitation[1]; or that a building, though not in itself unfit for human habitation, is so situate that by reason of its proximity to or contact with any other buildings, it (*a*) stops ventilation or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation, or (*b*) prevents proper measures from being carried into effect for remedying the evils complained of in such other buildings.[2] Such a building is called an obstructive building. It is the duty of the medical officer to examine the district and make such reports himself, but he may be put in motion by a representation signed by four or more householders living in or near any street, to the effect that any premises in that street are in a condition or state dangerous to health so as to be unfit for human habitation.[3]

Order to execute Works.

When the medical officer makes a report to the local

[1] 31 & 32 Vic. c. 130, s. 5. [2] 45 & 46 Vic. c. 54, s. 8.
[3] 31 & 32 Vic. c. 130, s. 12.

authority, it is referred in the first instance to the surveyor, who has to report what is the cause of the evil reported and the remedy thereof; and if such evil is occasioned by any defects in any premises, whether the same can be remedied by structural alterations or improvements or otherwise, or whether such premises, or any and what part thereof ought to be demolished.[1] In case of an obstructive building, he has to report the cost of acquiring the land on which it is erected, and of pulling it down.[2] The local authority must then give the owner of the premises affected an opportunity of being heard in opposition to the proposed alterations, and after so doing, must finally determine on what is to be done, and make an order, in writing, directing what works are to be done.[3] Any person aggrieved by such order, may appeal to Quarter Sessions.[4] The owner must commence to do the required works within two months from the date of the order (or in case of an appeal, from the date of the hearing of the appeal); and if he neglects to do so, the local authority may then either order the premises to be shut up or demolished, or may themselves execute the required works, and charge the premises with the cost.[5] The owner may however, require the local authority to purchase the premises, and if he does, the price payable is to be ascertained by arbitration.[6]

In case an order to pull down an obstructive build-

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[1] 31 & 32 Vic. c. 130, s. 6.
[2] 45 & 46 Vic. c. 54, s. 8, sub-sec. 2.
[3] 31 & 32 Vic. c. 130, s. 8.
[4] *Ib.* s. 9.
[5] *Ib.* s. 14.
[6] 42 & 43 Vic. c. 64, s. 5.

ing is not complied with, the local authority may purchase the site compulsorily, unless the owner elects to retain the site, in which case he must undertake to pull down the building, or allow them to pull it down.[1] He is entitled to compensation for having his building pulled down.

Compensation.

Local authorities who have to pay compensation for taking or interfering with premises under these Acts, are better off than public bodies who take land for their own purposes. The amount which they are to pay is to be ascertained (*a*) according to an estimate of the fair market value of the premises, and of the several interests in such premises at the time of the valuation, due regard being had to the nature and then condition of the property, and the probable duration of the buildings in their existing state, and to their state of repair, and *without any additional allowance* (such as in other cases is customarily given) in respect of compulsory purchase; (*b*) "the arbitrator is to have regard to, and make an allowance in respect of, any increased value, which, in his opinion, will be given to premises of the same owner by the alteration or demolition of the premises."[2] In the case of an obstructive building, where the arbitrator considers that its demolition adds to the value of the buildings which are in proximity to, or contact with it, he is to apportion that increase of value among such other buildings, and

[1] 45 & 46 Vic. c. 54, s. 8, sub-sec. 4. [2] 42 & 43 Vic. c. C4, s. 7.

such increase may be charged on those buildings by the local authority as private improvement expenses.[1]

Power to make Rates.

Even with the above mitigations, the expenses of getting rid of unhealthy dwellings may be heavy. Local authorities are empowered to defray them by means of a special rate, not exceeding twopence in the pound in any year, which rate may be levied, notwithstanding any statutory limitation there may be on their powers of rating.[2] They may borrow the money required from the National Loan Commissioners.[3] The initial expense may, in some cases, be reduced by sale or lease of the lands acquired.

How Site to be used.

If existing premises are, in consequence of the order of the local authority, merely altered, they will continue, in their new state, to be applicable for use as dwellings for the labouring classes, though, perhaps, they may not accommodate so many inmates as they formerly did. If premises have been demolished, no house or other building, or erection, which shall be injurious to health, may be erected on any part of the site so cleared.[4] Moreover, where an obstructive building has been demolished, so much of the site as is required for getting rid of the obstruction must be kept free from buildings.[5] The

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[1] 45 & 46 Vic. c. 54, s. 8. [2] 31 & 32 Vic. c. 130, s. 31. [3] *Ib.* s. 32.
[4] *Ib.* s. 23. [5] 45 & 46 Vic. c. 54, s. 8, sub-sec. 8.

local authority may, if they so think fit, dedicate any portion of the land they have acquired under these Acts as a highway or public place.

Accommodation for Working Classes.

Outside the Metropolis, local authorities are under no obligation to erect new buildings in place of those which they have demolished, but may, if they choose (subject to preserving the necessary open spaces), sell any lands or premises acquired by them. In the Metropolis, they are required to hold all such property in trust (1) for providing, by the construction of new buildings or the repair or improvement of existing buildings, the labouring classes with suitable buildings situate within their jurisdiction, and (2) for opening out inclosed or partially inclosed courts or alleys inhabited by the labouring classes, and for widening them by pulling down any building, or otherwise leaving such open spaces as may be necessary to make such courts or alleys healthful.[1] They may, therefore, only sell or lease such premises, on condition of utilizing others, within their district, in providing or for the improvement of labourers' dwellings.

Compulsory Powers.

If local authorities neglect or refuse to take any steps under these Acts, the Home Secretary outside the Metropolis, and the Metropolitan Board of Works

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[1] 42 & 43 Vic. c. 54, s. 14.

within it, have power in certain cases to oblige them to do so.[1]

ARTISANS' AND LABOURERS' DWELLINGS IMPROVEMENT ACTS.

The above Acts, though providing a fairly efficient machinery for dealing with single houses or groups of houses, do not enable local authorities to deal with areas in which the public health was endangered by blocks of buildings which had been allowed to get into an insanitary state.

Cross's Acts.

They have accordingly been supplemented by the Artisans' and Labourers' Dwellings Improvement Acts, 1875, 1879, and 1882,[2] commonly known as Sir Richard Cross's Acts, which are intended to deal with *unhealthy areas* in the Metropolis and in other large towns. The preamble of the Act of 1875 is as follows:—

"Whereas various portions of many cities and boroughs are so built, and the buildings thereon so densely inhabited, as to be highly injurious to the moral and physical welfare of the inhabitants:

"And whereas there are in such portions of cities and boroughs aforesaid a great number of houses, courts, and alleys which, by reason of the want of light, air, ventilation, or of proper conveniences, or from other causes, are unfit for human habitation, and fevers and diseases are generated there, causing death and loss of health, not only in the courts and alleys, but also in other parts of such cities and boroughs:

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[1] 31 & 32 Vic. c. 130, s. 13; 42 & 43 Vic. c. 64, s. 12; 45 & 46 Vic. c. 54, s. 11.

[2] 38 & 39 Vic. c. 36; 42 & 43 Vic. c. 63; 45 & 46 Vic. c. 54, Pt. I.

"And whereas it often happens that, owing to the above circumstances, and to the fact that such houses, courts, and alleys are the property of several owners, it is not in the power of any one owner to make such alterations as are necessary for the public health:

"And whereas it is necessary for the public health that many of such houses, courts, and alleys should be pulled down, and such portions of the said cities and boroughs should be reconstructed:

"And whereas in connection with the reconstruction of those portions of such cities and boroughs it is expedient that provision be made for dwellings of the working class who may be displaced in consequence thereof; be it enacted," &c.

Apply only to Populous Districts.

These Acts apply to the Metropolis and to urban sanitary districts which contain a population of over 25,000; and enable the Commissioners of Sewers for the City of London, the Metropolitan Board of Works for the rest of London, and urban authorities elsewhere, to exercise very extensive powers for getting rid of blocks of unhealthy dwellings.

Official Representation.

Proceedings are initiated by an official representation to be made by the medical officer of health of the district.[1] He may make such representation of himself whenever he sees cause to do so; and if two or more justices of the peace, or twelve or more ratepayers complain to him of the unhealthiness of any area within his district, he is bound forthwith to inspect such area, and to make an official representa-

[1] 38 & 39 Vic. c. 36, s. 3.

tion stating the facts of the case, and whether in his opinion the area is or is not unhealthy.[1] If the official representation shows—1 (*a*) that any houses, courts, or alleys within a certain area are unfit for human habitation, or (*b*) that diseases indicating a generally low condition of health amongst the population have been from time to time prevalent in a certain area, and that such prevalence may reasonably be attributed to the closeness narrowness and bad arrangement, or to the bad condition of the streets and houses or groups of houses within such area, or to the want of light air ventilation or proper conveniences, or to any other sanitary defects, or to one or more of such causes; and (2) that the evils connected with such houses, courts, or alleys, and the sanitary defects in such area cannot be effectually remedied otherwise than by an improvement scheme for the rearrangement and reconstruction of the streets and houses within such area, or of some of such streets or houses, the local authority must take it into their consideration. If they are satisfied of the truth of the representation, *and of the sufficiency of their resources*, they are to resolve that the area is unhealthy, and forthwith prepare an improvement scheme.[2]

Scheme.

The scheme may include or exclude any lands, whether mentioned in the official representation or not, which the local authority may consider

[1] 38 & 39 Vic. cap. 36, s. 4. [2] *Ib.* s. 3.

necessary for making it efficient for sanitary purposes; and may also provide for widening any existing approaches to the unhealthy area, or otherwise for opening it out for the purposes of ventilation or health.[1] The Act of 1875 required that it should also provide for the accommodation of at least as many persons of the working class as should be displaced in the area; the expense of doing this was, however, found to be prohibitive, and this requirement may now be wholly or in part dispensed with.[2] An improvement scheme, proposed by a local authority, has to be submitted, if in the Metropolis, to the Home Secretary, and elsewhere to the Local Government Board, who, after local inquiry, confirm or modify the scheme, and issue a provisional order which, after being submitted to Parliament, acquires and gives to the scheme the force of law.[3]

Purchase of Lands.

When this has been done it is the duty of the local authority to take steps for purchasing the lands required for the scheme, and otherwise for carrying it into execution as soon as possible.[4] In case of lands being purchased, the price payable may be ascertained by arbitration, as under the Lands Clauses Acts; but the arbitrator is forbidden to allow anything for improvements effected upon the property after the date when the scheme was first

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[1] 38 & 39 Vic. cap. 36, s. 5.
[2] 42 & 43 Vic. c. 63, s. 4; 45 & 46 Vic. c. 54, s. 3.
[3] 38 & 39 Vic. c. 36, s. 6. [4] *Ib.* s. 9.

published,[1] and in cases where "the house or premises was by reason of its unhealthy state, or by reason of overcrowding or otherwise, in such a condition as to have been a nuisance," he is to deduct from the amount awarded such a sum as it would have been necessary to expend on abating the nuisance, and only award the balance as the compensation payable.[2] Parts of buildings may also be taken, without payment being necessarily made for the whole. Provision is thus made for limiting the amount payable by local authorities; but the price of clearing an unhealthy area in a town is still necessarily heavy, and this expense has undoubtedly prevented the Acts being put in force in many places where such a course would have been desirable.

Erection of New Buildings.

A local authority may sell or let all or any part of the area to which their scheme relates, for the purposes, and under the conditions, that the purchasers or lessees will carry the scheme into execution; and may, if expressly authorized, themselves erect buildings. If they grant or lease any part of the area appropriated for the erection of dwellings for the working classes, they must impose suitable conditions and restrictions as to the elevation, size, and design of the houses and the extent of the accommodation to be afforded, and must make due

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[1] 45 & 46 Vic. c. 54, s. 4. [2] 42 & 43 Vic. c. 63, s. 3.

provision for the maintenance of proper sanitary arrangements.[1] If provision for the erection of such buildings has not been made within five years from the time of the removal of the old buildings, the land may be taken from the local authority and sold to purchasers on condition of erecting such buildings.[2]

Power of Ratepayers to Initiate Inquiry.

We have seen that the medical officer may be required by ratepayers to inspect any area of which they complain. If he does not do so, or makes an official representation that it is not unhealthy, the ratepayers may appeal to the Home Secretary or Local Government Board, who may order a local inquiry by one of their officers; and if he reports the area to be unhealthy, the local authority are to proceed as if an official representation had been made to them.[3] If an official representation is made to a local authority, and they pass no resolution on it, or pass a resolution not to proceed with an improvement scheme, they must send to the confirming authority (*i.e.*, Home Secretary or Local Government Board), a copy of the representation, accompanied by their reasons for not acting on it; and the confirming authority may thereupon direct a local inquiry to be held, and a report to be made to them with respect to the correctness of the official representation and other matters connected therewith.[4] The local authority cannot, however, be compelled to propose or proceed with an improvement

[1] 38 & 39 Vic. c. 36, s. 9. [2] *Ib.* s. 10. [3] *Ib.* s. 15. [4] *Ib.* s. 8.

scheme, and the only effect of a local inquiry being directed, is to bring the pressure of public opinion to bear on the question.

LODGING HOUSES.

Besides the above powers for regulating the erection of buildings and for getting rid of houses which are in such a state as to be practically a nuisance, local authorities have powers of regulating common lodging houses, in the interest (1) of public order; (2) of public health.

Common Lodging Houses.

Whether a house is or is not used as a *common lodging-house*, is a question of fact. Part of a house may be so used,[1] the other part being used as a dwelling-house, or for some other business. Under the Towns Police Clauses Act, a common lodging-house is defined to be "a house, or part of a house, in which people are lodged for hire for any term less than a week at a time."[2] This definition is not binding in construing the Public Health Act, but, clearly, a building let out to permanent lodgers is not a common lodging-house, nor is an inn.

Sanitary Regulations.

The powers of local authorities under the first head are outside the scope of this work; as to the

[1] 38 & 39 Vic. c. 55, s. 89. [2] 10 & 11 Vic. c. 34, s. 116.

second, they are as follows:—(1) Such houses must be registered,[1] and before being registered, they must be inspected and approved by some officer of the local authority[2]; (2) the authority shall, from time to time, make bye-laws (*a*) for fixing and, from time to time, varying the number of lodgers who may be received into a common lodging-house; (*b*) for promoting cleanliness and ventilation in such houses; and (*c*) for the giving of notices and taking precautions in the case of any infectious diseases.[3] These bye-laws are enforceable by fines not exceeding £5 for each offence, and in case the offence continues, a further fine of 40s. per diem.[4] (3) Besides these bye-laws, which may of course vary in different districts, the keeper of a common lodging-house is bound by law (*a*) to whitewash the walls and ceilings twice a year—viz., in the first weeks of April and October—to the satisfaction of the local authority;[5] (*b*) when a person in his house is ill of a fever or any infectious disease, to give immediate notice to the medical officer of health and to the poor law relieving officer;[6] (*c*) if it appears to the local authority that the house is without a proper supply of water for the use of the lodgers, and that such a supply can be obtained at a reasonable rate, he may be required to provide such supply, on pain of having the house removed from the register.[7]

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[1] 38 & 39 Vic. c. 55, s. 77. [2] *Ib.* s. 78.
[3] *Ib.* s. 80. [4] *Ib.* s. 183.
[5] *Ib.* s. 82. [6] *Ib.* s. 84.
[7] *Ib.* s. 81.

Bye-laws as to Houses let in Lodgings.

Houses let in lodgings which are not common lodging-houses may, where the Local Government Board thinks fit, be subject to bye-laws to be made by the local authority for the purpose of (*a*) regulating the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family; (*b*) for registration of houses so let or occupied; (*c*) for the inspection of such houses; (*d*) for enforcing drainage and the provision of privy accommodation, and for promoting cleanliness and ventilation; (*e*) for cleansing and lime-washing at stated times, and for paving the courts and court-yards; (*f*) for giving notices and taking precautions in case of any infectious disease.[1] These bye-laws are not to apply to common lodging-houses, which must be dealt with as stated above. Unless such bye-laws are authorized by the Local Government Board, houses let in lodgings cannot be subjected to any greater supervision than ordinary dwelling-houses.

