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LECTURES ON SANITARY LAW



LECTURES

ON

SANITARY LAW

BY

A. WYNTER BLYTH

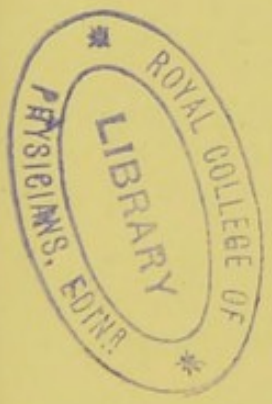
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FELLOW OF THE INSTITUTE OF CHEMISTRY

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PREFACE

The following pages contain twelve lectures on Sanitary Law delivered by the Author at the College of State Medicine as part of the usual course of instruction in Sanitary Science.

They have been collected and published in a belief that they will be useful to those who desire to obtain, in a small compass, a general view of the powers and duties of local authorities in relation to the public health.

In the Appendix are examples of bye-laws relating to offensive trades with other matters, and, since no lecture has been given on the law relating to adulteration, the Statutes specially treating of the inspection and examination of food are also inserted.

The Court House,
St. Marylebone, W., *April* 1893.

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ERRATA

Page 23. In 13th line counting from the bottom omit 'per head.'
„ 40. In 3rd line from bottom the phrase 'at his own expense' occurs twice, omit one of the phrases.
„ 80. In marginal note instead of 'Local Board regulations' *read* 'Local Government Board regulations.'
„ 84. In 7th line from the top of the page *for* 'best' *read* 'better.'
„ 109. In marginal note *for* 'inspected' *read* 'infected.'
„ 138. In 5th line from top *for* 'and so forth and to replace' *read* 'and so forth to replace.'
„ 215. In 13th line from the top *for* 'disease' *read* 'diseases.'

LECTURES ON SANITARY LAW

LECTURE I.

SANITARY DISTRICTS AND AUTHORITIES

For the purposes of Local Government, in relation to health, the British Islands are divided up into administrative districts. In England and Wales the divisions are—Counties governed by County Councils; Urban and Rural Sanitary Districts governed by Urban and Rural Sanitary Authorities. In Ireland, the divisions are Urban and Rural Sanitary Districts, likewise governed by Urban and Rural Sanitary Authorities.

General Scheme of Government in relation to the Public Health—
(1) England and Wales.

(2) Ireland.

In Scotland there are counties governed by County Councils, the counties being divided into districts governed by District Councils. There are also Burghs and Police Burghs, which are governed by bodies analogous to English Urban Sanitary Authorities.

(3) Scotland.

In England and Wales the Local Government Board supervise, to a certain extent, the whole of the Sanitary administration; in Ireland, the Local Government Board for Ireland; in Scotland, the Board of Supervision for the relief of the poor.

For the present we will confine our attention to English Sanitary law (exclusive of the Metropolitan Sanitary law).

Urban Districts.

The Urban Districts in England are either (P.H., 1875, sect. 6) boroughs or Improvement Act Districts or Local Government Board Districts. These terms are defined in Section 4—

> 'A borough means any place, for the time being, subject to an Act to provide for the regulation of Municipal Corporations in England and Wales, 5 and 6 William IV. c. 76.'

An Improvement Act District is a district formed before the passing of the Public Health Act, 1875, having no part of its area within the area of a borough, or of a Local Government District, and governed by commissioners, trustees, or other persons invested by a Local Act, with powers of town government and rating.

'Local Government District' means any area subject to the jurisdiction of a Local Board constituted in pursuance of the Local Government Acts: these were the Local Government Act of 1858 and its amendments, which could be adopted by places of an urban character, and conferred powers of local government, the powers being exercised by a 'Local Board.' Besides these Local Government Board Districts, in existence at the time of passing of the Public Health Act, new districts can be formed under Sections 271 and 272.

Formation of Local Government Districts.

The first of these Sections gives power to the Local Government Board to constitute by order, any rural district, a local government district, in

pursuance of a resolution by owners and rate-payers.

Local Government and Improvement Districts are for our purpose the same thing, viz., districts containing a sufficiently condensed population to be given urban powers of government.

Boroughs.

The boroughs are, for the most part, ancient towns, and in the possession of ancient privileges; not a few, in addition to government by general Sanitary Statute, are also governed by Local Acts; these, not unfrequently, confer sanitary powers in excess of those which are conferred by the Public Health Act.

The governing body itself is, in the boroughs, the Mayor, Aldermen, and Burgesses, acting by the Council.

Improvement Act Districts.

Improvement Act Districts, formed in pursuance of the Towns Improvement Act (10 and 11 Vict. c. 34), are governed by Improvement Commissioners, and Local Government Districts are governed by Local Boards.

Rural Sanitary Authorities.

The Rural Sanitary Districts are governed by Boards of Guardians.

Experience has amply shown that the latter class of bodies is unsuitable; Rural Sanitary Authorities having, as a rule, done little for the improvement of the areas under their charge.

County Councils.

The County Councils have been mentioned as bodies in which some sanitary authority is vested.

Powers of County Councils.

The sanitary powers of County Councils are mainly the following: they may appoint a medical

officer of health, and they are also afforded an opportunity of making a complaint (under Section 299, P.H. 1875), that a sanitary authority is not doing its duty.

The County Councils have also the power to enforce the provisions of the Rivers Pollution Prevention Act.

DEFINITIONS

Before entering upon the details of the Sanitary Law, I think it well to insist upon the importance of the student carefully studying certain definitions of terms in the Sanitary Acts, the more especially, because most of these terms as defined have meanings which are not the same as the ordinary literary or common meaning.

Definition of 'Owner'—(*a*) Under the Public Health Acts.

Owner.—The word 'owner,' under the Public Health Acts, means the person, for the time being, receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account, or as agent or trustee for any other person, or who would so receive the same if such premises were let at a rack-rent.

Hence, in serving a notice to abate a nuisance, it is only necessary to ascertain who receives the rent; if that person be only a rent collector (*i.e.* an agent), yet he is liable. The rent must be the rack-rent, that is, not less than two-thirds of the full net annual value of the property. Hence, the owner of the fee-simple letting land or premises at a nominal rent, such as a peppercorn, does not come within this

definition of owner. (*Evelyn* v. *Wychcord*, E.B. and E. 126; 27 L.J., M.C. 21; 22 J.P. 658.)

The trustees of schools and chapels have been held to be owners.

On the other hand, a receiver, under the Court of Chancery, does not come within the definition. (*Corporation of Bacup* v. *Smith*, 29 Ch. Div. 395, 63 L.T. 195.)

(*b*) Under Part II. Housing of the Working Classes Act.

A different interpretation is given to the word 'owner' in Part II. of the Housing of the Working-Classes Act.

Under that Act the word means any person or corporation who, under the provisions of the Lands Clauses Acts, would be entitled to sell and convey lands, and includes 'all lessees or mortgagees of any premises' required to be dealt with under Part II. of the Housing of the Working-Classes Act, except 'persons holding, or entitled to the rents and profits of such premises, for a term of years, of which twenty-one years do not remain unexpired.'

All the essential meaning of the above may be expressed in a single sentence, *i.e. the owner must have at least a twenty-one years' interest.* So, under Part II. of the quoted Act, the Sanitary Authority may, if they choose, ignore all owners, except the leaseholder or leaseholders, possessing at least a twenty-one years' interest, and, of course, except the freeholder.

Definition of 'House.'

'House' is not defined, but merely the term extended; for 'house' includes schools, also factories,

and other buildings in which persons are employed. It is also evident by implication, that, for a structure to be a 'house,' persons need not reside therein. A church, it is submitted, may be under the Act a house, notwithstanding the decision, in the case of *Angell* v. *the Vestry of Paddington*, which decided that a church was not a house, in the sense that it renders the owner liable for paving expenses under the Metropolitan Management Act, 1862.

Definition of 'building.'

The word 'building' is obviously of much wider significance. Thus, it has been held that a wooden structure on wheels, which had been converted into a butcher's shop, was a 'new building.' (*Richardson* v. *Brown*, 49 J.P. 661.) Other leading cases also show that a structure need have no foundations, but simply rest on the ground, and yet it is to be considered 'a building.' 'Building,' under the Infectious Diseases Notification Act, 1889, applies to ships, vessels, boats, tents, vans, sheds, and other similar structures used for human habitation.

Definition of 'Drain.'

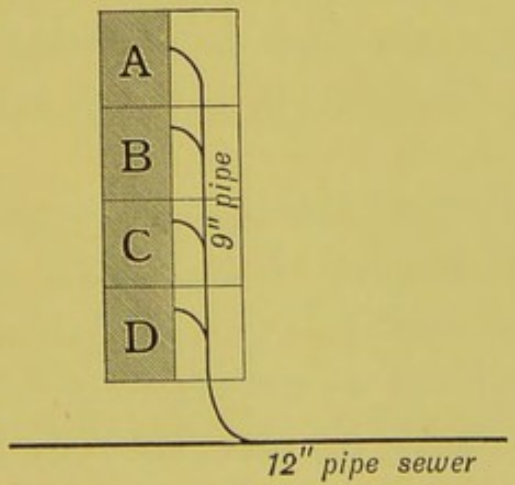
'Drain' means any drain of, and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purposes of communicating therefrom with a cesspool,[1] or other like receptacle for drainage, or with a

[1] *Cesspools.*—According to the model byelaws for new buildings, a cesspool shall be 50 feet from a dwelling, and 60 to 80 feet distant from a well, spring, or stream. It must have no communication with a sewer. The walls and floors must be constructed of good brickwork in cement, rendered inside with cement, and with a backing of at least 9 inches of well-puddled clay around and beneath the brickwork. The top of the cesspool should be arched over, and the cesspool ventilated.

sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed.

'Sewers' include sewers and drains of every description, except drains to which the word 'drain,' interpreted as aforesaid, applies, and except drains vested in, or under the control of, any authority having the management of roads, and not being a local authority under this (*i.e.* P.H. Act, 1875) Act. Definition of 'Sewer.'

This definition it may be well to further explain. Let us suppose a row of cottages (see diagram), A, B, C, D; the cottages drain at the back in such a manner that all the drainage flows into a 9-inch common pipe. This common pipe, in D's premises, contains not alone D's drainage, but all above D, that is to say, the drainage of A, B, and C; in C's premises there will be the drainage of A, B, and C; in B's premises, the drainage of A and B.



It is obvious that, according to the definition, the only portions of this scheme of drainage that can be

called 'drains' are, the drain in A, before the common 9-inch pipe receives B, and the short connecting pieces in B, C, and D; therefore, pretty well the whole of the 9-inch pipe is a sewer, and as such is vested in the Sanitary Authority. Should the pipe become out of order, or get stopped up, a notice to repair, or to unstop, cannot be legally served upon the owner or owners of the cottages, for it is the duty of the Sanitary Authority to maintain and repair all sewers. This view is supported by several leading decisions; take, for example, the case of *Pinnock* v. *Waterworth*, 51 J.P. 248; T.L.R. 563. In this case several houses drained into a common channel some 300 feet in length, which conveyed the sewage into a cesspit; the cesspit overflowed and became a nuisance. It was held that the common channel receiving the sewage was a sewer vested in the local authority, which the local authority was bound to cleanse and maintain, and the owners could not be called upon to abate the nuisance. (See also *Acton Local Board* v. *Batten*, 28 Ch. D. 283; 54 L.J., Ch. 251; 52 L.T. (n.s.), 17; 49 J. P. 357.)

Sewer not necessarily an underground channel.

We usually associate the term 'sewer' with an underground channel of some kind or other, but circumstances may arise in which an open channel, or a much polluted watercourse, may answer to the definition. Thus, it was held by Denman J. that where the sewage of certain houses drained into a sewer, and, after passing through the sewer for several years, fell into an open water-course, and

was in turn received into a brook; under these circumstances the watercourse was a 'sewer.'[1]

Distinction between sewer and drain—

The distinction between 'drain' and 'sewer' just detailed does not hold good in all places and under all circumstances.

(a) Under the Metropolis Local Management Act.

In the Metropolis there is a power given by the Local Management Act to drain, with the sanction of the local authority, a block of houses by a combined operation; *in this case the combined drain remains a drain.*

(b) Under 19th Section of the Public Health Acts Amendment Acts.

So, again, in Urban Districts which have adopted the 19th Section of the Public Health Acts Amendment Acts, the interpretation of 'drain' is a different one. Under that 19th Section, if the houses A, B, C, and D (p. 7) all belonged to the *same owner*, the combined drain would be, as under the Public Health Act, 1875, a sewer; but, if the houses A, B, C, D *belonged to more than one owner*, then the combined drain is a drain repairable at the owners' expense. This amendment of the law appears to the writer confusing, and not likely to work well. As it stands, suppose the owner of

[1] The case of *Meader* v. *The West Cowes Local Board*, Court of Appeal, L.T. vol. 67, n.s. 454, is instructive. A builder, 'Meader,' built ten houses within the Urban District of West Cowes, and drained these houses into a cesspit by a 6-inch pipe, the cesspit itself being about 4 feet wide and 6 feet deep. The overflow from the cesspit was carried off by another line of pipes across the land of a Mr. Ward, without Ward's consent. Ward blocked this overflow pipe up, Meader then commenced an action against the Local Board to force them to abate the nuisance, on the ground that the cesspit was part of a sewer, and therefore within Section 13 and Section 4 of the Public Health Act. The action was tried before Chitty J., who held that the nuisance was caused by the cesspit, that the cesspit was not a part of a sewer within the meaning of the Act, and dismissed the action. On appeal the decision was affirmed.

the four cottages sell one, the ownership of the sewer at once passes to the two owners, viz., the owner of the three and the owner of the one cottage, and the sewer changes into a drain. Which is absurd.

The only other definitions which need special attention are two, under the Canal Boats Act, viz., 'canal' and 'canal boat.'

Definition of 'Canal.'

'"Canal" includes any river, inland navigation, lake or water, being within the body of a county whether it is, or is not, within the ebb or flow of the tide.'

Definition of 'canal boat.'

'"Canal boat" means any vessel, however propelled, which is used for the conveyance of goods along a canal as above defined, and which is not a ship duly registered under the Merchant Shipping Act, 1854, and the Acts amending the same.'

Section 10 of the Canal Boats Act of 1884 still further amends this definition by giving power to the Local Government Board to bring within the definition certain vessels, or classes of vessels, even though they be registered under the Merchant Shipping Act, if it is represented to them by the Sanitary Authority, or any Inspector, that it is desirable to do so.

LECTURE II.

NUISANCE

Nuisances, in a legal sense, admit of the following classification :— Classification of Nuisances.

I. Nuisance at Common Law.

(*a*) Public.
(*b*) Private.
(*c*) Mixed, that is, both public and private.

II. Statutory Nuisances under the Public Health and Sanitary Acts.

It is the latter class of nuisances alone that concern the officers of sanitary authorities ; at the same time, a clear notion should be acquired of the differences between nuisance under the Public Health Act and nuisance under the Common Law :—

I. Nuisance at Common Law.

(*a*) *Public or Common.*

The kind of nuisance under the Common Law, known as 'public,' is better comprehended by example than definition. Examples of acts which Nuisance at Common Law—(*a*) Public or Common.

have been dealt with as public nuisances are—the obstruction of a highway, interference with the navigation of a stream, or diversion or pollution of a waterway; pollution of the air by the smoke and noxious fumes of a factory, exposure of infected persons in the public way, the storage of explosive substances in places likely to be a danger to the public, noise, indecent exposure, and several matters affecting public morals.[1]

An individual has no right of action with regard to a public nuisance unless he can prove special damage.

The proper proceeding is by indictment.

It may now be possible, after the citing of the above examples, to understand the highly-technical definition of public nuisance given in Stephen's *Digest of the Criminal Law* (art. 176) as follows:—

'An act not warranted by law, or an omission to discharge a legal duty, which act or omission obstructs, or causes inconvenience or damage to the public in the exercise of rights common to all Her Majesty's subjects.'

(*b*) Private Nuisance.

(*b*) *Private Nuisance.*

A private nuisance is anything done interfering with the proprietary rights of another in land, but which does not amount to a trespass.

Private nuisances are thus breaches of the maxim

[1] Noxious fumes, exposure of an infected person, and a polluted stream, can all be dealt with under the Sanitary Acts. Also some kinds of noises are dealt with by special legislation, for instance, the Factories (Steam Whistles) Act, 1872, forbids the use of steam whistles or trumpets for the summoning or dismissing workmen, unless the use of such be sanctioned by the Sanitary Authority. The Act does not apply to Scotland.

Sic utere tuo ut aliaenum non laedas. Examples of private nuisances, all taken from actual cases, are the following :—

Special annoyance from smoke, or from noise, such as the noise of a dynamo machine, of steam-hammers, of the rattling of milk cans, and similar matters, have all been considered as an interference with proprietary rights of an owner of land.

(*c*) *Mixed.*

(c) Mixed Nuisances under the Common Law.

It is obvious, from what has been previously stated, that the above, *i.e.* noise, smoke, and so forth, may often belong to both the classes of public and private nuisance, that is to say, that the noise of a steam-hammer may cause inconvenience or damage to the public, in their common right, to enjoy a reasonable amount of quiet possessed by all Her Majesty's subjects; and, on the other hand, a private individual, living close to the locality of the steam-hammer, may be specially affected, and therefore have a right of action.

II. Statutory Nuisances under the Public Health and Sanitary Acts.

Statutory nuisances relating to the Public Health are, as a rule, embraced in the following definition :—

Definition of Nuisance under the Public Health Act.

'A nuisance is something which either actually injures, or is likely to injure, health, and admits of a remedy, either by the individual whose act or omission causes the nuisance, or by the local authority.'

The latter part of the definition is essential, because there are numbers of things which actively injure health, such as conditions of the atmosphere, and others, for which, so far as we know, human ingenuity can find no remedy. On the other hand, the definition does not embrace all cases of nuisance, for example, under the Public Health (London) Act, the absence of certain specified water-fittings is made a nuisance, and a person might have effective water-fittings; fittings, that is, of such a nature that would prevent contamination of his water supply, but yet, under the statute, his good fittings, not being those prescribed, would be technically a nuisance.

The idea of nuisance, in a Public Health Act sense, which the author, in the definition given above, has attempted to formulate, has been elaborated in certain leading cases—cases in which the recurring phrase, 'a nuisance or injurious to health,' has received explanation by decisions in a Superior Court of law.

Great Western Railway Company v. *Bishop.*

In the case of *The Great Western Railway Company* v. *Bishop* a complaint was made under the now repealed Nuisance Removal Act, in which the same phrase occurred; it was then held that the word 'nuisance' must be read in the sense 'injurious to health.'

Had this settled the law, it might have been necessary, in each case properly defended, to prove to the satisfaction of the Court that the nuisance had actually caused injury to health. This is seldom possible.

Bishop Auckland Sanitary Authority v. *Bishop Auckland Iron and Steel Company.*

In a subsequent case this decision was considerably modified. Complaint was made to Justices, under Section 91, P.H., 1875, against the Bishop Auckland Iron and Steel Company by the Sanitary Authority, that an accumulation of cinder refuse gave off smoke and gas so as to cause a nuisance.

The Justices found, as a fact, that the matter was a nuisance, *but not injurious to health.* On appeal, the Superior Court held that, nevertheless, the Justices ought to have convicted, as the nuisance was of a *kind which might be injurious to health,* and it was not necessary to prove in fact it was so.

In the course of the judgment Mr. Justice Stephen said—

'The words in the Section, "nuisance or injurious to health," cannot mean the same as "nuisance injurious to health;" *and the proper way to interpret them is to interpret them in their natural sense, viz., something which interferes with comfort, or is injurious to health.* A man might catch a deadly disease without having been exposed to a nuisance, or there might be a nuisance existing which did not injure his health or affect his comfort.'

'There is the recent case of *Banbury* v. *Page,* which seems to fully bear out the view I take, where, under Section 47, P.H., 1875, the offence of keeping swine, so as to be a nuisance, was held to be complete without any evidence of there being injury to health caused thereby.' (*Bishop Auckland Sanitary Authority* v. *Bishop Auckland Iron and Steel Company,* 52 L.J., M.C. 38.)

There is a danger that the word 'nuisance,' following this decision, should be considered as 'anything which interferes with comfort, or is injurious to health,' but this would, it is submitted, be going further than the judgment warrants.

The real effect of the judgment seems to be this, that the recurring phrase, 'a nuisance or injurious to health,' means that the word 'or' is to be taken disjunctively, and a thing may be a nuisance, that is, any one of the things enumerated specifically in the Act, or it may be positively injurious, or it may be *dangerous* to health.

The last great attempt at Sanitary Legislation, viz., the Public Health (London) Act, makes it clear that future as well as present health is to be taken into account, for the corresponding sentence reads, a 'nuisance or injurious, or *dangerous* to health.'

Houldershaw v. Martin.

This view receives support from the case of *Houldershaw* v. *Martin*. An information had been laid against a fishmonger at Livesedge, near Dewsbury, Yorkshire, for causing a nuisance by the operation of frying fish. The certificate of a medical man, under Sect. 114, P.H., was put in to the effect that the fish-frying was a nuisance. The Magistrates rejected the certificate as insufficient, because the words 'or injurious to health' were not added, and they refused to entertain the complaint. Lord Coleridge said—

'The case was too clear for argument. The medical certificate was clearly sufficient, for the

words of the Act were 'a nuisance or injurious to health," not "and," and there might be a nuisance not injurious to health, or there might be something injurious to health though not a nuisance, so that the certificate was quite sufficient, and, indeed, an indictment under this enactment (if it were an indictable offence) saying that the thing was a "nuisance and injurious to health" would be bad, as being double, and alleging two different offences.'

The case was, therefore, remitted to the Magistrates.

In the Public Health Act, 1875, 'nuisance' is specifically mentioned, and therefore contemplated to arise in connection with the following matters :— Nuisance in connection with—

Section 18. In the destruction, cleansing, or discontinuing of sewers. (a) Sewers.

Section 19. The cleansing, covering, or ventilation of sewers.

Section 27. Works connected with the disposal of sewage. (b) Sewage.

Sections 40, 41. In the construction of drains, water-closets, earth-closets, privies, ash-pits, and cesspools. (c) Construction of drains, closets, ash-pits, and cesspools.

Section 44. In connection with snow, filth, dust, ashes, and rubbish. (d) Snow, filth, dust, ashes, and rubbish.

Section 47. In connection with swine, pigsties, waste, and stagnant water in cellars and dwellings, and with respect to the overflow of the contents of water-closets, privies, and cesspools. (e) Swine, pigsties, and offensive fluids.

Sections 112, 113, and 114. In connection with certain offensive trades. (f) Offensive trades.

The 91st or Nuisance Section Public Health Act, 1875.

The main Section dealing with nuisance is, however, Section 91, which must be considered in detail.

The Section declares that the following are to be deemed 'nuisances':—

Subsection 1. Insanitary Premises.

Subsection 1. '*Any premises in such a state as to be a nuisance or injurious to health.*'

Under this Subsection by far the majority of notices are issued. Examples of the kind of matters which may be included in its scope are—

List of defects which may be dealt with under Subsection 1.

The general state of repair of a building (possibly a house or building so ruinous as to be dangerous to passers-by).

Leaky roofs.

Dampness of the walls or basement of a house.

General dirtiness of walls, staircases, and floors.

Want of light or ventilation, one or both.

Nuisances from the defective paving of yards.

Old rat runs.

Foundations saturated with filth.

Nuisances connected with the water supply—

(*a*) absence.

(*b*) polluted.

(*c*) improper connection with the closet.

Nuisances arising from defective fittings of sinks and closets.

In connected houses, the party walls are not unfrequently defective, and likewise the flues running up party walls are found from time to time to have defective linings. Various odours, and particularly

the gases of combustion, are in such cases likely to filter through. This state of things the writer has always treated as a nuisance under Subsection 1.

A living-room infested with bugs is a nuisance at Common Law, and it probably would be also considered a nuisance under the Public Health Act.

Subsection 2. '*Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ash-pit, so foul or in such a state as to be a nuisance or injurious to health.*'

Subsection 2. Offensive ditches, drains, etc.

The different things mentioned may be dealt with simply because they are offensive, but it may well happen that a watercourse, cesspool, and the other things mentioned, may not be 'foul,' and yet in 'such a state' as to be, in the opinion of the responsible officer, 'injurious to health.'

In connection with this Subsection, the case of *The St. Helens Company* v. *The Corporation of St. Helens* (1 Ex. D. 196; 45 L.J. M.C. 150; 40 J.P. 471; 34 L.T. 397), may be mentioned. The St. Helens Chemical Company discharged chemical refuse by two drains into the public sewer; the one drain conveyed waste hydrochloric acid, the other waste sulphides; the contents of neither drain were offensive taken by themselves, but, when the two liquids mixed in the sewer, the usual chemical reaction took place, and volumes of hydric sulphide gas were evolved. The Justices made an abatement order on the Company at the instance of

St. Helens Company v. *Corporation of St. Helens.*

the Corporation, and the Company appealed; but the Superior Court upheld the order.

It is a debateable point whether the case cited applies to the Public Health Act, 1875, for the proceedings were taken under the Nuisances Removal Act (now repealed), and that Act contained no definition of either 'drain' or 'sewer.'

17th section of the Public Health Acts Amendment Act, providing against chemical refuse and other matters entering the sewers.

It may be useful to make a slight digression at this point, in order to remark that it would be wise for all Urban Sanitary Authorities, having sewers likely to be injured by manufacturing waste liquids, to adopt the 17th Section of the Public Health Acts Amendment Act, 1890, which enacts as follows:—

'Every person who turns or permits to enter into any sewer of a local authority, or any drain communicating therewith—

(*a*) 'Any chemical refuse, or

(*b*) 'Any waste steam, condensing water, heated water, or other liquid, being of a higher temperature than 110° F., which, either *alone or in combination with the sewage,* causes a nuisance, or is dangerous or injurious to health, shall be liable to a penalty not exceeding £10, and to a daily penalty not exceeding £5.'

Subsection 3. Improper Keeping of Animals.

Subsection 3. '*Any animal so kept as to be a nuisance or injurious to health.*'

The best way of regulating the keeping of animals is by bye-laws made in pursuance of powers given under Section 44.

Of all animals the pig is most productive of nuisance, and is specially provided for as regards Urban Districts by Section 47; but horses, cows,

donkeys, dogs, cats, fowls, pigeons, rabbits, and others, are found often under such conditions that call for active interference.

We are also slowly acquiring a knowledge of the part the domestic animal plays as an intermediate host of certain parasites. It is therefore likely that, in the future, much attention will be directed to the conditions under which animals are kept.

Subsection 4. '*Any accumulation or deposit which is a nuisance or injurious to health.*' Subsection 4. Accumulation or Deposits.

This Subsection applies to both Urban and Rural Sanitary Authorities.

By far the most frequent deposit or accumulation to be dealt with is stable manure or dung. This Urban Districts have to specially deal with under the powers conferred by Section 49, which compels an Inspector to give a notice for its removal, and, in the event of the notice not being complied with, the accumulation vests in the Sanitary Authority, and thus the authority becoming the owner must remove. This they may do at the owner's expense. Under the 4th Subsection it will be the duty of the authority to remove accumulations which may arise from natural causes, such, for example, as accumulations of seaweed putrefying and giving rise to offensive odours. See the case of *The Proprietors of the Margate Pier and Harbour* v. *The Town Council of Margate*, 20 L.T. (n.s.) 564; 33 J.P. 437.

Where the accumulation is connected with a business or manufacture, it is expressly provided that no penalty is to be imposed 'if it be proved to the satisfaction of the Court that the accumulation or deposit has not been kept longer than necessary for the purpose of the business or manufactory, and that the best available means have been taken for preventing injury to the public health.'