LABOURING CLASSES LODGING HOUSES ACTS.

Local authorities are not only, as we have seen, empowered, in the interests of public health and decency, to regulate the use of houses let in lodgings, and to see they are fit for the purposes for which they are used, but they may themselves provide

[1] 38 & 39 Vic. c. 55, s. 90.

lodgings for the working classes where they deem it advisable.

Adoption of Acts.

The powers given by the Labouring Classes Lodging Houses Acts may be adopted in urban districts, and also, with the sanction of the Home Secretary, in populous parishes, whether included in an urban district or not.[1] The ratepayers of the districts in which it may be proposed to put the Acts in force have, however, the right to have the question of adopting these Acts postponed for a time, though they cannot altogether forbid the local authority putting them in force.[2] Where they are adopted, the local authority may purchase or hire land, or use any land they already possess, for the purpose of erecting the necessary buildings, or they may purchase or hire existing buildings.[3] The buildings when built or procured may be fitted up and used for lodgings for the working classes.

Bye-laws.

Bye-laws are to be made (1) for securing that the lodging-houses shall be under the management and control of the officers, servants, or others appointed or employed in that behalf by the local authority; (2) for securing the due separation at night of men and boys above eight years old from women and girls; (3) for preventing damage, disturbance, inter-

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[1] 14 & 15 Vic. c. 34, s. 2. [2] *Ib.* s. 7. [3] *Ib.* s. 36.

ruption, and indecent and offensive language and behaviour, and nuisances.[1] The bye-laws may also regulate the management and use of the lodging-houses, the charges for their tenancy or occupation, and other matters as to which the local authority deem it desirable to legislate; and they may appoint a penalty not exceeding £5 for each and every breach of their provisions.[2]

The expenses incident to establishing lodging-houses may be defrayed out of the rates,[3] and local authorities may also borrow money necessary for their establishment.[4] The Public Works Loan Commissioners may lend money for these purposes, to an amount not exceeding half the value of the land, buildings, or premises, on the security of which it is advanced.[5]

Private Bodies may adopt Acts.

The amending Act of 1866 empowers not only local authorities, but also any railway company, or dock or harbour company, or any other company society or association established for trading or manufacturing purposes, in the course of whose business or in the discharge of whose duties persons of the labouring class are employed, to erect dwellings for the accommodation of all or any of the persons of the labouring class employed by them.[6] Such bodies often have provided dwellings for their

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[1] 14 & 15 Vic. c. 34, schedule. [2] *Ib.* s. 46. [3] *Ib.* s. 25. [4] *Ib.* s. 31. [5] 29 Vic. c. 28, s. 4. [6] *Ib.* s. 8.

workmen; but local authorities very seldom, if ever, have availed themselves of their powers to provide lodgings.

CANAL BOATS.

Special legislation has, for sanitary and educational reasons, been passed regulating the use of canal boats as dwellings.

Registration.

All such boats must now be registered,[1] and certain local authorities having districts abutting on canals are appointed by the Local Government Board to be registration authorities for this purpose.[2] Regulations have been made which, among other things, (*a*) fix the number, age, and sex of the persons who may be allowed to dwell in a canal boat, having regard to the cubic spaces, ventilation, provision for the separation of the sexes, general healthiness, and convenience of accommodation of the boat; (*b*) they also are directed to promoting cleanliness in and providing for the habitable condition of canal boats; (*c*) and further for preventing the spread of infectious disease by canal boats.[3] The certificate of registration shows the number, age, and sex of the persons allowed to dwell in the boat, and other particulars required by the regulations; [4] in the event of any structural alterations being made in the

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[1] 40 & 41 Vic. c. 60, s. 1. [2] *Ib.* s. 7. [3] *Ib.* s. 2. [4] *Ib.* s. 3.

boat affecting the conditions on which the certificate was granted, it ceases to be of any effect.[1]

Infectious Disease.

When a local authority become aware of a person on a canal boat being attacked by an infectious disease, it is their duty to take such steps as may be necessary to prevent the disease spreading, and for that purpose they may have the patient removed to a hospital, and the boat, if need be, may be detained for such period as is requisite for cleaning and disinfecting it.[2]

Penalties.

Fines up to £1 may be imposed for breaches of the above regulations, which may be recovered before a court of summary jurisdiction, either at the place where the offence was committed or at the place where the boat is registered; the master of the boat with respect to which the default is made, and also the owner, if in default, is the person liable.[3] Every registration or other local authority, within whose district any part of a canal is situated, is bound to enforce the provisions of these Acts, and of the regulations made under them within its district.[4] The fines go to the authority which prosecutes.[5] Large powers of entry on to canal boats, for the purpose of seeing that these provisions are complied with, are given to persons duly authorized by a

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[1] 47 & 48 Vic. c. 75, s. 1. [2] 40 & 41 Vic. c. 60, s. 4.
[3] 47 & 48 Vic. c. 75, s. 2. [4] *Ib.* s. 3. [5] *Ib.* s. 8.

registration or local authority, or by a justice of the peace.[1]

Caravans.

The promoters of these Acts wished to make their provisions applicable to caravans, or dwellings on wheels, which offend in sanitary matters quite as much as canal boats do. Parliament, however, has not seen fit to include them and, for the present, they remain exempt from special legislation, and cause difficulties to local authorities, who wish to keep their districts in a proper sanitary condition. No efficient means of dealing with them have as yet been devised.

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[1] 40 & 41 Vic. c. 60, s. 5.

CHAPTER III.

REMOVAL OF REFUSE.

SEWERS AND DRAINS.

The removal of refuse, and its disposal in such a manner as to prevent a nuisance arising or injury being caused to health, is a matter for which elaborate provisions have been made by our law. It cannot be said that these provisions are always effective, still less that they always work smoothly; but their scheme is intelligible enough, and the difficulties which are found in practice should be charged to the neglect or blundering of those who have to enforce the law, rather than to defects inherent in it.

Sanitary provision for Houses.

All houses (under which word are included schools, factories, and other buildings in which persons are employed, as well as ordinary dwelling-houses),[1] must be provided with proper privy accommodation, and also with an ashpit furnished with proper doors and coverings. It is the duty of a local authority, in case any existing house is without such accommodation, to order the owner or occupier of the house to provide what is required; and if he does not do so, they may

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[1] 38 & 39 Vic. c. 55, s. 4. [2] *Ib.* s. 36.

themselves do the work at his expense.[2] No new house may be built, or existing house rebuilt, without such accommodation being provided. The penalty for infringing this rule is £20.[1]

Drains.

The regulations as to drains correspond to the above. Where any house within the district of a local authority is without a drain sufficient for effectual drainage, the local authority *must* require the owner or occupier to make drains of such materials and size, and at such level and with such fall as their surveyor reports to be necessary. If their notice is not complied with, they may themselves do the work at the expense of the owner of the property.[2] In rural districts builders may still provide such drainage as they please, and are only subject to the risk of having to alter it subsequently so as to satisfy the local authority; but in urban districts no new house may be built, or existing house rebuilt, without proper drains being first constructed. The penalty for infringing this rule is £50.[3] Drains provided for houses, in accordance with the above sections, must communicate with a public sewer, if there is one within 100 feet from the site of the house; and if there is not, then into such covered cesspool or other place not being under any house, as the local authority may direct.

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[1] 38 & 39 Vic. c. 55, s. 36. [4] *Ib.* s. 23. [5] *Ib.* s. 25.

Nuisances to be Prevented.

Every local authority must provide that all drains, water closets, earth closets, privies, ashpits, and cesspools within their district are constructed and kept so as not to be a nuisance or injurious to health.[1] On the written application of any person stating that any drain, &c., on or belonging to any premises within their district is a nuisance or injurious to health, the local authority may by writing empower their surveyor or inspector of nuisances to enter such premises, and cause the ground to be opened and examine such drain, &c.; and if on examination it be found to be in a bad condition, or to require alteration or amendment, the local authority must forthwith require the owner or occupier of the premises within a reasonable time to do the necessary works, under a penalty of 10s. for every day during which he makes default; and the local authority may, if they think fit, execute such works and charge the expenses on the property.[2]

Sewers.

All existing and future public sewers, together with all buildings, works, materials and things belonging thereto, vest in and are under the control of the local authority of the district in which they are situated.[3] Local authorities may also purchase or otherwise acquire sewers which are not public, or

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[1] 38 & 39 Vic. c. 55, s. 40. [2] *Ib.* s. 41. [3] *Ib.* s. 13.

any right of making, or of user or other right in or respecting a sewer within their district.[1] It is also their duty to cause to be made such sewers as may be necessary for effectually draining their districts for the purposes of the Public Health Act,[2] *i.e.*, to carry off the ordinary sewage and rainfall of the district; the sewers need not, however, be large enough to carry off any extraordinary flow of water caused by an unusual storm.[3]

Communication with Sewers.

We have already seen that where a house is within 100 feet of a sewer, the drains from it *must* be made to communicate with the sewer. Other drains may also communicate, but this is at the option of the owner of the premises to be drained, irrespective of the local authority which owns the sewers. The owner or occupier of any premises within the district of a local authority is entitled to cause his drains to empty into the sewers of that authority without payment other than his ordinary rates, but must have the work executed in such a manner as the local authority approves, under a penalty of £20. He is also liable to have any unauthorized communication which he may have made cut off, and to be charged with the expenses incurred in consequence.[4] The right of communicating with a sewer is not confined to premises in the district to which the sewer

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[1] 38 & 39 Vic. c. 55, s. 14. [2] *Ib.* s. 15. [3] P. H. p. 20.
[4] 38 & 39 Vic. c. 55, s. 21.

belongs. It sometimes happens that premises can be more conveniently drained into the sewers of an adjoining district than into those of the district in which they are situated; in such cases the owner or occupier has a right to cause any sewer or drain from his premises to communicate with a sewer of the local authority of the adjoining district, but can exercise the right only on such terms and conditions as may be agreed on, or as may be determined by arbitration.[1] As he pays no rates to the district whose sewer he uses, it is usual and fair for the terms to include some payment for the use of the sewer. Subject to the terms and conditions being settled, the right of communication is absolute; and the fact of the sewers only being large enough for the wants of their own district, affords no ground for allowing a local authority to refuse to take the drainage of the premises outside.

Sewers for Factories.

The above are the obligations of a local authority as to providing sewers for ordinary purposes. If the sewers are large enough, they must also give facilities for enabling manufacturers within their district to carry the liquids proceeding from their factories or manufacturing processes into the sewers.[2] The obligation to provide these facilities does not, however, extend to cases where the sewers are only sufficient for the ordinary requirements of the district;

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[1] 38 & 39 Vic. c. 55, s. 22. [2] 39 & 40 Vic. c. 75, s. 7.

nor to cases where the liquid would prejudicially affect the sewers, or the disposal of the sewage matter conveyed along the sewers, by sale application to land or otherwise; nor to cases where the liquid would, from its temperature or otherwise, be injurious in a sanitary point of view. Works in which such liquids are produced are generally such as come within the scope of the Alkali Works Regulation Act. That Act provides, that on the request of the owner of any works in which acid is produced or used, the sanitary authority of the district in which such work is situated shall, at the expense of such owner, provide and maintain a drain or channel for carrying off the acid produced in such work into the sea, or into any river or watercourse into which such acid can be carried without contravention of the Rivers Pollution Act.[1] Local authorities have powers of taking land compulsorily, which owners of works do not possess, and consequently this duty of providing means for getting rid of acid produced in alkali works is imposed upon them. As the expense has to be borne by the owner, the duty is not very onerous.

Maintenance of Sewers.

Local authorities are bound to keep in repair all sewers belonging to them,[2] and are liable to pay damages to persons injured in consequence of their neglect to do so. They are also bound to cause the

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[1] 44 & 45 Vic. c. 37, s. 5. [2] 38 & 39 Vic. c. 55, s. 15.

sewers belonging to them to be constructed, covered, ventilated, and kept so as not to be a nuisance or injurious to health, and to cause them to be properly cleansed and emptied.[1] They are liable to be restrained by injunction from allowing a nuisance to continue; and, if they should be proved guilty of having neglected to use reasonable care, might also have to pay damages to persons injured. Such claims have, however, seldom succeeded at present.

Sewers once made can only be altered or discontinued on condition of the local authority substituting others for them, so that persons whose premises are drained may not be left unprovided.[2] But, if this condition is observed, local authorities may shut up or alter any sewer in their district; taking care, of course, not to cause a nuisance by so doing.

Outfall.

Sewers must not only be kept in proper repair and condition, but must also be brought to a proper termination. The old plan of getting rid of sewage by turning it into the nearest stream is now recognised to be wrong, and forbidden by law. "Nothing" in the Public Health Act "shall authorize any local authority to make or use any sewer, drain, or outfall for the purpose of conveying sewage or filthy water into any natural stream or watercourse, or into any canal, pond, or lake, until such sewage or filthy water is freed from all excrementitious or other foul

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[1] 38 & 39 Vic. c. 55, s. 19. [2] *Ib.* s. 18.

or noxious matter, such as would affect or deteriorate the purity and quality of the water in such stream or watercourse, or in such canal, pond, or lake."[1] Local authorities who neglect to observe the requirements of this section are liable to be restrained by injunction and also to have to pay damages, and in such cases recent reports show that the courts are not indisposed to help individuals who suffer from such neglect. The only proper outfall for sewers is either into the sea, which for most districts is inaccessible, or else on to land taken for the purpose by the local authority. For the purpose of receiving, storing, disinfecting, distributing or otherwise disposing of sewage, local authorities may take lands and construct works either within or outside their district; the works must, however, be so managed as not to cause a nuisance.[2]

Disposal of Sewage.

The question of how best to dispose of sewage is one of the most vexed questions of the day, and, without going to great expense, it seems impossible for large towns to get rid of their sewage properly. They must, however, remember that they are bound to get rid of it, and that they have no right to impose on their neighbours the burden of the nuisance which they themselves create. The powers given by law for procuring land and constructing the necessary works are sufficient, and, though ratepayers naturally object

[1] 38 & 39 Vic. c. 55, s. 17. [2] *Ib.* s. 27.

to increased rates, they must remember that large expenditure for the purpose of providing the means of getting rid of noxious refuse is rendered necessary by the crowding of numbers of people into a comparatively small area, which is an incident of modern civilization.

REMOVAL OF SOLID REFUSE.

Every local authority may themselves undertake or contract for the removal of house refuse from premises; also the cleansing of earth closets, privies, ashpits, and cesspools, either for the whole or any part of their district.[1] In cases where they do so undertake or contract, if they fail without reasonable excuse, after notice in writing from the occupier of any house within their district, to remove any house refuse or to cleanse any earth closet privy ashpit or cesspool belonging to such house, or used by the occupiers thereof, within seven days, they become liable to pay to the occupier of such house a penalty of 5s. per day so long as their default continues.[2] They may also, perhaps, be liable to pay damages consequent on their neglect to perform their duty. Local authorities may sometimes be afraid of this responsibility, and consequently unwilling to exercise their powers, but the Local Government Board can require them to do this,[3] and will do so wherever it seems that otherwise refuse is likely to be allowed to

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[1] 38 & 39 Vic. c. 55, s. 42. [2] *Ib.* s. 43. [3] *Ib.* s. 299.

accumulate unduly. In thickly populated districts it is generally advisable that these duties should be undertaken by the local authority; in rural districts this is less important.

What is Refuse.

The refuse which the local authority has power to remove is such as is injurious to health. Such refuse when collected becomes the property of the local authority and may be sold or otherwise disposed of, and any profits made applied in the reduction of the rates. A penalty of £5 is imposed on any person who removes, or obstructs the local authority or contractor in removing any matter authorized to be removed.[1] Trade refuse is not included in this category. That may be valuable, and the property in it is not given to the local authority. It may be kept on the premises where it is produced as long as the owner chooses, provided it is so kept as not to be a nuisance. If the producer wishes to part with it, he must provide the means of removing it at his own expense; he cannot compel the local authority to remove it for him at the expense of the rates; but he can generally arrange with them, or the contractor, to take it away on payment.[2]

Streets.

Every urban authority and any rural authority invested by the Local Government Board with the

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[1] 38 & 39 Vic. c. 55, s. 42. [2] P. H. p. 35.

requisite powers, may, and when required by order of the said Board *shall* themselves, undertake or contract for the proper cleansing of streets.[1]

In cases where the local authority do not themselves undertake or contract for (1) the cleansing of footways and pavements adjoining any premises; (2) the removal of house refuse; (3) the cleansing of earth closets, privies and ashpits belonging to any premises, they may make bye-laws imposing the duty of such cleansing or removal, at such intervals as they think fit, on the occupier of any such premises.

Urban authorities may also make bye-laws for the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish.[2]

Offensive Refuse.

Where, in any *urban* district, it appears to the inspector of nuisances that any accumulation of manure, dung, soil, 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 it; if the notice is not complied with within 24 hours, the manure, &c., referred to, shall vest in and be sold or disposed of by the urban authority. The proceeds are to be applied in paying the expenses incurred, and the surplus, if any, is to be paid, on demand, to the owner of the matter removed; if there is no surplus, but a deficiency, that is payable

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[1] 38 & 39 Vic. c. 55, s. 42. [2] *Ib.* s. 44.

by, and may be recovered summarily from the person to whom the accumulation belonged, or from the occupier of the premises, or from their owner if there is no occupier.[1]

Stable Refuse.

Manure and refuse from mews, stables, or other premises must be removed periodically as the urban authority requires; if not so removed, a penalty of 20s. per day may be imposed.[2]

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[1] 38 & 39 Vic. c. 55, s. 49. [2] *Ib.* s. 50.

CHAPTER IV.

WATER SUPPLY.

In most towns, and in many rural districts, there is a public water supply of some kind. The duty of providing such a supply has usually been undertaken, either by a company armed with Parliamentary powers, or by the local authority. There are still some cases where the water is supplied by individuals or private companies without Parliamentary powers; but the difficulty of carrying pipes along streets, and of recovering payments for water supplied, prevents such undertakings being either important or numerous. Where Parliamentary powers have been conferred, whether by private act or provisional order, the company or public body which has the powers has a practical monopoly, but is subject to certain obligations which it must observe in return.

Power of Local Authority to undertake Water Supply.

Local authorities may undertake the duty of supplying water for their district. For this purpose, they may take on lease or hire any waterworks, or (with the consent of the Local Government Board), purchase them, or any water, or right to take water, or other rights, powers, and privileges of any water company; they may contract with any person for the

supply of water; and they may also construct and maintain waterworks, dig wells, and do other necessary acts for obtaining a supply of water.[1] They may not, however, interfere with vested rights, and the power to construct waterworks may only be exercised by a local authority in cases where there is not already within the district an existing company with Parliamentary powers, able and willing to afford the required supply of water.[2] If there is such a company, the local authority may not interfere with the monopoly granted by Parliament to it. Most large towns have, before now, been taken in hand by water companies; and in their case, the local authority can only undertake the water supply by buying out the company (which the Public Health Act empowers them to do), or by obtaining a private Act of Parliament authorizing them to undertake the supply. In the case of small towns and of rural districts, there is generally no water company established with Parliamentary powers, and in those cases, the local authority may, if it thinks fit, construct waterworks.

No General Duty to Provide.

As we have seen, water is, as a rule, supplied by companies which undertake the business for profit. In many cases local authorities have thought it desirable to undertake the business, and more will probably do so in the future. Except under special circumstances, this duty is undertaken voluntarily.

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[1] 38 & 39 Vic. c. 55, s. 51. [2] *Ib.* s. 52.

Local authorities are under no general obligation to provide a water supply for their district. The Local Government Board may, however, compel them to provide a supply "in cases where danger arises to the health of the inhabitants of the district from the insufficiency and unwholesomeness of the existing supply," and a proper supply can be got at a reasonable cost.[1] Whether the supply is given compulsorily or voluntarily, it must be of proper quality and quantity. For the Act provides that "a local authority *shall* provide and keep in any waterworks, constructed or purchased by them, a supply of pure and wholesome water.[2]

Duty of Local Authority to see that there is a Proper Supply.

But though local authorities need not, as a rule, themselves undertake to supply water, they are bound to see that their districts have a proper supply.

In *rural districts*, it is the duty of the local authority to see that every occupied dwelling-house has within a reasonable distance an available supply of wholesome water, sufficient for the consumption and use for domestic purposes of the inmates of the house.[3] In cases of existing houses, if the water supply is insufficient, the rural authority may call upon the owner to provide a proper supply, and on his failing to do so, may provide it and charge him or the property with the expense of so doing. Local

[1] 38 & 39 Vic. c. 55, s. 299. [2] *Ib.* s. 55. [3] 41 & 42 Vic. c. 25, s. 3.

authorities may supply water gratuitously for public use if they think it desirable, and may construct and maintain works for that purpose.[1]

Supply to Houses.

A house, *newly built or re-built*, in a rural district, may not be occupied until a certificate has been obtained from the local authority showing that it is provided with a proper water supply, sufficient for the consumption and use for domestic purposes of the inmates. If the certificate is improperly withheld, it may be granted by a court of summary jurisdiction on the application of the owner of the house.[2] This, as well as the other powers given by the Public Health (Water) Act, 1878, which apply primarily to rural districts only, may be extended by order of the Local Government Board to any urban district.[3] It is not usually required there, as in towns there is practically always a water supply within reach, and urban authorities have only to exercise their powers of requiring the owners of houses to use such supply.[4] In rural districts, however, there may often be cases where no proper supply can be got, and in such cases it is now illegal to build houses; or rather to occupy them when newly built. The occupation of existing houses cannot be prohibited, but their owners may, if necessary, be compelled to provide a proper water supply for them.

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[1] 38 & 39 Vic. c. 55, s. 64. [2] 41 & 42 Vic. c. 25, s. 6. [3] *Ib.* s. 11.
[4] 38 & 39 Vic. c. 55, s. 62.

Power to give Gratuitous Supply.

Besides any works which the local authority may acquire or construct for the purpose of supplying their district with water, all existing public cisterns, pumps, wells, reservoirs, conduits, aqueducts, and works used for the gratuitous supply of water to the inhabitants of the district, vest in and are under the control of such authority, who may cause them to be maintained and plentifully supplied with pure and wholesome water, or may substitute, maintain and plentifully supply with pure and wholesome water other works equally convenient.[1] If they do so, it seems that they may abandon the original works.

Conditions of Supply.

The precise conditions of the supply, of course, vary according to the terms of the particular Act or Order under which the Parliamentary powers are given. The Act or Order in each case is framed in accordance with the supposed requirements of the district, and their terms vary greatly; but in all cases the owners of waterworks (under which term local authorities who provide water are included), are bound to lay pipes to any part of their district where owners and occupiers, whose aggregate annual water rates would amount to not less than a tenth of the cost of providing and

[1] 38 & 39 Vic. c. 55, s. 64.

laying the pipes, require them to do so, and are bound to provide and keep in all their pipes, whether laid voluntarily or under compulsion, a sufficient supply of water for the domestic use of all those who are entitled to a supply.[1] What are "domestic purposes" is sometimes a difficult question to answer. The Waterworks Clauses Act of 1863 provides that "a supply of water for domestic purposes shall not include—(1) a supply for cattle, or for horses, or for washing carriages, *where such horses or carriages are kept for sale or hire by a common carrier* (a supply for a private horse and carriage is included); (2) or a supply for any trade, manufacture or business; or (3) for watering gardens, or for fountains, or for any ornamental purpose."[2] In urban districts fireplugs must be fixed in the mains,[3] and in all pipes to which any fireplug is fixed the company or local authority must provide and keep constantly laid on (unless prevented by frost, unusual drought, or other unavoidable accident, or during necessary repairs) a sufficient supply of water for—(1) cleansing the sewers and drains; (2) cleansing and watering the streets; and (3) for supplying any public pumps, baths and wash-houses that may be established for the free use of the inhabitants, or paid for out of the poor rates or borough rates.[4] A water company may also, and usually does, supply water for business

[1] 10 & 11 Vic. c. 17, s. 44. [2] 26 & 27 Vic. c. 93, s. 12.
[3] 10 & 11 Vic. c. 17, s. 38; 38 & 39 Vic. c. 55, s. 66.
[4] 10 & 11 Vic. c. 17, s. 37.

purposes; but it is not obliged to do so, and such supply is always a matter of arrangement between the company and the consumer.

Power of Local Authority to Compel Supply.

A water company cannot compel any householder to take or pay for their water; and, as far as they are concerned, he may if he chooses remain without any supply at all. But where, upon the report of their surveyor, it appears to a local authority that any house within their district is without a proper supply of water, and that such supply can be furnished at a reasonable cost, the local authority must give the owner notice, requiring him, within a time therein specified, to obtain such supply. If he neglects to comply, they may obtain or provide the supply, and recover the expenses from him, or charge them on the premises.[1] The effect of this provision is to enable local authorities to order householders to lay on the water supplied by a water company, when the mains are near his house. If they are far off, he can of course answer that the cost of providing the supply is prohibitive, and so refuse to have it. But he might, perhaps, then have his house closed.

Power to Prohibit use of Unwholesome Water.

If there is an existing supply, but it is of bad quality, its use may be prohibited, for the Public Health Act further provides that where the water in

[1] 38 & 39 Vic. c. 55, s. 62.

any well, tank, or cistern, public or private, or supplied from any public pump, and used or likely to be used by men for drinking or domestic purposes, or for manufacturing drinks for the use of man, is so polluted as to be injurious to health, the local authority may obtain from a court of summary jurisdiction an order directing the well, tank, cistern, or pump to be closed, permanently or temporarily, or the water to be used for certain purposes only, or such other order as may be necessary to prevent injury to the health of persons drinking the water.[1]

Communication Pipes.

The owner or occupier of a dwelling-house, if situate in a street in which mains have been laid, has a right to have a communication pipe laid on to his house.[2] If the annual value of the house exceeds £10, he may, on payment or tender of the water rate, which is payable in advance, require the undertakers (*i.e.*, company or local authority) to lay the communication, and may recover penalties from them if they neglect or refuse for seven days to do so.[3] If the annual value of the house is less than £10, or there are no mains in the street, the undertakers cannot be compelled to lay communication pipes; but the owner or occupier may always, if he so chooses, and can get the consent of the owners or occupiers of the ground (other than public streets) through which the pipes are to be laid, make the communication

[1] 38 & 39 Vic. c. 55, s. 70. [2] 10 & 11 Vic. c. 17, s. 44. [3] *Ib.* s. 45.

for himself. He must give the undertakers two days' notice of his intention to make the communication, and make it to the satisfaction of their surveyor. The pipes are to be of lead or other material, and of a strength approved by them;[2] and, except with their consent, may not generally exceed half an inch in bore.[3] As we have seen, a sufficient number of the owners and occupiers of any part of the district where there are no mains, can also require mains to be laid; and when this is done, each of them has the right of connecting his premises with those mains.

When the pipes are laid, the occupier of the premises is entitled to receive a supply of water so long as the rates are paid.

Payment.

Payment for water supplied for domestic purposes is made, not according to the quantity consumed, but by rates levied on the value of the premises to which it is supplied. For trade purposes the payment may be by measure, or on other terms that may be agreed on by the company and the consumer, who must practically accept such terms as the company choose to offer.

Water Rates.

Water rates are payable by and recoverable from the person requiring, receiving, or using the supply of water; they are usually payable in advance quarterly. If the tenant leaves in the middle of the quarter he

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[1] 10 & 11 Vic. c. 17, s. 49. [2] *Ib.* s. 48. [3] *Ib.* s. 50.

is liable for the full quarter's rate. In case of small tenements (*i.e.*, under £10 annual value) the water rates are to be paid in the first instance by the owner, who has a right to get them back from his tenant; in such cases the water and other rates are usually included in the rent.

Annual Value.

Water rates are payable according to the "annual value" of the premises supplied. This has now been decided to mean what for the purposes of the poor rate is called "rateable value," as opposed to gross value or rack rent. The poor rate valuation is not, however, the valuation which is to decide the water rate. The annual value of the premises must be ascertained for the water rate in the same way as the rateable value for poor rate, *i.e.*, by calculating what is the value of the premises to a tenant from year to year, and deducting from that sum the amount necessary to keep up the premises; the valuation must, however, be made by the parties interested, and in case of dispute, must be settled by a court of summary jurisdiction.[1] If the water is supplied by a company or by a local authority under the powers of a special Act of Parliament, that Act probably prescribes the maximum charge to be made. If it is supplied by a local authority under the Public Health Act, there is no limit as to the price to be charged;

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[1] 10 & 11 Vic. c. 17, s. 68; 38 & 39 Vic. c. 55, s. 56.

but the local authority has no right to charge prices so as to secure a profit. Their duty is to make an estimate of the sum they actually require for the maintenance of the waterworks, and charge such rates as will produce that sum, but no more. This point was so decided by the Court of Appeal in the year 1876, and has not since been questioned by any court.[1]

Cutting off Supply for Non-payment.

As we have already seen, water companies have the right to cut off the supply where their rates are not paid; and the courts have recently decided that the fact of the rate being withheld in consequence of there being a dispute as to the valuation, and consequently as to the amount payable, was not a sufficient reason for restraining the exercise of this power. Ratepayers must consequently be prepared to pay the rates demanded under pain of being deprived of their supply of water. The policy of the companies retaining this power of coercing ratepayers into compliance with their demands has been much questioned lately, and the law on this subject may very probably be altered;[2] but at present the rule is that the ratepayer must pay first, and may afterwards get back the over-charge if he can. The question of water rates is one which has recently attracted a great deal of public attention, but it does not seem necessary further to allude to it here.

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[1] Mayor of Worcester & Droitwich Assessment Committee, 2 Ex. D. 49.

[2] *See* Bills before Parliament this year.

Waste.

For the purpose of preventing waste, every person supplied with water shall, when required, provide a proper cistern to hold the water, and a ball and stop cock, and keep them in good repair.[1] If he does not provide them, the water supply may be cut off;[2] if he lets them get out of repair so that the water is wasted, he is liable to a penalty of £5, and the repairs may be done for him at his expense.[3]

If any person wilfully or by culpable negligence injures or suffers to be injured any meter or fittings belonging to a local authority, he is liable to a penalty of 40s., besides making good the damage.[4]

Besides the above securities, the Waterworks Clauses Act of 1863 provides that, if any person supplied with water wrongfully does, or causes, or permits to be done, anything in contravention of any of the provisions of the special Act, or wrongfully fails to do anything which under those provisions ought to be done for the prevention of waste, misuse, undue consumption, or contamination of the water, the supply may be cut off as long as the injury remains or is not remedied.[5]

Protection of Water.

Local authorities are themselves forbidden to convey sewage or filthy water into any natural stream or watercourse, or into any canal, pond, or

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[1] 10 & 11 Vic. c. 17, s. 54. [2] *Ib.* s. 55. [3] *Ib.* s. 56.
[4] 38 & 39 Vic. c. 55, s. 60. [5] 26 & 27 Vic. c. 93, s. 16.

lake.[1] Besides this, the Public Health Act and the Waterworks Clauses Acts contain stringent prohibitions against contamination of water by other means. Heavy penalties are imposed on persons connected with the manufacture of gas who allow water in any stream, reservoir, aqueduct, pond, or place for water, to be contaminated by gas washings.[2] Special powers of digging up the ground, for the purpose of searching for and detecting such contamination, have also been given.[3] So, also, it is forbidden for any offensive matter from a cemetery to be brought or allowed to flow into any stream, canal, reservoir, aqueduct, pond, or watering place, under a penalty of £50, which may be recovered by action by any person having a right to use the water so fouled.[4] Smaller penalties are also imposed by the Waterworks Clauses Acts on persons who commit acts likely to injure water intended for domestic use, such as bathing in a reservoir, or allowing dirt or dirty water to get into it.[5] The subject of protecting water will be found further treated in the next chapter upon the Rivers Pollution Act.

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[1] 38 & 39 Vic. c. 55, s. 17. [2] *Ib.* s. 68. [3] 10 & 11 Vic. c. 17, s. 67.
[4] 10 & 11 Vic c. 65, s. 21. [5] 10 & 11 Vic. c. 17, s. 61.