Therefore, when the accumulation is connected with a particular trade, *e.g.*, a rag-shop, it is of no avail to prove nuisance, unless evidence is also advanced (1) that the rags were kept longer than necessary; (2) that the best available means of storage had not been adopted to secure the 'public' health—that is to say, the health not specially of those engaged in the business, or living on the premises, but persons outside, or in adjacent premises.

Subsection 5. Overcrowding.

Subsection 5. '*Any house or part of a house, or any van, tent, shed, or similar structure used for human habitation, so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family.*'

If the Public Health Act be referred to, it will be observed that the Subsection makes no mention of 'tent, van, or shed,' but the writer has inserted the words 'van, tent, shed, or similar structure,' because Section 9 of the Housing of the Working-

Classes Act, 1885, enacts that the aforesaid words are to form part of Subsection 5.

The student will also note that, for the first time, the words 'dangerous to health' are employed.

A sanitary officer usually takes as his guide, in dealing with overcrowding, the minimum standards laid down by the Local Government Board Bye-laws, viz., 400 cubic feet for rooms in which persons both live and sleep, and 300 cubic feet for rooms solely used for the waking life of the tenants. Such standards are only applicable to rooms with chimneys, and at least the ordinary means of ventilation.

Cubic space, according to the Local Government Board Bye-laws.

Less ample space has received, under certain circumstances, authoritative sanction. The London School Board allow 130 cubic feet to each pupil. The owners of canal boats are to provide 180 cubic feet per head for the after cabin, and 80 cubic feet for the fore cabin; in the latter case, it is to be observed that the waking life of the occupants is mainly spent in the open air, and that at night, save in very cold weather, the cabin doors are seldom fast shut.

Cubic space in London Board Schools.

Cubic space in canal boats.

In the common lodging-houses in London, under police supervision, 240 cubic feet of space and 30 superficial are allotted to each adult over twelve years of age. In workhouse dormitories, also, only 300 cubic feet are taken as a minimum.

Cubic space in London Common Lodging-houses.

Subsection 6.—*Any factory, workshop, or workplace not kept in a cleanly state, or ventilated*

Subsection 6. Factories and Workshops.

in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein, that are a nuisance or injurious to health, or so overcrowded, while work is carried on, so as to be dangerous or injurious to the health of those employed therein.'

It must be specially noted that this Subsection does not apply to a factory, workshop, or workplace under the Factory Acts, 1878, 1891, for the reason, probably, that the 3rd Section of the Factory Act of 1878, as amended by that of 1891, deals with this very subject in the following words:—

'A factory shall not be so overcrowded while work is carried on, so as to be dangerous to, or injurious to the health of, the persons employed therein, and shall be ventilated in such a manner as to render harmless, as far as practicable, all the gases, vapours, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein, that may be injurious to health.'

Subsection 7. Smoke.

Subsection 7.—*'Any fireplace or furnace which does not, as far as practicable, consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, or gaswork, or in any manufacturing or trade process whatsoever, and any chimney (not being the chimney of a private dwelling-house) sending forth black*

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

The smoke subsection deals with three classes of chimneys—(*a*) Manufacturing.

The Subsection contemplates three classes of chimneys, viz., chimneys connected with manufacturing operations.

(*b*) Not manufacturing shafts, and yet not private.

Chimneys not connected with manufacturing operations, but yet not in connection with private dwellings.

(*c*) Exemption of chimneys of private dwellings.

Lastly, the chimneys of private dwellings; these the Act specially exempts. No matter how black, or in what quantity, the smoke evolved from a chimney belonging to a private dwelling, yet it cannot be dealt with under this Subsection.

We therefore have only two cases to consider, viz., the case of chimneys connected with the trades enumerated, or with manufacturing processes gene-

rally, and other chimneys than those of private dwelling-houses.

Chimneys connected with factories.

In the first case there is nothing said about 'black' smoke, and it seems that proof of the blackness, or otherwise, of the smoke need not be considered; but, to get a conviction, it may be necessary to be prepared with evidence as to the construction of the furnace, or, if such furnace is properly constructed, to have evidence as to 'negligence.'

Cooper v. *Woolley.*

The meaning of the phrase 'as far as practicable,' receives elucidation from the case of *Cooper* v. *Woolley*, L.R. 2 Ex. 88; 36 L.J. M.C. 27; 15 L.T. (n.s.) 539. This was a case under a Local Act, but which contained a similar section to that now under consideration. The Magistrate found that the smoke could not be abated without interfering materially with the business, and the furnace was in itself of proper construction. The Court of Exchequer held that the appellant had consumed his smoke as far as possible, and was entitled to remission. These words are not to be construed absolutely, but 'as far as possible consistent with the carrying on the trade for which the furnace is used.'

Chimneys neither connected with factories nor with private dwellings.

We have next to ask what are the chimneys, which are neither connected with manufacturing operations nor with private dwellings, that the Act contemplates? Possibly chimneys connected with fireplaces and furnaces for the purpose of warming public buildings—such as churches, public halls,

and the like. It may also be held that a restaurant comes under this heading.

It is necessary, in this case, to prove the fact alone, viz., that on such and such a day and hour the chimney emitted *black* smoke.

It must also be noted that, under the smoke sections, it is unnecessary to prove anything with regard to health.

It may be convenient to mention here some other powers possessed by Urban Sanitary Authorities with regard to smoke.

Powers as to smoke conferred by other Acts.

Section 171, P.H., 1875, incorporates Section 30 of the Town Police Clauses Act, 1847, imposing a penalty of 10s. for accidentally allowing a chimney to get on fire, and £5 for wilfully setting a chimney on fire.

Locomotive steam-engines used on railways have to consume their own smoke (Railway Clauses Act, 8 and 9 Vict. c. 20); see also Railway Regulation Act, 1868 (31 and 32 Vict. c. 119, sect. 19). So also locomotives and traction-engines on the high road must be so constructed as to consume, as far as practicable, their own smoke (Highways and Locomotives Acts, 1878, 41 and 42 Vict. c. 77, sect. 30).

In the metropolis, and also in many large towns, there are likewise special Acts which deal with smoke. These Acts are local, and their operation is restricted to the limits defined in the Acts.

The smoke enactments do not exhaust the nuisances belonging to Section 91.

The Coal Mines Regulation Act, 1887 (50 and 51 Vict. c. 58, sect. 37) declares that, with regard to the shaft of an abandoned quarry mine, within fifty yards of a path or road in unenclosed land, the shaft not being fenced is to be considered a nuisance under Section 91, P.H., 1875.

Provisions similar in character are contained in the Metalliferous Mines Act, 1872 (35 and 36 Vict. c. 77, sect. 23). Abandoned quarries must also be fenced by the Quarry Fencing Act, 1887.

LECTURE III

SEWERAGE—DRAINAGE

The distinction between drains and sewers has already been explained.

Sewers are vested in local authority with three exceptions.

Existing and future sewers are vested in, and under the control of, the local authority, with three exceptions, viz.—

(1) Sewers made by any person for his own profit, or by any company for the profit of the shareholders, *e.g.*, a sewer made by a landowner for the benefit of his estate, and not yet dedicated to the public.

(2) Sewers made for the purpose of draining, preserving, or improving land, under any local or private Act of Parliament, or for the purpose of irrigating land.

(3) Sewers under the authority of any commissioners of sewers appointed by the Crown (P.H., 1875, sect. 13).

This vesting of sewers does not confer any rights of absolute ownership, but only a modified and limited right ; *e.g.*, the local authority cannot, without reason, stop up a sewer. The vesting gives them an interest in land within the meaning of Section 68 of the Lands Clauses Act, 1845 (per Lord Esher, M.R., *Mayor of Birkenhead* v. *London*

and North-Western Railway Company, 15 Q.B.D., 578 ; 55 L.J. Q.B. 48).

Under the old Acts the local authority was supposed to have only an easement in the subsoil, and this was found inconvenient, hence the above enactment. The ownership is not only the barrel of the sewer, but the whole space enclosed by the barrel (per Jessel, M.R., in *Taylor* v. *the Incorporation of Oldham*, 4 Ch. D.).

Nature of the ownership.

Local authorities may also purchase sewers or otherwise acquire them, *e.g.*, by gift, existing rights being respected (P.H., 1875, sect. 14).

Powers of laying sewers.

Local authorities have extensive powers with regard to laying sewers, for they may carry any sewer through, across, or under any turnpike road or any street, or under any cellar or vault which may be under the pavement or carriage-way of the street, and, after reasonable notice to owner or occupier, 'into, through, or under any lands whatsoever.' For the purpose of distribution of the sewage, or for providing an outfall, they may also carry them outside their own district, and have the same power of entry on lands for the same purpose (P.H., sect. 16). It might be convenient occasionally for a sewer to go through a vault or cellar, but the Act distinctly says *under* and not '*through* ;' hence, if this should be desired, it must be done by arrangement.

The Court of Exchequer Chamber laid it down in the case of *The Earl of Derby* v. *The Bury Commissioners*, 20 L.T. (n.s.) 927, that the necessity for

making a new sewer being ascertained as a matter of fact, it was for the local authority to exercise their judgment in what direction that new sewer should be made through the adjoining lands; and so long as they exercise an honest discretion without misconduct or negligence, they are not liable to have their judgment overruled in a court of law.

Powers of entry for the purpose of making plans and ascertaining the course of sewers and drains are given by Section 305 (P.H., 1875) as follows :— Powers of entry.

'Whenever it becomes necessary for a local authority, or any of their officers, to enter, examine, or lay open any lands or premises for the purpose of making plans, surveying, measuring, taking levels, making, keeping in repair, or examining works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and the owner or occupier of such lands or premises refuses to permit the same to be entered upon, examined, or laid open for the purposes aforesaid, or any of them, the local authority may, after written notice to such owner or occupier, apply to a court of summary jurisdiction for an order authorising the local authority to enter, examine, and lay open the said lands and premises for the purposes aforesaid, or any of them.

'If no sufficient cause is shown against the application, the Court may make an order accordingly, and, on such order being made, the local authority or any of their officers may, at all reasonable times between the hours of nine in the forenoon and six in the afternoon, enter, examine, or lay open the lands or premises mentioned in such order, for such of the said purposes as are therein specified, without being subject to any action or molestation for so doing: Provided that, except in case of emergency, no entry shall be made or works commenced under this section unless at least twenty-four hours' notice of the intended entry, and of the object thereof, be given to the occupier of the premises intended to be entered.'

Limitation of power of entry.

The power given is strictly limited to the subjects definitely mentioned; that is to say, the purposes of preliminary examination in contradistinction to actually making the sewer. Should an authority propose to make a sewer, and the owner or occupier refuse to allow entry upon his private ground, the above section does not give power to apply to a Magistrate for an order. The remedy in such a case appears to be to take the case to a Superior Court. (*Lamacraft* v. *St. Thomas*, R.S.A., 42 L.T. (n.s.) 365, 44 J.P. 441; and also *Wheatcroft* v. *Match Matlock Local Board*, 52 L.T. (n.s.) 356.)

There are four definite duties laid upon Sanitary Authorities with regard to sewers, and a non-performance of these duties is a default under Section 299. These duties are—

Duties of Sanitary Authorities.

(1) To keep all sewers belonging to them in repair (P.H., 1875, sect. 15).

(2) To provide such sewers as may be necessary (*ibid.*).

(3) To so construct, repair, cover, and ventilate their sewers so as not to be a nuisance or injurious to health (*ibid.* sect. 19).

(4) To properly cleanse and empty their sewers (*ibid.*).

Nuisances from sewers or sewage cannot be abated summarily.

A system of sewers or sewage disposal which either actually creates a nuisance, or will probably do so, is usually dealt with by the aggrieved person applying for an injunction, and the principles which guide the Court in such cases have been well ex-

pressed by Malins, V.C., in *Lillywhite* v. *Trimmer* (36 L.J. Ch. 525 ; 16 L.T. n.s. 318).

In that case it was laid down as a settled rule of law that where a work, though of great public importance, can only be effected by interfering with private rights, the private rights must prevail, and the public work must be carried out as best it can without such interference ; but where a great public object is to be attained, such as the drainage of a town, the Court should not unnecessarily put any difficulty in the way of carrying it into effect. He held further that, in considering questions of nuisance, the Court must have regard to the extent of the nuisance and to the balance of convenience, and if the extent of the inconvenience sustained is trifling, and such as may be readily compensated by money, the right of parties creating the nuisance must not be interfered with when the object they seek to obtain is of considerable importance, and that the Court should not interfere by injunction to prevent a nuisance in cases in which the injury was temporary and trifling, though it ought to do so in cases when it was permanent and serious.

Right to drain into sewers.

A sewer once made, the owner or occupier has a right, if he live within the district, to drain into it (P.H., sect. 21). If he live in another district, and he should wish to drain into a sewer belonging to another district, then he may do so by agreement with the authority (*ibid.* sect. 22). He has to give proper notice of his intention, and in each case to

conform to the regulations of the Sanitary Authority in connecting.

A usual regulation is that the connection is to be made by the local authority's own workmen, and that the expense of this work be prepaid by the applicant.

In Urban Districts it is not lawful to erect a building over a sewer without express permission of the local authority; penalty, £5, and for a continuing offence 40s. per day (P.H., 1875, sect. 26).

The enactments, with regard to sewers in the Public Health Acts Amendment Acts, 1890, are only in force in those districts which have adopted that part (Part III.) of the Act. These enactments are, however, of so useful a nature that it will be well for sanitary officers to advise their adoption.

The sections in effect are as follows :—

Additional powers which may be obtained under Public Health Acts Amendment Act.

Section 16 may be adopted by either an Urban or Rural Sanitary Authority, and makes it an offence for any person to throw, or suffer to be thrown, into any sewer or into any drain communicating therewith, any matter or substance by which the free flow of the sewage or storm water may be interfered with, or by which any drain or sewer may be injured.

This section would meet the case in which tenants cast house-rags, scrubbing-brushes, and the like, down closets, with the effect of stopping up a drain. In the same way, the casting into a sewer of dirty snow, a proceeding which has so frequently stopped up sewers, would be an illegal practice.

Section 17 of the Public Health Acts Amendment

Act has already been quoted (*ante*, p. 20). It deals with liquids the chemical characters of which are likely to injure a sewer, and prohibits their entry. It also prohibits water of a high temperature or waste steam entering a sewer, the effect of such hot water or steam being to expand the sewer air, and thus burst ordinary water seals.

Powers of a local authority as to the disposal of sewage.

The Disposal of Sewage—House Drainage.—By Section 27 of the Public Health Act, 1875, any local authority may, for the purpose of receiving, storing, disinfecting, distributing, or otherwise disposing of sewage, construct sewage works within their district, or even without the district, that is, in some other authorities' district, if they conform to certain details of procedure fully set out in Sections 32, 33, and 34, and contract for the use of, or they may purchase, or may take on lease, any land, buildings, or engineering plant within or without their district, and they may also contract to supply any person with sewage for a maximum period of twenty-five years; and they may contract as to the execution and costs of the works necessary, always provided they cause no nuisance. It appears from the case of *Sutton* v. *The Mayor of Norwich* (27 L.J. Ch. 739; 31 L.T. n.s. 389) that this section gives no power to take private lands against the consent of the owner. Hence, in designing sewage works, the land must be acquired or leased by arrangement.

No summary remedy for nuisance from sewage works.

Should sewage works become a nuisance, there is no simple remedy ; that is to say, a notice cannot be served under the nuisance sections of the Public Health Act ; the only method is to take the matter to a Superior Court. In the case of *Reg.* v. *Parlby*, 60 L.T. 422, Wills J. said : 'In our opinion, Sections 91-98 (P.H., 1875) have no application to sewage works constructed under the powers of Section 27. We think the words of Section 91 do not include them, and were not meant to include them. . . . It seems to us incredible that when the Legislature had intrusted the Local Boards with a most difficult and thankless task, involving, perhaps, a cost to the district of tens or even hundreds of thousands of pounds, and taxing the utmost resources of engineering, mechanical art, and engineering skill to set them right, a jurisdiction should be conferred upon two magistrates, with an appeal to a recorder or to a bench of justices at quarter sessions to substitute their judgment of the mode in which, and the cost at which, the mischief should be cured for that of the Local Board and their skilled advisers.'

Other powers as to sewage farms.

There is but little more to be said with regard to sewage disposal. The land acquired or taken on lease for the purposes of sewage disposal may be let out by them on lease to a farmer for the purpose of cultivation for any period not exceeding twenty-five years, or the authorities may farm the lands themselves : briefly, the authority are to do the best they can, and make as much money as they can (Section 29).

Local authorities also have power to agree with any person (the word 'person' including corporations) as to the supply of sewage, and as to works to be made for the purpose of such supply, and may contribute to the expense. They may even become shareholders in a company formed for the purpose of carrying out these purposes. This is not likely to be done by any authority.

Sewage works, as applied to land for agricultural purposes, is an improvement of land within 'the Improvement of Land Act, 1874' (P.H., 1875, sect. 31). Hence the lands taken may be charged with the cost.

House Drainage.—Under the Health Statutes every house, whether in town or country, must have a drain or drains sufficient for effectual drainage, for Section 23, P.H., 1875, provides as follows :—

'Where any house within the district of a local authority is without a drain sufficient for effectual drainage, the local authority shall by written notice require the owner or occupier of such house, within a reasonable time therein specified, to make a covered drain or drains emptying into any sewer which the authority are entitled to use, and which is not more than 100 feet from the site of such house ; but, if no such means of drainage are within that distance, then emptying into such covered cesspool, or other place not being under any house as the local authority direct, and the local authority may require any such drain or drains to be of such materials and size, and to be laid at such level and with such fall as on the report of their surveyor may appear to them to be necessary. If such notice is not complied with, the local authority may, after the expiration of the time specified in the notice, do the work required,

and may recover in a summary manner the expenses incurred by them in so doing from the owner, or may by order declare them to be private improvement expenses:

'Provided that where, in the opinion of the local authority, greater expense would be incurred in causing the drains of two or more houses to empty into an existing sewer pursuant to the section, than in constructing a new sewer, and causing such drains to empty therein, the local authority may construct such new sewer, and require the owners or occupiers of such houses to cause their drains to empty therein, and may apportion, as they deem just, the expenses of the construction of such sewer among the owners of the several houses, and recover in a summary manner the sums apportioned from such owners, or may by order declare the same to be private improvement expenses.'

What is 'effectual drainage'?

One of the first questions with regard to the interpretation of this section is, What is effectual drainage?

The owner of twelve houses drained them into a disused coal-pit, and the Local Board desired to compel the owner to drain into one of their sewers which were within 100 feet, but they were advised, and I think rightly so, that this was not within the power of the Board.

It may, however, be stated generally that the local authority is constituted the judge of what is effectual drainage. In many cases the drainage, so far as the premises are concerned, is effectual, but the drainage is carried to some place where it becomes a nuisance, to be dealt with as such under Section 91.

Occupier at Common Law liable for repair of drains.

At Common Law the occupier is *prima facie* liable to the repair of drains. Where, therefore, a declaration stated the defendant to be the owner and

proprietor of divers drains and sewers, but neither alleged that he was in occupation of the premises, nor showed the reason of his liability, the Court held the declaration bad on general demurrer. (*Russell* v. *Shenton*, 11 L.J. Q.B. n.s. 289; *Alston* v. *Grant*, 3 E. and Bl. 128; *Cawkwell* v. *Russell*, 26 L.J. Ex. 35.)

This idea has been in no way followed by local authorities, and although the law permits a local authority to serve the notice on either 'owner' or 'occupier,' the practice is mostly to serve a notice for either the repair of old, or the construction of new, drains on the 'owner.' New drains certainly are structures of the nature of permanent improvements, and, looked at in a common-sense way, drainage generally should be a matter for the owner.

What is the meaning of 'site'?

Another practical question arises as to the meaning of the word 'site.' If by 'site' is meant the ground on which the house stands, together with any ground enclosed by the fence wall of the house, the measurement would then be up to the nearest fence wall, and, in the case of houses surrounded by extensive grounds, much more than 100 feet would be compulsory.

This could scarcely be the intention of the Legislature, and the generally accepted definition is that 'site' means the ground on which the house actually stands, and does not include any surrounding land; hence the 100 feet will be measured from the sewer to the nearest wall of the house.

Size and materials of pipes.

The materials and size of the pipes are matters entirely to be regulated by the local authority. In the case in which a local authority ordered 'stone-ware pipes of the best quality,' and, contrary to the notice, Aylesford pipes were laid down, the local authority proceeded to remove them, on the ground that they were not stone-ware pipes. Stuart, V.C., held that it was for the local authority to determine the question, and refused an injunction. The decision was confirmed on appeal. (*Austen* v. *The Vestry of Lambeth*, 4 Jur. n.s. 274.)

Hence the local authority has power to order iron, or stone-ware, or any other kind of pipe; they have also power to regulate the size, the fall, and the level; in short, according to the section, there are four matters with regard to drains under the control of the local authority, viz., materials, size, fall, level.

Alterations in the course of sewers

It frequently happens that alterations in the course of sewers are necessary; a sewer in a growing district may not be adapted to the general system, and the authority may desire to do away with it, and to cause the drains of the houses draining into the particular sewer to drain into some other sewer. If the house drains draining into the sewer are defective, I think there is little doubt but that the local authority may compel the owner at his own expense to drain into the new sewer at his own expense, and to cut off his drainage from the sewer which it is proposed to abolish; but, if the

drain in question is sufficient for the effectual drainage of the house, the whole expense of the diversion falls on the local authority, and they may do the work. Section 24, P.H., 1875.

New houses must be properly drained.

Section 25 of the same Act makes it illegal to erect any house in an Urban District, or to rebuild a house which has been pulled to or below the ground-floor, without having a drain to the satisfaction of the surveyor communicating with the sewer, if within the statutory distance (100 feet), or, if there is no sewer, then into a covered cesspool 'or other place, not being under a house,' as the urban authority direct, penalty for default being £50, or less. It is also declared to be unlawful to occupy a house erected or rebuilt without a drain, but the Section provides no penalty for such occupation.

A duty, as before stated, is laid on the authority by Section 40, to see that all drains within their district are in such a state as not to be a nuisance, but, unlike the powers possessed by Metropolitan Authorities, they have no right to uncover and examine a drain unless there is a *written* complaint. Section 41 enacting :—

Power to examine drains.

'On the *written* application of any person to a local authority, stating that any drain, water-closet, earth-closet, privy, ash-pit, or cesspool on or belonging to any premises within their district, is a nuisance, or injurious to health (*but not otherwise*), the local authority may by writing empower their surveyor or inspector of nuisances, after twenty-four hours' written notice to the occupier of such premises, or, in case of emergency without notice, to enter such premises with or without assistants, and

cause the ground to be opened, and examine such drain, water-closet, earth-closet, privy, ash-pit, or cesspool. If the drain, water-closet, earth-closet, privy, ash-pit, or cesspool, on examination is found to be in a proper condition, he shall cause the ground to be closed, and any damage done to be made good as soon as can be, and the expenses of the work shall be defrayed by the local authority. If the drain, water-closet, earth-closet, privy, ash-pit, or cesspool, on examination appear to be in bad condition, or to require alteration or amendment, the local authority shall forthwith cause notice in writing to be given to the owner or occupier of the premises, requiring him forthwith, or within a reasonable time therein specified, to do the necessary works; and, if such notice is not complied with, the person to whom it is given shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default; and the local authority may, if they think fit, execute such works, and may recover, in a summary manner from the owner, the expenses incurred by them in so doing, or may by order declare the same to be private improvement expenses.'

Connection between sewer and house drain.

The communication of the drain with the sewer is most properly done by the local authority, and, in the majority of urban districts, this is the custom. Local authorities may also adopt the 18th Section of the Public Health Acts Amendment Act, 1890, which expressly sanctions the authority making the connection. It is also enacted (*ibid.* subs. 3), 'that a local authority may agree with the owner of any premises that any sewer or drain which such owner is required or desires to make, alter, or enlarge, or any part of such sewer or drain, shall be made, altered, or enlarged by the local authority.'

There are, of course, advantages to the individual if the local authority care to adopt the course of making private drains, for the drainage will be then

constructed at the cost price of materials and of labour, but any extensive use of such powers would interfere with legitimate enterprise, and such occupations as that of the sanitary engineer and expert, besides which, if once the local authorities begin to do what has always been considered private work, it is difficult to say where the system is to end.

LECTURE IV.

WATER

General powers possessed by local authorities as to the supply of water.

The vesting of gratuitous supplies of water in the local authority.

JUST as sewers vest in an authority, so do all existing *public* cisterns, pumps, wells, reservoirs, conduits, aqueducts and works used for the *gratuitous* supply of water, and the authority may, if they choose, cause the same to be maintained 'and plentifully supplied with pure and wholesome water,' or may substitute or maintain other such works equally convenient, they may also, *in the absence of a water company, or with the company's consent*, construct such works for the gratuitous supply of water (Sect. 64 P.H., 1875).

Power as to water-mains.

Similar again to the case of sewers, local authorities have the same powers, and are subject to the same restrictions, for carrying water-mains within or without their district as if the mains were sewers (P.H., 1875, sect. 54).

It is provided by Section 51, P.H., 1875 :—

Local authorities, urban or rural, may under certain circumstances provide a water supply.

'Any urban authority may provide their district or any part thereof, and any rural authority may provide their district or any contributory place therein, or any part of any such contributory place, with a supply of water proper and sufficient for

public and private purposes, and for those purposes, or any of them, may—

(1) 'Construct and maintain waterworks, dig wells, and do any other necessary acts; and

(2) 'Take on lease or hire any waterworks, and, with the sanction of the Local Government Board, purchase any waterworks or any water, or right to take or convey water, either within or without their district, and any rights, powers, and privileges of any water company, and

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

These powers are not, however, to be exercised, if a water company under statutory sanction exists, and the water company is 'able and willing to supply water sufficient for all reasonable purposes for which it is required by the local authority' (P.H., sect. 52, 1875.)

It will be noted that the word 'may,' and not 'shall,' is used, hence the reader naturally concludes that the section is only permissive, but a reference to Section 299 shows that although 'may' in its primary sense is only permissive and enabling; yet, if wholesome water is really required and can be procured, and the authority does not procure it, the 'may' becomes 'shall;' for Section 299, P.H. Act, 1875, distinctly states that where

For the word 'may' in Section 51, the word 'shall' under certain circumstances should be read.

'complaint is made to the Local Government Board that a local authority has made default . . . in providing their district with a supply of water, in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water and a proper supply can be got at a reasonable cost, . . . the Local Government Board, if satisfied after due inquiry that the authority has been guilty of the alleged default, shall make an order

limiting a time for the performance of their duty in the matter of such complaint.'

This order may be enforced by *mandamus*, or the Local Government Board may appoint some person to carry the duty out, and by order levy expenses and costs on the defaulting authority. The order for expenses may be enforced by Queen's Bench.

Meaning of the word 'waterworks.'

The ordinary meaning of the word 'waterworks' is a collecting and distributing station with suitable appliances for the supply of water, but the word in the Act means much more, for it includes

'Streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines, and all machinery, lands, buildings, and things for supplying or used for supplying water, also the stock-in-trade of any water company.'

The Waterworks Clauses Act, 1863, and certain provisions of the Waterworks Clauses Act, 1847, are incorporated with the Public Health Act, 1875.

Waterworks Clauses Act, 1863.

The Waterworks Clauses Act, 1863, is an Act which consolidates the usual provisions inserted in Acts relating to waterworks, and deals with a number of details relating—to the supply of water, as to meters, the power to cut off water in certain cases, and it provides penalties for waste, for negligence in repair of pipes, for unauthorised extension or alteration of pipes, and so forth.

Waterworks Clauses Act, 1847.

The older Water Act of 1847 is also an Act of similar character to that of 1863, that is, it consolidates the provisions usually inserted in Water Companies' Acts; the sections incorporated are

Sections 28 to 74. The more important of these sections relate to the laying down of the communication or service pipes, power for this purpose being given on certain conditions both to undertakers and owners, there are also provisions with respect to waste or misuse, and as to fouling the water.

The supply of water to dwelling-houses.

Urban authorities have somewhat less power to enforce a supply of water than rural authorities, for the latter have the advantage of the Public Health (Water) Act, 1878, an Act not in force in Urban Districts, unless by Order of the Local Government Board, an Urban Sanitary Authority has been invested with the power and duties of the Act (P.H. (Water) Act, 1878, sect 11.)

Section 62 of P.H., 1875 enacts :—

In both Urban and Rural Districts if a supply is available, and not too dear, the local authority is to give notice to the owner to obtain such supply.

'Where, on the report of the surveyor of a local authority, it appears to such authority that any house within their district is without a proper supply of water, and that such a supply of water can be *furnished thereto* at a cost not exceeding the water-rate authorised by any local Act within the district, or where there is not any local Act so in force, at a cost not exceeding twopence a week, or at such other cost as the Local Government Board may, on the application of the local authority, determine under all the circumstances of the case to be reasonable, the local authority shall give notice in writing to the owner requiring him, within a time therein specified, to obtain such supply, and to do all such works as may be necessary for that purpose. If such notice is not complied with, within the time specified, the local authority may, if they think fit, do such works and obtain such supply, and for that purpose may enter into any contract with any water company supplying water within their district, and water-rates may be made and levied

on the premises by the authority or company which furnishes the supply and may be recovered, as if the owner or occupier of the premises had demanded a supply of water and were willing to pay water-rates for the same, and any expenses incurred by the local authority in doing any such works may be recovered in a summary manner from the owner of the premises, or may, by order of the local authority, be declared to be private improvement expenses.'

The section applicable mainly to towns and not to villages or country places.

This section is in force both in Urban and Rural Sanitary Authorities, but in its operation it is mainly confined to Urban Districts, because the words 'furnished thereto,' taken with the latter end of the section, providing that water-rates may be made or levied on the premises 'by the authority or company which furnishes the supply,' evidently only refer to a supply from water-mains, and are not applicable to a well or wells.

A far more comprehensive power is given to Rural Sanitary Authorities by Section 3 of the Public Health (Water) Act, 1878 : a section applicable also to urban authorities as before stated by Order of the Local Government Board.

The section states :

Duty of Rural Sanitary Authorities to see that all houses within their district are supplied with water.

'It shall be the duty of every Rural Sanitary Authority, regard being had to the provisions in this Act contained, to see that every occupied dwelling-house within their district has, within a reasonable distance, an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the house.

Procedure to compel owners of occupied houses to provide a supply.

'Where it appears to a Rural Sanitary Authority, on the report of their inspector of nuisances, or their medical officer of health, that any occupied dwelling-house within their district has not such supply within a reasonable distance, and the authority are of opinion that such supply can be provided at a reasonable cost

not exceeding a capital sum the interest on which at the rate of five per centum per annum would amount to twopence per week,[1] or at such other cost not exceeding a capital sum, the interest on which, at the rate of five per centum per annum, would amount to threepence per week,[2] as the Local Government Board may, on the application of the local authority, determine under all the circumstances of the case to be reasonable, and that the expense of providing the supply ought to be paid by the owner, or defrayed as private improvement expenses, proceedings may be taken as follows :'—

The proceedings are next detailed. Put briefly they are, first, a notice to the owner, which notice is set forth in the schedule as follows :—

Form of first notice.

To the owner of the house occupied by [*here name of occupier*], and situated at within the district of

Whereas, it appears to the above-named local authority, on the report of their medical officer of health, or inspector of nuisances as the case may be, that the said house has not within a reasonable distance an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the house, by reason of the existing supply not being wholesome or sufficient, or within a reasonable distance, as the case may be, and that the requisite supply can be provided at a reasonable cost: and whereas the said local authority are of opinion that such supply ought to be provided at your expense as the owner of the said house, or defrayed as private improvement expenses.

Now therefore, we, the said local authority, in pursuance of the Public Health (Water) Act, 1878, do hereby require you to provide an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the said house within a reasonable distance from such house, and to do all such works as may be necessary for

[1] That is, £8, 13s. 4d. [2] That is, £13.

that purpose within [*here state the time, which must be within six months*] from the date of the service hereof

Dated this day of 18

(Signed)

Clerk to the said Authority.

Should the owner not comply with the first notice, a second notice, in the following form, is served upon him :—

Form of second and final notice.

To the owner of the house occupied [*here name of occupier*] and situated at within the district of [*describe the local authority*]

Whereas, on the day of , the above-named local authority, in pursuance of the Public Health (Water) Act, 1878, served on you a notice, bearing date the day of , requiring you as the owner of the said house to provide an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the said house, within a reasonable distance from such house, and to do all such works as might be necessary for that purpose within [*state the time given in first notice*], from the date of the service of such notice : And whereas the said notice has not been complied with, now therefore we, the said local authority, do hereby give you notice that if the requirements of the said first notice, dated the day of , are not complied with, within one month from the date of the service hereof, we [*describe local authority*] will ourselves provide a supply of water for the said house, and do all necessary works for that purpose, and that the cost which may be incurred therein will be recovered from you summarily, or be recovered as private improvement expenses.

Dated this day of 18

(Signed)

Clerk to the said Authority.

What may be done on failure of owner to comply with the second notice.

The second notice not having been complied with, the authority may themselves provide the supply, and for that purpose have the powers of entry under

P.H., 1875, sections 102, 103; the expenses as stated in the notice are either recovered summarily, or they are declared to be private improvement expenses. If two or more houses are without a supply, and the owners have failed to provide the supply after the two notices, the local authority need not supply each house, but, if they think it desirable, may give a joint supply.

Objections which may be raised by owner.

The owner of a house without a supply of water has ample power of objection to the authorities' notices. Section 4 of P.H. (Water) Act suggests to the owner no less than five objections, any or all of which he may embody in a 'memorial,' within twenty-one days after the service of the second notice.

The objections shortly are—

(1) That the supply is not required.

(2) That insufficient time has been given.

(3) That it is not practicable to supply at a reasonable cost.

(4) That the authority ought themselves to provide a supply of water for the district or contributory place in which the house is situate, or to render the existing supply of water wholesome.

(5) That the whole or part of the expense should be a charge on the district or contributory place.

The memorial stops action, and the authority are not permitted to proceed with the works, until they have obtained a Magistrate's order with regard to any of *the first three objections.*

Fourth and fifth objection involves consulting Local Government Board.

The fourth objection is equivalent to a charge, or complaint of default, under the 299th Section of P.H. Act, 1875, and hence if the fourth or the fifth, or both objections, are contained in the memorial, a copy is to be forwarded to the Local Government Board, who may either cancel the requirements of the authority, or confirm the same with or without modifications.

If the Local Government Board cancel on the ground that the local authority ought to have provided a supply, the Board after due inquiry will, of course, make their order on the authority enforcing the same by mandamus if necessary.

It is evident that, with an obstinate owner, a supply of water to a house cannot be provided within a reasonable time; for instance, if the local authority give a month's notice in the first place, then serve the second notice in which they are obliged to give another month, and the owner, within twenty-one days after receipt of the second notice, lodges a memorial: although it may be found that the owner has no substantial ground for objecting, yet no supply will be actually given to the house within a period of three months, or more likely six or even nine months.

When we come to metropolitan sanitary law we shall find there more simple, drastic, and effectual proper remedies, for a house in the metropolis without a supply of water is declared unfit for habitation and can be closed.

New houses, or those which have been rebuilt in

the country cannot be occupied unless the sanitary authority has certified that 'within a reasonable distance' there is available a sufficient supply of wholesome water.

New houses in the country must be certified to have a water supply before occupation.

If the sanitary authority refuse to grant such certificate the owner may apply to a court of summary jurisdiction and summon the authority, and if the Court after hearing both sides is of opinion that the certificate ought to have been granted, the Court may make an order authorising the occupation of the house (P.H. (Water) Act, 1878, sect. 6).

Some of the results of rural sanitary law as regards water are curious: for instance, as pointed out by Dr. Thresh, in a paper read before the Society of Medical Officers of Health (*Public Health*, vol. iv. 134), supposing there is a cottage, old it may be, and not really quite fit for habitation, although not bad enough to condemn, without a supply of water, and a supply cannot be enforced because the expense of obtaining it would be beyond what is laid down in the statute, and the owner build for the tenants a new house close to the old, the new house cannot be inhabited, because no certificate of water can be given, yet the same people may go on living in the old cottage under much worse conditions than the new. In certain cases, the section may therefore prevent the improvement of dwellings.

Protection of Water from Pollution.

Pollution of water by gas or gas washings.

There are some stringent enactments with regard to the pollution of water by gas; but this so rarely

happens that practically little use is made of the enactments. Section 68 P.H., 1875, enacts that any person engaged in the manufacture of gas who 'causes or suffers to be brought, or to flow into any stream,' etc., any washing or other substance produced in making or supplying gas, or wilfully does any act connected with the making or supplying of gas, whereby the water in any such stream, reservoir, etc., is fouled, is to forfeit for every offence £200; and, further, there is a continuing penalty of £20 per day. Sections 62-66 of the Waterworks Clauses Act, 1847, contain similar provisions, as also the Gas Works Clauses Act, 1847, sect. 51.

There is a case on record in which, owing to subsidence from the working of a mine, a gas tank leaked and polluted water in a person's well. The company were held liable. (*Hipkins* v. *The Birmingham and Staffordshire Gas Company*, 24 J.P. 438.) In the author's experience water has been polluted by leaky service-pipes in proximity to leaky gas service-pipes, but such an occurrence would not come within the above provisions.

Pollution of drinking water.

The chief working section, with regard to the pollution of drinking water, is Section 70, P.H., 1875, which provides that—

> 'On the representation of any person to any local authority that within their district the water in any well, tank, or cistern, public or private, or supplied from any public pump, and used, or likely to be used, by man for drinking or domestic purposes, or for manufacturing drinks for the use of man is so polluted as to be injurious to health, such authority may apply to a court of summary jurisdiction for an order to remedy the same.'

If your neighbour has a well some 20 feet deep, and you sink a well at a deeper level and deprive him of water, he has no redress, because there is no property in underground water flowing in indefinite channels.

Ballard v. *Tomlinson*

On the other hand, the case of *Ballard* v. *Tomlinson*, 59 L.T. (n.s.) 942, shows clearly that, if any person pollutes underground water so that a well is fouled, there is a right of action ; it is also an offence under the Public Health Act. In the case quoted the plaintiff and defendant were adjoining landowners : each had a deep well, the plaintiff's well being lower than the defendant's. The defendant used his well as a cesspit, and polluted the underground water which supplied the defendant's well. The Court of Appeal held that the plaintiff had a right of action against the defendant for so polluting his source of supply, although, until the plaintiff had appropriated it, he had no property in the percolating water under his land, and although he appropriated such water by the artificial means of pumping.

The Prevention of Pollution of Streams.

Local authorities can protect 'watercourses' under Public Health Act, 1875.

Any local authority, with the sanction of the Attorney-General, may take proceedings by indictment in Chancery 'for the purpose of protecting *any watercourse* within their jurisdiction from pollutions arising from sewage either within or without their district' (P.H., 1875 sect., 69). Note the word 'watercourse.' A watercourse may be

natural or artificial, but it must have a definite channel. *R.* v. *Inhabitants of Oxfordshire*, 1 B. and Ad. 301. Local authorities can also make use of the Rivers Pollution Prevention Act of 1876, but so little have local authorities availed themselves of the powers of the last-mentioned Act that Parliament in 1888 (Local Government Act, 1888, sect. 14) conferred on the County Councils the power of putting the Act in motion. Section 14 of the statute quoted states that a 'County Council shall have power, in addition to any other authority, to enforce the provisions of the Rivers Pollution Act, 1876, in relation to so much of any stream as is situate within, or passes through or by any part of their county, and for that purpose they shall have the same powers and duties as if they were a sanitary authority within the meaning of that Act, or any other authority having power to enforce the provisions of that Act, and the county were their district.'

Rivers Pollution Prevention Act.

County Councils and the Rivers Pollution Prevention Act.

County Councils can also contribute towards the costs of any prosecution under the Rivers Pollution Prevention Act instituted by any other County Council or by any Urban or Rural Authority. A joint committee may be made by Provisional Order, on application by the County Council, of any of the Counties concerned to the Local Government Board (*ibid.* sect. 14). It is hardly necessary to observe that the Act points out, in the plainest language, that the powers of the County Council are only in addition to, and not in substitution of, the powers of

Joint Committees for protection of streams.

the local authority, so that the authority are not relieved of any moral or legal duties they may have under the Rivers Pollution Act.

The Rivers Pollution Prevention Act, 1876, 39 and 40 Vict. c. 75, attempts to deal with three kinds of pollution—(1) Solid matters, (2) Sewage, (3) Manufacturing and mining pollutions.

Solid matters.

With regard to solid matters, it is an offence against the statute to put into the stream the solid refuse of any manufactory, manufacturing process, or quarry, or any rubbish or cinders, or any other waste, or putrid solid matter, so as to pollute the water or interfere 'with its due flow.' There are, therefore, here two leading ideas, viz., to prevent physical obstruction to the flow of a stream, and, secondly, to prevent such matters as dead dogs, cats, or garbage being thrown in, which, although not obstructing the course of the stream, yet pollute the water.

Sewage.

The section dealing with sewage, from a health point of view, is the more important; it reads as follows :—

'Every person who causes to fall or flow, or knowingly permits to fall or flow, or to be carried into any stream any solid or liquid sewage matter, shall (subject as in this Act mentioned) be deemed to have committed an offence against this Act.

'Where any sewage matter falls or flows, or is carried into any stream along a channel used, constructed, or in process of construction at the date of the passing of this Act, for the purpose of conveying such sewage matter, the person causing, or knowingly permitting, the sewage matter so to fall or flow, or to be carried, shall not be deemed to have committed an

offence against this Act if he shows, to the satisfaction of the Court having cognisance of the case, that he is using the best practicable and available means to render harmless the sewage matter so falling or flowing or carried into the stream.

'Where the Local Government Board are satisfied, after local inquiry, that further time ought to be granted to any sanitary authority which, at the date of the passing of this Act, is discharging sewage matter into any stream, or permitting it to be so discharged, by any such channel as aforesaid, for the purpose of enabling such authority to adopt the best practicable and available means for rendering harmless such sewage matter, the Local Government Board may by order declare that this section shall not, so far as regards the discharge of sewage matter by such channel, be in operation until the expiration of a period to be limited in the Order.

'Any order made under this section may be from time to time renewed by the Local Government Board, subject to such conditions, if any, as they may see fit.

'A person other than a sanitary authority shall not be guilty of an offence under this section, in respect of the passing of sewage matter along a drain communicating with any sewer belonging to, or under the control of, any sanitary authority, provided he has the sanction of the sanitary authority for so doing' (Section 3).

Stress, in a previous lecture, has been laid upon the necessity of attending closely to the definitions of any term used in an Act of Parliament. There is a definition of the word 'stream' in the 20th Section, so that, to properly understand the full effect of the quoted 3rd Section, it will be necessary to turn to the 20th Section; there we find that

Definition of 'stream.'

'"Stream" includes the sea to such extent, and tidal waters to such point, as may, after local inquiry, and on sanitary grounds, be determined by the Local Government Board, by order published in the *London Gazette*, save as aforesaid it includes

rivers, streams, canals, lakes, and watercourses, other than watercourses at the passing of this Act mainly used as sewers, and emptying directly into the sea, or tidal waters which have not been determined to be streams within the meaning of this Act by such order as aforesaid.'

Power is therefore given to the Local Government Board to determine how far the Rivers Pollution Act may be applied either to the tidal portion of a river or to a portion of the sea, and a local authority will have no power to prevent sewage passing into tidal waters or into the sea until it has been determined by the Board as to whether such water is to be included within the term 'stream.' According to the definition of 'stream,' a watercourse which is so excessively polluted with sewage as to be virtually a sewer is exempted from the operation of the Act —a serious exemption; nevertheless, as most watercourses flow into larger streams, they may be dealt with if they pollute such larger streams, for, in the interesting Scotch case of the *Magistrates of Portobello* v. *The Magistrates of Edinburgh* (10 Court of Session Cas. 4th ser. 130) it was held that where a tributary stream 'mainly used as a sewer' joined another stream 'not used as a sewer' and polluted it, the pollution of the larger stream must be prevented. On the other hand, it is tolerably clear that if a watercourse 'mainly used as a sewer' flow into tidal water or into the sea, such pollution is exempt from the operation of the Act, unless the Local Government Board have declared such tidal water, or the portion of the sea into which the

Portobello v. Edinburgh.

sewage flows, to come within the definition of 'stream.'

Best practicable and available means.

The words, in the third section, 'the best practicable and available means,' afford a convenient loophole through which a local authority may escape from its obligations. The Act, however, appears to make the Local Government Board the sole judge as to this, for the 12th Section states that the certificate 'granted by an inspector of proper qualifications,' appointed by the Local Government Board, to the effect that the best practicable means are being adopted, 'shall in all Courts, and in all proceedings under this Act, be conclusive evidence of the fact.'

Power to deal with isolated pollutions of a stream which in the aggregate constitute a 'nuisance.'

Section 255 Public Health Act, 1875, gives power to proceed with regard to nuisance wholly or partially caused by two or more persons, any one or more of those persons 'may be prohibited from continuing any acts or defaults, which, in the opinion of such court, contribute to such nuisance, or may be fined or otherwise punished, notwithstanding that the acts or defaults of any one of such persons would not separately have caused a nuisance.' This power is specially applicable to the pollution of a stream. Supposing a stream is polluted successively by the drainage of a single cottage, a farmhouse, a hamlet, and a village; although the drainage of the cottage may, considering the volume of the stream into which it flows, be trifling, and the pollution in point of magnitude in no way comparable to that contributed by the

village, a sanitary authority can proceed against the cottage first, or at the same time as against the other offenders.

Mining and Manufacturing Pollutions.

Proceedings relating to pollutions from factories and mines only to be taken by consent of Local Government Board and by the Sanitary Authority.

The Rivers Pollution Act deals tenderly and gingerly with pollutions produced by various kinds of industries. Proceedings against such cannot be taken by private individuals under the Act, but only by either the local or the county authority, 'nor shall any such proceedings be taken without the consent of the Local Government Board' (Section 6). The person against whom proceedings are proposed to be taken has a right to be heard by the local authority, he can demand to be heard, and although the consent of the Local Government Board may have been given to the prosecution, yet, after hearing the person, his agents, and witnesses, and having regard to the industrial interests involved in the case, the circumstances, and the requirements of the locality, the sanitary authority may determine whether such proceedings shall or shall not be taken. If any sanitary authority has taken proceedings, this bars other sanitary authorities prosecuting, unless the offender has failed within a reasonable time to carry out the order of any competent court (Section 6).

Factories.

The pollutions dealt with are with regard to *factories and manufacturing processes*—Poisonous, noxious, or polluting liquids, (*a*) Getting into a stream by any means, such, *e.g.*, by general soakage,

or thrown in, (*b*) by a definite channel, such, *e.g.*, as a drain (Section 4). The words 'poisonous, noxious, and polluting' are presumed to have distinct meanings, but are not further defined; arsenical water without doubt would be poisonous, bleaching liquid, or the acid liquor from tin-plate works, might also be considered poisonous, and it would be difficult to say whether 'noxious' can be really distinguished from poisonous, save that it possibly means a lower degree of toxicity; 'polluting' may be filthy effluents wholly liquid, or an effluent with a large amount of solid matters in suspension, as 'solid matter' in suspension is not to be considered, according to Section 20, 'solid matter,' it follows that it is to be considered as if it were in solution, and it is submitted, therefore, that an effluent from a factory containing much suspended matter is a 'polluting' liquid.

Poisonous, noxious, and polluting.

When the effluents from a factory are conveyed in a channel 'used, constructed, or in process of construction at the date of the passing of the Act, or any new channel constructed in substitution thereof, and having its outfall at the same spot,' provided it is shown that the best 'practicable and reasonably available means' to render the liquid harmless is used, no offence is committed (Section 4); in the corresponding section against pollution by sewage (Section 3), the word 'reasonably' is omitted, and the Act simply states 'the best practicable and available means,' hence the manufacturer is only expected to do what may be

Exemption, under certain circumstance, of 'effluents' flowing in definite channels.

reasonably expected of him, and although this does not answer the purpose, no conviction will be obtained.

Next, with regard to mines, the Act deals with 'solid matters' in such quantities as to *prejudicially* interfere with the due flow of the stream (Section 5). Mines.

Poisonous, noxious, or polluting solid or liquid matters, 'other than water in the same condition as that in which it has been drained or raised from such mine' (Section 5).

Hence a stream may have its course diverted, or its flow much interfered with, yet, if no one is 'prejudiced,' there is no offence against the Act.

As for the exemption as to poisonous liquids from mines, it appears to me to allow any acid or arsenical liquid to be pumped from a mine that a miner pleases, for, so long as he can show that such acid or arsenical liquor is the natural drainage water of the mine, he apparently is safe from a conviction. The same section (Section 5) also gives him power to show that he is using 'the best practicable and reasonably available means.'

LECTURE V.

SANITARY APPLIANCES—REGULATIONS—BYE-LAWS.

The next subject to be considered is that of 'Sanitary appliances,' such, *e.g.*, as closets and receptacles for house refuse.

Houses must be provided with proper water, earth closet, or privies.

The 36th Section of P.H., 1875, places a distinct duty on every local authority to require, on the report of their surveyor or inspector of nuisances, the owner or occupier of any house within their district destitute of 'a sufficient water-closet, earth-closet, or privy,[1] and an ashpit furnished with proper doors and coverings,' by written notice, to provide the same. It is not in all cases necessary to provide separate closet accommodation for each house, *e.g.*, in cottage property the accommodation may be common to several houses. There is, however, no

[1] *Middens and Privies.*—The model bye-laws provide that a privy must be 6 feet from any dwelling, and 40 or 50 feet away from any well, spring, or stream; means of access must be provided for the scavenger, so that he need not go through a dwelling; the privy must be roofed to keep out rain, and ventilated; the floor of the privy must be not less than 6 inches above the level of adjoining ground, flagged or paved with hard tiles, and have an inclination towards the door of the privy of 5 inch to the foot; capacity of receptacle not to exceed 8 cubic feet; floor of the receptacle must be in every part at least 3 inches above the level of the adjoining ground, the sides and floors to be constructed of impermeable materials; they may be flagged, or asphalted, or constructed of 9-inch brickwork set in cement; the seat must be hinged, or other means of access must be provided; the receptacle must not communicate with any drain or sewer.

express permission to adopt the same system with regard to ashpits. In all cases the local authority is the sole judge of the accommodation. The meaning of the term Ashpit is defined by Section 11 (1) of the Public Health Acts Amendment Act :—

What the term 'ashpit' means?

'The expression "ashpit," in the Public Health Acts, and in this Act, shall, for the purposes of the execution of those Acts, and of this Act, include any ashtub or other receptacle for the deposit of ashes, fæcal matter, or refuse.'

If the notice of the authority is not complied with, the local authority may do the work themselves, and recover in a summary manner from the owner the expenses, or declare the same to be private improvement expenses.

Tinkler v. *Wandsworth Board of Works.*

From the leading case of *Tinkler* v. *The Wandsworth Board of Works*, decided on the corresponding section of the Metropolis Local Management Act (18 and 19 Vict. c. 120), it is clear that a local authority has no power to give a general order, as, for example, that every privy shall be converted into a water-closet, each case must be considered and dealt with separately; when, however, the local authority have once determined that the existing accommodation is insufficient, then they have it in their power to order what works they please.

A water-closet flushed by hand is an 'insufficient closet' if the local authority so decide.

In the case of *Sherborne Local Board* v. *Bogle*, 46 J.P. 675, the defendant was the owner of several houses, and the closets were flushed by hand, pails of water being thrown down from time

to time. The Local Board, on the report of their Surveyor, considered the closet to be insufficient, and required flushing cisterns. On failure to comply, the Local Board executed the necessary works, and proceeded to recover the expenses from Bogle. It was held, on appeal, that the Justices were right in refusing to hear evidence as to the necessity of the works done by the Board; it was for the Local Board to determine, on the report of their Surveyor, whether the water-closets were sufficient, subject only to the right of appeal to the Local Government Board, under P.H., Section 268, and the duty of the Justices in enforcing payment was only ministerial. In the course of his judgment, Lush J. said, 'I do not say that there may not be many water-closets in certain localities, and under certain circumstances, which would be sufficient without a flushing apparatus by way of cistern, or otherwise; but, on the other hand, it is quite obvious that there may be a water-closet which, under other circumstances, though a water-closet, is not sufficient, and it is for the Local Board to form their opinion. They know the locality, and the condition of the house and the neighbourhood, and it is for them to form a judgment whether the report represents the water-closets as being inefficient for the purposes of the Act. It is quite clear that the Local Board took that view, because, immediately upon this, they gave a notice, resting upon the report of their Surveyor, that the water-closets were insufficient. If that be so, I think it is quite enough to justify

them in forming their opinion on the matter; therefore we have no authority to interfere.'

In districts in which there is much small property, and many public sanitary conveniences common to more than one house, sanitary authorities will find it convenient to adopt the 21st Section of the Public Health Acts Amendment Act, 1890, which provides a penalty of 10s., or less, on any person convicted of injuring or improperly fouling any such convenience, besides which— The 21st Section of Public Health Acts Amendment Act.

'If any sanitary convenience, or the approach thereto, or the walls, floors, seats, or fittings thereto'

are in a filthy state, the person who is in default, or, if he cannot be found, *each* of those using the convenience in common, is to be liable to a penalty not exceeding 10s., and a daily penalty of 5s., or less.

It not unfrequently happens that an Inspector on his rounds finds closets destitute of water supply, yet perfectly clean and well kept, nevertheless, if the authority be of opinion, on the report of the Inspector, that the fact of the closet not being provided with a flushing cistern and a water supply renders it 'insufficient,' they can order the necessary alterations to be made. If, again, the closet is directly connected with the cistern, such an arrangement may be considered likely to injure health, and therefore a 'nuisance,' or it may be dealt with under the powers conferred by the Waterworks Clauses Act, 1863 (see *ante*, p. 46). Closets without water supply.

Water or other closets to new buildings.

Under the 35th Section of the Public Health Act, 1875, any person who erects or rebuilds a house pulled down to the ground floor, or below it, without a sufficient water-closet, earth-closet, or privy, and an ashpit furnished with proper doors and coverings, is liable to a penalty of £20, or less.

Earth-closets.

Section 37 gives ample facilities to local authorities, not only to be satisfied with earth-closets in place of water-closets, should they prefer the dry system, but also gives them facilities and powers for undertaking the supply of dry earth, or for contracting with other persons to supply dry earth.

Cellar-dwellings must have closet accommodation.

Under Section 72, a cellar-dwelling cannot be legally occupied unless there is appurtenant thereto 'the use of a water-closet, earth-closet, privy, or ashpit, furnished with proper doors and coverings.'

Closet accommodation for factories.

There is also a series of provisions with regard to proper accommodation for factories, thus, by P.H., 1875, sect. 38, the local authority may, if they find on the report of their Surveyor that any factory or building, in which persons of both sexes are employed in any manufacture, trade, or business, has insufficient closet accommodation, give written notice to construct a sufficient number of water-closets, earth-closets, or privies and ashpits, for the separate use of each sex. Penalty for default £20, or less, and further penalty for continuing offence of 40s. per day, or less. This same section is made applicable by the Coal Mines Regulation Act, 1887, sect. 74, to the portions of a mine above ground, and in which girls and women are employed.