CHAPTER V.

RIVERS POLLUTION.

Besides the ordinary powers for the protection of water from contamination, special provision is made by the Rivers Pollution Prevention Act, 1876, for the protection of streams, under which general word are included rivers, streams, canals, lakes and water-courses (other than such as on the 15th of August, 1875, were used mainly as sewers) emptying directly into the sea, or into tidal waters; the word "streams" also includes the sea to such extent, and tidal waters to such point as may, after local inquiry, and on sanitary grounds, be determined by the Local Government Board.[1]

Scope of Act.

The purposes of the Act are twofold, viz. (1) to prevent streams as above defined from being polluted so as injuriously to affect the health of the districts in which they are situated; and (2) to prevent their becoming obstructed by solid matter being discharged into them. For these objects certain acts are declared to be offences, and the persons responsible for causing them are made liable to heavy penalties noticed below.

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[1] 39 & 40 Vic. c. 75, s. 20.

Offences Prohibited.

The offences are (1) putting, or causing to be put or to fall, or knowingly permitting to be put or to fall, or to be carried, into any stream, the solid refuse of any manufactory manufacturing process or quarry, or any rubbish or cinders or other waste, or any putrid solid matter, so as to either singly, or in combination with other similar acts of the same or any other person, to *interfere with its due flow*, or to *pollute its waters*.[1] (2) Causing to flow, or knowingly permitting to fall or flow, into any stream any solid or liquid *sewage matter*.[2]—In cases, however, where the sewage matter falls or flows, or is carried along a channel used or constructed, or in process of construction on the 15th of August, 1876, for the purpose of conveying such sewage matter, its getting into the stream is no offence, if the person charged shows that he is using the best practicable and available means to render the sewage matter harmless. A private individual is also exempted from any proceedings for allowing his sewage to get from his drains into the public sewers and so into a stream.—(3) The third class of offence is, causing to fall or flow, or knowingly permitting to fall or flow, or to be carried into any stream any poisonous, noxious, or polluting *liquid* proceeding from any factory or manufacturing process.[3]—Here also vested interests are respected; for no offence is caused by such liquids

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[1] 39 & 40 Vic. c. 75, s. 2. [2] *Ib.* s. 3. [3] *Ib.* s. 4.

falling or flowing, or being carried into a stream, along a channel used or constructed or in process of construction on the 15th of August, 1876, or along a new channel since constructed in substitution thereof for the purpose of conveying such liquid, if the person charged shows that he is using the best practicable and available means to render the liquid harmless.—(4) The fourth class of offence is, causing to fall or flow, or knowingly permitting to fall or flow into any stream (*a*) *solid matter* from *a mine* in such quantities as to prejudicially interfere with its flow, or (*b*) any poisonous, noxious or polluting *solid or liquid matter* proceeding from a mine (other than water in the same condition as that in which it has been raised or drained from such mine). But here also no offence is committed, if the person charged can show that he is using the best practicable and reasonably available means of rendering harmless the matter so falling or flowing or carried into the stream.[1]

Effect of Act.

The practical effect of these provisions is to prohibit altogether the discharge of solid refuse into streams, except such solid refuse from mines as may find its way there by gravitation. Liquid refuse, which is much more likely to poison the water, and which may probably be carried much further from the source of its discharge, may continue to get into streams without any offence being committed,—as

[1] 39 & 40 Vic. c. 75, s. 5.

regards sewage and manufacturing refuse, wherever it got there prior to 1876; and as regards mining refuse, without limit as to date,—so long as the person responsible can show that he is using the best practicable and reasonably available means of rendering the liquid harmless. What these means may be is a question to be determined by experts in each case; and if proceedings are taken, such experts may be called as witnesses on the subject. The question may, however, be determined out of court by an inspector appointed by the Local Government Board, who may give a certificate that the means adopted are the best, or only practicable and available means under the circumstances of the particular case. Such a certificate, when given, remains in force for two years, or such shorter period as may specified, and may be renewed at its expiration. It is *conclusive evidence* in all courts and in all proceedings of the facts stated in it.[1] Apparently it lies on the party causing the pollution to apply for the certificate. Any person aggrieved by its grant or refusal by the inspector may appeal to the Local Government Board, who may either confirm, reverse, or modify his decision. If no certificate is forthcoming, the party charged may still, if he can, satisfy the court that he is using the best practicable or available means, and so may escape the penalties provided by the Act. If a certificate is obtained, of course the complainant's case must fail.

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[1] 39 & 40 Vic. c. 75, s. 12.

Legal Proceedings.

Proceedings in respect of any of the acts which, as above, are defined to be offences, may be instituted by any local authority, in relation to any stream being within or passing through or by any part of their district, if such offence causes within their district interference with the due flow of any stream, or its pollution.[1] These proceedings may be taken against any other sanitary authority or person, whether the offence is committed within or without the district of the authority which takes them.[2] Proceedings may also be instituted by any person aggrieved, in respect of offences which come under classes 1 and 2; but not directly in respect of manufacturing or mining pollutions,[3] any individual who wishes to have proceedings taken in respect of them, must apply to the local authority of his district. If such authority, when so applied to, refuses to take proceedings, he may apply to the Local Government Board, and that Board may, if they consider the case to be a proper one, direct the local authority to take the proceedings. In giving or refusing their consent the Board are to have regard to the industrial interests involved and to the circumstances and requirements of the locality.[4] So that practically in districts where pollution is general, proceedings to stop it are unlikely to be permitted; where, however, polluting industries are not already established they may now be prevented from doing fresh damage.

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[1] 39 & 40 Vic. c. 75, s. 8. [2] *Ib.* s. 8. [3] *Ib.* s. 8. [4] *Ib.* s. 6.

Limitation of Proceedings in Manufacturing Districts.

In any district which is the seat of any manufacturing industry, the Board are not to give their consent to proceedings being taken, unless they are satisfied after due inquiry (*a*) that means for rendering harmless the poisonous, noxious, or polluting *liquids* proceeding from the process of such manufactures are reasonably practicable, and available under all the circumstances of the case, and (*b*) that no material injury will be inflicted on the interests of such industry by the proceedings taken.[1] The inquiry may be taken by the Local Government Board in any way they think proper, and usually is held through the instrumentality of one of their inspectors who visits the district for the purpose. After their consent to proceedings being instituted has been given, the local authority, if the person against whom they are to be taken so requires in writing, must afford him an opportunity of being heard against such proceedings being taken, *so far as they relate to his works or manufacturing processes*. The proposed defendant may appear before the local authority by himself, his agents, and witnesses; and after they have been heard, the local authority are to reconsider all the matters which the Local Government Board have already considered, and determine whether the proceedings shall or shall not be taken.[2] If they decide in the negative, it seems that there is no means of reversing their decision, and the whole process of

[1] 39 & 40 Vic. c. 75, s. 6. [2] *Ib.*

applying to them and to the Local Government Board for an order to commence the action may be gone through over and over again, always with the same ineffectual result. A local authority which is likely to contain members interested in the industry complained of, may thus prevent persons aggrieved by the pollutions caused by that industry from taking proceedings under the Act for their abatement, even in cases where the central authority, aided by the best scientific advice, consider that such proceedings ought to be taken.

Notice Required.

In all cases two months' written notice of the intention to take proceedings must be given to the offender. While proceedings are pending, no further proceedings for the same offence can be taken.[1] If a sanitary authority has taken proceedings in respect of offences 3 or 4, no other sanitary authority may take them till the party against whom they were intended has failed for a reasonable time to carry out the order of any competent court.[2]

Powers of Court.

When the difficulties of instituting proceedings have been surmounted, they are to be taken in the county court having jurisdiction in the place where the offence was committed. The court by summary order may require any person to abstain from the

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[1] 39 & 40 Vic. c. 75, s. 13. [2] *Ib.* s. 6.

commission of the offence, or to perform his duty in the manner specified in the order. If default is made in obeying the order, a penalty not exceeding £50 per day may be imposed, and if the disobedience is persisted in for a month, the court may appoint some one to carry the order into effect at the expense of the person in default.[1]

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[1] 39 & 40 Vic. c. 75, s. 10.

CHAPTER VI.

NUISANCES.

Common Law Remedies.

Persons who by their conduct or by the business carried on upon the premises they occupy create nuisances which annoy or interfere with the comfortable existence of others, are by common law held responsible for so doing, and liable to pay damages to the persons injured by the nuisance. If the nuisance is one affecting the public, the person causing it is guilty of a misdemeanour, and, if indicted and convicted, may be sentenced to fine and imprisonment, and also be ordered to discontinue the conduct complained of. The courts also, in civil proceedings, order the cessation of nuisances by granting injunctions prohibiting their continuance. Injunctions are granted (1) for the protection of individuals aggrieved, in actions brought by them personally; and (2) for the protection of the public, in actions brought in the name of the Attorney-General. Such actions are usually brought in the superior courts, but county courts have also jurisdiction to grant injunctions in actions brought with respect to matters where the amount in dispute is small.

Policy of the Law.

The above remedies, though effective when applied, are comparatively expensive, and consequently nuisances are often allowed to continue because no one chooses to undergo the expense and trouble necessary to stop them. The law properly regards nuisances which are merely annoying to individuals, as matters for the consideration of the persons aggrieved; and, if they do not choose to take the necessary steps to get rid of them, sees no reason why such nuisances should not be permitted to go on. It is otherwise, however, with regard to nuisances which are *injurious to health;* not only individuals but the public are interested in preventing the continuance of such nuisances; and special powers have been given enabling, either the public represented by the local authority, or any person aggrieved, or inhabitant or owner of premises in the district where such nuisances exist, to take summary and cheap means of getting them abated.

Summary Suppression.

The nuisances liable to be so dealt with are the following:—[1]

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.

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[1] 38 & 39 Vic. c. 55, s. 91.

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 *overcrowded* 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 (*a*) not kept in a cleanly state; or (*b*) 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 work carried on therein, that are a nuisance or injurious to health; or (*c*) so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein.

7. Any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill factory dye house brewery bakehouse or gas work, or in any manufacturing or trade process whatsoever; and

8. Any chimney (not being the chimney of a private dwelling-house)[1] sending forth black smoke so as to be a nuisance.

Nuisances Punishable Summarily in Urban Districts.

The following acts which cause nuisances, not

[1] There is a Bill before Parliament this year, which proposes to do away with the immunity at present enjoyed by private dwelling-houses.

necessarily injurious to health may also be punished summarily in *urban* districts, viz. (1) keeping any swine or pigstye in a dwelling-house or so as to be a nuisance to any person; (2) allowing any waste or stagnant water to remain in any cellar or place within a dwelling-house for 24 hours after written notice from the urban authority to remove it; (3) allowing the contents of any watercloset, privy or cesspool, to overflow or escape therefrom.[1] An urban authority may further make bye-laws for the prevention of the keeping of animals on any premises so as to be injurious to health; but they cannot prohibit their being kept altogether.[2] A bye-law prohibiting the keeping of pigs near a dwelling-house in a rural district would apparently be bad and of no effect.[3]

To these nuisances must be added, any watercourse or ditch, lying near to or forming the boundary between the district of a local authority and any adjoining district, which is so foul and offensive as injuriously to affect the district of such local authority. The local authority of the district in which such a nuisance exists may be summarily ordered to clean the watercourse or ditch, and to execute such permanent or other structural works as may be necessary.[4] A local authority is not, however, liable to a penalty.

Inspection.

It is the duty of every local authority to have their district periodically inspected for the purpose of

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[1] 38 & 39 Vic. c. 55, s. 47. [2] *Ib.* s. 44. [3] P. H. p. 37.
[4] 38 & 39 Vic. c. 55, s. 48.

ascertaining what nuisances exist calling for abatement;[1] and for this purpose their officers have a right of admittance into any premises between 9 A.M. and 6 P.M., or, in case of a nuisance arising in respect of any business, at any hour when such business is in progress or is usually carried on.[2] Information of such nuisances may also be given to them (1) by any person aggrieved; (2) by any two inhabitant householders of their district; (3) by any officer of such authority; (4) by the relieving officer; or (5) by a policeman.[3] On receipt of any such information the local authority must consider whether the complaint is well founded, and, if satisfied that it is, must then serve a notice requiring the abatement of the nuisance and the execution of the necessary works for that purpose, within a time specified. The person to be served is either (1) the person by whose act, default, or sufferance the nuisance arises or continues; or (2) (if such person cannot be found) the owner or occupier of the premises on which the nuisance arises.[4]

Procedure.

If the notice is not complied with or if, in the opinion of the local authority, the nuisance though abated is likely to recur on the same premises, the local authority must apply for a summons requiring the person on whom the notice was served to appear

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[1] 38 & 39 Vic. c. 55, s. 92. [2] *Ib.* s. 102. [3] *Ib.* s. 93. [4] *Ib.* s. 94.

before a court of summary jurisdiction ;[1] and the court, if satisfied that the alleged nuisance exists or is likely to recur, *shall* make an order requiring the defendant to comply with all or any of the requisitions of the notice, or otherwise abate the nuisance within a time specified in the order, and to do any works necessary for that purpose ; or an order prohibiting the recurrence of the nuisance, and directing the execution of any works necessary for that purpose ; or an order both requiring an abatement and prohibiting the recurrence of the nuisance. The court may also impose a fine not exceeding £5, and give directions as to the payment of all costs incurred up to the time of making the order.[2] There is a right of appeal to the Quarter Sessions against such orders, and if an appeal is duly entered and prosecuted no person is liable to any penalty, nor may any proceedings be taken or work done under such order until after the determination of the appeal.[3] If there is no appeal pending, the person against whom the order is directed must comply with it, under a penalty of 10s. per day during default, or of 20s. per day if he knowingly and wilfully acts contrary to any order of prohibition.[4] As the liability to these penalties might be ineffectual in causing the abatement of the nuisance, the local authority have power to enter on the premises and themselves do whatever may be necessary in the execution of the order, and to recover the expenses they so incur from the person

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[1] 38 & 39 Vic. c. 55, s. 95. [2] *Ib.* s. 96. [3] *Ib.* s. 99. [4] *Ib.* s. 98.

on whom the order was made.[1] They cannot be compelled by law to enter on the premises and abate the nuisance, unless they think fit to do so; but in an extreme case the Local Government Board might interfere. In cases where the person by whose act or default the nuisance arises, or the owner or occupier of the premises, is not known or cannot be found, the order of the court may be addressed to and executed by the local authority;[2] and in such cases it would seem that the authority has no discretion, but must take the necessary steps to comply with the order.

Right of Individual to Institute Proceedings.

A private individual, either without calling on the local authority to act or in cases where they refuse to do so, may himself apply for a summons, and carry on proceedings in respect of any of the above nuisances. If he is an inhabitant, or owner, or occupier of premises in the district in which the nuisance exists, he has an absolute right to apply; otherwise he must be a person aggrieved by the nuisance.[3] A private prosecutor, of course, incurs the risk of having to pay costs out of his own pocket if he fails to prove his case.

Supervision by Local Government Board.

The law may also be enforced by the Local Government Board, who, in cases where it is proved

[1] 38 & 39 Vic. c. 55, s. 98. [2] *Ib.* s. 100. [3] *Ib.* s. 105.

to their satisfaction that a local authority have made default in doing their duty in relation to nuisances, may authorize any officer of police, acting within the district of any defaulting authority, to institute any proceeding which the defaulting authority might institute with respect to such nuisances.[1]

Slaughter-houses.

Places used for the slaughtering of animals may easily become nuisances if not kept under proper regulations, and the indiscriminate slaughtering of animals anywhere is consequently prohibited. "No person shall keep or use any house or place for the purpose of slaughtering or killing any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle, which shall not be killed for butchers' meat, without first obtaining a licence for that purpose from the Court of Quarter Sessions;"[2] if he does, he is liable to a penalty. The requirement for a licence for such places is, it will be noticed, general, irrespective of their locality.