Further powers are possible under the 22nd Section of Public Health Acts Amendment Act, 1890.

An urban authority (or a rural authority invested with urban powers) can adopt a more precise and extended enactment than this, viz., the 22nd Section of the Public Health Acts Amendment Act, 1890; if they do so, the before-mentioned 38th Section of the P.H., 1875, is repealed.

The substance of the section is as follows: Every building used as a workshop or factory, or where persons are employed or intended to be employed in any trade or business, shall be provided with sufficient and suitable sanitary conveniences, according to the number employed; and if the workers are of both sexes, then there must be separate accommodation for each sex. The owner is to make, on the notice of the authority, such structural alterations in the building as may be necessary. Penalty for default, £20, or less; and daily penalty not exceeding 40s.

Bye-laws as to water-closets.

There is considerable facility given for regulating sanitary conveniences generally by bye-laws: thus, an urban sanitary authority may make bye-laws with respect to water-closets, earth-closets, privies, and ashpits, in connection with buildings, under Section 157, P.H., 1875; and any local authority, urban or rural, can make bye-laws for the privy accommodation of registered tenement dwellings (called in the Act lodging-houses) under Section 90, P.H., 1875, as amended by 48 and 49 Vict. c. 72, sect. 8.

Bye-laws as to the supply of water to closets.

It is also in the power of both urban and rural authorities to adopt Section 23 of the Public Health Acts Amendment Act, 1890, which enables both

to make bye-laws as to the keeping water-closets sufficiently supplied with water, and since urban authorities have this power previously under P.H., 1875, section 157, the effect of a rural authority adopting the section is to extend the urban power of the Public Health Act, with regard to this matter, to rural authorities.

Public lavatories and water-closets.

Urban sanitary authorities may, if they think fit, provide and maintain, in proper and convenient situations, urinals, water-closets, earth-closets, privies, and ashpits, and other similar conveniences for public accommodation (P.H., 1875, section 39). Where advantage is taken of this provision, urban authorities will do well to adopt the 20th Section of the Public Health Acts Amendment Act, which provides that for the making of regulations for the management of the conveniences, and gives power to regulate their use by bye-laws. Under the same section fees may be charged for the use of the conveniences, or the conveniences may be let for any term not exceeding three years at such rent, and subject to such conditions, as may be thought proper. No public sanitary convenience is, after the adoption of the section, to be erected without the consent of the authority in writing under a penalty of £5 or less, and a daily penalty of £1 or less.

REGULATIONS—BYE-LAWS.

Local authorities have power to make 'regulations' and also 'bye-laws' as to certain specified matters.

Common characters of bye-laws and regulations.

Regulations and bye-laws have this common character, that they are local rules made under statutory powers to carry out the details of a law or laws. Hence, it follows that neither by regulation nor by bye-law can any greater power be obtained than a local authority is in possession of; but, on the other hand, bye-laws often facilitate and simplify the application of legal powers.

In certain cases, as, for instance, under Section 125, P.H., 1875, a regulation, just like a bye-law, has to be approved by a superior authority, and its breach involves liability to a money penalty.

Essential differences between a bye-law and a regulation.

In short, the difference between a regulation and a bye-law is: a bye-law can only come into force by strictly following and adopting the formal procedure of the particular statute conferring the power of making the bye-law; thus, bye-laws made under the Public Health Act must be made

(*a*) Under the common seal of the authority.

(*b*) They must be confirmed by the Local Government Board.

(*c*) Notice of intention to apply for confirmation must have been given one month previous in a local newspaper.

(*d*) A copy of the proposed bye-law must be kept at the office of the authority open for the inspection of ratepayers, and a copy, on payment of sixpence, must be supplied to any ratepayer.

(*e*) The bye-laws, when confirmed, must be printed.

A regulation, or set of regulations (save those few that require the approval of the Local Government Board) may be simply passed as a resolution at a meeting of the authority, and may be amended or rescinded at a subsequent meeting, and the above publication in a newspaper, and month's interval, and so forth, is unnecessary.

Having pointed out the essential difference between regulations and bye-laws, I will now notice some legal principles with regard to bye-laws.

Legal principles relating to bye-laws.

A bye-law can only be made for the purpose for which it is specifically authorised, and its operation is limited to the terms of the enactment under which it is made.

A bye-law must be *legi consona*.

A bye-law must be both *legi consona* and *rationi consona*.

Legi consona, because it must not be in contravention of law generally, nor must it be repugnant to any special statute.

A bye-law must be *rationi consona*.

It must be *rationi consona*, that is, reasonable.

Although a bye-law, made strictly in accordance with these principles, is as good law as the statute on which it is based, yet bye-laws, as a whole, have not the force of statutes, for, in legal proceedings, it is open for the defence to attack the bye-law, because it is (*a*) *ultra vires*, (*b*) or unreasonable, (*c*) or too general. This method of defence is obviously not applicable to the operation of any statute.

The Local Government Board, in a letter dated 18th September 1878, put the whole matter clearly as follows :

'In framing bye-laws, it is essential to bear in mind that they must be reasonable, and that the restrictions that they impose should not interfere oppressively with the reasonable rights or claims of those whom they are intended to control. Moreover, bye-laws are intended to supplement, and not to supersede or vary, the law; and, in framing them, a safe rule to follow is, that a bye-law which merely repeats a statutory enactment is in fact surplusage, whilst one which is at variance either with an enactment, or any recognised legal principle, is altogether a nullity, and consequently incapable of being enforced.'

A considerable number of leading cases illustrative of the preceding remarks are to be found in the Law Reports. As an example one such case may be mentioned, viz., *Quinby* v. *The Mayor of Liverpool*, 52 J.P. 708.

Quinby v. *Mayor of Liverpool.*

The Corporation of Liverpool had made a bye-law which among other things said 'that whenever any open space has been left belonging to any building, when the sanction of the Corporation has been obtained for its erection, such space shall not be afterwards built upon without the approval of the Corporation.' On appeal, the validity of the bye-law was disputed, for the reason that such a bye-law would apply to a whole acre or many acres of land behind a building, and the Court held that the bye-law was bad.

Some bye-laws under the Public Health Act may be made by all local authorities under the Act,

that is, by both urban and rural authorities; there are others which urban sanitary authorities are alone empowered to make.

There are also some bye-laws which a local authority is bound to make, but in a great many cases the word 'may' is used, and not 'shall'; that is, the power is permissive, there is no express duty.

(1) *Bye-laws which may or must be made by every local authority.*

Bye-laws which may or must be made by both urban and rural Sanitary Authorities.

Every local authority *shall* make bye-laws for fixing, and from time to time varying, the number of lodgers in a common lodging-house, and for the separation of the sexes.

For promoting cleanliness and ventilation in such houses.

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

For the general well-ordering of such houses (Public Health Act, 1875, sect. 80).

A local authority *may* make bye-laws for (*a*) the cleansing of footways, (*b*) for the removal of house refuse, (*c*) for the cleansing of earth-closets, privies, ashpits, and cesspools (Public Health Act, 1875, sect. 44.)

So also, by the Public Health Acts Amendment Act, a local authority *may*, if they choose, under that Act, Section 26 (2), make bye-laws for the removal of house refuse.

A local authority *may* make bye-laws with rela-

tion to what is commonly termed tenement houses, viz.—

(*a*) For fixing and varying the number of persons and for the separation of the sexes.

(*b*) For the registration of such houses.

(*c*) For inspection.

(*d*) For enforcing proper drainage, privy accommodation, cleanliness, and ventilation.

(*e*) For cleansing, limewashing at stated intervals, and for the paving of the yards.

(*f*) For the giving of notices and the taking of precautions in case of any infectious disease (Public Health Act, 1875, sect. 90, and the unrepealed 8th Section of the Housing of the Working-Classes Act, 1875, 48 and 49 Vict. c. 72).

A local authority may make bye-laws for the management of mortuaries and the charges for the use of such buildings (Public Health Act, 1875, sect. 141).

A local authority may make bye-laws for the decent lodging, etc., of persons engaged in hop-picking and in the picking of fruit and vegetables (Public Health Act, 1875, sect. 314, and Fruit Pickers' Lodgings Act, 1882).

Local authorities which have adopted Part III. of the Housing of the Working-Classes Act, 1890, may make bye-laws for the management, use, and regulation of lodging-houses provided under Part III. (Housing of the Working-Classes Act, 1890, sect. 62 [i.]). Further, it appears compulsory for a local

authority which has adopted Part III. to make bye-laws

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.

For securing the due separation at night of men and boys above eight years old from women and girls.

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

For determining the duties of the officers, servants, and others appointed by the local authority.

(2) *Bye-laws which can only be made by authorities possessed of urban powers.*

Bye-laws which may or must be made by urban sanitary authorities.

The following list is applicable to urban authorities only, and is much longer:—

An urban authority *shall* make bye-laws

In respect to the management and use of any slaughterhouse provided by the authority (Public Health Act, 1875, sect. 169).

An urban authority *may* make bye-laws

For preventing nuisances arising from snow, filth, dust, ashes, and rubbish (*ibid.* sect. 44).

For the prevention of the keeping of animals on any premises so as to be a nuisance (*ibid.* sect. 44).

With respect to any offensive trades (Public Health Act, 1875, sect. 113).

With respect to various matters relating to streets, buildings, chimneys, drainage of buildings, and the closing of buildings or parts of buildings unfit for human habitation (*ibid.* sect. 157).

This section may be extended by the 23rd Section of the Public Health Acts Amendment Act, 1890, a section which may also be adopted by a rural sanitary authority, and thus power be given to make bye-laws—

(*a*) As to the keeping of water-closets supplied with water.

(*b*) As to the structure of floors, hearths, staircases, and the height of rooms intended to be used for human habitation.

(*c*) As to the paving of yards and open spaces in connection with dwelling-houses, and

(*d*) The secondary means of access in the laying out of new streets for the purpose of the removal of house refuse and other matters.

An urban authority may also make bye-laws

For the regulation of public walks and pleasure-grounds belonging to the authority (Public Health Act, 1875, sect. 164).

For the regulation of markets and for the purposes mentioned in Section 42 of the Markets and Fairs Clauses Acts, 1847 (*ibid.* sect. 167).

For the licensing of boats, horses, etc., let for hire (Public Health Act, 1875, sect. 172).

For the regulation of pleasure-boats let for hire and the numbers to be carried therein, the boat-houses and mooring places for the same, and for fixing the rates of hire and the qualifications of boatmen, and for securing their good and orderly conduct while in charge of any boat in public parks or pleasure-grounds provided by the authority (Public Health Amendment Act,[1] 1890, sect 44.)

For the regulation of cabmen's shelters (*ibid.*[1] sect. 40).

For the regulation of hackney carriages (Towns Police Clauses Act, 1847, sect. 68).

For regulating bathing and the use of bathing machines (*ibid.* sect. 69).

For the use of public baths and wash-houses (Baths and Wash-houses Act, 1864, sect. 34).

For the regulation and management of swimming baths (Baths and Wash-houses Act, 1878).

For the decent conduct of persons using public conveniences (Public Health Acts Amendment Act, 1890, sect. 20).

For (*a*) Prescribing for removal or carriage through the streets of any fæcal or offensive or noxious matter. (*b*) For providing for

[1] It hardly needs repeating that the Public Health Act Amendment Act being an adoptive Act, only authorises the bye-laws mentioned to be made in places in which the Act is in force.

the proper covering of vessels, receptacles, carts, or carriages containing such liquid (Public Health Acts Amendment Act,[1] 1890, sect. 26).

For the prevention of danger from steam whirligigs and swings, and from the use of fire-arms in shooting ranges or galleries (*ibid.*[1] sect. 38).

For the regulation of overhead wires, telegraph, telephone, or other wires. (*N.B.*—These are to be sanctioned by Board of Trade, not Local Government Board.) (*Ibid.*[1] sect. 13.)

Regulations.

The following is a list of the chief regulations local authorities are empowered to make :—

Regulations as to communication between sewers and drains.

Under Section 21, P.H., 1875, a local authority may make regulations with respect to the mode in which communications between sewers and drains are to be made.

Removal to hospitals.

Under Section 125 of the same Act a local authority may make regulations (to be approved by the Local Government Board) as to the removal of patients to hospitals. Penalties for breach may be inflicted up to 40s.

Post-mortem rooms.

Under Section 143, P.H., 1875, any local authority may make regulations as to the management of places provided for *post-mortem* examination.

[1] See previous footnote, p. 78.

Dairies.

Under the Dairies, Cowshed, and Milk-shops Order, art. 13, local authorities may make regulations.

Duties of officers.

Under Section 189, P.H., 1875, an *urban* authority may make regulations with regard to the duties and conduct of their officers and servants. (*N.B.*—A Rural Sanitary Authority has not this power.)

Under Schedule I., P.H., 1875,

Meetings and the transaction of business.

'Every *Local Board*[1] *shall* make regulations with respect to the summoning, notice, place, management, and adjournment of their meetings, and generally with respect to the transaction and management of their business under this Act.'

Management of Sanitary Conveniences.

Under Section 20, P.H. Acts Amendment Act, an *urban* authority which has adopted the section, and has provided sanitary conveniences for public use, may make regulations for the management of the same.

Regulations as to cabmen's shelters.

Under Section 20 (2) of the same Act an *urban* authority may make regulations for prescribing the terms, conditions, and fees, if any, to be charged for cabmen's shelters.

Local Board regulations as to cholera.

Lastly may be mentioned the regulations which the Local Government Board has power to make under Sections 130 and 134 of the Public Health Act, 1875, in relation to cholera and other dangerous infectious disease.

[1] This duty only applies to Local Boards, and not to Urban Sanitary Authorities generally.

LECTURE VI.

STATUTORY PROVISIONS WITH REGARD TO THE PREVENTION OF DISEASE

Statutory provisions as to Disease Prevention are different in different localities, some having adopted Infectious Disease Prevention and Notification Acts—others not.

THE statutory provisions with regard to the prevention of disease differ somewhat in different localities. There are three distinct cases—

(1) Districts in which neither the Notification nor Prevention of Infectious Diseases Acts are in force.

(2) Districts in which one or both those Acts have been adopted.

(3) The Metropolis, in which practically both Acts are in force, for the provisions have been consolidated into, and form a part of, the new Public Health (London) Act.

The sanitary laws relative to the Metropolis will receive separate consideration, so also will matters relating to sanitary affairs in our ports.

The powers to deal with the prevention of Disease simply under the Public Health Act.

First, we will take the case of sanitary districts in which the Infectious Diseases Notification and Prevention Acts are not in force. The provisions more particularly bearing upon disease prevention may be grouped under the following heads :—

(1) Simple cleansing.

(2) Disinfection of matters exposed to infection.

(3) Provisions against exposure of the living infectious person.

(4) Provisions for the purpose of ensuring that rooms let for hire are first made safe and free from infection.

(5) Special powers to cope with unusual or extraordinary epidemics possessed by the Local Government Board.

(6) Special regulations with regard to milk and dairies.

(7) The establishment of hospitals.

(8) The conveyance of the dead.

(9) Burial of the dead.

(1) *Cleansing.*

Cleansing.

It is a distinct duty laid upon the authority, both under Sections 46 and 120, P.H., 1875, that when they have received a certificate from either their medical officer of health, or any legally-qualified practitioner, that any house within their district, or part of a house (*e.g.*, a single room), requires cleansing and disinfecting with a view to the prevention of disease, to give notice in writing to the owner or occupier to cleanse and disinfect. A money penalty not exceeding 10s. per day is provided for default.

Tenement houses, that is, houses let in lodgings, can be compelled to be kept clean and sweet by washing, limewashing, and the like, by bye-laws under Section 90, and common lodging-houses by bye-laws under Section 80 (see also Section 82 as to limewashing at stated intervals). Canal boats can be

compelled under the regulations of the Local Government Board to be cleansed (Canal Boats Act, 1877, Section 2); factories and bakehouses under the 3rd, 33rd, and 34th Sections of the Factory and Workshop Act, 1878, and Section 3 of the Factory and Workshop Act, 1891.

(2) *Disinfection.*

Disinfection.

The above-mentioned 120th Section of the Public Health Act, 1875, is the chief working section which a sanitary officer depends upon to enforce disinfection. When a notice is served for articles or rooms, etc., to be disinfected, and the notice is not complied with, besides enforcing the penalty of 10s. per day, it becomes the duty of the local authority to cleanse and disinfect, and the expenses of such cleansing and disinfecting may be recovered from the owner or occupier in a summary manner.

'Where the owner or occupier . . . is from poverty or otherwise unable, in the opinion of the authority to effectually carry'

out the requirements, the authority may, with the consent of the owner or occupier, do the work themselves.

Cases in which a local authority can legally disinfect.

There are thus several distinct cases in which a local authority can legally disinfect—

Firstly. A notice has been served and not obeyed. In this case the authority has power to disinfect.

Secondly. Owner unable from poverty or otherwise and gives his consent. Then authority can do it.

Thirdly. Owner or occupier is unable from some other circumstance, say, from want of knowledge to disinfect properly, and gives his consent. Then authority may disinfect.

Efficient disinfection is a technical operation requiring knowledge and skill, and, as a rule, it is best for the inspectors to disinfect than for it to be done by ordinary persons.

Under Section 121 the local authority can burn or destroy articles which have been exposed to infection, but compensation must be given. It is not obligatory on a sanitary authority under P.H., 1875, to provide a disinfecting chamber and other appliances for disinfection; but, if they choose to do so, they may by virtue of Section 122.

(3) *Illegal Exposure of an Infected Person.*

By Section 126, any person who,

Illegal exposure of an infected person.

(1) 'While suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor, or driver thereof that he is so suffering; or

(2) 'Being in charge of any person so suffering, so exposes such sufferer; or

(3) 'Gives, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection from any such disorder, shall be liable to a penalty not exceeding five pounds; and a person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver

that he is so suffering, shall, in addition, be ordered by the Court to pay such owner and driver the amount of any loss and expense they may incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance.

'Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags, or other things for the purpose of having the same disinfected.'

Note the word 'dangerous' is used; if the reading was simply 'infectious,' such maladies as ophthalmia, the itch, common catarrh, and various forms of skin disease liable to spread by the near proximity of the healthy and diseased might be included. In districts in which the Infectious Diseases Notification Act is in force, infectious diseases are those, and those alone, specifically mentioned in the Act, or adopted by resolution, with consent of the Local Government Board under that Act.

The districts immediately under consideration are supposed not to have adopted the Notification and Prevention Acts, and in such districts the best definition of a dangerous infectious disease to adopt is that suggested by Dr. Buchanan, in a memorandum issued, December 1890, by the Medical Department of the Local Government Board, relative to the closure of schools to prevent the spread of disease. In that memorandum Dr. Buchanan states that a dangerous infectious disorder is 'of a nature dangerous to some of the persons attacked by it, however mild in other cases.' Under the Common Law it has long been an offence to expose

Definition of 'a dangerous infectious disease.'

Exposure of infected persons, under certain circumstances, an indictable offence.

unnecessarily persons infected with smallpox in the public street, and there are two leading cases proving that such an offence is punishable by indictment, *R.* v. *Vantadillo* (4 M. and S. 73; *R.* v. *Burnett*, *ib.* 272). So also, if a child infectious from an infectious disease is taken to lodgings, and infect other people, an action will lie (*Best* v. *Strapp*, 2 C.P.D. 191, *n*).

What is a public conveyance?

The word 'public conveyance' is held to be one that publicly plies for passengers, such as a cab, omnibus, or tram. If a hired carriage be used, the section probably does not apply.

Tunbridge Wells Local Board v. *Bishop*.

It appears, from the case of the *Tunbridge Wells Local Board* v. *Bishop*, 2 C.P.D. 187, that a Superior Court of Law will, in certain cases, give no harsh or strained meaning to the letter of the law. In this case a Tunbridge medical man found his patient suffering from scarlet fever and sent him to the hospital, telling him to walk in the middle of the road, and not to speak with any one until he got there. Arrived at the hospital, through some informality of the order, he is not admitted. The medical man then appears again on the scene, walks about with the patient to various places through the streets in order to obtain the necessary order of admission. The order is ultimately obtained, and a police ambulance used to remove the patient. The Local Board prosecuted, but the Justices refused to convict, for they were of opinion that it was not proved the doctor had charge of the patient, that he had not wilfully exposed the patient in any

public street 'without proper precaution,' and that he had done his best to stop the spread. On appeal it was held the Justices were right.

By Section 127

'Every owner or driver of a public conveyance shall immediately provide for the disinfection of such conveyance after it has to his knowledge conveyed any person suffering from a dangerous infectious disorder; and, if he fails to do so, he shall be liable to a penalty not exceeding five pounds; but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying into effect the provisions of this section.'

Penalty on failing to provide for disinfection of public conveyance.

The section quoted only deals with the *living*, and, in the Public Health Act, 1875, there is no provision against the conveyance of an infected dead body by a public conveyance, although it might possibly be dealt with indirectly. The words 'after his knowledge' will apply to those cases in which the owner of the conveyance was deceived at the time, but subsequently finds that his fare was suffering from a dangerous infectious disease. The latter part of the section is a protection against the provisions of any bye-law in an urban district, by which a cabdriver is bound to convey a passenger when required so to do on tender of his legal fare. There is also a similar provision under the Police Clauses Act, 1847, Section 52. It is to the interest of the community generally that conveyances should be disinfected after the conveyance of infected persons, and therefore a wise local authority will give every facility for their disinfection, such as

No provision in the Public Health Act, 1875, against the conveyance of an infected dead body by a public conveyance.

disinfecting free of charge, and advertising the fact that they do so.

(4) *The Letting for Hire Infectious Rooms.*

This is provided against by Section 128, P.H., 1875, as follows:—

Penalty on letting houses in which infected persons have been lodging.

'Any person who knowingly lets for hire any house, room, or part of a house, in which any person has been suffering from any dangerous infectious disorder, without having such house, room, or part of house, and all articles therein liable to retain infection, disinfected to the satisfaction of a legally-qualified medical practitioner, as testified by a certificate signed by him, shall be liable to a penalty not exceeding twenty pounds.

'For the purposes of this section, the keeper of an inn shall be deemed to let for hire part of a house to any person admitted as a guest into such inn.'

and, by Section 129, persons letting for hire houses or rooms, and knowingly making false answers to question as to infectious disease in the house six weeks previously, are liable to a penalty of £20, or to imprisonment with or without hard labour for a month or less.

Implied condition as to letting houses of a certain rental to the working classes.

The 75th Section of the Housing of the Working-Classes Act of 1890, which enacts that, in letting houses of a certain rental to the working classes, there shall be implied a condition that the house is at the commencement of the holding 'in all respects reasonably fit for human habitation,' would also be applicable to the case of an infected house, for such a house could not be considered 'reasonably fit for human habitation.' If therefore the incoming

tenant or his family contract disease in this way, they could recover damages in an action at Common Law.

(5) *Special Powers possessed by the Local Government Board with regard to Infectious Diseases.*

The 130th Section, P.H., 1875, enacts that—

Power of Local Government Board to make regulations.

'The Local Government Board may from time to time make, alter, and revoke such regulations as to the said Board may seem fit, with a view to the treatment of persons affected with cholera, or any other epidemic, endemic, or infectious disease, and preventing the spread of cholera and such other diseases, as well on the seas, rivers, and waters of the United Kingdom, and on the high seas within three miles of the coasts thereof, as on land; and may declare by what authority or authorities such regulations shall be enforced and executed. Regulations so made shall be published in the *London Gazette*, and such publication shall be for all purposes conclusive evidence of such regulations.

'Any person wilfully neglecting, or refusing to obey or carry out, or obstructing the execution of any regulation made under this section, shall be liable to a penalty not exceeding fifty pounds.'

This power is still further extended by the 134th Section, which enacts—

'Whenever any part of England or Ireland appears to be threatened with, or is affected by, any formidable epidemic, endemic, or infectious disease, the Local Government Board may make, and from time to time alter and revoke, regulations for all or any of the following purposes, viz. :—

(1) 'For the speedy interment of the dead;

(2) 'For house to house visitation; and

(3) 'For the provision of medical aid and accommodation, for the promotion of cleansing, ventilation, and disinfection, and for guarding against the spread of disease; and may by order declare all or any of the regulations so made to be in force within the whole or any part or parts of the district of any local authority.'

To prevent hesitation on the part of a local authority not having funds in hand, the Epidemic and other Diseases Prevention Act (46 and 47 Vict. c. 59) gives ample power to borrow money for the purpose of the above section.

Publication of regulations and orders. P.H., 1875, sect. 135.

Section 135. 'All regulations and orders so made by the Local Government Board shall be published in the *London Gazette*, and such publication shall be conclusive evidence thereof for all purposes.

Local authority to see to the execution of regulations. P.H., 1875, sect. 136.

Section 136. 'The local authority of any district within which, or part of which, regulations so issued by the Local Government Board are declared to be in force, shall superintend and see to the execution thereof, and shall appoint and pay such medical or other officers or persons, and do and provide all such acts, matters, and things as may be necessary for mitigating any such disease, or for superintending or aiding in the execution of such regulations, or for executing the same, as the case may require. Moreover, the local authority may from time to time direct any prosecution or legal proceedings for, or in respect of, the wilful violation or neglect of any such regulation.

Power of entry. P.H., 1875, sect. 137.

Section 137. 'The local authority and their officers shall have power of entry on any premises or vessel for the purpose of executing, or superintending the execution, of any regulations so issued by the Local Government Board as aforesaid.'

The 139th and 140th Sections provide for the combination of local authorities for the purpose of dealing with an epidemic. Penalties are provided for violation of the regulations, and also for obstruction (£5, or less).

The regulations which have been made by the Local Government Board are in relation to cholera, and will be considered later.

(6) *Special Regulations with regard to milk.*

Special regulations with regard to milk.

Under Section 117, P.H., 1875, unsound, diseased, or unwholesome milk, or milk that is unfit for the food of man, may be dealt with by taking it before a Magistrate and having it condemned. So also, under the 15th Section of the Markets, Fairs, and Fairs Clauses Act of 1847, unwholesome provisions, and therefore milk, exposed for sale in a market or fair, is liable to seizure and condemnation, and the offender is liable to a money penalty.

The Act which is, however, most active in operation in regulating the milk supply is the Contagious Diseases Animals Acts, 1878-1886.

The Contagious Diseases Animals Acts.

The local authorities for the enforcing the provisions of these Acts are, in counties, the County Council; in a quarter-sessions borough, which had in 1881 a population exceeding 10,000, the Town Council; in other towns maintaining their own police, the Commissioners, or other body maintaining the police (Local Government Act, 1888). The Contagious Diseases Animals Acts deal with certain epizootics—such as pleuro-pneumonia, foot-and-mouth disease, cattle plague, and sheep-pox, and contain a number of highly important enactments, with a view of stamping out the disease, and, under certain conditions, giving compensation.

Under these Acts the Local Government Board have power to make general or special orders—

(1) For the registration with the local authority of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk.

(2) For the inspection of cattle in dairies, and for prescribing and regulating the lighting, ventilating, cleansing, drainage, and water supply of dairies and cowsheds in the occupation of persons following the trade of cowkeepers or dairymen.

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

(4) For prescribing precautions to be taken for protecting milk against infection or contamination.

(5) For authorising a local authority to make regulations for the purpose aforesaid, or any of them, subject to conditions such, if any, as the Local Government Board may prescribe.

The Dairies, Cowsheds, and Milk-shops Order.[1]

Under the powers thus conferred, the Local Government Board issued the Dairies, Cowsheds, and Milk-shops Orders of 1885 and 1886, the chief provisions of which are as follows :—

Regulations under the Dairies, Cowsheds, and Milk Shops Order.

Article 6. (1) 'It shall not be lawful for any person to carry on in the district of any local authority the trade of a cowkeeper, dairyman, or purveyor of milk unless he is registered as such therein in accordance with this article.'

(2), (3), and (4) of the same sixth article provides for the keeping of a register by the local authority, and compels the authority to register such person, and to give public notice by a newspaper or other-

[1] In Scotland the Dairies, Cowsheds, and Milkshops Amending Order, 1887, is in force.

wise of registration being required, and the mode of registration.

(5) Exempts from registration any one who carries on the trade of a cowkeeper or dairyman for the sole purpose of making butter or cheese or both. Exemption from registration.

(6) Provides that a 'person who sells milk of his own cows in small quantities to his workmen or neighbours for their accommodation shall not, for the purpose of registration, be deemed, by reason only of such selling, to be a person carrying on the trade of a cowkeeper, dairyman, or purveyor of milk, and need not by reason thereof be registered.'

As an example of the manner this exemption is likely to work may be cited the case of *Southwell* v. *Lewis*, 45 J.P. 206. *Southwell* v. *Lewis.*

A farmer kept cows for the purpose of supplying his family, but occasionally allowed his neighbours a few quarts daily, as well as a dairyman, and he was held not to come under the before-mentioned exemption.

By Article 9

'It is not lawful for any person following the trade of cowkeeper or dairyman, or purveyor of milk, or being the occupier of a milkshop, Persons suffering or recently recovered from certain infectious diseases to have nothing to do with milk.

(*a*) 'To allow any person suffering from a dangerous infectious disorder, or having recently been in contact with a person so suffering, to milk cows or to handle vessels used for containing milk for sale, or in any way to take part or assist in the conduct of the trade or business of the cowkeeper or dairyman, purveyor of milk, or occupier of a milk store or milk shop, so far as regards the production, distribution, or storage of milk, or

(*b*) 'If himself so suffering, or having recently been in contact

as aforesaid to milk cows or handle vessels used for containing milk for sale, or in any way to take part in the conduct of his trade or business, so far as regards the production, distribution, or storage of milk, until in each case all danger therefrom of the communication of infection to the milk or of its contamination shall have ceased.'

Local authorities can themselves, under Article 13, prescribe precautions to be taken by purveyors of milk, and persons selling milk by retail against infection or contamination.

By Article 15,

Milk of diseased cows.

'If at any time disease exists among the cattle the milk of a diseased cow (*a*) is not to be mixed with other milk; (*b*) is not to be sold or used for human food; and (*c*) is not to be sold or used for food of swine or other animals unless and until it has been boiled.'

This regulation with regard to milk only applies to the diseases which the Act deals with, it is therefore only applicable to pleuro-pneumonia, cattle plague, and foot-and-mouth disease.[1] The penalty for offences against the order is £5, and for every continuing offence 40s. per day.

[1] Newcastle-upon-Tyne possesses, in a local Act, the following important provision, which might be made general with advantage :—

Section 82. 'Every dairyman who shall sell the milk of any cow to his knowledge affected with tuberculosis or milk (or parturient) fever, shall be liable to a penalty not exceeding forty shillings.'

Section 83. 'Every dairyman occupying any dairy in or supplying milk in the city, shall notify to the Corporation all cases of tuberculosis or milk fever to his knowledge occurring in his dairy, and in default shall be liable to a penalty not exceeding forty shillings.'—*The Newcastle-upon-Tyne Improvement Act*, 1892.

(7) *The Establishment of Hospitals.*

By Public Health Act, 1875, sect. 131,

'Any local authority may provide for the use of the inhabitants of their district hospitals or temporary places for the reception of the sick, and for that purpose may themselves build such hospitals or places of reception, or contract for the use of such hospital or part of a hospital or place of reception, or enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of their district on payment of such annual or other sum as may be agreed upon. Hospitals, power to establish.

Two or more local authorities may combine in providing a common hospital.'[1]

It will be observed that the section is entirely permissive,—it does not create a duty,—that the word 'hospital' is used, and not 'infectious hospital,' or 'isolation hospital,' and that the word 'sick' is used, and not 'infectious sick.'

Nevertheless, the hospitals that have been established under this section are, as a rule, hospitals for the treatment of infectious diseases.

[1] While these sheets are passing through the press a Bill (Infectious Hospitals) has been introduced into the House of Lords, giving greater facilities for the establishment of hospitals. The operation of the proposed Act is confined to the English counties. Application may be made by any local authority, or by any number of ratepayers, not less than twenty-five, to the County Council for the establishment of an infectious hospital. The county medical officer of health may also be directed by the County Council to make inquiry as to the necessity of an infectious hospital and report. In any of the above cases the Council hold a local inquiry by a committee. A hospital district having been established, a committee of management is to be formed by the County Council, such committee to be a body corporate, having a perpetual succession and a common seal.

Should the Bill pass, the author may have an opportunity of inserting it in the Appendix.

Since the section is permissive, the statute cannot be urged in defence of an action, nor will it prevent an injunction for nuisance being issued against the authority, if the erection of the hospital is, or become a nuisance. The rule laid down by Lord Blackburn as to erection of such structures in or near towns, in the case of the *Metropolitan Asylums Board* v. *Hill*, (6 App. Cas. 193; 44 L.T. n.s. 653), is as follows :—

Metropolitan Asylums Board v. Hill.

'To gather together into one spot patients suffering from infectious disease is lawful, but it must be under such guards as not to endanger the public health by communicating this infectious disease; and, as it seems to me, so as not to produce injury to the rights of the owners of adjoining property by producing a nuisance to it.'

Mr. Justice Chitty also, in the case of the *Withington Local Board* v. *Corporation of Manchester* (*Times*, Feb. 1, 1893, and *Times Law Report*, vol. ix. pp. 206, 224), said—

Private Hospitals for Infectious Diseases.

'If a wealthy and charitably disposed person were minded to set up a hospital for the sick within the plaintiffs' district the plaintiffs could not stop him. They would have no power of interference with the establishment or the management of the hospital as such. They could, of course, require plans of the building and drains to be submitted, and generally could exercise all their powers in regard to infection and the like, just as they could in reference to any other house or building within their district; but they could not prohibit the erection or carrying on of any such hospital, even though it was established for the reception of persons suffering from infectious disease.'

Hence, it is abundantly clear that a private hospital may be established anywhere, and cannot be interfered with, unless nuisance is proved.

Hospitals for Infectious Diseases can be established by a Local Authority in the district of another Local Authority.

The case just cited also interprets the law to be that, under Sections 131, 285, local authorities have power to establish hospitals in other districts than their own (sect. 285), nor is the establishment of a hospital for infectious cases a 'noxious or offensive business' under P.H., 1875, sect. 112.

In the course of the judgment Chitty J. said—

'I think that silence as to place affords some ground in this Act for holding that the Legislature did not intend to confine the local authority to its own particular district. Continuing the examination of the 131st Section, I find the term "district" occurs twice. The hospital which the local authority may provide is "for the use of the inhabitants of their district," and the agreement which they are authorised to enter into is for the reception "of the sick inhabitants of their district." The attention of the Legislature was, therefore, directed in the section itself to the district of the local authority; yet the section does not in terms confine the local authority to its own district as to place when the hospital or other accommodation for the sick is to be provided. Again, for the purpose of providing a hospital, or temporary place for the reception of the sick, the local authority are empowered—(*a*) "to contract for the use of any such hospital, or part of a hospital, or place of reception," and (*b*) "to enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of their district." "Any such hospital" and "any hospital" in these clauses mean, *primâ facie*, any hospital for the sick anywhere, and I can find no sufficient reason for saying that the hospital or place of reception, in respect of which the local authority may enter into a contract or agreement, must be confined to a hospital or place of reception within the district of the local authority. On the other hand, I see reasons for holding that the *primâ facie* meaning is the right one. A local authority, not having provided a hospital of its own, purposes to enter into an agreement with persons having the management of a hospital outside its own district for the reception of

its sick inhabitants; the local authority may be a rural sanitary authority having but few sick. It seems reasonable and convenient that they should be at liberty to send their sick to any hospital wherever situate. Why should the local authority within which the hospital happens to be situate, and which authority has, as already shown (see his Lordship's judgment in this case in *The Times*, 26th of January 1893), no power to interfere with the hospital as such, have a special veto as to the sick to be brought there, simply because the sick are sent by another local authority? And, what is more strange, a veto only in the case of the sick being sent by the local authority of an adjoining district. If the plaintiffs are right, no local authority can contract to send their sick to a seaside convalescent home out of their own district. I can find no sufficient ground for saying they cannot. The evidence affords a curious illustration of the effect of the plaintiffs' contention. The plaintiffs, under an agreement they have come to with the managers of the Monsall Hospital, are sending their sick to that hospital, which is situated within the district of the defendants; yet, if their contention is right, the agreement is of no effect, and they are not justified in sending their sick to the Monsall Hospital unless they first obtain the consent of the defendants. The provisions of Section 131 are not severable; the hospital to be provided is for the sick, without any distinction as to the nature of the sickness, whether it be infectious or not; and the powers to provide a hospital or temporary place for the reception of the sick must, one and all, either be confined to the district, or must, one and all, without distinction, be exercisable without regard to place.'

The Court of Appeal (*Times*, 8th February 1893) confirmed this decision.

Section 132 provides that expenses incurred by a local authority in the maintenance of non-pauper patients may be recovered from him at any time within six months after his discharge.

The Statute of Limitations for civil debts is six

years, so that the time of recovery for the cost of hospital maintenance is materially shortened.

Payment for patients in hospitals.

It is not wise for a local authority to extort unwilling payment; the patient is removed, as a rule, to hospitals not for his own good, but for the good of the community, and a district should not grudge payment for the purpose of segregating infection.

Power to provide ambulances.

A local authority has power to provide ambulances for the conveyance of the sick by Section 123, P.H., 1875, and the working section under which persons are removed to hospital compulsorily is the 124th, which enacts as follows:—

'Where any suitable hospital or place for the reception of the sick is provided within the district of a local authority, or within a convenient distance of such district, any person who is suffering from a dangerous infectious disorder, and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, or is on board any ship or vessel, may, on a certificate signed by a legally-qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed by order of any Justice to such hospital or place at the cost of the local authority; and any person so suffering who is lodged in any common lodging-house may, with the like consent, and on a like certificate, be so removed by order of the local authority.

'An order under this section may be addressed to such constable or officer of the local authority as the Justice or local authority making the same think expedient; and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding £10.'

What is 'proper lodging or accommodation'?

It is not easy to say what meaning the original framers intended to be given to the words 'proper lodging or accommodation;' if the words should be interpreted strictly, and in their ordinary meaning,

they must refer solely to the patient, and if the patient has proper attention, and a sufficient quantity of air and light, and the room in which he is be suitable for habitation, such a state of things would satisfy the conditions.

If, on the other hand, the proper lodging or accommodation refers to the possibility of the malady spreading, in that case it would be right to remove, by the compulsory procedure laid down, any person whose surroundings were such that, in the opinion of the officer of health, the disease was likely to spread. In practice, the view taken is that the removal is mainly for the good of the community, but, at the same time, the welfare of the patient is considered.

Compulsory removal is not wise, save in cases in which even imperfect methods of isolation cannot be adopted.

In applying to a court of summary jurisdiction for an order for removal, the applicant should always be prepared with evidence that the hospital authorities are willing to receive the case.

Procedure to be followed in the compulsory removal of patients to hospital.

The exact procedure is as follows: In a case in which the medical officer of health considers there is no proper lodging or accommodation, and a hospital is available, it is represented to the patient or friends that the case should be removed; if there is opposition, then notice should be given to the patient and friends that an application will be made for a Magistrate's order, so as to give them opportunity of opposing the order, application having

been made, and evidence given of the patient's ability to be removed without danger, and also of the willingness of the hospital to receive, the Magistrate probably will grant the order. The patient or friends may still refuse to obey. In such a case, as soon as the illness is over, a summons should be taken out against the offending party or parties, and a prosecution instituted for disobedience to a Magistrate's order.

It should scarcely be necessary to say that a Magistrate's order for removal to hospital in no way warrants or justifies force; were it not for the fact that more than once a zealous officer has attempted, armed with the order, to convey away unwilling patients by force.

In a summons for resistance of an order given under this section, it would seem, from the case of *Booker* v. *Taylor* (*Times*, 21st November 1882), that the validity of the order cannot be questioned, but the Magistrate must deal simply with the facts. If resistance or obstruction be proved, he is bound to convict.

Power to make regulations for keeping patients in hospital.

The local authority has power to make regulations with regard to keeping patients in a hospital, and also with regard to the details of removal by Section 125 (P.H., 1875). All local authorities, having the use of a place for isolation of the infectious sick, will find that it is convenient to make regulations on these matters.

(8) *Disposal of the infectious dead.*

The infectious dead.

By the 142nd Section of P.H., 1875, it is enacted that where the body of one who has died of any infectious disease

'is retained in a room in which persons live or sleep, or any dead body which is in such a state as to endanger the health of the inmates of the same house or room, is retained in such house or room, any Justice may, on a certificate signed by a legally-qualified medical practitioner, order the body to be removed, at the cost of the local authority, to any mortuary provided by such authority, and direct the same to be buried within a time to be limited in such order; and, unless the friends or relations of the deceased undertake to bury the body within the time so limited, and do bury the same, it shall be the duty of the relieving officer to bury such body at the expense of the poor-rate, but any expense so incurred may be recovered by the relieving officer in a summary manner from any person legally liable to pay the expense of such burial.

'Any person obstructing the execution of an order made by a Justice under this section shall be liable to a penalty not exceeding five pounds.'

The section is defective. It only enables burial after a Justice's order has been obtained. It is true, however, that the Poor-Law Amendment Act, Sect. 31, gives power to the guardians to bury the body of any poor person within their parish or union, but they are not obliged to do this unless the body is actually in the workhouse, or on premises belonging to the guardians.

LECTURE VII.

STATUTORY PROVISIONS WITH REGARD TO THE PREVENTION OF DISEASE (*continued*)

The Law in districts which have adopted the Notification of Infectious Diseases and the Infectious Disease Prevention Acts, one or both.

In those districts which have adopted one or both of the above Acts, the local authorities possess increased facilities for dealing with infectious diseases. Under the one Act the officers are informed, or notified promptly, of the existence of each case of infectious disease as it occurs, and under the other there are additional powers conferred with regard to disinfection, cleansing, and the law is amended in some points which were overlooked in framing the Public Health Act, 1875.

Infectious Disease Notification Act.

We will first make a few remarks upon the Infectious Diseases (Notification) Act, 1889. This Act was applied to the Metropolis, and afterwards consolidated into the Public Health (London) Act, and therefore, so far as the Metropolis is concerned, repealed. It is adoptive in the provinces, but so obvious has been the utility of the Act that, up to the present time (November 1892), it has been adopted by 1139 provincial sanitary districts out of

1586 districts, and it extends to a population of 24,604,700 out of a total of 29,001,000 in England and Wales. It therefore applies to about three-quarters of the districts, and to about five-sixths of the population of the country.

List of towns which have not adopted the Act.

The following are the only 13 towns having a population of more than 25,000 which have not adopted it :—Aberdeen, Crewe, Doncaster, Dudley, Gateshead, Leeds, Lincoln, Luton, Tipton, Walton-on-the-Hill, West Derby, Wednesbury, and Ystradyfodwg.

Diseases mentioned in the Notification Act.

The Act does not deal with every infectious disease, but only with those enumerated in the 6th Section, viz. :

Smallpox.
Cholera.
Diphtheria.
Membranous croup.
Erysipelas.
Scarlatina or scarlet fever.
Typhus fever.
Typhoid or enteric fever.
Continued fever.
Relapsing fever.
Puerperal fever.

This list may be added to by resolution of the local authority in manner provided by the Act. The resolution must be confirmed by the Local Government Board.

The list may be added to.

The additional diseases may be added temporarily or permanently.

Several authorities have added in this way measles to the list. In the recent epidemic of influenza, the Dover Sanitary Authority adopted a resolution adopting 'influenza' (at the time of the epidemic of that disease) under the Act, and this resolution was confirmed by the Local Government Board.

There is one disadvantage in adopting the Act, and the disadvantage is, that it seems to confine legal preventive action to the diseases specified or adopted under the Act. That is to say, that in a district in which the Act has been adopted, a person affected with measles, whooping-cough, or other non-specified infectious disease, might be conveyed in a public vehicle with impunity, and no legal proceedings in the way of punishment would be likely to be successful. This is, of course, an argument for the extension of its operation to measles and other common infectious maladies. The notification under the Act is what is called 'dual.' Should any of the notifiable diseases attack the inmates of a house (called in the Act a building), there is at once a duty to notify; the duty falls as follows:

To whom the duty falls of notifying.

1*st.* On the head of the family.

2*nd.* In his default, on the nearest relatives in the building or in attendance on the patient.

3*rd.* On the person in charge of the patient.

4*th and lastly.* In default of all the above, on the occupiers of the house.

A notice by any of these persons relieves those who come later on the list from giving notice, but not those who come earlier; for instance, if the

occupier notify, it does not relieve the head of the family, the nearest relative, or the person in charge; but if the head of the family notify, then all the rest need not notify.

By the same section it is enacted that every medical practitioner attending on, or called in to visit the patient has to certify and send his certificate to the medical officer of health. The certificate is to state the name of the patient, the situation of the building, and the nature of the disease.

It is certain from the 26th Section of the Interpretation Act (52 and 53 Vict. c. 63), that a certificate sent by post must be prepaid, and a claim for postage from the local authority will fall.

A certificate given by one medical man does not relieve a second, if the second is called in to attend, and it is submitted that if the whole College of Physicians were called in to see, and did see professionally, a case of notifiable infectious disease, each, in strict law, would be compelled to give a certificate, and would be entitled to the fee specified.

Under the system of dual notification the householder, etc., 'notifies;' the medical attendant 'certifies,' and the penalty for default is 40s. or less.

Duty of authority to supply certificate forms.

Under Section 4 it is the duty of the local authority to supply gratuitously forms of certificates; and, for each certificate occurring in the private practice of a medical man, the local authority has to pay to the medical man 2s. 6d., but the medical officer of a public body or institution will

only get 1s. for certificates issued in reference to cases in connection with that institution.

What is a 'public institution'?

There is no definition of what a 'public institution' means; it would, of course, include hospitals, infirmaries, workhouses, prisons, but probably not medical clubs nor provident dispensaries.

The Infectious Disease Prevention Act.

The provisions of the Infectious Disease (Prevention) Act (53 and 54 Vict. c. 34) are not, as a rule, in substitution, but in addition to the powers possessed before; or if here and there a section repeals the corresponding section of the Public Health Act, 1875, that which is substituted is more comprehensive or precise than the section which is repealed.

The Act need not be adopted as a whole, but any part or parts may be adopted.

The Act lends itself to similar subdivisions as that adopted previously (pp. 81, 82).

(1) *Cleansing and Disinfecting.*

Section 5 enacts

Cleansing and disinfecting under the Prevention Act.

(1) 'Where the medical officer of health of any local authority, or any other registered medical practitioner, certifies that the cleansing and disinfecting of any house, or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, the clerk to the local authority shall give notice in writing to the owner or occupier of such house, or part thereof, that the same, and any such articles therein, will be cleansed and disinfected by the local authority at the cost of such owner or occupier, unless he informs the local authority, within twenty-four hours from the receipt of the notice, that he will cleanse and disinfect the house, or part thereof, and any such articles therein, to the satisfaction

of the medical officer of health, within a time fixed in the notice.

(2) 'If, within twenty-four hours from the receipt of the notice, the person to whom the notice is given does not inform the local authority as aforesaid, or if, having so informed the local authority, he fails to have the house or part thereof, and any such articles, disinfected as aforesaid within the time fixed in the notice, the house or part thereof shall be cleansed and disinfected by the officers of the local authority, under the superintendence of the medical officer of health, and the expenses incurred may be recovered from the owner thereof or occupier in a summary manner.

(3) 'Provided that where the owner or occupier of any such house, or part thereof, is unable in the opinion of the local authority, or of their medical officer of health, effectually to cleanse and disinfect such house or part thereof, and any article therein likely to retain infection, the same may, without any such notice being given as aforesaid, but with the consent of the owner or occupier, be cleansed and disinfected by the officers of, and at the cost of, the local authority.'

The section (Sect. 5) just quoted is to be read with Section 17 of the same Act which gives power of entry to any officer of the local authority 'who shall produce his authority in writing' for the purpose of carrying into effect the section. The entry is to be within the hours of 10 A.M. and 6 P.M.

Notice to disinfect.

The provisions of Section 5 are an innovation on old routine. For the first time the clerk to the local authority is allowed to give a legal notice without waiting for a meeting of the Board. The successive steps are—

(1) Certificate of medical health officer.

(2) Notice by clerk.

(3) Twenty-four hours' interval.

(4) Non-receipt or receipt of notice stating that owner or occupier will or will not disinfect.

(5) Disinfection by some one, that is, either by sanitary officer, or owner, or occupier.

Although this is undeniably an improvement as regards speed on the procedure under the older Acts, yet, in cases of obstruction, it is in the power of the obstructor to cause a dangerous delay.

Where obstruction is anticipated, the strict legal course must be followed, and the clerk give his notice. As a matter of routine it is best for the sanitary inspector to present himself immediately, on the removal or termination of any case of infectious disease, and proceed (with consent) to disinfect. Unless, indeed, objection is made, consent is presumed.

Inspected bedding or clothing.

The section contemplates operations in the rooms. The next section (Section 6) deals with infected bedding or clothing.

Any local authority, or the medical officer of health of any local authority, generally empowered by the authority on that behalf, may, by notice in writing, require the owner of any bedding, clothing, or other articles which have been exposed to infection of any infectious diseases (that is, the diseases specifically mentioned or adopted under the Notification Act) to cause the same to be delivered over to an officer of the local authority for removal for the purpose of disinfection, and any person who fails to comply with such a requirement shall be liable to a penalty of ten pounds.

'The bedding, clothing, and articles shall be disinfected by the authority, and shall be brought back and delivered to the owner free of charge; and, if any of them suffer any unnecessary damage, the authority shall compensate the owner for the same, and the amount of compensation shall be recoverable in, and in case of dispute shall be settled by, a court of summary jurisdiction.'

In this case the owner of the bedding, or other person, is not allowed the option of disinfecting the things himself, and a medical officer of health who has by a general resolution been empowered to act under the section may give a legal notice; disobedience of which is punishable by a money penalty.

Disinfection by notice must not be charged for.

Articles disinfected under notice of a health officer must be disinfected free of charge, and, as when the authority adopt this section of the Act, they are liable to fulfil the duties and obligations the section places upon them, it will obviously conduce to economy and efficiency for the local authority to have their own disinfecting apparatus.

Disinfection outside the section can, of course, be charged for, if, for example, a person make a request for bedding infested with vermin to be 'stoved,' then, if the authority choose, they may charge. As a matter of policy, however, all health officers are agreed that disinfection, for the purpose of preventing the spread of disease, should be entirely gratuitous.

Temporary shelter for persons turned out of their homes on account of cleansing and disinfecting operations.

In large towns, as a rule, a considerable population can only afford to occupy one or two rooms, and when such rooms have to be cleansed and disinfected, difficulty especially in winter-time has been experi-

enced in doing this necessary operation, because the inmates have to be temporarily turned out, and it may happen they have no place to go to; to meet this the 15th Section (if adopted) casts a duty on the local authority to provide free of charge temporary shelter or house accommodation with any necessary attendants for the members of any family in which any infectious disease has appeared who have been obliged to leave their dwellings for the purpose of enabling such dwellings to be disinfected by the local authority.

(2) *Provision against Exposure of Infected Persons.*

Detention of infectious person in hospital.

The 12th Section of the Diseases Prevention Act is a valuable addition to the powers already spoken of conferred by the 126th Section, P.H., 1875. It enables a person suffering from an infectious malady to be detained in a hospital unless it is safe for him to be discharged.

'Any Justice of the Peace acting in and for the district of the local authority, on proper cause shown to him, may make an order directing the detention in hospital, at the cost of the local authority, of any person suffering from any infectious disease who is then in an hospital for infectious disease, and would not on leaving such hospital be provided with lodging or accommodation in which proper precautions could be taken to prevent the spreading of the disease by such person. Any order so to be made may be limited to some specific time, but with full power to any Justice to enlarge such time as often as may appear to him to be necessary. It will be lawful for any officer of the local authority, or inspector of police acting in the district, or for any officer of the hospital on any such order

being made, to take all necessary measures and do all necessary acts for enforcing the execution thereof.'

(3) *The Letting for Hire Infectious Rooms or Houses.*

Local authorities may adopt the 7th Section of the Infectious Diseases Prevention Act, and by so doing obtain somewhat more defined powers than are given in the corresponding section of the Public Health Act (Section 128) as regards the letting of infectious rooms or making false representations; the section reads as follows:—

Infected houses or rooms must not be let unless notice of their infectious character be given, or they must be properly disinfected.

'Every person who shall cease to occupy any house, room, or part of a house, in which any person has within six weeks previously been suffering from an infectious disease, without having such house, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of a registered medical practitioner as testified by a certificate signed by him, or without giving to the owner of such house, room, or part of a house, notice of the previous existence of such disease, and any person ceasing to occupy any house, room, or part of a house, and who, on being questioned by the owner thereof, or by any person negotiating for the hire of such house, room, or part of a house, as to the fact of there having within six weeks previously been therein any person suffering from any infectious disease knowingly makes a false answer to such question, shall be liable to a penalty not exceeding £10.'

Provision is made for giving notice that this section is in force to the occupiers of houses in which they are aware there is infectious disease. The term 'infectious disease' is, of course, restricted to the diseases enumerated or comprised within the 'Notification Act.'

(4) *Special Regulations as to Milk.*

The 4th Section of the Prevention Act deals with milk, as follows :—

Provision under the Infectious Disease Prevention Act as to milk supposed to be the cause of infection.

'In case the medical officer of health is in possession of evidence that any person in the district is suffering from infectious disease attributable to milk supplied within the district from any dairy situate within or without the district, or that the consumption of milk from such dairy is likely to cause infectious disease to any person residing in the district, such medical officer shall, if authorised in that behalf by an order of a Justice having jurisdiction in the place where such dairy is situate, have power to inspect such dairy, and, if accompanied by a veterinary inspector, or some other properly-qualified veterinary surgeon, to inspect the animals therein, and if on such inspection the medical officer shall be of opinion that infectious disease is caused from consumption of the milk supplied therefrom, he shall report thereon to the local authority, and his report shall be accompanied by any report furnished to him by the said veterinary inspector or veterinary surgeon, and the local authority may thereupon give notice to the dairyman to appear before them within such time, not less than twenty-four hours, as may be specified in the notice, to show cause why an order should not be made requiring him not to supply any milk therefrom within the district until such order has been withdrawn by the local authority, and if, in the opinion of the local authority, he fails to show cause, then the local authority may make such order as aforesaid; and the local authority shall forthwith give notice of the facts to the sanitary authority and County Council (if any) of the district or county in which such dairy is situate, and also to the Local Government Board. An order made by a local authority in pursuance of this section shall be forthwith withdrawn on the local authority, or the medical officer of health on its behalf, being satisfied that the milk supply has been changed, or that the cause of infection has been removed. Any person refusing to permit the medical officer of health, on the production of such order as aforesaid, to inspect any dairy, or if so accompanied as aforesaid to inspect

any animals kept there, or, after any such order not to supply milk as aforesaid has been given, supplying any milk within the district in contravention of such order, or selling it for consumption therein, shall be deemed guilty of an offence against this Act.