Slaughter-houses, properly so called, in which cattle are slaughtered for food come under different regulations. In the country it seems that no licence is required for them, and a butcher may there carry on his trade as he likes. In towns, however, no place may be used or occupied as a slaughter-house or knacker's yard unless and until a licence

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[1] 38 & 39 Vic. c. 55, s. 106. [2] 26 Geo. III. c. 71 s. 1.

for the erection thereof, or for its use and occupation as a slaughter-house or knacker's yard, has been obtained from the urban authority.[1] That body shall, from time to time, make regulations for the licensing, registering, and inspection of the said slaughter-houses and knacker's yards, and for preventing cruelty therein, and for keeping them in a cleanly and proper state, and for removing filth at least once in every 24 hours, and requiring them to be provided with a sufficient supply of water.[2] Their officers have also power of entering such premises at all reasonable times for the purpose of inspecting their condition.[3] Besides the above powers of supervision, urban authorities may themselves, if they think fit, provide slaughter-houses, which of course they must have properly kept, just as much as if they belonged to private individuals.[4]

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[1] 10 & 11 Vic. c. 34, s. 126. [2] *Ib.* s. 128. [3] *Ib.* s. 131.
[4] 38 & 39 Vic. c. 55, s. 169.

CHAPTER VII.

OFFENSIVE TRADES.

Position at Common Law.

Offensive trades cause a nuisance if they are carried on in populous neighbourhoods, but if situated away from human habitations they are comparatively innocuous. Wherever carried on, the persons who conduct them do so at the risk of being indicted, if it can be shown that they are causing a public nuisance, or of having an action for damages and an injunction brought against them by any individual who alleges that he is injured by them. The extent of the injury caused depends also in a great measure on the manner in which the works are conducted, and so does the liability of their proprietors. In the case of old established works, which have obtained a quasi-prescriptive right to produce a certain amount of annoyance, it is useless to institute proceedings unless it can be shown that the manner of conducting them has been altered so as to increase the nuisance. But if it is increased by altering or extending old works, or by establishing new ones near them, the persons who cause the increase cannot justify their act by saying that the neigh-

bourhood was already poisoned.[1] In such cases proof of injury from the new works may be difficult; but if it can be proved, the works may be stopped.

Special Powers of Urban Authorities.

In *rural* districts local authorities have no special powers for dealing with these trades; but *urban* authorities have such powers under the Public Health Act, and these powers may, where occasion arises, be conferred by the Local Government Board on rural authorities. The powers are twofold. (1) Since the year 1875, the law prohibits the establishment in an urban district *without the consent in writing of the urban authority* of certain specified offensive trades, viz., blood boiler, bone boiler, fellmonger, soap boiler, tallow melter, and tripe boiler, or any other noxious or offensive trade, business or manufacture[2] of the same nature, in which substances are dealt with which, without anything being done to them, must be or in progress of time must necessarily become, a nuisance and annoyance to the neighbourhood.[3] Any person who establishes such a business is liable to a penalty of £50, and further to 40s. for every day on which it is carried on.

Bye-Laws.

Urban authorities may also from time to time, with respect to any offensive trades established with their

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[1] *See* Helen's Smelting Co. *v.* Tipping, 11 H.L.C., 642.
[2] 38 & 39 Vic. c. 55, s. 112. [3] Wanstead Bd. *v.* Hill, 13 C.B.N.S., 479.

consent, make bye-laws in order to prevent or diminish their noxious or injurious effects.[1] Such bye-laws of course are subject to the same conditions, and may be enforced by the same penalties as other bye-laws which local authorities may make.

In case of offensive trades already existing there is a machinery provided for summarily suppressing nuisances caused by them, in certain cases. The places which may be so dealt with are the following, viz.: candle-house, melting-place, soap-house, slaughter-house, building or place for burning offal or blood, or for boiling burning or crushing bones, or any manufactory, building, or place used for any trade, business, process or manufacture causing effluvia[2]; and the courts have held that such places may be dealt with, although the effluvia are not necessarily injurious to health.[3]

Summary Procedure.

In case of a complaint that such places are so conducted as to be a nuisance or injurious to health, made by (*a*) their medical officer of health, or (*b*) two legally qualified medical practitioners, or (*c*) ten inhabitants of their district, *the urban authority shall* direct complaint to be made before a justice, who *may* summon the person, by or on whose behalf the trade so complained of is carried on, to appear before a court of summary jurisdiction. If the court is satisfied that the business carried on is a nuisance,

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[1] 38 & 39 Vic. c. 55, s. 113. [2] *Ib.* s. 114. [3] P. H. p. 110.

or causes any effluvia which is a nuisance *or* injurious to the health of any of the inhabitants of the district (unless it be shown that the person complained of has used the best practicable means for abating such nuisance, or preventing or counteracting such effluvia), it may impose a penalty not exceeding £5, nor less than 40s., and on a second and every subsequent conviction to a penalty double the amount of that previously imposed, until £200 is reached, which is the limit.

The urban authority, if they think fit,—*i.e.*, if they consider the penalty inadequate, or desire to stop the nuisance by injunction,—on receiving the requisite complaint may, instead of proceeding summarily, institute proceedings in the High Court of Justice.[1]

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[1] 38 & 39 Vic. c. 55, s. 116.

CHAPTER VIII.

ALKALI WORKS.

What are Alkali Works.

Special provision has been made by law with regard to alkali works, which are defined as being "works for the manufacture of alkali, sulphate of soda or sulphate of potash, in which muriatic acid gas is evolved."[1]

Registration.

Such works must be registered, as must also chemical works of certain descriptions given in the schedule to the Alkali Act, viz. :—(*a*) Sulphuric acid works; (*b*) chemical manure works; (*c*) works in which gas liquor is used in any manufacturing process; (*d*) nitric acid works; (*e*) works in which the manufacture of sulphate of ammonia or of muriate of ammonia is carried on; and (*f*) works in which chlorine, bleaching powder or bleaching liquor is made. The registration must be renewed annually. The owner of any work carried on without registration is liable to a penalty of £5 per day.[2]

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[1] 44 & 45 Vic. c. 37, s. 29. [2] *Ib.* s. 11.

New works erected or reopened since 1882 must be certified to be furnished with all appliances necessary to enable them to be carried on in accordance with the requirements of the Act.[1] Works previously in operation may be registered without obtaining such certificate.

Inspection.

These works are to be periodically inspected by inspectors, appointed by the Local Government Board. They have the right of entering the works at all reasonable times, both by day and night, without giving previous notice, and of examining the processes carried on there, and the means employed for rendering the gases produced innocuous. An inspector may also apply tests and make experiments for the purpose of the execution of his duties, but must not do this so far as to interrupt the process of any manufacture.[2] The owner of any work and his agents must render every facility to an inspector for entry on the works, and inspection and testing; and if this is not done, the owner of the works is liable to a penalty of £10.[3]

Any sanitary authority or authorities, who think that their district requires additional inspectors, may get them appointed, if they are willing to bear their share of the salaries of such additional inspectors.[4]

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[1] 44 & 45 Vic. c. 37, s. 12. [2] *Ib.* s. 16. [3] *Ib.* s. 17. [4] *Ib.* s. 19.

Special Requirements of Act.

The special requirements of the Act with reference to alkali works are as follows: (1) the *acid gases* evolved in an alkali work must be condensed, so as only to allow such quantities as are comparatively harmless to escape into the atmosphere. For breach of this requirement, a penalty of £50 for a first offence and £100 for every subsequent offence may be imposed.[1] (2) The owner must, in addition, use the best practicable means for preventing the discharge into the atmosphere *of all noxious and of all offensive gases* evolved in such work, or for rendering them harmless and inoffensive when discharged. The penalty for breach of this requirement is £20 for a first offence and for every subsequent offence £50, with a further sum of £5 for every day on which such subsequent offence continues.[2] (3) The work must be so carried on as to prevent the acid coming in contact with alkali waste or with drainage therefrom so as to cause a nuisance; the penalty is £50 in the case of a first offence and afterwards £100, with £5 for every day during which the subsequent offence continues.[3] (4) Alkali waste must not be deposited or discharged anywhere without the best practicable means being used for effectually preventing any nuisance arising therefrom; the penalty for *knowingly* infringing this provision is for a first offence £20 and afterwards £50, and £5 per day as

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[1] 44 & 45 Vic. c. 37, s. 3. [2] *Ib.* s. 4. [3] *Ib.* s. 5.

before.[1] (5) In case alkali waste, after it has been deposited or discharged, causes a nuisance, the inspector may require the owner or occupier of the land where it is to abate it; and if such owner or occupier fails to use the best practicable or reasonably available means for its abatement, he becomes liable to a fine of £20, and to a further penalty of £5 per day if he does not proceed to use such means within a time to be limited by the court.[2]

Drains, how provided.

The Act which imposes these penalties enables the owner of alkali works to get rid of his refuse innocuously if he choose to incur the necessary expense, for it provides that the sanitary authority of his district *shall*, on the request of such owner, at his expense, provide and maintain a drain or channel for carrying off the acid produced in such work into the sea or into any river or watercourse into which such acid can be carried without contravention of the Rivers Pollution Prevention Act, 1876.[3] Local authorities can, if necessary, take land compulsorily for the purpose of making sewers; and consequently can make such drains, though of course not without incurring considerable expense. An individual owner of works could not do so at all, and without this provision might consequently find himself unable to dispose of his acid anywhere. The expense of

[1] 44 & 45 Vic. c. 37, s. 6. [2] *Ib.* s. 7. [3] *Ib.* s. 5.

making drains ought, however, to be a strong inducement to utilize it instead of letting it run to waste.

Sulphuric Acid Works.

(6.) Sulphuric acid works must be carried on in such a manner as to secure the proper condensation of the acid gases of sulphur and nitrogen evolved in the process of the manufacture of sulphuric acid. The penalty is £50 for a first offence, and £100 for every subsequent offence; in this case there is no continuing penalty provided.[1]

(7.) The owner of any of the scheduled works must also use the best practicable means for preventing the discharge into the atmosphere of all noxious or offensive gases evolved in such works, or for rendering such gases harmless when discharged. The penalty for failure to use such means is for a first offence £20, and for every subsequent offence £50, and £5 per day.[2]

Salt and Cement Works.

(8.) The Local Government Board may require the owners of salt works and cement works to adopt the best practicable means for preventing the discharge of any of the noxious or offensive gases evolved from such works, or for rendering them harmless when discharged, and may impose penalties on breaches of such requirements. The Board, however, may only

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[1] 44 & 45 Vic. c. 37, s. 8. [2] *Ib.* s. 9.

make regulations for this purpose if satisfied that such means can be adopted at reasonable expense; and, if they make such regulations, must do so by a provisional order, which has no validity until confirmed by Parliament.[1] Up to the present time we believe that no such order has been issued.

Rules for Workpeople.

The owner of any alkali work, or of any scheduled work, may, with the sanction of the Local Government Board, make special rules for the guidance of his workmen who are employed in any process causing the evolution of any noxious or offensive gas, or whose duty it is to attend to the apparatus used in the condensation of that gas, for preventing its discharge into the atmosphere, or rendering it harmless and inoffensive, when discharged. Fines, not exceeding £2, may be imposed for breaches of these rules, and such fines may be recovered summarily before justices.[2]

Recovery of Penalties.

The other penalties are recoverable by action in the county court of the district where the offence is committed. The action to recover them is brought by the inspector, with the sanction of the Local Government Board, within three months after the commission of the offence.[3] If an offence is proved

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[1] 44 & 45 Vic. c. 37, s. 10. [2] *Ib.* s. 20. [3] *Ib.* s. 22.

to have been committed, the owner of the works is deemed to have committed it and to be liable to pay the penalty, unless he proves (1) that he has used due diligence to comply with and to enforce the execution of the Act, and (2) that the offence in question was committed without his knowledge consent or connivance, by some agent, servant or workman, whom he shall charge by name as the actual offender.[1] If this is proved, then such offender, and not the owner is liable, to pay the penalty. The inspector may proceed in the first instance against the person whom he believes to be the actual offender without first proceeding against the owner; but if he chooses to proceed against the owner, it will be for the latter to exonerate himself.

Action of Local Authority.

If the Local Government Board, or its inspector, does not institute proceedings, it may be requested to do so by any local authority, and if so requested must inquire into the matter complained of. To enable a local authority to complain, there must be a written representation of one of their officers, or of ten of the inhabitants of the district, showing that a nuisance is caused to some of the inhabitants by reason of some contravention of the Act.[2] The local authority may, apparently, if it chooses, refuse to act on the written representation, or to request the Local Government

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[1] 44 & 45 Vic. c. 37, s. 25. [2] *Ib.* s. 27.

Board to institute proceedings. If this happens, the complainants may still, if they think fit, themselves memorialise the Local Government Board; and if they showed a proper case, that Board would, no doubt, inquire into the cause of complaint.

Common Law Liability.

The Act which provides for the recovery of the above penalties does not apparently take away the common law liability of the persons who cause a nuisance, by the way in which their works are carried on, to be indicted for it.[1] It certainly does not take away the right of any person who is injured by such works to bring an action for the purpose of recovering damages for the injury. On the contrary it provides that, where a nuisance arising from any noxious or offensive gases is wholly or partially caused by the acts or defaults of several persons, any person injured by such nuisance may proceed against any one or more of such persons, and may recover damages from each person made a defendant in proportion to the extent of the contribution of such defendant to such nuisance, notwithstanding that the act or default of such defendant would not separately have caused a nuisance.[2]

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[1] *See* the chapter on Nuisances, *ante* p. 75. [2] 44 & 45 Vic. c. 37, s. 28.

CHAPTER IX.

CONDUCT OF TRADE.

FACTORIES AND WORKSHOPS.

The law has for some time past provided special regulations as to factories and workshops. Those regulations are now contained in the Factory and Workshops Acts of 1878 and 1883,[1] by which the duty of seeing to their enforcement is vested in inspectors, appointed by and under the control of the Home Office. In certain matters, they may also be enforced by the local authority of the district in which the works are situated.

Purposes of Acts.

The sanitary purposes to which the Acts are directed are threefold, viz.: (1) The protection of the public health; (2) (*a*) the protection of the health of the workpeople employed, and (*b*) their protection from injuries due to the use of dangerous processes or machinery; and (3) the regulation, and in certain cases, the prohibition of the employment of children under the age of 14, young persons between the ages of 14 and 18, and women of whatever age.

The duty of seeing that the Acts are duly observed is imposed on the factory inspectors appointed by the

[1] 41 & 42 Vic. c. 16; 46 & 47 Vic. c. 53.

Home Secretary. They have large powers of entry on premises, and of prosecuting for offences against the Acts.[1]

The Acts also deal with the question of the education of the children employed, but that portion of them is foreign to the subject treated in this work.

What are Factories.

"Factories" are divided into textile and non-textile factories. The former class comprises all "premises wherein or within the close or curtilage of which, steam, water, or other mechanical power, is used to move or work any machinery employed in preparing, manufacturing, or finishing, or in any process incident to the manufacture of cotton, wool, hair, &c."; the class, in fact, may be said to include all factories wherein fibrous materials are used. Non-textile factories practically include all other premises on which, or within the close, curtilage, or precincts of which, steam, water, or other mechanical power is used in aid of the manufacturing process carried on there; the Act, in schedule 4, gives a long list of the places affected, but it is unnecessary to set it out in full here.

Workshops.

"Workshops" include all the above places which, by reason of the absence of motive power, are not factories, and also any premises room

[1] 46 & 47 Vic. c. 53, s. 68.

or place (not being a factory within the meaning of the Act) wherein or within the close or curtilage or precincts of which premises any manual labour is exercised by way of trade, or for purposes of gain, &c., and to, or over, which premises room or place, the employer of the persons working therein has the right of access or control.[1]

1.—*Protection of Public.*

The regulations for the protection of the public health are (*a*) general. "A factory or workshop shall be kept in a cleanly state and free from effluvia arising from any drain, privy, or other nuisance."[2] The factory inspector has to see to this; moreover, if he discovers any drain, water-closet, earth-closet, privy, ash-pit, water supply, nuisance, or other matter which is remediable under the law relating to public health, it is his duty to give notice in writing to the local authority, and that authority must take such action as may seem proper for the purpose of enforcing the law.[3] Under the Public Health Act, "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 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,"

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[1] 41 Vic. c. 16, s. 93. [2] *Ib.* s. 3. [3] *Ib.* s. 4.

is a nuisance liable to be dealt with summarily.[1] The officers of the sanitary authority, or any person aggrieved, as well as the factory inspectors, can institute proceedings in respect of these nuisances.

Cleanliness.

For the purpose of securing cleanliness, all the inside walls, and the ceilings or tops of the rooms, and all the passages and staircases of a factory or workshop must either be painted with oil or varnish once every seven years, and then washed with hot water and soap at intervals not exceeding 14 months, or else be lime-washed once at least in every 14 months.[2] By order of the Home Secretary, dated December 27th, 1882, certain works and parts of works where painting or whitewashing would be superfluous are exempted from this agreement. They must, however, be kept clean, and if the inspector finds them not to be so, he may withdraw the exemption.

Bakehouses.

(*b*) The conditions under which articles of common consumption are produced may be put under special regulations. A bakehouse, situate in any city or town containing 5,000 people, must be washed or whitewashed every six months.[3] No place on the same level as the bakehouse may be used for sleeping, unless it is effectually separated from the bakehouse and properly ventilated. The occupier is

[1] 38 & 39 Vic. c. 55, s. 91 (6). [2] 41 Vic. c. 16, s. 33. [3] *Ib.* s. 34.

also subject to a penalty, for a first offence of £2, and subsequently of £5, if the place is for any reason in such a state as to be, on sanitary grounds, unfit for use as a bakehouse.[1] The Court may also, in addition to, or instead of, inflicting a fine, order means to be adopted for removing the ground of complaint; and if the order is not complied with, may impose a further fine of £1 per day, so long as the non-compliance continues.[2] The Act of 1883 also prohibits any place being newly opened as a bakehouse after June, 1883, unless certain sanitary requirements as to construction and fittings have been observed.[3] Retail bakehouses are under the supervision of the local authority, and not (except as regards children, young persons, and women employed therein) under that of the factory inspector.[4]

2.—*Protection of Workpeople.*

The above regulations for the public health are also beneficial for the workpeople employed; further protection is, however, required in the case of certain trades. (*a*) In a factory or workshop in which grinding, glazing, polishing on a wheel, or any similar process is carried on, by which dust is generated and inhaled by the workers to an injurious extent, the inspector may direct a fan or other proper mechanical means for preventing such inhalation to be provided, and may also insist on there being a sufficient cubic space in proportion to the number of people employed.[5]

[1] 41 Vic. c. 16, s. 35. [2] 46 & 47 Vic. c. 53, s. 16. [3] *Ib.* s. 15.
[4] *Ib.* s. 17. [5] 41 Vic. c. 16, s. 36.

White Lead Works.

White lead factories may not now be carried on at all unless conditions prescribed by Parliament or the Home Secretary, for the purpose of securing ventilation, means of frequently washing, &c., have been complied with.[1] Special rules must also be made and published by the occupier of each factory, for the guidance of the persons employed in the factory, so as to enforce the use by them of the requirements of the Act, and generally to prevent injury to health in the course of their employment. Meals may not be taken in parts of factories where processes are carried on likely to produce dust or other exhalations injurious to health.[2]

Fencing of Machinery.

(*b*) Certain specified kinds of machinery must be securely fenced so as to prevent workpeople being in danger of being caught by it.[3] A factory inspector may also require the occupier of a factory to fence any other machinery which he considers to be dangerous, or to replace any grindstone worked by mechanical power which is so faulty as to be likely to injure the grinder using it; if the occupier thinks this unnecessary he may have the question referred to arbitration, but if the arbitrators decide against him he must fence the machinery in accordance with their award.[4] In case of an accident causing

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[1] 46 & 47 Vic. c. 53 s. 2. [2] *Ib.* s. 7. [3] 41 Vic. c. 16, s. 5. [4] *Ib.* s. 6.

loss of life or bodily injury of such a nature as to keep the person injured away from work for 48 hours, written notice must be forthwith sent to the inspector, who, if necessary, is to inquire into the circumstances.[1] If any person is killed or suffers bodily injury, in consequence of the occupier of the factory having neglected properly to fence his machinery, &c., as required, such occupier is liable to a fine of £100, the whole or any part of which may be applied for the benefit of the injured person or his family or otherwise as the Home Secretary determines.[2] The workman might also in such cases have a right of action under the Employers' Liability Act.

3.—*Protection of Women and Children.*

The regulations affecting the employment of children, young persons, and women are very elaborate, and vary with the different classes of works in which they may be employed. In some their employment is altogether forbidden, and in others only adults, and in others, again, only male young persons may be employed.

Where their employment is permitted, the hours during which they may work are limited, the time varying according to the nature of the work and the age of the employé, and stated intervals of rest for meals are required. During meal times they must not remain in work rooms. A child or young person

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[1] 41 Vic. c. 16, s. 31. [2] *Ib.* s. 82.

employed in a factory must have a medical certificate of fitness for employment in that factory;[1] and such certificates may also be obtained for workshops at the request of the occupier,[2] and may, in any case, be required by the Home Secretary.

Besides holidays on Christmas Day and Good Friday, at least eight half holidays per year must be given.[3] Night work for females is prohibited; and though overtime work is permitted in cases of pressure, the conditions under which it may go on are strictly defined, and the number of days in the year on which it is allowed are limited. Exceptions to these rules may be allowed by the Home Secretary, but only in special cases. If he considers it necessary for the protection of the health of any child, young person, or woman, he may require the adoption of special means for the cleanliness or ventilation of the factory or workshop where they are so employed.

Penalties.

For most breaches of the Act a court of summary jurisdiction may impose fines not exceeding £10, in some cases less, and may also order certain means to be adopted by the occupier of the factory or workshop for the purpose of bringing it into conformity with the Act; if such order is not complied with, a fine of £1 per day may be imposed.[4] Moreover, where a child or young person is employed in a factory or workshop contrary to the

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[1] 41 Vic. c. 16, s, 27. [2] *Ib.* s. 28. [3] *Ib.* s. 22. [4] *Ib.* s. 81.

provisions of the Act, the parent is liable to a fine, unless it appears that the offence was committed without his consent connivance or wilful default.[1]

The occupier of the factory or workshop is primarily the person liable in case of any offence being committed, but he may shift the blame on to the shoulders of the person really in default, if he can show that he had used due diligence to enforce the execution of the Act, and that such other person had committed the offence in question without his knowledge consent or connivance.[2] If at the time of discovering the offence, it appears to the inspector that the occupier of the factory or workshop had used all due diligence to enforce the execution of the Act, and that the offence had been committed without his knowledge consent or connivance, and in contravention of his orders, proceedings may be taken in the first instance against the person whom the inspector believes to be the actual offender. The question of who is to be made defendant is, of course, one which has to be determined by the inspector when he institutes the proceedings.

MINES.

The Coal Mines Regulation Act,[3] and the Metalliferous Mines Regulation Act,[4] both passed in 1872, contain similar provisions for protecting the health and safety of the workpeople employed. Females, and boys under 10 years of age (in metalliferous

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[1] 41 Vic. c. 16, s. 84. [2] *Ib.* s. 87. [3] 35 & 36 Vic. c. 76. [4] *Ib.* c. 77.

mines under 12) may not work under ground at all; and under 16 their employment is only allowed subject to stringent conditions limiting the duration of their periods of work and insuring due intervals between those periods. Regulations are also in force for securing the ventilation of the mines and the protection of the workpeople from accidents. The enforcement of the Acts is entrusted to inspectors appointed by the Home Office, and offences are made punishable summarily.

In case of coal mines, two shafts at least must be provided, and if this is not done, any superior Court may, on the application of the Attorney-General, prohibit by injunction the working of the mine.

CHAPTER X.

TREATMENT OF DISEASE.

HOSPITALS.

Infirmaries and other provision for attending to sick paupers are supplied under the Poor Law Acts. Hospitals have usually been established by private benevolence. But for the protection of public health, sanitary authorities may now provide hospitals at the public expense. Any local authority, or two or more such authorities combined, may provide for the use of the inhabitants of their district hospitals or temporary places for the reception of the sick. For this purpose they may (1) build hospitals, or (2) contract for the use of any existing hospital or of part of it, or (3) enter into an agreement with the persons having the management of any hospital for the reception therein of the sick inhabitants of their district, on payment of such annual or other sum as may be agreed on.[1] Poor law guardians in rural districts may also, with the sanction of the Local Government Board, transfer to themselves, in their other capacity of sanitary authority, any hospital or building vested in them for poor law purposes, so as to treat *infectious* cases in them though the patients are not paupers.[2]

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[1] 38 & 39 Vic. c. 55, s. 131. [2] 42 & 43 Vic. c. 54, s. 14.

The expenses of hospital accommodation provided by a local authority are in the first instance to be defrayed as part of their general expenses; but any expenses incurred in maintaining in a hospital, or in a temporary place for the reception of the sick, a patient, who is not a pauper, are deemed to be a debt due from such patient to the local authority, and recoverable from him personally, or from his estate in case of his death.[1] (The expenses of maintaining sick children are apparently not recoverable from their parents, unless the parents have agreed to be liable for them.)[2] Hospitals so established may be used for general purposes, or to meet some special necessity.

Their powers have generally been exercised by local authorities for the purpose of providing accommodation for the treatment of infectious cases, or for dealing with an epidemic. And it seems desirable that hospitals for ordinary non-pauper cases should not be generally established at the public expense. Local authorities may also provide medicine; but this power is clearly only intended for cases of emergency, and is noticed *infra*.

INFECTIOUS DISEASES.

Except so far as they are treated in hospitals (or, in case of paupers, under the provisions of the poor laws), patients suffering from illness are in no way interfered with by our law. They may adopt what treatment they like, or neglect their disease

[1] 38 & 39 Vic. c. 55, s. 132. [2] P. H. p. 121.

altogether if they choose. Where, however, the disease is infectious, considerations for public safety call for the interference of the State, and individual liberty is liable to restraint.[1]

Punishment for Spreading Infection.

To expose in a place of public resort a person infected with any contagious disorder, so as to cause the risk of people being infected, is a misdemeanour at common law; and any person (whether the sufferer himself or those in charge of him) who commits this offence is liable to be punished with fine and imprisonment at the discretion of the court before which he is convicted.[2] The proceeding by indictment is, however, troublesome, and so seldom used for offences of this sort as to be ineffectual as a deterrent.

Summary procedure may now be adopted, and a fine not exceeding £5 imposed on *any person* who commits any of the following offences, viz.: (1) while suffering from any dangerous infectious disorder *wilfully exposes himself* without proper precautions against spreading the said disorder, in any public place, shop, inn, or public conveyance; or *enters any public conveyance* without previously notifying to the owner, conductor, or driver that he is so suffering. (The owner or driver may demand payment in advance of a sum sufficient to cover any loss or expense incurred in disinfecting the vehicle; if the sufferer enters it without giving notice that he is suffering, he may be ordered to pay such sum in

[1] 38 & 39 Vic. c. 55, s. 133. [2] P. H. p. 117.

addition to the fine.) (2) Being in charge of any person so suffering, *exposes* such *sufferer*. (3) *Gives, lends, transmits, or exposes*, without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection. (This does not prohibit the transmission, with proper precautions, of infected bedding, &c., for the purpose of having it disinfected.)[1] (4) On the *owner or driver* of a public conveyance, who does not provide for its disinfection immediately after it has to his knowledge conveyed any person suffering from a dangerous infectious disorder.[2]

(5) Penalties not exceeding £20 may be imposed on (*a*) any person, including any innkeeper, who *knowingly lets for hire* any house, room, or part of a house in which any person has been suffering from any dangerous infectious disorder, without having such house, &c., and all articles therein liable to retain infection, disinfected to the satisfaction of a registered medical practitioner, testified by a certificate signed by him.[3] (*b*) Any person letting for hire, or showing for the purpose of letting for hire, any house or part of a house, who on being questioned by any person negotiating for its hire as to there being, or having within the six weeks previously been therein, any person suffering from any dangerous infectious disorder, knowingly makes a false answer to such question. The court may impose a month's imprisonment instead of the fine for this latter offence if it thinks fit.[4]

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[1] 38 & 39 Vic. c. 55, s. 126. [2] *Ib.* s. 127. [3] *Ib.* s. 128. [4] *Ib.* s. 129.

Disinfection.

Besides these penalties, which may be imposed on individual offenders, local authorities are empowered to adopt remedial measures for preventing the spread of infection. Where any local authority are of opinion, on the certificate of their medical officer of health or of any other registered medical practitioner, that the cleansing and disinfecting of any house, or any part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, they are bound to give the owner or occupier written notice to disinfect; if the notice is not complied with, the person to whom it is given becomes liable to a penalty of not less than 1s., nor more than 10s., for every day during which he continues to make default, and the local authority are bound to cause the house, &c., to be cleansed and disinfected. The expenses may be recovered summarily from the owner or occupier in default; but if the local authority consider him to be, from poverty or otherwise, unable effectually to comply with their requirements, they may, *with his consent*, themselves cleanse and disinfect the house, &c., and defray the expenses.[1] If a notice has been given, and the work done by the local authority on default of compliance by the owner or occupier of the premises, and he is subsequently discovered to be a pauper, it seems that he is, nevertheless, liable to the minimum fine

[1] 38 & 39 Vic. c. 55, s. 120.

of 1s. per day, and to imprisonment in default of payment, even though the expenses cannot be recovered from him, and must consequently be paid by the local authority.

Any local authority may provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding, clothing, or other articles which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge.[1] It may also direct the destruction of any bedding, clothing, or other articles which have been exposed to infection from any dangerous infectious disorder, and may give compensation for such articles.[2] It may also provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any infectious disorder, and may pay the expenses of conveying therein any person so suffering, to a hospital or other place of destination.[3]

Compulsory Removal to Hospital.

Where any suitable hospital or place for the reception of the sick is provided within the district of a local authority, or within a convenient distance (whether such hospital is one to which the local authority have a right to send patients or not), persons suffering from a dangerous infectious disorder may be compulsorily removed to it. The conditions to be observed are: (1) To obtain a written

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[1] 38 & 39 Vic. c. 55, s. 122. [2] *Ib.* s. 121. [3] *Ib.* 123.

certificate showing (*a*) that the patient is suffering from such disorder; (*b*) that he is without proper lodging or accommodation (this is to be determined with regard to the chances of infection spreading, as well as to the well-being of the patient himself), or is lodged in a room occupied by more than one family, or is on board any ship or vessel or canal boat, or is lodged in a common lodging-house. (2) To obtain the consent of the superintending body of the hospital or place. (3) To go before a justice with the certificate and proof of the consent; the justice should then at once, without calling on the patient or those who have charge of him, grant the order for removal. The removal is to be at the cost of the local authority. Any person who wilfully disobeys or obstructs the execution of the order is liable to a penalty of £10.[1]

Any local authority may further make regulations[2] for removing to any hospital to which they are entitled to remove patients, and for keeping there, as long as may be necessary, any persons brought within their district by any ship or boat who are infected with any dangerous infectious disorder. These regulations require the approval of the Local Government Board, and penalties not exceeding 40s. may be imposed for breaches of them.

Persons removed compulsorily to hospitals are, it seems, under the same liability to pay for their maintenance there as if they go voluntarily. The House of Commons, in the Registration Bills this year,

[1] 38 & 39 Vic. c. 55, s. 124. [2] *Ib.* s. 125.

have resolved that medical relief is not necessarily to make the recipient a pauper, so as to disentitle him to vote; but this resolution has not become law. This protection to the almost pauper voter was given, as regards municipal elections, by the Municipal Corporations Act of 1882.[1]

Notification of Disease.

The above powers are ample to enable a local authority to take proper measures for dealing with any case of an infectious disease, *when they know of its existence* within their district. This knowledge, however, is often kept from them, as the friends of the patient are, for various reasons, desirous of concealing the fact of his being attacked. There is at present no obligation imposed by the general law on anybody to inform the local authority or their medical officer of the occurrence of a case of infectious disease. In certain towns, under local Acts of Parliament, either the occupier of the house where the patient is, or the medical man who is attending him, is bound to give this information, and the duty to inform, imposed by these local Acts, is found on the whole to work well. It has been proposed to extend this to the country generally, but at present no legislation for the purpose has been adopted.