'Provided always that proceedings in respect of such offence shall be taken before the Justices of the Peace having jurisdiction in the place where the said dairy is situate. Provided also that no dairyman shall be liable to an action for breach of contract if the breach be due to an order from the local authority under this Act.'

Practical effect of the section.

The effect is as follows: A medical officer of health, say on a Saturday after the meeting of his authority, receives information of a number of cases of scarlet fever, '*a scarlet fever burst*,' so to speak, the burst coinciding exactly with a particular milk supply. According to the section he has no right to inspect the dairy unless authorised by order of Justice; to get this he must wait until Monday; on that day, the order having been obtained, he is at liberty to inspect the milk-pans, churns, and jugs, but he is not allowed to enter the cow-sheds unless accompanied by a vet. After this inspection he is to report to the local authority, which we may suppose meets weekly, viz., on Saturday; by the time the authority meet a whole week will have elapsed. The local authority next has to summon the dairyman to appear before them, and as they are not likely to call a special meeting for the purpose, and as the Act expressly lays down that the dairyman is not to appear before them in less than twenty-four hours, the dairyman will be probably

summoned for the Saturday following; then the local authority may, if they are satisfied, make an order—in other words, the order will be made at least a fortnight after the outbreak. It is therefore obvious that this section will hinder effective action.

(5) *The Conveyance of the Infectious Dead.*

Infectious corpses.

It has been previously pointed out that, under the 126th Section of the Public Health Act, there is no power to prevent the use of public conveyances for carrying infectious corpses for burial or otherwise. It is not, for instance, under the Public Health Act, illegal to convey, from one house to another, the body of a child that has died of smallpox.

This evident omission in the Act can be amended by any local authority adopting the 11th Section of the Infectious Disease Prevention Act, the effect of which is as follows :—

As to the conveyance in public conveyances of infectious dead bodies.

A person is not to use a public conveyance other than a hearse for the conveyance of an infectious corpse, without previous notification to the driver or owner; and if the driver or owner does not immediately afterwards disinfect, he is guilty of an offence under the Act.

(6) *Burial of the Dead.*

Burial of the dead.

The Prevention Act also contains a few sections relating to burial which are well worthy of adoption.

By the 9th Section bodies of persons who have died from infectious disease are only to be removed for burial if, in the opinion of a medical officer of health, or of a registered practitioner (as proved by a certificate) there is risk in doing so; the body may, however, be removed to a mortuary.

Section 10 provides—

An infectious body or any corpse likely to endanger the health of the living must be removed to any available mortuary.

'Where the body of any person, who has died from any infectious disease, remains unburied elsewhere than in a mortuary, or in a room not used at the time as a dwelling-place, sleeping-place, or workroom, for more than forty-eight hours after death, without the sanction of the medical officer of health or of a registered medical practitioner, or where the dead body of any person is retained in any house or building, so as to endanger the health of the inmates of such house or building, any Justice may, on the application of the medical officer of health, order the body to be removed at the cost of the local authority to any available mortuary, and direct the same to be buried within a time to be limited in the order, and any Justice may, in the case of the body of any person who has died of any infectious disease, or in any case in which he shall consider immediate burial necessary, direct the body to be so buried, unless the friends or relatives of the deceased undertake to bury, and do bury, the body within the time limited by such order, it shall be the duty of the relieving officer of the relief district from which the body has been removed to the mortuary, or in which the body shall be, if it has not been so removed, to bury such body, and any expense so incurred may be charged by the relieving officer in his accounts, and may be recovered by the Board of Guardians in a summary manner from any person legally liable to pay the expenses of such burial.'

Provisions as to burial.

The section therefore applies not only to infectious corpses, but to any dead body kept in a house under conditions likely to be a nuisance or to endanger the health of the living.

Under the Common Law, should a stranger enter a man's house, and there die, and if the friends and the relieving officer refuse to bury, the occupier of the house is bound to bury; but the above section gives a remedy, and, under such circumstances, the occupier of the house could apply for an order of removal, and the duty of burial would be definitely cast on the relieving officer.

(7) *Infectious Rubbish.*

In places in which the 13th Section of the Prevention Act is adopted any person who

'shall knowingly cast, or cause, or permit to be cast, into any ash-pit, ash-tub, or other receptacle for the deposit of refuse matter, any infectious rubbish, without previous disinfection, shall be guilty of an offence under the Act.'

Infectious rubbish to be disinfected.

The penalty will be £5, and a continuing penalty, should the offence be continued, of 40s. per day; but the occupier of the house in which infectious disease exists must have previous notice of this section.

Such a provision would provide for the curious contingency reported[1] to have occurred in Silsden Urban Sanitary District, 1891.

Outbreak of typhoid from 'infectious rubbish.'

An outbreak of typhoid affected 17 children, the origin was satisfactorily traced to the children having eaten some fruit, which a greengrocer had cast into an ash-pit, into which ash-pit had been previously

[1] *Public Health*, the Journal of Medical Officers of Health Society, vol. iv. p. 375.

thrown some typhoid excreta, derived from two cases of typhoid.

The section is nevertheless defective, for it would not include infectious matter thrown or cast into the corner of a yard, that is, into a place where there was no dust-bin or receptacle, nor would it deal with similar matters thrown on to a waste plot of land.

LECTURE VIII.

PORT SANITARY LAW

Naval hygiene under several authorities.

The statutes relating to the sanitation of our ports and to naval hygiene are only in part carried out by the Public Health Service. Some portion is imposed as a duty on the masters of vessels, and some on the Custom House Officials.

The Merchant Shipping Act.

The Merchant Shipping laws have many useful regulations having for their object the maintenance of health, particularly in regard to emigrants, so as to ensure the provision of a proper water supply, the prevention of overcrowding, and the wholesomeness of the diet, besides which there are regulations as to privy accommodation, as to ventilation, lighting, and medical attendance. There is also the well-known lime-juice provision still in force, with the object of preventing outbreaks of scurvy which were formerly so disastrous.

The Merchant Shipping laws are, however, not enforced by a port sanitary authority.

The old Quarantine Act.

The Quarantine Act of George IV. (Quarantine Act, 6 Geo. IV. c. 78) is still in force, and the following is a summary of its chief provisions :—

What vessels or goods are liable to quarantine.

Vessels touching at infected ports, or receiving any persons or things coming from infected vessels, are declared 'liable to quarantine.'

Particular goods which have been found specially

liable to infection, and vessels bringing such goods, are subject and liable to special regulation (Sect. 5).

The Privy Council's power as to order.

On emergency the Privy Council may make such order, as they may think necessary, 'for the purpose of cutting off all communication between any persons infected with any infectious disease,' and likewise they may make such orders, as they may think fit, for shortening the time of quarantine to be performed by particular vessels, or particular persons, goods, wares, merchandise, or any other articles, or for absolutely or conditionally releasing them, or any of them, from quarantine (Section 7).

Signals to be used under the Quarantine Act.

Masters and captains of vessels at sea meeting other vessels, or within two miles of the United Kingdom, the Channel Isles, and the Isle of Man, if they have a clean bill of health, are to hoist at the main-top mast-head a yellow flag; if they have an unclean bill of health, then the yellow flag has to possess a circular black patch in the middle.

At night the signal in both cases is to be a light in a lantern at the main-top mast-head (Section 8).

The masters of vessels having dangerous infectious disease on board are to exhibit at the main-top mast-head a yellow and black flag borne quarterly (Section 9.)

Duties of Superintendents of the Port or the Chief Officer of Customs.

It is the duty of the Superintendents of the Port, or the Chief Officer of Customs, to go off to a vessel and interrogate the captain or master. Refusal to answer, or the giving of false answers, are offences punishable by fine, £200 or less.

The Act also provides heavy money penalties for

the offences of eluding quarantine, and for masters, crew, or passengers quitting vessels unlawfully.

Under the Quarantine Act there is no provision for disinfection, but Section 24 enacts that all goods and merchandise liable to quarantine 'shall be opened and aired' in appointed places and for an appointed time.

It must also be noted that the third part of the fifth schedule of the Public Health Act, 1875, enacts that

Quarantine Act applied by Public Health Act, 1875.

'Every vessel having on board any person affected with a dangerous or infectious disorder shall be deemed to be within the provisions of the Act of the sixth year of King George IV. c. 78 (*i.e.* the Quarantine Act), although such vessel has not commenced her voyage, or has come from, or is bound for, some place in the United Kingdom.'

The small extent of use of the Quarantine Act may be gathered from the words of Dr. Stopford Taylor, Medical Officer of Health for the Port of Liverpool; he says:[1]

Dr. Stopford Taylor's view of the working of the Quarantine Act.

'So far as England is concerned we may say that quarantine is abolished, for though the Quarantine Act of 1825 exists, it is never enforced except in the case of yellow fever. Quarantine stations, once so numerous around our coast, have been swept away, with lazarettos and their expensive establishments; no pest-houses, airing-hulks, or fumigating apparatus exist; they have disappeared and are not missed. To satisfy the fears of the timid, and gratify the admirers of old customs, two or three disused men-of-war are moored at the Mothertank, off the Isle of Wight, with a staff of well-trained officers and men to deal with any vessel ordered by Her Majesty's Government to be placed in quarantine. In Liverpool we have a quarantine

[1] 'The Medical Supervision of the Mercantile Marine' (Congress of Hygiene, 1821).

officer appointed by the customs authority to carry out the Quarantine Act; and, by a general order of that body, he is instructed to visit all ships arriving with infectious disease on board (except cholera), and should the disease be plague or yellow fever, he is to place them in quarantine; in the case of the other infectious diseases, the customs officer is directed to communicate the fact to the medical officer of health, who then takes charge of the patients and ship. Some few years ago a vessel was put in quarantine in the Mersey, because some cases of yellow fever had occurred on board during her homeward passage; and, after being detained several days, application had to be made to the port sanitary authority to take charge of the ship before the Privy Council could release her.'

The Customs Laws Consolidation Act, 1876.

The Customs Laws Consolidation Act, 1876 (39 and 40 Vict. c. 36, sect. 234), provides that the Privy Council may from time to time require that no person shall land from a ship coming from a place infected with yellow fever, or other infectious disease, until the officers of customs have examined into the state of health of the persons on board and given permission to land. Penalty for default, £100 or less.

The pilot or master is also liable to the same penalty for not hoisting the prescribed signal.

Under the Public Health Act, 1875, the law, as regards 'nuisance,' is applicable to vessels.

Section 110 states—

Law as to nuisances in relation to nuisances on ships.

'That for the purposes of this Act any ship or vessel lying in any river, harbour, or other water within the district of a local authority, shall be subject to the jurisdiction of that authority in the same manner as if it were a house within such district.' [1]

[1] The 13th Section of the Infectious Disease Prevention Act repeats this section.

Vessels lying in water not belonging to any particular authority are to be considered to be within the district of such local authority as the Local Government Board may prescribe, and, where no local authority has been prescribed, then of the local authority whose district nearest adjoins the place where such ship or vessel is lying.

The section does not apply to Her Majesty's ships nor to ships belonging to Foreign Governments.

From Section 110 (P.H., 1875), it follows that the various provisions in the Public Health Act, 1875, with regard to nuisance arising from privies, animals, overcrowding, and the filthy condition of premises, apply to vessels.

Public Health (Ships) Act provisions relating to infectious diseases.

The Public Health (Ships) Act, 1885, further enacts that the Public Health Act Sections relative to infectious diseases and hospitals, are to be applied to ships; these sections are—

Section 120. As to cleansing and disinfecting.

Section 121. As to the destruction of infectious bedding and clothing.

Section 124. As to the removal to available hospitals of the infectious sick.

Section 125. As to the power of a local authority to make regulations for removal to hospital.

Section 126. As to illegal exposure of infected persons or things.

Section 128. As to the letting of any house (*i.e.* ship) or part of a house (*i.e.* ship) which is infectious.

Section 131. As to the power of local authorities to provide hospitals.

Section 123. As to the recovery of expenses of the maintenance in hospital of patients.

Section 133. As to contracting for medical attendance and medicine.

Hence, in the application of any of these sections to naval hygiene, wherever the word 'house' is to be found, the word 'ship' or 'vessel' may be substituted, thus Section 120 will read—

'The cleansing and disinfecting of any ship . . . or part thereof . . . the duty of such authority to give notice in writing to the master, or other officer in charge of such ship or part thereof.'

The sections are indeed set forth, fully corrected, in the Schedule to the Public Health (Ships) Act, 1885.

The provisions of the Infectious Diseases Notification Act, where in force, apply to ships and vessels.

Creation of Port Sanitary Authorities.

Port sanitary authorities may now be created by 'order.'

By the 287th Section of the Public Health Act as amended by the Public Health (Ships) Act, 1885, the Local Government Board may (not by *Provisional Order*, as in the unamended section, but simply *by Order*) permanently constitute a port sanitary authority, and they may unite two or more ports together, forming a joint board; and the Order constituting the port sanitary authority may assign any rights, duties, capabilities, liabilities, and obligations under the Act. The Order always states the sections of the Public Health Act which shall be

applicable to the port; thus, for instance, the Order, constituting the Joint Board for Plymouth a port sanitary authority states:— Order constituting Plymouth a port sanitary authority.

Art. 10. 'For the purposes of this Order the following sections of the Public Health Act, 1875, shall apply, and the Joint Board shall have, exercise, perform, and be subject to, all the powers, rights, duties, capacities, liabilities, and obligations of an urban sanitary authority under the same sections, so far as those sections are applicable to a port sanitary authority, and to ships, vessels, boats, waters, or persons within the jurisdiction of such port sanitary authority; namely,—

Sections 91 to 111, both inclusive, relating to nuisances.

Sections 120 to 133, both inclusive, relating to infectious diseases and hospitals.

Sections 134 to 138, both inclusive, and Section 140, as to prevention of epidemic diseases.

Sections 141 and 142, relating to mortuaries.

Sections 173 and 174, relating to contracts.

Sections 175, 176, and 177, relating to purchase of lands.

Sections 179, 180, and 181, relating to arbitration.

Sections 182 to 186, both inclusive, and Section 188, relating to bye-laws.

Section 189 (except as regards the offices of surveyor and collector), Sections 191 to 196, both inclusive, and Sections 197, 200, 203, 204, 205, and 206, relating to officers and conduct of business of local authorities.

Sections 245, 247 (as amended by the District Auditors Act, 1879), 249, and 250, relating to audit.

Sections 251 to 269, both inclusive, relating to legal proceedings.

Sections 278 and 280 (second paragraph).

Sections 299 to 302, both inclusive, relating to defaulting local authorities.

Sections 305 to 310, both inclusive, relating to miscellaneous provisions.

Sections 327, 328, and 329, relating to Saving Clauses.[1]

[1] Local Government Board Provisional Orders Confirmation (No. 7) Act, 1882, c. 64.

Orders of the Local Government Board under Section 130, *Public Health Act*, 1875.

Local Government Board's order as to cholera.

The chief and most important duty a port sanitary authority has at the present time to perform is to take precautions lest cholera when imported should spread beyond the particular infected person or persons. Special facilities for this purpose are given to local authorities by Orders under the 130th Section, P.H., 1875. The section has been extended by the Public Health Act, 1889, which enacts that the regulations of the Local Government Board, made in relation to cholera and choleraic diarrhœa, may provide for such regulations being enforced and carried out by officers of customs as well as by other officers and authorities. The text of the last Cholera Order is as follows :—

'General Order of the Local Government Board, 1890, made under Section 130 of the Public Health Act, 1875.

To all Port Sanitary Authorities,—
To all other Sanitary Authorities as herein defined,—
To the Queen's Harbour Masters of Dockyard Ports,—
To all Officers of Customs,—
To all Medical Officers of Health of the Sanitary Authorities aforesaid,—
To all Masters of Ships,—
To all Pilots,—
And to all others whom it may concern.

'Whereas we, the Local Government Board, are empowered by Section 130 of the Public Health Act, 1875, from time to

time, to make, alter, and revoke such regulations as to us may seem fit, with a view to the treatment of persons affected with cholera, and preventing the spread of cholera, as well on the seas, rivers, and waters of the United Kingdom, and on the high seas within three miles of the coast thereof, as on land; and may declare by what authority or authorities such regulations shall be enforced and executed.

'And whereas, by Section 2 of the Public Health Act, 1889, it is enacted that regulations of the Local Government Board, made in relation to cholera and choleraic diarrhœa, in pursuance of Section 130 of the Public Health Act, 1875, may provide for such regulations being enforced and executed by the officers of customs, as well as by other authorities and officers, and without prejudice to the generality of the powers conferred by the said section, may provide for the detention of vessels and of persons on board vessels, and for the duties to be performed by pilots, masters of vessels, and other persons on board vessels; provided that the regulations, so far as they apply to the officers of customs, shall be subject to the consent of the Commissioners of Her Majesty's Customs.

'And whereas by certain Orders, dated the 12th day of July 1883, and an Order, dated the 21st day of April 1884, we prescribed rules and regulations with a view to the treatment of persons affected with cholera, and for preventing the spread of the disease, and it is expedient that such Orders should be revoked, and that further regulations should be prescribed as hereinafter mentioned, to which the Commissioners of Her Majesty's Customs have signified their consent so far as such regulations apply to the officers of customs.

'Now therefore, we, the Local Government Board, do hereby revoke the aforesaid Orders, except in so far as they may apply to any proceedings now pending, and we do, by this our Order, and in exercise of the power conferred on us by the Public Health Act, 1875, as amended and extended by the Public Health Act, 1889, and every other power enabling us in that behalf, make the following regulations, and declare that they shall be enforced and executed by the authorities hereinafter named:—

DEFINITIONS.

Art. 1. 'In this Order—

The term 'ship' includes vessel or boat.

The term 'officer of customs' includes any person acting under the authority of the Commissioners of Her Majesty's Customs.

The term 'master' includes the officer, pilot, or other person for the time being in charge or command of the ship.

The term 'cholera' includes choleraic diarrhœa.

The term 'sanitary authority' means every port sanitary authority and every urban or rural sanitary authority whose district includes or abuts on any part of a customs port, which part is not within the jurisdiction of a port sanitary authority.

The term 'medical officer of health' includes any duly qualified medical practitioner appointed by a sanitary authority to act in the execution of this Order.

For the purposes of this Order—

(1) So much of a customs port abutting on an urban or rural sanitary district as is nearer to such district than to any other, and is not included within the jurisdiction of any port sanitary authority, shall be deemed to be within such district.

(2) Every ship shall be deemed infected with cholera, in which there is or has been during the voyage, or during the stay of such ship in a port in the course of such voyage, any case of cholera.

I. *Regulations as to Detention by Officers of Customs.*

Art. 2. 'If any officer of customs, on the arrival of any ship, ascertain from the master of such ship or otherwise, or have reason to suspect that the ship is infected with cholera, he shall detain such ship, and order the master forthwith to moor or anchor the same in such position as such officer of customs shall direct; and thereupon the master shall forthwith moor or anchor the ship accordingly.

Art. 3. 'Whilst such ship shall be so detained, no person shall leave the same.

Art. 4. 'The officer of customs detaining any ship as aforesaid shall forthwith give notice thereof, and of the cause of such detention, to the sanitary authority of the place to which the ship shall be bound, or where the ship shall be about to call.

Art. 5. 'Such detention by the officer of customs shall cease as soon as the ship shall have been duly visited and examined by the medical officer of health; or, if the ship shall, upon such examination, be found to be infected with cholera, as soon as the same shall be moored or anchored in pursuance of Article 10 of this Order.

'Provided that, if the examination be not commenced within twelve hours after notice given as aforesaid, the ship shall, on the expiration of the said twelve hours, be released from detention.

II. *Regulations as to Sanitary Authorities.*

Art. 6. 'Every port sanitary authority, and every other sanitary authority within whose district persons are likely to be landed from any ship coming foreign, shall, as speedily as practicable, with the approval of the chief officer of customs of the port, fix some place where any ship may be moored or anchored for the purpose of Article 10; and shall make provision for the reception of cholera patients and persons suffering from illness removed under Articles 13 and 14. The place to be fixed as aforesaid, where any ship may be moored or anchored for the purpose of Article 10, shall be some place within the jurisdiction or district of the sanitary authority, unless the Local Government Board otherwise consent; in which case the place so fixed shall, for the purposes of this Order, be deemed to be within such jurisdiction or district.

'Provided that, in the case of any dockyard port for which a Queen's harbour-master has been appointed, the place where any ship shall be moored or anchored for the purpose of this Article shall from time to time be fixed by the port sanitary authority, with the approval of the Queen's harbour-master instead of with that of the chief officer of customs of the port.

'Provided also, that where, in pursuance of any of the above-cited Orders, places have been duly fixed for the mooring

or anchoring of ships for the like purpose, such places shall be deemed to have been so fixed in pursuance of this Order.

Art. 7. 'The sanitary authority, on notice being given to them by an officer of customs, under this Order, shall forthwith cause the ship, in regard to which such notice shall have been given, to be visited and examined by their medical officer of health for the purpose of ascertaining whether she is infected with cholera.

Art. 8. 'The medical officer of health, if he have reason to believe that any ship coming or being within the jurisdiction or district of the sanitary authority, whether examined by the officer of customs or not, is infected with cholera, shall or, if she have come from a place infected with cholera, may visit and examine such ship, for the purpose of ascertaining whether she is so infected; and the master of such ship shall permit the same to be so visited and examined.

Art. 9. 'If the medical officer of health, on making such examination as aforesaid (whether under Article 7 or under Article 8), shall be of opinion that the ship is infected, he shall forthwith give a certificate in duplicate in the following form, or to the like effect, and shall deliver one copy to the master, and retain the other copy, or transmit it to the sanitary authority. He shall also give to the Local Government Board information as to the arrival of the ship, and such other particulars as that Board may require.

Certificate.

_____ *day of* _____ 189

_____ SANITARY AUTHORITY OF _____

I hereby certify that I have examined the ship , of , now lying in the port of [*or detained at*] and that I find that she is infected with cholera.

_____

Medical Officer of Health [or Medical Practitioner appointed by the Sanitary Authority].

Art. 10. 'The master of any ship so certified to be infected with cholera shall thereupon moor or anchor her at the place fixed for that purpose under Article 6, and she shall remain

there until the requirements of this Order have been duly fulfilled.

Art. 11. 'No person shall leave any such ship until the examination hereinafter mentioned shall have been made.

Art. 12. 'The medical officer of health shall, as soon as possible after any such ship has been certified to be infected with cholera, examine every person on board the same, and in the case of any person suffering from cholera, or from any illness which the medical officer of health suspects may prove to be cholera, shall certify accordingly; and every person who shall not be so certified by him shall be permitted to land immediately on giving to the medical officer of health his name and place of destination, stating, where practicable, his address at such place.

'The name and address of any such person shall forthwith be given by the medical officer of health to the clerk to the sanitary authority, and such clerk shall thereupon transmit the same to the local authority of the district in which the place of destination of such person is situate.

'In this Article the term "local authority" means any urban or rural sanitary authority; and in the administrative county of London, the commissioners of sewers, the vestry under the Metropolis Management Act, 1855, of a parish in Schedule A, and the district board of a district in Schedule B to that Act, as amended by the Metropolis Management Amendment Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887, and the Woolwich Local Board of Health.

Art. 13. 'Every person certified by the medical officer of health to be suffering from cholera shall be removed, if his condition admit of it, to some hospital or other suitable place appointed for that purpose by the sanitary authority; and no person so removed shall leave such hospital or place until the medical officer of health shall have certified that such person is free from the said disease.

'If any person suffering from cholera cannot be removed, the ship shall remain subject, for the purposes of this Order, to the control of the medical officer of health; and the infected person shall not be removed from or leave the ship, except with the consent, in writing, of the medical officer of health.

Art. 14. 'Any person certified by the medical officer of health to be suffering from any illness, which such officer suspects may prove to be cholera, may either be detained on board the ship for any period not exceeding two days, or be taken to some hospital or other suitable place appointed for that purpose by the sanitary authority, and detained there, for a like period, in order that it may be ascertained whether the illness is or is not cholera.

'Any such person who, while so detained, shall be certified by the medical officer of health to be suffering from cholera, shall be dealt with as provided by Article 13 of this Order.

Art. 15. 'The medical officer of health shall, in the case of every ship certified to be infected, give directions and take such steps as may appear to him to be necessary for preventing the spread of infection, and the master of the said ship shall forthwith carry into execution such directions as shall be so given to him.

Art. 16. 'In the event of any death from cholera taking place on board such ship while detained under Article 10, the master shall, as directed by the sanitary authority or the medical officer of health, either cause the dead body to be taken out to sea and committed to the deep, properly loaded to prevent its rising, or shall deliver it into the charge of the said authority for interment; and the authority shall thereupon have the same interred.

Art. 17. 'The master shall cause any articles that may have been soiled with cholera discharges to be destroyed, and the clothing and bedding, and other articles of personal use likely to retain infection, which have been used by any person who may have suffered from cholera on board such ship, or who, having left such ship, shall have suffered from cholera during the stay of such ship in any port, to be disinfected, or (if necessary) destroyed; and if the master shall have neglected to do so before the ship arrives in port, he shall forthwith, upon the direction of the sanitary authority or the medical officer of health, cause the same to be disinfected or destroyed, as the case may require; and if the said master neglect to comply with such direction within a reasonable time, the authority shall cause the same to be carried into execution.

Art. 18. 'The master shall cause the ship to be disinfected, and every article therein, other than those last described, which

may probably be infected with cholera, to be disinfected or destroyed, according to the directions of the medical officer of health.

III. *Flag to be hoisted by Ships infected with Cholera.*

Art. 19. 'The master of every ship infected with cholera shall, when within three miles of the coast of any part of England or Wales, cause to be hoisted the Commercial Code Signal Q, being a yellow flag, under the national ensign, and shall keep the same displayed during the whole of the time between sunrise and sunset.

'Given under the seal of office of the Local Government Board, this twenty-eighth day of August, in the year one thousand eight hundred and ninety.

(L.S.) 'CHAS. T. RITCHIE, *President.*

'HUGH OWEN, *Secretary.*

'NOTICE.—The Public Health Act, 1875, provides by Section 130, that any person wilfully neglecting, or refusing to obey or carry out, or obstructing the execution of any regulation made under that section, shall be liable to a penalty not exceeding *Fifty Pounds.*

'Date of publication in the *London Gazette,*
29th August 1890.'

Rags.

It having been proved that rags often convey the infection of cholera, from time to time the Local Government Board issues a General Order, restricting their importation. The following is an example of the General Order as to rags :—

'LOCAL GOVERNMENT ORDER IN 1890 AS TO THE IMPORTATION OF RAGS FROM SPAIN, under Section 130, Public Health Act, 1875.

General Order.

To all Port Sanitary Authorities ;—
To all Urban and Rural Sanitary Authorities ;—

To all Officers of Customs;—

To all Medical Officers of Health of the Sanitary Authorities aforesaid;—

To all Masters of Ships;—

And to all others whom it may concern.

'WHEREAS cholera is now prevalent in certain parts of Spain, and it is expedient that regulations should be made, as hereinafter mentioned, with reference to ships having on board bales of rags from that country;

'And whereas the Commissioners of Her Majesty's Customs have signified their consent to the regulations herein contained so far as the same apply to the officers of customs:

'Now therefore we, the Local Government Board, do, by this our Order, and in exercise of the power conferred upon us by Section 130 of the Public Health Act, 1875, and by the Public Health Act, 1889, and every other power enabling us in this behalf, make the following regulations, and declare that they shall be enforced and executed by the authority or authorities hereinafter specified:—

'Art. 1. In this Order—

The term 'sanitary authority' means port sanitary authority, urban sanitary authority, or rural sanitary authority.

The term 'ship' includes vessel or boat.

The term 'officer of customs' includes any person acting under the authority of the Commissioners of Her Majesty's Customs.

The term 'master' includes the officer, pilot, or other person for the time being in charge or command of a ship.

Art. 2. 'From and after the twelfth day of September, one thousand eight hundred and ninety, and until the thirty-first day of December, one thousand eight hundred and ninety, no rags from Spain shall be delivered overside, except for the purpose of export, nor landed in any port or place in England or Wales.

Art. 3. 'If any rags shall be delivered overside or landed in contravention of this Order, they shall, unless forthwith exported, be destroyed by the person having control over the

same, with such precautions as may be directed by the medical officer of health of the sanitary authority within whose jurisdiction or district the same may be found.

Art. 4. 'All masters of vessels, consignees, and other persons having control of any rags prohibited under this Order from being delivered overside, except for the purpose of export, or landed, are required to obey these regulations.

Art. 5. 'All officers of customs are empowered to prevent the delivery overside or landing of rags in contravention of this Order.

Art. 6. 'It shall be the duty of the sanitary authority to take proceedings against masters of ships, consignees, or other persons having control over any rags, who shall wilfully neglect or refuse to obey or carry out, or shall obstruct the execution of any of these regulations.

'Given under the seal of office of the Local Government Board this fourth day of September, in the year one thousand eight hundred and ninety.

(L.S.) 'CHAS. T. RITCHIE, *President.*

'S. B. PROVIS, *Assistant Secretary.*

'Date of publication in the *London Gazette,* 5th day of September 1890.

'NOTICE.—The Public Health Act, 1875, provides by Section 130 that any person wilfully neglecting, or refusing to obey or carry out, or obstructing the execution of any regulation made under that section, shall be liable to a penalty not exceeding fifty pounds.'

Duties of Port Sanitary Officers.

Duties of Port Sanitary Officers.

The duties of port sanitary officers, in reference to a port sanitary district, are detailed in a general order of the Local Government Board, issued in 1883. Those duties are very similar to the duties of ordinary sanitary officers; thus, the health officer has to inform himself of all influences affecting the

health of persons on shipboard, to inquire into the etiology of disease and its distribution; to act as the adviser of the port sanitary authority; to visit ships having any dangerous or infectious disease on board; to take steps to abate nuisances and overcrowding; to perform any duties which may be laid upon him by regulation or bye-law; to attend at an office; to make written, special, and also annual reports; to inform the Local Government Board immediately of any outbreak of dangerous or infectious disease, and to give notice to the medical officer of health of any port to which any vessel is sailing, which vessel, when within his district, had dangerous or infectious disease on board.

Duties of inspectors of nuisances.

The duties of an inspector of nuisances in a port are mainly inspection of vessels, the detection of nuisances, the making of reports for his superior officer, the keeping of proper records, and obedience to general or special instructions.

LECTURE IX.

THE HOUSING OF THE WORKING-CLASSES ACT, 1890

THE Housing of the Working-Classes Act, 1890, repealed and consolidated no less than fourteen Acts dealing with the large subject of dwellings for the labouring classes.

Act practically is divided into three parts, based respectively on Cross's, Torren's, and the Shaftesbury Acts.

The Act is divided into seven parts, but the first three are the essential portions, and the latter four may be considered as supplemental, hence I may say that the Act naturally divides itself into three parts only; the first of these parts being an amendment and consolidation of the Artisans' and Labourers' Dwellings Acts, which used to be familiarly known by the name of Cross's Act; a second part, the basis of which is the Act formerly known as Torren's Act; while the third part is a consolidation of the Shaftesbury Acts. The main difference between Part I. and Part II. is as follows:—Part I. deals with areas of some size, areas including many houses. Part II. deals with the individual house, or small groups of houses.

PART I.

Part I. is headed 'unhealthy areas;' it is applicable to the Metropolis, England, Scotland, and Ireland.

Leading idea of Part I.

The leading idea of this portion of the Act is to give sufficient power to the local authority to clear some well-defined unhealthy area in a city, and having removed the unwholesome dwellings, narrow courts, and so forth, and to replace the dwellings so removed by healthy structures in all respects fit for human habitation, and to rearrange the streets on a plan admitting of plenty of air and light.

First step, 'the official representation.'

The first step to put the Act in motion is a representation by the medical officer of health, and this is called 'the official representation.' In the Metropolis the representation may be made by the local medical officer of health, 'or by any medical officer of health in London' (Section 5). The officer may make this representation of his own free will, or he may be compelled to inspect and report by a complaint lodged by two or more Justices, or by twelve or more of the ratepayers, that an area in his district is unhealthy (*ibid.*).

The kind of defects which are supposed to support a representation are set forth in the 4th Section, which states that when an official representation is made to the local authority that within a certain area within the district of such authority either—

List of defects in the 4th Section which will justify a representation —they must be of such a kind that there is no other effectual remedy, save a scheme under Part I.

(*a*) 'Any houses, courts, or alleys are unfit for human habitation, or (*b*) the narrowness, closeness, and bad arrangement, or the bad condition of the streets and houses or groups of houses within such area, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the building in the said area or of neighbouring buildings, and 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 shall take such representation into their consideration, and if satisfied of the truth thereof, and of the sufficiency of their resources, shall pass a resolution to the effect that such area is an unhealthy area, and that an improvement scheme ought to be made in respect to such area, and after passing such resolution they shall forthwith proceed to make a scheme for the improvement of such area. Provided always that any number of such areas may be included in one improvement scheme."

Maps, particulars, and estimates.

According to Section 6 the 'improvement scheme' is to be accompanied by 'maps, particulars, and estimates.'

Since there may be opposition to any representation the health officer may make, and since, in any case, there is sure to be a close examination of the facts on which a representation is based, the health officer will find it on the whole more convenient to get out as many details as he can before making the first representation, and not wait until a resolution has been passed by the authority. The 'particulars' which may be expected in a scheme are the following :—

List of particulars for a scheme under Part I.

Names and addresses of owners and occupiers.
Occupations of inhabitants.
Number, ages, etc., of inhabitants.
Amount of rent paid.
Length of residence.
Local and general drainage.
General sanitary condition of each house.

Absence or otherwise of dampness.

Nature of the subsoil.

Structure of the houses, and, added to this, some statement with regard to the health. It will be prudent to tabulate the mortality statistics in relation to the area for a number of years, and to obtain from notification records, and from any public medical institutions information as to both deaths and sickness of persons belonging to the area. In making the improvement scheme under Section 6 (1) the authority has a tolerably free hand, for all the area need not be included; or, again, any neighbouring lands, that is, any adjoining district which has not been reported upon, and is even in a good sanitary state, may be included, always provided that the exclusion or the inclusion is necessary for making the scheme efficient for sanitary purposes.

Neighbouring lands may be included if necessary to make the scheme efficient.

Any existing approaches, such, for example, as narrow streets leading to the area may be opened out or widened. The authority must, however, provide in the scheme for proper sanitary arrangements, and also for dwelling accommodation for the working classes displaced, unless this condition is dispensed with by the confirming authority under Section 2.

Accommodation for working classes displaced must be provided, except this condition be specially dispensed with.

The scheme must also distinguish the lands proposed to be taken compulsorily.

The scheme once formed and adopted by the local authority, the Act provides a course of procedure which must be strictly followed out, having for its object the making the public generally, and especially

Formalities of publication and notice.

those directly affected, fully acquainted with the details of the scheme. The formalities of publication and notice are analogous to those in relation to bills for the construction of new railways and the like.

First step, notice in newspapers on certain months only.

First of all, the local authority must publish in a local newspaper, during either September, October, or November, an advertisement of the scheme, naming a place where a copy of the scheme may be seen at all reasonable hours. During the month following the advertisement month, notices are to be served on every one likely to be affected, that is, on owners, reputed owners, lessees, and reputed lessees, and the occupiers. It is, however, expressly provided that one notice addressed to the occupier or occupiers, and left at any house, shall be deemed to be a notice served on the occupier or occupiers of any such house.

Second step, notice to owners and occupiers

Third step, Petition (*a*) in London to Secretary of State, (*b*) elsewhere to Local Government Board.

These preliminary steps having been completed, the next step is the petition which, in London, must be presented to the Secretary of State, but elsewhere to the Local Government Board, praying for an order confirming the scheme. The petition has to be supported by evidence of the full particulars and proof that the statutory requirements have been fulfilled. The confirming authority next hold a local inquiry for the purpose of ascertaining 'the correctness of the official representation, and any local objections to be made to such scheme.'

Fourth step, local inquiry.

Fifth step, provisional order.

After receiving the report made on such inquiry, the confirming authority may make a provisional order declaring the limits of the area comprised in

the scheme, and authorising such scheme to be carried into execution (Section 8).

If opposed, referred to a Select Committee.

The provisional order having to be passed through Parliament, like any other bill, there is still a chance of opposition ; and, if the bill is opposed, it is treated like an opposed local or personal bill, and referred to a Select Committee of either House, before whom both sides are heard. The costs of the hearing are paid by promoters or opponents of the bill, as the Committee may think right. If, for example, the Committee thought the opposition had no just grounds for action, they might saddle the opposition with all the costs.

To recapitulate, the successive stages of a scheme being brought to a successful termination are as follows :—

Summary of procedure to carry a scheme under Part I. through all its stages.

(a) *Preliminary Steps.*

1. The official representation by the medical officer of health.
2. Consideration of the representation by the local authority.
3. The passing of a resolution to carry out an improvement scheme.
4. Preparation of improvement scheme, with maps, plans, and elaborate particulars.

(b) *Steps to carry scheme into execution.*

1. Notice in local newspaper in either September, October, or November.
2. The service of notices in either October,

November, or December (according to the month in which the newspaper announcements have been effected) on the persons interested.

3. Petition asking for confirmation (*a*) in London to Secretary of State, (*b*) elsewhere to Local Government Board.
4. Local inquiry.
5. Provisional Order.
6. Introduction of Provisional Order as a Bill into Parliament.
7. Possible opposition ; if so, referred to a Committee.
8. Confirmation by Parliament.

Duty of sanitary authority to proceed with the scheme.

Upon this it is the distinct duty of the authority to take steps for purchasing the land required for the scheme, and otherwise for carrying the scheme into execution (Section 12).

Provisions of Lands Clauses Act apply.

The provisions of the Lands Clauses Act apply as to taking by agreement of any lands which the local authority may require for carrying into effect the scheme, but no land can be taken compulsorily, except so far as authorised by the scheme.

When it comes to compulsory purchase, owners are liable to put a high value on their property, so that, as a rule, most of the area has to be referred to an arbitrator to assess.

Principles on which arbitration is to be based.

The principles on which he has to act are fully set forth in Section 21.

Value to be full market value according

The value of such lands or interests are to be based on the full market value, due regard being had

to present condition of repair and probable duration of buildings—no addition to value for compulsory purchase.

'to the nature and then condition of the property, and the probable duration of the buildings in their existing state, and to the state of repair thereof;' but the usual 10 per cent. for compulsory purchase, which an owner would have in the case, for example, of a railway, is not to be added.

Also, to avoid paying for improvements initiated by an owner, who, seeing the advertisement of the scheme, at once begins to build, alter, or improve, for the purpose of getting large compensation, it is expressly enacted that such improvements, made after the date of the advertisement, are not to be included, nor

No allowance for improvements for value after advertisement.

'In the case of any interest acquired after the said date shall any separate estimate of the value thereof be made, so as to increase the amount of compensation, besides which—

No addition to value for increase of rent for illegal use or for overcrowding.

(1) If the rental of the house was enhanced by its being used for illegal purposes (as, for example, a brothel or a gaming-house), or it is so overcrowded as to be dangerous or injurious to the health of the inmates, then the compensation is to be based according to the rent that a landlord would be likely to get if the premises were neither occupied illegally nor overcrowded.

Insanitary houses.

(2) If the house or premises are in such a condition as to be a nuisance, or in a state of defective sanitation, or not in good repair, compensation to be value of house after deducting expenses of putting house in repair, abating nuisance, etc.

Houses unfit for occupation, compensation, value of land, and materials.

(3) If the house or premises are unfit, and not reasonably capable of being made fit, for human habitation, compensation to be the value of the land and of the materials (that is, the value of the timber, window-frames, bricks, tiles, and so forth).'

There are also formalities to be observed in

clearing the land of the houses thirteen weeks before the authority proposes to take fifteen houses or more. They must give the occupiers notice by placards, handbills, or other general notices, and they must, before actually clearing, obtain a certificate from a Justice of the Peace that they have made known their intention of taking the houses in the manner specified in the Act (Section 14). Formalities to be observed in the clearing of houses.

The time taken by all these steps is naturally considerable. It rarely happens that an area is cleared and built upon under four years. Length of procedure under Part I.

Part II.

Part II. of the Housing of the Working-Classes Act deals mainly with the individual house, or with small groups of houses. The main idea of Part II.

Under Part I. there is no definition of owner, but under Part II. a definition in technical, somewhat involved, language is given, which, translated into the language of common life, simply means that the owner must have at least 21 years' interest in the property. (See *ante*, p. 5.) Hence holders of a 7 years' lease, tenants under yearly or triennial agreements, and so forth, need not be served with any notices; the local authority has only to deal with freeholders and leaseholders, or other persons who have at least a 21 years' interest. Definition of 'owner.'

Under Part II., Section 30, a definite duty is laid upon the medical officer of health to 'represent' to the local authority of that district any dwelling-house Health Officer's duty.

'which appears to him to be in a state so dangerous or injurious to health as to be unfit for human habitation.' He may be also moved to inspect and make a representation by complaints in writing from any four or more householders (Section 31 [1]); and in the case of an urban district, should the local authority let three months pass away after receiving such representation without doing anything, the householders may petition the Local Government Board to hold an inquiry (*ibid.* [2]), and the Board, after such inquiry, may make a binding order on the authority.

Closing Orders.

Duty of sanitary authority.

It is laid down as the duty of the sanitary authority to make, from time to time, inspection of their district,

> 'With a view to ascertain whether any dwelling-house therein is in a state so dangerous or injurious to health as to be unfit for human habitation, and if, on the representation of the medical officer, or of any officer of such authority or information given, any dwelling-house appears to them to be in such a state to forthwith take proceedings against the owner or occupier for closing the dwelling-house, under the enactment set out in the third schedule to this Act (Section 32 [1]).'

On representation the local authority must either close the house or give notice to owner to put the premises in proper order.

On the representation thus made, the local authority must do one of two things, viz., take at once measures to close the house (Section 32 [2]) by applying for a summons, and then, under Section 97, P.H., 1875, ask for a Magistrate's order to close the house, or they may give notice to the owner to do certain work, so as to put the premises in proper

order, and, on his failing to comply, summon, and at the hearing ask, for the premises to be closed.

In the last case Form A of the Fourth Schedule (Housing of the Working-Classes Act) is used for the notice, and the same Schedule, Forms B and C, for the summons for closing order, and also the closing order itself; the last is issued by the Court.

Clearing the house of tenants on a closing order.

The closing order obtained, the local authority have to clear the house of the tenant or tenants by giving notice to each tenant of the Magistrate's order, disobedience of which involves liability to a money penalty (20s. or less).

If authorised to do so, a local authority may make some reasonable allowance for the expenses of a tenant moving out, but this is not obligatory, and, should they be allowed, they are recoverable from the owner of the property.

Determination of closing order.

The house cleared of the tenants, the owner has facilities to do whatever structural or other work has been required of him, and, if this work is done to the satisfaction of the authority, the closing order is determined by a subsequent order permitting the house to be occupied.

Resolution for demolition.

In the case of an owner doing nothing, or doing the necessary work in a slow and perfunctory manner, the local authority shall pass a resolution, 'that it is expedient to order the demolition of the building.' This resolution is to be sent to the owner or owners: the notice must specify that they will hear the owner or owners at such an hour and at such a place a month or more hence,

Owners must be given notice, opportunity must also be afforded them to be heard.

and, after hearing any objections the owner may make, will further consider the resolution.

The owner, if he should attend, is heard and the matter considered, and if the local authority decide 'that it is expedient so to do, then, unless an owner undertakes forthwith to execute the necessary works to render the dwelling-house fit for human habitation, the local authority shall order the demolition of the building.'

Order for demolition.

It may be, however, that the owner undertakes to execute the works required. If so, the local authority makes an order specifying a time within which the works are to be completed, 'and, if the works are not completed within that time, or any extended time allowed by the local authority or a court of summary jurisdiction, the local authority shall order the demolition of the building.'

Two cases only in which houses can be demolished.

Hence, under the Housing of the Working-Classes Act, Part II., there are two circumstances only under which a local authority have power to demolish a building; in both cases the house or houses must have been closed by a 'closing order;' in both cases a resolution of demolition must have been passed, and the difference between the two cases is simply that in the one the owner has not undertaken to do any works, in the other the owner has undertaken to do work in a specified time, and has either not begun it within that time, or has not completed the work within the specified time.

Owner is to comply with demolition

By Section 34 (1), where an order for the demolition of a building has been made, the owner thereof

shall, within three months after service of the order, proceed to take down and remove the building, and, if the owner fails therein, the local authority shall proceed to take down and remove the building, and shall sell the materials, and, after deducting the expenses incident to such taking down and removal, pay over the balance of money, if any, to the owner.

order; if he fail, then local authority demolishes.

It is also enacted (*ibid.* [2]) that no building is to be erected on the vacant site, or any part of it, likely to be dangerous or injurious to health, and, if any structure is placed there answering the above description, the local authority can call upon the owner to remove it; if he does not remove it, the local authority can abate or alter it.

No building to be erected on the site likely to be dangerous or injurious to health.

There is, of course, provided a power of appeal against the demolition order. The appeal is to Quarter Sessions, and notice of appeal must be given within one month after notice of the order of the local authority has been served.

Power of appeal (sect. 38).

Obstructive Buildings.

Leaving alone the technical question of 'charging order,' we pass now to the consideration of an interesting section of the Act which permits a local authority to buy and pull down and clear away what is called an 'obstructive building.'

The following are the two sets of conditions (Sect. 38) which justify action under this part of the statute:—

The building, although not in itself unfit for human habitation, must be so situate

Obstructive buildings, stop ventilation or make other buildings insanitary, or prevent proper measures from being carried into effect for remedying nuisances.

'that, by reason of its proximity to, or contact with, any other buildings, it causes one of the following effects, that is to say:—

(*a*) It stops ventilation, or otherwise makes, or conduces to make, such other buildings to be in a condition unfit for human habitation, or dangerous or injurious to health, or

(*b*) It prevents proper measures from being carried into effect for remedying any nuisance injurious to health, or other evils complained of, in respect of such other buildings.'

Procedure to be followed in dealing with an obstructive building.

In any of the above cases the health officer has to make 'a representation' of the particulars to the local authority stating that, in his opinion, it is expedient that the obstructive building should be pulled down; the same kind of representation may be made by four householders or more.

Local authority must ascertain cost and particulars.

Whether the representation comes from the health officer or from the householders the course which the local authority has to pursue is the same; they are to cause to be made to them a report respecting the circumstances of the building, the cost of pulling it down, and the cost of acquiring the land. These matters will probably be referred to the surveyor, or possibly to a skilled valuer.

Procedure, if the local authority determine to proceed.

Next, they are to take into consideration the representation and report, and, if they decide to proceed, they are to cause a copy of both the representation and report to be given to the owner of the lands on which the obstructive building stands, with notice of the time and place appointed by the local authority for the consideration thereof.

The owner is at liberty to attend and make ob-

jections ; after he has been heard the local authority may decide to allow his objections, or to direct that the obstructive building be pulled down. Their order is subject to appeal just as in the case of a demolition order.

Owner may object, and must be heard.

Within a month after service of the notice to purchase, the owner may declare he desires to retain the site (Sect. 38 [5]), and that he undertakes to pull downthe building. In such a case he is compensated for the building only. He is not allowed to erect an obstructive building on the vacant site, or one that is dangerous or injurious to health. If such a building is erected, the course is similar to that already detailed with regard to Part I. of the Act.

Owner may, if he chooses, under certain conditions, retain the site.

In case of difference as to price the matter as usual goes to arbitration.

Arbitration, if price cannot be agreed on.

It may be that the local authority wishes to get rid of a single wing, or part of a house, or manufactory. Under the usual powers of the Lands Clauses Act, 1845, sect. 92, the whole house or manufactory would have to be purchased, although the part in question might, perhaps, be severed without great detriment. Under this Housing of the Working-Classes Act, a part can be taken if, in the opinion of the arbitrator, no material detriment will be suffered ; but, in assessing compensation, the value of the part and also the severance of the part are both taken into consideration.

Part of a house only may be taken.

Probably the value of buildings which have been injuriously affected by the obstructive building, after the building has been pulled down will have

'Betterment.'

been increased, and the principle which has been so much discussed of 'betterment' is adopted (Section 38 [8]), that is to say, a local authority may apportion the compensation on such buildings, declare the same to be private improvement expenses, and levy improvement rates.

How the site is to be dealt with.

The local authority, having acquired the site, may keep the whole of it as an open space, or dedicate it as a highway, or, if the whole space is not required in order to attain the purposes for which the building was removed, they may keep a part and, with the consent of the Local Government Board, sell the rest.

Scheme for Small Areas under Part II.

Section 39 states that in any of the following cases, that is to say :—

(*a*) What may be done with the site from which an insanitary house after demolition has been cleared away.

I. (*a*) 'Where an order for the demolition of a building has been made in pursuance of this part of this Act, and it appears to the local authority that it would be beneficial to the health of the inhabitants of the neighbouring dwelling-houses, if the area of the dwelling-house of which such building forms part were used for all or any of the following purposes, that is to say, either

(1) Dedicated as a highway or open space.

(2) Appropriated, sold, or let, for the erection of dwellings for the working classes; or

(3) Exchanged with other neighbouring land which is more suitable for the erection of such dwellings, and on exchange will be appropriated, sold, or let for such erection; or

(*b*) Scheme for small areas.

II. (*b*) Where it appears to the local authority that the closeness, narrowness, and bad arrangement or bad condition

of any buildings, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defect in any buildings, is dangerous or prejudicial to the health of the inhabitants, either of the said buildings or of the neighbouring buildings; and that the demolition, or reconstruction, or rearrangement of the said buildings, or some of them, is necessary to remedy the said evils; and that the area comprising those buildings and the yards, out-houses, and appurtenances thereof, and the site thereof, is too small to be dealt with as an unhealthy area under Part I. of this Act, the local authority shall pass a resolution to the above effect, and direct a scheme to be prepared for the improvement of the said area.'

Procedure as to scheme dealing with small areas.

Notice of the scheme is to be given to the owners, just as in Part I.: after this a petition must be presented to the Local Government Board for an order confirming the scheme. It will be remembered that the petition under Part I., so far as London is concerned, is to be addressed to the Secretary of State; but, under Part II., the petition, in every case, must be to the Local Government Board.

The Local Government Board has power, if they think fit, to hold a local inquiry, and if satisfied they 'may by order sanction the Scheme,' with modifications or conditions.

On the order being made, the local authority will attempt to agree with the owners as to the price to be paid, and, if an agreement can be arrived at, the order takes effect without confirmation.

'If they do not so agree, the order shall be published by the local authority by inserting a notice thereof in the *London Gazette*, and by serving notice thereof on the owners of every part of the area.'

If two months pass, and no owner petitions against it, or if an owner petitions, and then withdraws his petition, the Local Government Board confirm the order; but if a petition is presented and not withdrawn then the order is provisional only, has to be confirmed by Parliament, and is subject to all the incidents detailed when speaking about provisional orders under Part I. Hence the difference in procedure as to large areas under Part I., and small areas under Part II., is as follows :—

Summary of difference between Part I. and Part II. as to procedure.

Part I.—(*Large Areas*).	Part II.—(*Small Areas*).
Notice in local newspapers within certain months of year only.	Notice not restricted to particular months.
Petition in London to Secretary of State.	Petition in all cases to Local Government Board.
Order in all cases Provisional, and therefore must be introduced as a bill into Parliament.	Order goes to Parliament only in case of opposition; if unopposed, is confirmed by Local Government Board and at once takes effect.

Length of time taken in dealing with large and small areas.

Under favourable circumstances it is, therefore, obvious that a small area may be dealt with in a reasonable time; but, on the other hand, when the order is opposed, the time taken to carry a small area through will be but little shorter than in dealing with a large area under Part I.

Power of County Councils in certain cases of inaction.

It may happen, and does often happen, that a local authority either takes no action at all, or takes no effectual action on a 'representation'

having been made; for this reason a provision (Section 45) has been inserted compelling Rural Sanitary Authorities, Metropolitan Sanitary Authorities (and the Woolwich Sanitary Authority), but not Urban Sanitary Authorities, save those named, to forward to the County Council a copy of such 'representation, complaint, information, or closing order,' they are also to report their proceedings in relation to such matters from time to time.

The County Council, if they are of opinion that the local authority are not doing their duty in the matter, after giving a reasonable notice in writing (not less than a month) to the local authority that they have failed to institute, or properly prosecute, proceedings, or to make the order of demolition, or to take steps for pulling down an 'obstructive building,' then the County Council may pass a resolution to that effect, and the County Council is at once invested with all the powers of the district authority in respect to the matter, and their officers have the same right of entry as the local officers possess. The expenses incurred, including any compensation, is to be a simple contract debt to the Council from the district authority.[1]

[1] The following statement by Dr. Louis Parkes (*Annual Report, Chelsea Vestry, for* 1892, p. 10) illustrates the practical working and difficulties of this part of the Act:—

'On February 23rd, I reported to the Vestry that fourteen houses in Wickham Place and Oakham Street, for which closing orders had been made in 1891, had not been rendered fit for human habitation. The Vestry thereupon resolved that it was expedient to order the demolition of all the houses for which closing orders had been

Part III.

The third, or as it might be called 'the Shaftesbury' part need not detain us long, for, although the third part is of value, it is adoptive, besides

made. On April 5th it was resolved by the Vestry to adjourn the further consideration of the resolution of expediency to demolish until April 19th. On April 19th, the Vestry made an order for the demolition of the houses.

'In July, Mr. Halahan, the lessee of these houses, gave notice of appeal from the Vestry's order to Quarter Sessions, he being, as alleged, a person aggrieved by the Vestry's order. Mr. Halahan did not, however, enter any appearance to prosecute his appeal, and, on July 9th, judgment was given against him by the Court of Quarter Sessions, with £18 costs incurred by the Vestry.

'On August 4th, on a summons addressed to the Vestry, application was made on behalf of one of the tenants of the condemned houses, at the Westminster Police Court, to be allowed to call evidence to show that the houses had been rendered fit for human habitation. The consideration of this application was adjourned to August 9th, when the Magistrate decided that, inasmuch as a demolition order had been made by the Vestry, the time had gone by when he could hear evidence as to the fitness of the dwellings for habitation, and he, therefore, dismissed the summons, refusing to state a case.

'On August 12th, application was made on behalf of Mr. Halahan, in the Court of Queen's Bench, for a rule calling upon the Magistrate to show cause why a *mandamus* should not issue directing him to state a case for the consideration of the Court. The rule was granted.

'On August 27th, the occupants of the condemned houses were summoned by the Vestry to the Westminster Police Court for not complying with the Magistrates' orders of March and November 1891, closing the houses. Each was fined 40s.

'On September 6th, the demolition of the condemned houses was commenced, most of the occupants still remaining in possession. On the same day, a writ was served upon the principal officers of the Vestry in an action for damages claimed by Mr. P. A. Halahan against the Vestry and its officers for trespass and damage to his houses in Wickham Place and Oakham Street.

'On September 7th, an application was made on behalf of Mr. Halahan, before the Vacation Judge, for an injunction restraining the Vestry from demolishing the condemned houses. The injunction was refused with costs.