EPIDEMICS.

Regulations to be made by Local Government Board.

Whenever any part of England appears to be

[1] 45 & 46 Vic. c. 50, s. 33.

threatened with, or is affected by, any formidable epidemic, endemic, or infectious disease, the Local Government Board may make, and from time to time alter and revoke, regulations for all or any of the following purposes, viz., (1) the speedy interment of the dead; (2) house to house visitation; and (3) provision of medical aid and accommodation, promotion of cleansing ventilation and disinfection, and guarding against the spread of disease. They may also prescribe the district to which such orders or any of them apply.[1] The local authority of any district within which, or part of which, such regulations are in force, *shall* superintend and see to their execution, and appoint and pay such medical or other officers or persons, and do and provide all such acts, matters, and things as may be necessary for mitigating any such disease, or for superintending or aiding in the execution of such regulations, or for executing them, as the case may require.[2] Two or more local authorities may be empowered to act jointly for these purposes.[3] The local authority or their officers are given power of entry (apparently at any time), on any premises or vessel, for the purposes of executing or superintending the execution of any regulation so issued.[4]

Penalties.

Any person who (1) wilfully violates any such regulation, or (2) wilfully obstructs any person

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[1] 38 & 39 Vic. c. 55, s. 134. [2] *Ib.* s. 136. [3] *Ib.* s. 139. [4] *Ib.* s. 137.

acting under the authority, or in the execution of any such regulation, is liable to a penalty of £5.[1] Proceedings to enforce these penalties, or other legal proceedings for or in respect of the wilful violation or neglect of any regulation, may be instituted by the local authority charged with enforcing such regulations.[2]

Regulations in anticipation of an outbreak of cholera, and for other epidemics, have been issued at various times. It is well to notice that the special powers given by the law with regard to epidemics, leave very little discretion to the local authorities, whose duties are to enforce the regulations made by the Local Government Board, who, in such cases, would probably be prompt to interfere if the local authority neglected to perform those duties.

Local Authority may provide Medicine, &c.

Besides carrying out such regulations, local authorities may also, where they deem it advisable, provide medical aid to such persons as require it. Such aid would apparently not be considered to pauperize the recipient, as aid from the poor law medical officer does.

"Any local authority may, with the sanction of the Local Government Board, provide a *temporary* supply of medicine and medical assistance for the poorer inhabitants of their district."[3] This power is general,

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[1] 38 & 39 Vic. c. 55, s. 140. [2] *Ib.* s. 136. [3] *Ib.* s. 133.

but is clearly intended to meet the case of special outbreaks of disease only. The care of the poor in times of ordinary sickness is provided for under the Poor Law. Non-pauper patients must ordinarily depend on private medical practitioners, or on dispensaries established voluntarily. Only special circumstances would justify local authorities in incurring such expenditure.

VACCINATION.

Appointment of Vaccination Officers.

Special legislation has been passed for the purpose of guarding against small-pox.[1] The Vaccination Acts now in force provide for the appointment of vaccination officers, who must be duly qualified medical practitioners, by the guardians of the different unions and parishes in the country.[2] Their appointment is obligatory, and guardians who have neglected to make such appointments have been compelled to do so by the High Court.

Duty to have Child Vaccinated.

It is the duty of the parent or person having charge of a child, to have it vaccinated within three months from its birth, except in case of illness, when the operation may be postponed.[3] The vaccination may be performed by the public vaccinator or by any other medical practitioner; (gratuitous vaccination

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[1] 30 & 31 Vic. c. 84; 34 & 35 Vic. c. 98. [2] 30 & 31 Vic. c. 98, s. 5.
[3] *Ib.* s. 16.

by the public vaccinator is not considered to be parochial relief).[1] If a parent neglect to have his child vaccinated, he becomes liable to a fine of 20s. If the child has not been successfully vaccinated, and has not had the small-pox, the parent may be ordered by a justice to have it vaccinated, and if he does not comply with the order, and fails to show some reasonable ground for his omission to do so, he becomes liable to a fine of 20s.[2]

Effect of Acts.

There is no power for a justice or any one else to authorize the public vaccinator to vaccinate the child against the parent's wish, nor to impose any cumulative penalties on the parent for persistent refusal to obey the law; but repeated orders to vaccinate may be made, and a fine of 20s. imposed for each act of disobedience. These penalties are found to be inadequate, and there is no doubt that in many cases—especially in some districts—the requirements of the law as to vaccination are habitually disregarded.

The Acts commonly known as the C. D. Acts are now not enforced, though not repealed. It is unnecessary here to examine their provisions. They are 29 and 30 Vic. c. 35 and 32 & 33 Vic. c. 96.

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[1] 30 & 31 Vic. c. 98, s. 26. [2] *Ib.* s. 31.

CHAPTER XI.

BURIALS.

BURIAL GROUNDS.

It has long been recognised that, from a sanitary point of view, the regulation of burials is most important, and legislation on this subject occupies many pages of the statutes. The old burying place in every parish was and is the parish churchyard, and, in rural districts, it still provides all the space that is necessary.

Power to provide Cemeteries.

In most towns, however, the parish churchyards have either long ago been filled up to or beyond their capacity, or are rapidly approaching repletion. Powers have accordingly been given by statute, and are from time to time exercised, under which further burials are prohibited, by Order in Council, from taking place in any particular burial ground.[1] Cemeteries or burial grounds are now provided either by companies, who undertake the work as a matter of business, or else by the local authorities of the districts which require them. These local authorities, in many cases, are burial boards, formed for the purpose, and distinct from the ordinary sanitary

[1] 15 & 16 Vic. c. 85, s. 2; 16 & 17 Vic. c. 134, s. 1.

authorities; and in other cases, the powers of a burial board have been conferred on the local sanitary authority, either for the whole of its district, or sometimes for a part of it only. Burial boards are created, or their powers conferred on urban authorities, by the Privy Council; but the power of establishing and managing a cemetery has, by the Public Health Interments Act, 1879,[1] been conferred on all local authorities, who now may, and, if required by the Local Government Board, *shall* provide and fit up a place for the interment of the dead, and make bye-laws with respect to its management and charges for its use. There is thus a power to provide cemeteries wherever they may be wanted, and an obligation to provide them in cases where the health of the neighbourhood requires them.

Sanitary Provisions.

With many of the regulations affecting churchyards and cemeteries it would be foreign to the purpose of this book to deal. But there are certain provisions affecting health which must be mentioned. It is illegal to construct or make a vault or grave within the walls of or underneath any church or other place of public worship, built in any urban district since the year 1848; and any person who shall bury, or cause permit or suffer to be buried, any corpse or coffin in any vault or grave constructed or made contrary to this enactment is liable to a penalty of

[1] 41 & 42 Vic. c. 31.

£50, which may be recovered by *any* person in an action of debt.[1] This prohibition applies only to new vaults; and burials may still take place in those which existed before 1848, unless they are situated in places which have been closed by an Order in Council. Such vaults, however, in towns are now few, and burials in them are infrequent. Burials in vaults under chapels in cemeteries are also prohibited.[2]

Existing churchyards are often in close proximity to dwelling-houses, and where they have not been closed, interments may, consequently, take place close to houses. But no part of any new cemetery, whether made by a local authority or by a company, may be nearer than 100 yards from any dwelling-house, and in many cases this distance is double.[3] The prohibition does not, however, extend to the building of houses near an already existing burial ground; and cemeteries, which originally were far enough in the country, are too often now surrounded by houses, so that it may shortly be necessary to close them as other cemeteries previously were closed.

Burial Grounds may not be Built upon.

Burial grounds which have once been consecrated, are considered as dedicated for ever to the Church; and even after they have been closed for burials, are not available for secular purposes. In the Metropolis,

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[1] 11 & 12 Vic. c. 63, s. 83. [2] 10 & 11 Vic. c. 65, s. 39.
[3] 10 & 11 Vic. c. 65, s. 10; 17 & 18 Vic. c. 87, s. 12.

with the sanction of the ecclesiastical authorities, they may, and in many instances have been, devoted to the use of the public as recreation grounds, and thus have been converted into a source of benefit instead of being a source of danger to the health of the community. A similar use has, we believe, been made of a few old churchyards outside the Metropolis. Unconsecrated burial grounds, however, were not protected from secular uses; and after they had been closed because they were so overcrowded as to be dangerous to the health of the neighbourhood where they were situated, the owners of the sites have, in some instances, tried to make a further profit by erecting buildings on the disused ground. This, of course, was very dangerous to public health, but there was no means of preventing it. An Act of Parliament was, however, passed last year,[1] which provides that it shall no longer be lawful to erect any buildings (except for the purpose of enlarging a church or other place of worship) on any burial ground in respect of which an Order in Council for discontinuance of burials has been made. The erection of buildings on such sites is, therefore, no longer permitted.

MORTUARIES.

Power to Provide.

For sanitary and other reasons, it is often desirable that, prior to interment, a corpse should be removed from the room where death took place; but

[1] 47 & 48 Vic. c. 72.

the poorer classes have no place to which they can remove it. Any local authority may, however, and, if required by the Local Government Board, *shall* provide and fit up a proper place for the reception of dead bodies before interment, and may make bye-laws with respect to the management and charges for the use of the same. They may also provide for the decent and economical interment, at charges to be fixed by such bye-laws, of any dead body which may be received into such mortuary.[1]

Removal to.

Where a mortuary has been provided it is, in ordinary cases, optional for the friends of the deceased to use it or not, as they please; and there is no doubt that they often keep a corpse in their own house when it would be better for every one if it was sent to the mortuary. But where the body of one who has died of any *infectious disease*, or which is in such a state as to *endanger the health* of the inmates of the same house or room, is retained in a room in which persons live or sleep, any justice may, on a certificate signed by a registered medical practitioner, order the body to be removed to the mortuary, at the cost of the local authority, and to be buried within a time limited by his order, and, unless the friends or relations of the deceased bury the body accordingly, the relieving officer must do so. Any person obstructing the execution of an order so made by a justice is liable to a penalty of £5.[2] It will be

[1] 38 & 39 Vic. c. 55, s. 141. [2] *Ib.* s. 142.

noticed, that this power of compulsorily removing a corpse to a mortuary and ordering prompt burial can only be exercised in cases where considerations of public health call for interference; in other cases, however wrong they may be, the wishes of the friends of the deceased are respected.

CREMATION.

Closely connected with the subject of burials, is that of cremation. This method of disposing of dead bodies has always been much used in the East, but in Europe it seems to be opposed to the instincts of most people, and certainly has never been generally adopted. There is, however, no doubt that, apart from sentimental considerations, it is, from a purely sanitary point of view, preferable to interment. Sanitary reformers have for some time advocated its adoption in this country, but the general opinion was that it was illegal, and consequently cremations seldom or never took place. The highest criminal court last year decided that, if conducted in such a way as not to offend public feeling or prevent proper investigation being made as to the cause of death, cremation is not illegal.[1] Since that decision, a crematory has been started, and those who desire to set an example of disposing of the dead in such a manner as to prevent the danger of their poisoning the living, can cremate them. The conditions under which the rite can be practised with safety are, however, uncertain, as

[1] Reg. *v.* Price, 12 Q. B. D., 247.

Parliament has hitherto refused to pass any statute for the purpose of regulating cremation, for fear of giving a positive sanction to the practice, in the place of the purely negative sanction given by the above decision of the Court of Criminal Appeal. The law must, for the present, be considered as unsettled; but if public opinion should ever regard cremation as desirable, there can be no doubt that definite regulations with regard to it would soon be framed and adopted as part of the sanitary law of this country.

CHAPTER XII.

ADULTERATION.

PENALTIES for adulteration are imposed by law on several classes of offences, for the protection of the public health and the prevention of fraud.

Offences.

1. No person shall mix, colour, stain or powder, or order or permit any other person to mix, colour, stain or powder, any *article of food* with any ingredient or material so as to *render the article injurious to health*, with intent that it may be sold in that state; and no person shall *knowingly* sell any such article so mixed, coloured, stained or powdered.[1]

2. No person shall (subject to certain exceptions given by the Act) mix, colour, stain or powder, or order or permit any other person to mix, colour, stain or powder, any *drug—i.e.*, medicine for internal or external use—with any ingredient or material so as to *affect injuriously the quality or potency of such drug*, with intent that the same may be sold in that state; and no person shall knowingly sell any such drug so mixed, coloured, stained or powdered.[2]—The penalty for both these offences is on the first occasion a fine not exceeding £50; if the offence is repeated it becomes a misdemeanour, punishable with fine or imprisonment, at the discretion of the court.

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[1] 38 & 39 Vic. c. 63, s. 3. [2] *Ib.* s. 4.

3. No person shall sell *to the prejudice of the purchaser* any article of food or any drug, which is not of the nature, substance, and quality of the article demanded by such purchaser. There are certain exceptions to this prohibition, viz., (*a*) where any matter or ingredient, *not injurious to health*, has been added, because it is required for the production of the food or drug as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure, or to conceal inferior quality; (*b*) where the drug or food is a *proprietary medicine*, or is the *subject of a patent* in force and is supplied in the state required by the patent; (*c*) where the food or drug is *compounded*; (*d*) where the food or drug is *unavoidably mixed* with some extraneous matter in the process of collection or preparation.[1]

4. No person shall sell any compound article of food or compounded drug, *which is not composed of ingredients in accordance with the demand of the purchaser*.[2] If it is mixed with any matter or ingredient not injurious to health, and not intended fraudulently to increase the bulk, weight or measure, or to conceal inferior quality, the vendor can protect himself by giving to the purchaser, at the time of delivery, a label, distinctly and legibly written or printed, stating that the article is mixed.[3]

5. No person shall, with the intent that the same may be sold in its altered state without notice,

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[1] 38 & 39 Vic. c. 63, s. 6. [2] *Ib.* s. 7. [3] *Ib.* s. 8.

abstract any part from any article of food *so as to affect injuriously its quality, substance or nature;* and no person shall sell any article so altered without making disclosure of the alteration.[1]

The penalty for the last three classes of offences is a fine not exceeding £20.

Special Provisions.

6. There are special provisions as to the adulteration of certain articles of food. These do not override the general provisions enumerated above, but in some cases give a choice of Acts under which to proceed.[2] As far as the public are concerned it is, however, unnecessary here to set out the provisions of these Acts.

Analysis.

District analysts are appointed throughout the country, subject to the approval of the Local Government Board.[3] Any purchaser of an article of food or of a drug is entitled to have it analyzed by the analyst for his district, and to receive a certificate of the result of his analysis for a fee of 10*s.* 6*d.*[4] Articles for analysis may be either personally delivered to the analyst, or if he lives more than two miles away from the residence of the person requiring the analysis, then by post in a registered letter.[5] In prosecutions for adulteration, the production of the

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[1] 38 & 39 Vic. c. 63, s. 9.

[2] Bread, 6 & 7 Will. IV. c. 37; Hops, 7 Geo. II. c. 19; Tobacco, 5 & 6 Vic. c. 93; Tea, 38 & 39 Vic. c. 63, s. 30.

[3] 38 & 39 Vic. c. 63, s. 10. [4] *Ib.* s. 12. [5] *Ib.* s. 16.

certificate of the analyst is sufficient evidence of the facts therein stated, unless the defendant shall require that the analyst shall be called as a witness.[1] The justices before whom a complaint shall be made, may, however, upon the request of either party, get an additional analysis made by the chemical officers of the Inland Revenue Department at Somerset House.[2]

Formalities to be observed.

Any person purchasing an article with the intention of submitting it to analysis, shall, after the purchase shall have been completed: (1) *forthwith* notify to the seller or his agent selling the article, his intention to have the same analyzed *by the public analyst*[3] (a notification of an intention to have it analyzed, without stating by whom, will not do);[4] (2) and shall offer to divide the article into three parts, to be then and there separated, and each part to be marked and sealed, or fastened up in such manner as its nature will permit.[3] If the offer is accepted by the seller or his agent, one part is to be given to him, one to be retained by the purchaser, and one given to the analyst. If not accepted, the article should be given whole to the analyst, who is to divide it into two parts, analyze one, and seal or fasten up the other, and give it back to the purchaser, who shall retain the same for production in case proceedings are afterwards taken.[5]

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[1] 38 & 39 Vic. c. 63, s. 21. [2] *Ib.* s. 22. [3] *Ib.* s. 14.
[4] *See* Barnes *v.* Chipp, 3 Ex. D. 176. [5] 38 & 39 Vic. c. 63, s. 15.

Who may Purchase.

Any private individual, who chooses to do so, may purchase an article of food or a drug for the purpose of analysis. The Adulteration Act further provides that "any medical officer of health, inspector of nuisances, inspector of weights and measures, or any inspector of a market, or any police officer, under the direction and at the cost of the local authority appointing such officer, inspector, or constable so charged with the execution of" the Act, may procure any sample of food or drugs; and, if he suspect the same to have been sold to him contrary to any provision of the Act, *shall* submit the same to be analyzed by the analyst of the district.[1] Any of the above-mentioned officers may procure at the place of delivery any sample of milk in the course of delivery, in pursuance of any contract for the sale of such milk to the purchaser or consignee.[2] It might often be difficult for these officers themselves to obtain true samples of the suspected articles; but it is not necessary that they should themselves purchase; if an agent is employed for that purpose, the requirements of the Act are sufficiently observed.[3]

Private purchasers cannot insist on being supplied with an article for analysis; but the Act gives special powers to the specified officers. "If any such officer, inspector, or constable shall apply to purchase any article of food, or any drug exposed to sale, or on

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[1] 38 & 39 Vic. c. 63, s. 13. [2] 42 & 43 Vic. c. 30, s. 3.
[3] *See* Horder *v.* Scott, 5 Q. B. D., 552.

sale by retail on any premises or in any shop or stores, or in any street or place of public resort,[1] and shall tender the price for the quantity which he shall reasonably require for the purpose of analysis; and if the person exposing the same for sale shall refuse to sell it to him, such person becomes liable to a fine not exceeding £10."[2] Individuals and officials are bound to observe the same preliminaries as to notice and samples, &c., if they intend to prosecute.

Summons.

If the analysis shows an article to be adulterated, a summons may be taken out by the purchaser, and heard before justices under the Summary Jurisdiction Act. The summons must be served on the person charged within a reasonable time, which, in the case of a perishable article, is defined to be "not exceeding 28 days from the time of the purchase."[3] Particulars of the offence charged, and of the name of the prosecutor must appear on the summons, and it must not be returnable in less time than seven days from the day of service.

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[1] 42 & 43 Vic. c. 30, s. 5. [2] 38 & 39 Vic. c. 63, s. 17.
[3] 42 & 43 Vic. c. 30, s. 10.

CHAPTER XIII.

UNWHOLESOME FOOD.

Common Law.

By an old Statute of the reign of Henry III.,[1] never yet repealed, and recognized as law by the Court of Exchequer in the year 1847,[2] victuallers, butchers, and other common dealers in victuals "are liable to punishment for selling corrupt victuals (certainly if they do so *knowingly*, and probably if they do not); and they are therefore responsible civilly to those customers to whom they sell such victuals for any special or particular injury by the breach of the law which they thereby commit." This liability, however, only attaches to persons who deal in such victuals by way of their common trade.

Public Health Act.

The Public Health Act, re-enacting previous Statutes, provides for the summary punishment of such offenders. Under it, it is an offence for anyone to expose or prepare for sale certain unwholesome articles of food. They are defined as

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[1] Stat. 51, Hen. III., Pillor et Tumbrel, &c.

[2] Burmby *v.* Rollett, 16 M. & W., 644.

follows: "Any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk."[1] The Act contains no general words, descriptive of food, and it seems that no penalty attaches under it to the sale or exposure of articles not here enumerated.[2] The procedure to be followed is also restrictive.

Right to Search and Seize.

Any medical officer of health or inspector of nuisances may at all reasonable times enter any premises and search for and inspect any of the enumerated articles; and if he finds any which he considers to be diseased, or unsound, or unwholesome, or unfit for the food of man, he may seize it and carry it away, by himself or by an assistant, to be dealt with by a magistrate. The magistrate is to examine the article so seized, and if he considers it to be diseased, or unsound, or unwholesome, or unfit for the food of man, he is to condemn it and order it to be destroyed, or so disposed of as to prevent it from being exposed for sale, or used for the food of man.[3]

Punishment of Offenders.

This procedure may take place without the presence or knowledge of the person to whom the article seized belongs; but after its condemnation, he may be summoned and convicted

[1] 38 & 39 Vic. c. 55, s. 116. [2] P. H. p. 113.
[3] 38 & 39 Vic. c. 55. s. 117.

for the offence of having the article exposed for sale. The Act intends to provide, and does provide, a quick and summary method for disposing of articles, which would probably become a nuisance if they were kept long; and where its powers are enforced, is effective. There is, however, no power for a private individual to take any article before a justice for condemnation; his only remedy is to give information to the medical officer of health or inspector of nuisances, and get him to enter the premises and seize the suspected article. There is, moreover, no power to condemn the article after it has been sold and left the vendor's premises; a customer who has purchased a piece of diseased meat, for instance, cannot take it to the inspector and get it seized and condemned, and the man who sold it to him punished.[1] He may, however, very usefully give information, for the purpose of making the inspector watch the premises, and of enabling him to seize if further sales of similar articles are attempted. As regards the completed sale, the purchaser may have a civil remedy by bringing an action to recover the price of the article he bought, but he cannot usually punish the shopkeeper.

Milk.

Milk is especially liable to become unwholesome, if exposed to insanitary influences, and the law makes provision for its protection. This is done by the

[1] Vinter *v.* Hind, 10 Q.B.D.

Contagious Diseases Animals Act, 1878, which empowers the Privy Council to make orders (1) for the registration of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk; (2) for securing cleanliness of milk stores, milk shops, and vessels containing milk for sale; and (3) for prescribing precautions for protecting milk against infection or contamination.[1] An Order in Council for these purposes was accordingly issued on the 9th of July, 1879, and persons who disregard it are liable to penalties. The local authority to whom the execution of this order is entrusted is, however, for country districts, the magistrates of the county in Quarter Sessions assembled, who have no officers or machinery for inspecting cowsheds or milk vessels, or for instituting prosecutions against those who offend, and not the local sanitary authority whose inspectors have to see to similar matters under other Acts. The protection nominally given by the law against the distribution of unwholesome milk is consequently not so effective as it could easily be made.

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[1] 41 & 42 Vic. c. 74, s. 33.

CHAPTER XIV.

POISONS.

Restrictions on Sale.

The sale of poisons is subject to certain restrictions. It is unlawful to sell any poison, either by wholesale or retail, unless the box, bottle, vessel, wrapper or cover in which it is contained is distinctly labelled with the name of the article and the word "Poison." In case of retail sales, the name and address of the seller must also be on the label, but this is not required in case of wholesale dealings for export, or for the supply of retail dealers in the ordinary course.[1] It is also unlawful to sell any of the more potent poisons, enumerated below,[2] to any person unknown to the seller unless he is introduced by a person who is known to him; such sales must be entered in a book, which must state, among other things, the name and address of the purchaser, and the purpose

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[1] 31 & 32 Vic. c. 121, s. 17.

[2] The poisons enumerated are (1) arsenic and its preparations, (2) prussic acid, (3) cyanides of potassium and all metallic cyanides, (4) strychnine and all poisonous vegetable alkaloids and their salts, (5) aconite and its preparations, (6) emetic tartar, (7) corrosive sublimate, (8) cantharides, (9) savin and its oil, (10) ergot of rye and its preparations. The Council of the Pharmaceutical Society may from time to time, by resolution, approved by the Privy Council and published in the "London Gazette," add any article to this list.

for which he requires the poison, and the book must be signed by him and by the person, if any, who introduced him. This does not apply to medicine supplied by a legally qualified medical practitioner or apothecary to his patient, or dispensed by a registered chemist; but the medicine must be distinctly labelled with the name and address of the seller and of the person to whom it is sold or delivered, and the ingredients must be entered in a book kept by the seller for that purpose. Offences against the above provisions are punishable summarily, by a fine not exceeding £5 for a first offence, and not exceeding £10 for a second or subsequent offence.[1]

Chemists to be Registered.

Besides the above regulations, it is further provided that all pharmaceutical chemists must be registered, and persons now desiring to come on the register must pass an examination.[2] This does not apply to legally qualified medical practitioners. But any other person who (1) sells or keeps an open shop for retailing, dispensing, or compounding poisons; or (2) who takes, uses, or exhibits the name or title of chemist and druggist, or chemist or druggist, not being a duly registered pharmaceutical chemist, or chemist and druggist; or (3) who takes, uses, or exhibits the name or title of pharmaceutical chemist,

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[1] 31 & 32 Vic. c. 121, s. 17. [2] *Ib.* s. 5.

pharmaceutist, or pharmacist, not being a pharmaceutical chemist; or (4) who fails to conform to any regulation made in pursuance of the Act as to the keeping or selling of poisons, is liable to pay a penalty of £5, recoverable by action in a county court.[1]

Exceptions.

The effect of the above restrictions on the sale of poisons is a good deal weakened by the exceptions under which poisonous substances can be sold wholesale, and it is further weakened by the provision that "nothing in the Act shall interfere with the making or dealing in patent medicines."[2] Preparations which contain poison in sufficient quantities to produce most injurious consequences, if used carelessly, are sold by village chandlers and other unqualified persons, without any label to warn people of the poisons they contain. Ignorant purchasers are on the contrary deceived by the stamp, which is placed on these packages for revenue purposes, and think that it is a Government certificate, that the medicine covered by it is beneficial, or at any rate harmless. The law permitting the sale of these patent medicines might be altered, with advantage to the country; but the stamps bring in a considerable amount of revenue, and the Government is not likely to abandon it unless compelled by public opinion to do so.

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[1] 31 & 32 Vic. c. 121, s. 15. [2] *Ib.* s. 16.

Arsenic.

Besides the general restrictions on the sale of poisons above set forth, there are special regulations applicable to the use of arsenic.[1] It is used for agricultural purposes and in some manufactures, and its sale for such purposes is under regulations for preventing its getting into the hands of persons who would use it to commit crimes; and these regulations are fairly efficacious, though we do occasionally hear of families being poisoned in consequence of arsenic having been used instead of flour. The use of arsenic in manufacturing processes, though often very detrimental to health, is not at present prohibited by law or subject to any special regulations. A Bill is, however, before Parliament this year, promoted by the National Health Society, which is intended to regulate this use of arsenic, and to prevent it being employed in the manufacture of or applied to any articles where it is likely to have injurious effects.

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[1] 14 & 15 Vic. c. 13.

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		RECEIPT for Forms to be Signed by Overseers.
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	A.	REQUISITION by Overseers requiring Names of Inhabitant Occupiers, with Instructions for filling up.
	B. 1.	NOTICE as to Rates to be published by the Overseers (Parliamentary).
	B. 2.	NOTICE as to Rates to be published by the Overseers (Municipal).
	C. 1.	NOTICE as to Rates to be served by Overseers.
	C. 2.	LIST of Names of Persons disqualified for being registered in respect of a £10 occupation, or household qualification by non-payment of the Rates.
		Forms of Lists of Parliamentary Voters and Burgesses for a Parish in a Municipal Borough.
	D. 1.	FORMS OF OCCUPIERS' LIST INCLUDING £10 OCCUPIERS, HOUSEHOLDERS AND BURGESSES.
	D. 1.	DIVISION 1.—Persons entitled both to be Registered as Parliamentary Voters in respect of the occupation aforesaid, and to be enrolled as Burgesses.
	D. 1.	DIVISION 2.—Persons entitled to be Registered as Parliamentary Voters in respect of the occupation aforesaid, but not to be enrolled as Burgesses.

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	D. 1.	DIVISION 3.—Persons entitled to be enrolled as Burgesses but not to be Registered as Parliamentary Voters in respect o the occupation aforesaid.
	D. 2.	No. 2.—LIST of Persons entitled to be Registered as Parliamentar Voters in respect of any right reversed by 2 & 3 Will. IV. c. 35, secs. 31 & 33.
	D. 3.	No. 3.—OLD Lodgers List.
	E.	LIST of Parliamentary Voters for a Parish situated in a Parlia mentary Borough, but not in a Municipal Borough.
	F.	LIST of Burgesses for a Parish wholly or partly situate in Municipal, but not a Parliamentary Borough, and whicl was not included in a Parliamentary Borough, merged in County by the Redistribution of Seats Act, 1885.
	G.	LIST of Occupiers in any Parish entitled to be elected Councillor or Aldermen of a Municipal Borough, though not entitled t be on the Burgess Roll of that Borough.
	H.	**Notice of Claim.**
		No. 1.—PARLIAMENTARY and Municipal (General).
		No. 2.—PARLIAMENTARY (Lodgers).
		No. 3.—MUNICIPAL.
	I.	**Forms of Notice of Objection.**
		No. 1.—PARLIAMENTARY and Municipal.—Notice of Objection to be given to Overseers.
		No. 2.—PARLIAMENTARY and Municipal.—Notice of Objection t be given to Person objected to.
		No. 3.—MUNICIPAL.—Notice of Objection to be given to Overseers
		No. 4.—MUNICIPAL.—Notice of Objection to be given to Perso objected to.
	K.	**Forms of List of Claimants to be published by Overseers.**
		No. 1.—GENERAL List of Claimants, Parliamentary and Municipal
		No. 2.—GENERAL List of Claimants, Parliamentary.
		No. 3.—LIST of Lodger Claimants, Parliamentary.
		No. 4.—LIST of Claimants, Municipal.
	L.	**Forms of List of Persons Objected to, to be published by th Overseers.**
		No. 1.—LIST of Persons Objected to (Parliamentary an Municipal).
		No. 2.—LIST of Persons Objected to (Parliamentary).
		No. 3.—LIST of Lodgers Objected to (Parliamentary).
		No. 4.—LIST of Persons Objected to (Municipal).

No. reqd.	Form.	
	M.	Declaration for Correcting Mis-description in List.
	N.	**Forms of Notice of Withdrawal of Objection.**
		No. 1.—Notice to the Person Objected to.
		No. 2.—Notice to the Town Clerk.
	O.	**Forms of Notice Reviving an Objection.**
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	No. 2A	Notice of Claim to be given to Overseers by Claimants in respect of Ownership.
	No. 3	List of Ownership Claimants.
	No. 4	Notice of Objection to Ownership Voters to be given to the Overseers.
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	No. 6	List of Persons objected to as Ownership Voters to be published by the Overseers.
	No. 7	Declaration by Voter as to his Place of Abode.

No. reqd.	Form.	
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	B.	NOTICE as to Rates to be published by the Overseers.
	C.	No. 1.—NOTICE as to Rates to be served by Overseers.
		No. 2.—LIST of Names of Persons disqualified for beinR Registered in respect of a £10 Occupation, or Household Qualification by non-payment of the Rates.
	D.	No. 3.—Old Lodgers' Lists.
	E.	OCCUPIERS' List.
	H.	**Notice of Claim in respect of the Occupation Franchise.**
		No. 1.—General.
		No. 2.—Lodgers.
	I.	**Notice of Objection in respect of the Occupation Franchise.**
		No. 1.—Notice of Objection to be given to Overseers.
		No. 2.—Notice of Objection to be given to Person objected to.
	K.	**List of Claimants in respect of the Occupation Franchise to b published by the Overseers.**
		No. 1.—General List of Occupier Claims.
		No. 2.—List of Lodger Claimants.
	L.	**Objection Lists to be published by the Overseers, *i.e.*, Lists c Persons objected to when on List of Occupation Voters.**
		No. 1.—List of Persons on Occupiers' List who have bee objected to.
		No. 2.—List of Lodgers objected to.
	M.	DECLARATION for correcting mis-description in Occupiers or ol Lodgers' List.
	N.	**Notice of Withdrawal of Objection.**
		No. 1.—Notice to the Person Objected to.
		No. 2.—Notice to the Overseers.
	O.	**Notice Reviving an Objection.**
		No. 1.—Notice to the Person Objected to.
		2.—Notice to the Overseers.
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