'On September 19th, the last of the occupants of the houses gave up possession, and the demolition was completed on September 20th.

'On November 2nd, the summons obtained by Mr. Halahan for a writ of *certiorari* to remove the Quarter Sessions proceedings to the Queen's

which it does not intimately concern the sanitary officer.

Leading idea of the third part of the Act—the establishment of lodging-houses for the working classes.

The third part of the Housing of the Working-Classes Act gives to authorities facilities for acquiring or appropriating land for the purposes of

Bench Division, came before the Judge in Chambers, who discharged the rule *nisi* obtained by Mr. Halahan, and ordered him to pay the costs.

'On November 3rd, Mr. Justice Bruce and Mr Justice Kennedy discharged the rule which had been obtained on August 12th, calling upon the Senior Magistrate at the Westminster Police Court to show cause why he should not state a case for the opinion of the High Court, as to his want of jurisdiction to decide whether the premises had been rendered fit for human habitation, owing to the Vestry's demolition orders having been duly made, the only appeal from them lying under Section 35 of the Housing of the Working-Classes Act to Quarter Sessions, an appeal which had been abandoned. The Judges held that the proper remedy was a rule calling upon the Magistrate to hear and determine the case, but they also held that the Magistrate was right in deciding that the time had passed when his jurisdiction could have been properly exercised, and the rule was, therefore, discharged with costs.

'Although the Vestry has been uniformly successful in these actions, the heavy costs and legal expenses will fall upon the rates, the defendant's property being insufficient, or so tied up as to be unavailable. The extreme cost of proceedings under the Housing of the Working Classes Act, in this instance, is not likely to be any recommendation to the Vestry to take up other insanitary property under this Act, and it would certainly seem that the right of appeal of the owner or of aggrieved persons and occupiers might be considerably restricted.

'If there is to be any amendment to the Act, the question of ownership should certainly be reconsidered. The present definition of "owner," which excludes lessees who have a less interest in the houses than an unexpired term of twenty-one years, certainly operates harshly, and is unproductive of any advantage to the public.

'A clause is also required prohibiting, under a heavy penalty, an owner, or any person who is an owner, under the Public Health (London) Act, 1891, from letting or permitting to be occupied any house, or part of a house, for which a Magistrate has made a closing order. It is true that occupants who remain in possession after a closing order has been made are liable to a penalty, not exceeding 20s. a day, during disobedience to the order, but, in practice, this is worth nothing, as the occupants of such houses have little or no goods to distrain upon, and it is not feasible or desirable to obtain their committal to prison. Besides, when one family has departed, another may come in the next day and take its place, and the whole proceedings have to be commenced *ab initio*.

'As a matter of fact, after the closing orders were made in November 1891, no further attempt was made to get rid of the tenants until August

erecting thereon buildings suitable for lodging-houses for the working classes; under the same Act they can also convert any buildings into lodging-houses for the working classes, and may 'alter, enlarge, repair, and improve the same respectively, and fit up and furnish, and supply the same with requisite furniture, fittings, and conveniences.'

Management of the lodging-houses.

The management is to be vested in the local authority, they may make reasonable charges for the tenancy or occupation, may make bye-laws for their management, and if, after seven years' trial, they are found too expensive, may sell them with, in the case of urban sanitary authorities, the consent of the Local Government Board; in the case of rural sanitary authorities, the consent of the County Council. Of course there are certain formal steps to be taken by any authority desiring to adopt Part III. There is also power to borrow money for the purposes of the Act.

The lodging-houses are not for paupers.

The lodging-houses, be it noted, are for the working classes, and not for persons in receipt of

1892, when the immediate demolition of the buildings was in contemplation, and, during all these months, the wretched people were living in a state of misery and sanitary neglect injurious to the public and demoralising to the neighbourhood. Even when the demolition had commenced they clung desperately to their wretched houses, unmindful of penalties incurred and imprisonment in prospect, and eventually only quitted when they understood that the demolitions had to go on whether they vacated or not.

'The uselessness of attempting to get rid of the occupants of the condemned houses was sufficiently evidenced in the year 1891. No sooner were the houses emptied of their occupants than others flocked in to take their place, and much time and money were spent in proceedings which were nearly barren of result.'

parochial relief. Parochial relief, save relief on account of accident or temporary illness, disqualifies a tenant, and it would seem to be the duty of the authority to get rid of such tenant.

Condition implied on Letting Houses to the Working Classes.

Under the Common Law implied condition with respect to letting furnished houses.

In the letting of a furnished house there is an implied condition that it is, in all respects, reasonably fit for occupation, if it is not, he may quit, and an action will not lie for use and occupation. This has been decided even in a case in which a house was infested with bugs. (*Smith* v. *Marrable*, 2 M. and W. 5; *Campbell* v. *Lord Wenlock*, 4 F. and F. 717.) The law reports abound with cases relating to furnished apartments having been let, and successful actions brought on the ground of bad drainage, or other defects.

On the other hand this has never been the case with unfurnished houses, the motto has been *caveat emptor*; the landlord, unless he gave a warranty, could let his house unfurnished although it possessed serious sanitary defects, and yet run no exceptional risk. The 75th Section of the Housing of the Working-Classes Act alters the law in respect to a certain class of property, for the effect of the 75th Section is, that if a room or rooms be let in the Metropolis, the aggregate rent of which does not exceed £20 per annum—in Liverpool £13, in Manchester and Birmingham £10,

Implied condition as to unfurnished rooms of a certain low rental.

and elsewhere £8—'there shall be implied a condition that the house is, at the commencement of the holding, in all respects reasonably fit for human habitation.'

In the case of weekly lettings, the commencement of the holding is the commencement of every seven days from the first letting, hence the weekly tenant, if he chooses to exert it, has a very effectual remedy against his landlord for bad sanitary condition.

LECTURE X.

CANAL BOATS

In England and Wales there are about seven thousand families living in boats on canals. The sanitation of these floating houses is controlled by the Canal Boats Acts of 1877 and 1884.

Supervision of Canal Boats.

Under these Acts the supervision of the canal boats is placed under every sanitary authority through the district of which a canal takes its course, or which has a piece of water coming under the comprehensive definition of the word 'canal,' and which has floating structures coming under the definition of 'canal boats' (see *ante*, p. 10) according to the Act.

Exemptions.

Directly a canal boat ceases to be inhabited it is no longer subject to the Canal Boats Acts; so, again, all vessels registered as ships under the Merchant Shipping Act are exempt from their operation, unless indeed the Local Government Board exercise the power conferred on them by the amending Act of 1884, section 10, and declare that a particular vessel, or class of vessels, shall notwithstanding being registered under the Merchant Shipping Acts come within the Canal Boats Acts.

Although the Acts are in force in every district which possesses a 'canal' as above defined, in some cases it has been found convenient to make

'informal' arrangements under which the work of enforcing the Acts and regulations are mainly left in the hands of particular authorities possessing special facilities for the purpose. Hence it is that, in districts through which a canal simply passes, but which has no basins and no particular resting or stopping places, the authorities of those districts have not appointed any special inspectors; nor is there any work done. It would be manifestly inconvenient, and probably a hindrance to commerce, if canal boats actually moving were interfered with.

Certain districts do the bulk of the work.

Under the Canal Boats Acts the Local Government Board is required to make regulations—

Local Government Board Regulations.

(1) For the registration of Canal Boats;

(2) For the lettering and marking (the marking to be either on both sides or on the stern, so that the lettering can be seen from either side of the canal—Canal Boats Act, 1884);

(3) For fixing the number, age, and sex of the inhabitants;

(4) For promoting cleanliness in and providing for the habitable condition of canal boats.

(5) For preventing the spread of infectious disease (Canal Boats Acts, 1877, section 2).

When a boat is to be considered registered.

A boat is considered unregistered if the boat is not marked with (*a*) the name of the place to which the boat belongs; (*b*) the number; (*c*) the word 'registered,' *e.g.*, 'No. 327, Liverpool, Registered.'

Under the 1884 Act the Local Government Board was compelled to appoint an inspector or inspectors to supervise the subject generally and

the reports of that Board contain year by year a summary of the effect of the work done in different districts. It may be stated generally that the evidence proves that the operation of the Acts has been of service in raising the sanitary and moral state of the canal population.

The more important regulations of the Canal Boats Acts are as follows :—

Conditions Precedent to Registration.

The following conditions shall be complied with before a canal boat is registered :—

(*a*) 'The boat shall contain a cabin or cabins, clean, in good repair, and so constructed as to be capable of being maintained at all times weatherproof, dry, and clean.

(*b*) 'The interior of any after-cabin, intended to be used as a dwelling, shall contain not less than 180 cubic feet of free-air space, and the interior of any fore-cabin, if intended to be so used, shall contain not less than 80 cubic feet of free-air space.

(*c*) 'Every cabin, if intended to be used as a dwelling, shall be provided with sufficient means for the removal of foul and the admission of fresh air, exclusive of the door or doors, or of any opening therein.

(*d*) 'Every cabin, if intended to be used as a dwelling, shall be so constructed or fitted as to provide adequate and convenient sleeping accommodation for the persons allowed by these regulations to dwell in the boat.

(*e*) 'If the boat be a 'narrow' boat (*i.e.* a boat of less than 7 feet 6 inches beam) every cabin, intended to be used as a dwelling, shall be so constructed or fitted that there shall be no locker or cupboard obstructing the free passage from the door to the bulkhead, and no shut-up cupboard above the cross-bed or on more than one side of the cabin.

(*f*) 'One cabin at least in the boat shall be furnished with a suitable stove and chimney in a safe and convenient situation, and

in all other respects sufficient for the reasonable requirements of the persons allowed by these regulations to dwell in the boat.

(*g*) 'The boat shall be properly furnished or fitted with lockers, cupboards, and shelves of suitable construction and adequate capacity, and in all other respects sufficient for the reasonable requirements of the persons allowed by these regulations to dwell in the boat.

(*h*) 'The boat, if intended to be ordinarily used for the conveyance of any foul, offensive cargo, shall contain, between the space to be occupied by such cargo and the interior of any cabin intended to be used as a dwelling, two bulkheads of substantial construction, which shall be separated by a space not less in any part than four inches, and open throughout to the external air, and furnished with a pump for the removal of any liquid from such space, and the one next adjoining the space to be occupied by the cargo shall be water-tight.

(*i*) 'The boat shall be furnished with a suitable cask or other appropriate vessel or receptacle of sufficient capacity for the storage of not less than three gallons of drinking water.'

Age, Space, Cubic Space.[1]

For fixing the number, age, and sex of the persons who may be allowed to dwell in a canal boat, the following rules are to apply :—

(*a*) 'Subject to the conditions hereinafter prescribed with respect to the separation of the sexes, the number of persons who may be allowed to dwell in the boat shall be such that in the cabin or cabins of the boat there shall not be less than 60 cubic feet of free-air space, for each child under the age of 12

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[1] In the Schedule to the Canal Boats Order there are rules for ascertaining the cubic capacity of a canal boat cabin :—

Rule A for 'wide' (that is, a boat of seven feet six inches beam and above) boats—

Measure the height from the floor to the roof in the middle of the cabin.

,, the length from the bulkhead to the door of the opposite cupboard.

,, the width across the cabin at the bulkhead.

The product of the height, length, and width thus measured will repre-

years. Provided that, in the case of a boat built prior to the 30th day of June 1878, the free-air space for each child under the age of 12 years shall be deemed sufficient if it is not less than 30 cubic feet. Provided also that, in the case of a boat registered as a 'fly' boat, and worked in shifts by four persons above the age of 12 years, there shall be not less than 180 cubic feet of free-air space in any cabin occupied as a sleeping-place by any two of such persons at one and the same time.

(*b*) 'A cabin occupied as a sleeping-place by a husband and wife shall not at any time while in such occupation be occupied as a sleeping-place by any other person of the female sex above the age of 12 years, or by any other person of the male sex above the age of 14 years: Provided that, in the case of a boat built prior to June 30, 1878, a cabin occupied as a sleeping-place by a husband and wife may be occupied by one other person of the male sex above the age of 14 years, subject to the following conditions:—(i.) That the cabin be not occupied as a sleeping-place by any other person than the above mentioned. (ii.) That the part of the cabin which may be used as a sleeping-place by the husband and wife shall at all times, while in actual use, be effectually separated from the part used as a sleeping-place by the other occupant of the cabin by means of a sliding or otherwise moveable screen, or partition of wood, or other solid material, so constructed or placed as to provide for efficient ventilation.

(*c*) 'A cabin occupied as a sleeping-place by a person of the male sex above the age of 14 years shall not at any time be occupied as a sleeping-place by a person of the female sex

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sent, for the purpose of this rule, both the *gross* and the *net* cubical capacity, or free-air space.

Rule B, for 'narrow' boats—

Measure the height from the floor to the roof in the middle of the cabin.

,, the length from the bulkhead to the end of the cabin at the side of the doorway.

,, the greatest width from side to side of the boat at the bulkhead.

The product of the height, length, and greatest width thus measured will represent the *gross* cubical capacity of the cabin.

To obtain the *net* cubical capacity, or free-air space of the cabin, deduction from the gross cubical capacity should be made in accordance with the following directions:

1. If the cabin have only the following shut-up cupboards or lockers,

above the age of 12 years, unless she be the wife of the male occupant, or of any one of the male occupants in any case within the proviso of rule *b*.

FOR PROMOTING CLEANLINESS, AND PROVIDING FOR THE HABITABLE CONDITION OF CANAL BOATS.

'Once in three years the internal paint is to be renewed. Once at least in every 24 hours the bilge-water is to be pumped out, and the cabin is to be kept free from it. Every cabin used as a dwelling is to be kept at all times in a clean and habitable condition.

FOR PREVENTING THE SPREAD OF INFECTIOUS DISEASE BY CANAL BOATS.

'In every case where a person on a canal boat is seriously ill, or is evidently suffering from an infectious disease, the master of the boat, if at the time the boat is proceeding on a journey, shall, as soon as may be practicable, give information thereof to the sanitary authority within whose district is situate the canal, or the part of the canal, along which the boat may at the time be passing, and, on the arrival of the boat at its port or place of destination, to the sanitary authority within whose district such port or place is situate, and also to the owner of the boat.

'If at the time the boat be at its port or place of destination, the master shall forthwith inform the sanitary authority within whose district such port or place is situate, and also the owner

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viz., a side-bed locker or cupboard, a cross-bed locker or lockers, and a cupboard above the cross-bed—

(*a*) If the height of the cupboard be not less than 5 feet, deduct $\frac{1}{8}$.

(*b*) If the height be less than 5 feet, deduct $\frac{1}{4}$.

2. If the cabin have only the following shut-up lockers or cupboards, viz., a table cupboard, a cross-bed locker or lockers, and a cupboard above the cross-bed—

(*a*) If the height of the cabin be not less than 5 feet, deduct $\frac{1}{6}$.

(*b*) If the height be less than 5 feet, deduct $\frac{1}{3}$.

3. If the cabin have only the following shut-up cupboards or lockers, viz., a table cupboard and a cupboard above the cross-bed—

(*a*) If the height of the cabin be not less than 5 feet, deduct $\frac{1}{10}$.

(*b*) If the height of the cabin be less than 4 feet, deduct $\frac{1}{12}$.

of the boat, that a person on board the boat is seriously ill, or is evidently suffering from an infectious disease.

'The owner of the boat shall forthwith, on the receipt from the master of information to the effect that a person on board the boat is or has been suffering from an infectious disease, give notice to that effect to the sanitary authority having jurisdiction in the place to which the boat may have been registered as belonging.

'Where boats are detained under Section 4, Canal Boats Act, 1877, by the sanitary authority for the purposes of cleansing and disinfecting, the boat is not to be allowed to proceed on its journey without a medical certificate to the effect that the boat has been properly cleansed and disinfected.'

The authority which causes to be made the largest number of inspections is the Liverpool Sanitary Authority. In Liverpool no less than 4000 to 4500 boats are inspected annually. Next to Liverpool comes Hull (2000), then Salford and Manchester, and after Manchester Birmingham.

It may be well, finally, to give an example of the defects, or rather the infringements against the statute, met with in practice.

Examples of infractions of the regulations.

In 1890, the Hull Inspector[1] found the following contraventions :—

108 cabins required painting.
91 boats were not properly marked.
65 masters were without certificates.
49 certificates did not identify the owners with their boats.
22 boats were unregistered.
12 owners had not notified change of masters.
10 were defective in cleanliness.

[1] *Twentieth Annual Report, Local Government Board.*

5 were improperly occupied by females over age.
4 cabins were overcrowded.
2 cabins were defective in ventilation.
1 boat had no water-vessel along with it.
1 boat had not the requisite double bulkheads.
1 boat had a case of unreported infectious disease on board.

To the above list may be added an unhealthy condition that may be met with, viz., neglect to remove bilge-water.

A case of this kind occurred on the Grand Junction Canal in 1890, and was the subject of legal proceeding.

According to the evidence, 'the cabin was in a filthy condition, the joints of the flooring being completely saturated with stale bilge-water; at the bottom of the boat there was a collection of filth which threw off so offensive an odour as to render the cabin quite unfit for human habitation.'

It was also stated that during the journey, which lasted eight days, the bilge-water had not been once pumped out.

Another defect not enumerated in the Hull Inspector's list is imperfections of the deck forming the roof of either fore or after cabin, from bad caulking, so that in wet weather the rain comes in.

An inhabited canal boat is in the same position as a house under the Sanitary Statutes.

It is hardly necessary to add that an inhabited canal boat is a house within the Sanitary Statutes.

LECTURE XI.

METROPOLITAN SANITARY LAW

THE subject of this lecture is the sanitary government so far as relates to the public health of the greatest city of modern times, viz., London.

What is meant by the term 'London.'

By the term 'London' is meant the Administrative County of London which consists of the following :—

(1) The City of London (Public Health (London) Act, sect. 99 [*a*]).

(2) Districts defined in Schedule A of the Metropolis Management Act, 1855, as amended by subsequent Acts.

(3) Districts defined by Schedule B of the same Act as amended.

(4) Woolwich.

(5) A number of small districts, such as Lincoln's Inn and others, which were formerly not specially provided for enumerated in Schedule C of the beforementioned Local Management Act.[1]

[1] The following is a list of the districts comprising the administrative County, with the population according to the census 1891 :—

A

The City of London,	37,504
St. Marylebone,	142,381
St. Pancras,	234,437
Lambeth,	275,502
St. George, Hanover Square,	78,362
Carry forward,	768,186

Brought forward,	768,186
St. Mary, Islington,	319,433
St. Leonard, Shoreditch,	124,009
Paddington,	117,838
St. Matthew, Bethnal Green,	129,134
St. Mary, Newington (Surrey),	115,663
Camberwell,	235,312
St. James, Westminster,	24,993
St. James and St. John, Clerkenwell,	65,885
Chelsea,	96,272
St. Mary Abbott, Kensington,	166,321
St. Luke, Middlesex,	42,411
St. George the Martyr, Southwark,	59,712
Bermondsey,	84,688
St. George in the Ea	45,546
St. Martin in the Fields,	14,574
Hamlet of Mile End Old Town,	107,565
Rotherhithe,	39,074
St. John, Hampstead,	68,425
St. Paul, Fulham,	188,877
St. Mary, Battersea,	150,458
St. Margaret and St. John the Evangelist, Westminster,	55,525
B	
Whitechapel,	74,420
Greenwich,	165,417
Wandsworth,	156,931
Hackney,	229,531
St. Giles,	39,778
Holborn,	33,503
Strand,	25,107
Limehouse,	57,599
Poplar,	166,697
St. Saviour,	27,162
Plumstead,	88,539
Lewisham,	92,647
St. Olave,	12,694
C	
Woolwich,	40,848
The Charter House, Gray's Inn, the Close of the Collegiate Church of St. Peter, Inner Temple, Middle Temple, Lincoln's Inn, Staple Inn, and Furnival's Inn,	957
	4,231,431

The total population of the Administrative County of London, on the 6th of April 1891, is returned as

4,231,431, a total which, from circumstances which it is unnecessary now to enter upon, is more likely to be under than over stated.

The authorities having sanitary jurisdiction in the Metropolis are—

Authorities having sanitary jurisdiction in London.

(1) The County Council.

(2) The Vestries and District Boards (Metropolis Management Act, 1855, and Public Health London Act, 1891, sect. 99).

(3) And, in the case of the small districts mentioned in Schedule C of the Local Management Act, the Boards of Guardians.

(4) The Police in the carrying out of the provisions of the Common Lodging-House Acts.

(5) Magistrates.

(6) Besides which the Local Government Board have the same powers of general supervision that they have over the rest of the country.

(7) The Secretary of State has also some few duties in relation to the Public Health.

The City has been left for the most part with its privileges and powers unimpaired, it is therefore still governed by the Commissioners of Sewers.

The special laws governing the City will not form part of the subject-matter of this lecture.

Sanitary Acts in force in London.

The chief Sanitary Acts in force in the County of London (omitting the City) are as follows :—

The Metropolis Local Management Acts of 1855, 1856, 1862, and various other Acts amending the same.

General Paving Metropolis Act, 1817, 57 Geo. III. c. 29.
Metropolitan Building Act, 1855, with various Acts amending the same.
Metropolis Water Acts of 1852 and 1871.
Sale of Food and Drugs Acts of 1875 and 1879.
Margarine Act.
Horse-flesh Act.
Customs and Inland Revenue Act.
Local Government Act.
The Factory and Workshops Acts.
Housing of the Working-Classes Act, 1890.
The Public Health (London) Act, 1891.

General powers of the County Council.

The powers and duties of the County Council are of a varied and wide character. Those that relate to the Public Health admit of the following classification :—

Executive functions.	*Magisterial functions.*
Legislative functions.	*Supervisory functions.*

THE EXECUTIVE FUNCTIONS OF THE COUNTY COUNCIL.

Executive functions of County Council.

The County Council stands in the shoes of the old Metropolitan Board of Works which was established by the Metropolis Local Management Act of 1855, a Board the main object and duties of which were to perfect the main sewerage of London, to deal with the sewage, to supervise the paving, lighting, and to improve the place generally. These duties now descend to the County Council. By Section 135, Metropolis Local Management Act, 1855, the

main sewers (of which a list is given in the schedules to the Act), vest in the County Council, they are repairable by them, and have to be maintained and cleansed by them. The County Council have also power to make new main sewers, and to carry such sewers through private lands.

Vesting and maintenance of sewers.

By a series of statutes such as 25 and 26 Vict. c. 102; 21 and 22 Vict. c. 104; 33 and 34 Vict. c. 140 (Thames Navigation Act, 1870), 25 and 26 Vict. c. 93 (Thames Embankment Act, 1862), some of which have been repealed, and others having answered their purpose, are now but of historic interest, the Council have extensive borrowing powers in relation to sewage disposal, they have to keep the Thames as free from sewage as practicable *within* the Metropolis.

Sewage disposal.

The County Council have also extensive powers with regard to the making of new streets or widening of existing thoroughfares (18 and 19 Vict. c. 120, sect. 144). They have to see to the line of frontage (*ibid.* sect. 143), and to the naming and numbering of the houses (*ibid.* 141). The height of buildings, the width of roads (25 and 26 Vict. c. 102, sects. 85, 98), the supervision of dangerous structures, the building of houses so as to minimise the danger from fire (18 and 19 Vict. c. 122; 32 and 33 Vict. c. 82); the erection of new houses at a prescribed distance from the centre of the roadway (Metropolis Management and Building Acts, Amendment Act, 41 and 42 Vict. c. 32), the maintenance and preservation of open spaces (Metropolis

Powers as to streets and buildings.

Commons Act, 1866, 1878; Gardens Towns Protection Act, 1863; Metropolis Open Spaces Act, 1877).

The structure of theatres and similar public buildings (41 and 42 Vict. c. 32).

Registration of dairies and regulation of offensive trades.

The registration of dairymen (Public Health (London) Act) and the regulation of offensive trades, (*ibid.* sect. 19), and the registration of houses under the Infant Life Protection Act, 1872, are all matters pertaining to health and among the various duties of the Council.

THE LEGISLATIVE FUNCTIONS.

Legislative functions of the London County Council.

These are mainly in the direction of making bye-laws.

The County Council have the power to make bye-laws—

(a) *Under the Local Management Acts.*

1. For the regulation of the plans, level, width, surface, inclination, and materials of the pavement and roadway of new streets and roads.

2. The plan and level of sites for building (41 and 42 Vict. c. 32, sects. 16, 17, and 18 and 19 Vict. c. 120, sect. 202).

3. As to the dimensions, form, mode of construction, and the keeping, cleansing, and repairing of the pipes, drains, and traps of apparatus connected with sewers.

4. As to the dimensions, construction, mainten-

ance, ventilation, cleansing of sewers, made by the different metropolitan local authorities, with the primary object of causing the plan of the local sewers to be in conformity with the system of main drainage.

(b) *Under the Public Health (London) Act.*

1. For regulating the conduct of offensive trades, under the 19th Section, and the structure of the premises.

2. For prescribing the times for the removal or carriage, by road or water, of any fæcal, offensive, or noxious matter or liquid in or through London, and providing that the carriage or vessel used therefor shall be properly constructed and covered, so as to prevent the escape of any such matter or liquid, and as to prevent any nuisance arising therefrom (Sect. 16).

3. As to the closing and filling up of cesspools and privies, and as to the removal and disposal of refuse, and as to the duties of the occupier of any premises in connection with house refuse, so as to facilitate the removal of it by the scavengers of the sanitary authority (Public Health (London) Act, sect. 16).

4. Bye-laws authorised by the Local Government Board for the inspection of cattle, of dairies, and matters concerned with the supply of milk.

5. Bye-laws in connection with water-closets, earth-closets, privies, ash-pits, cesspools, and receptacles for dung, and the proper accessories thereof, in connection with buildings (Sect. 39).

MAGISTERIAL FUNCTIONS OF THE COUNTY COUNCIL.

Magisterial functions.

The Council has in effect the powers of a Court of Appeal in a few specified instances, *e.g.*, a person aggrieved by a notice under Section 37, Public Health (London) Act, requiring him to provide a proper ash-pit or water-closet, may appeal to the County Council, and the appeal is final. There is a like power of appeal as regards notices made under Section 43, with regard to the cleansing, draining, covering, or filling up of drains, pools, ponds, and open ditches, and places containing or used for the collection of any drainage.

So also, under the 212th Section of the Local Management Act, 18 and 19 Vict. c. 120, the County Council is bound to appoint a Committee to hear appeals under the 211th Section of the same Act, which gives a power of appeal to the Council by any person aggrieved by any order of a local authority 'in relation to the construction, repair, alteration, stopping, or filling up or demolition of any building, sewer, drain.' The appeal in this case does not appear to be final; at all events, it does not oust the jurisdiction of the Court of Chancery. (*Tinkler* v. *Wandsworth Board of Works*, 27 L.J. Ch. 342.)

The County Council is the licensing authority for cow-houses, slaughter-houses, and knackers' yards.

The Council's sanction is also required for the establishment anew of certain offensive businesses

indicated in Section 19 of the Public Health (London) Act, 54 and 55 Vict. c. 76, sects. 19, 20.

THE SUPERVISORY FUNCTIONS.

'Supervisory' functions of the London County Council.

The London County Council have no direct power of supervising the local authorities, but they have an indirect power. For instance, by the 101st Section, Public Health (London) Act, they may complain to the Local Government Board that a sanitary authority has made default in its statutory duties; it will then be for the Local Government Board to inquire into the matter. The Council may also abate nuisances in the district of a local authority if they are satisfied the local authority has failed to do so, and recover from the defaulting authority the expenses (*ibid.* sect. 100).

Under Section 22 of the same Act, should a local authority cause a nuisance in the disposal or treatment of house or street refuse, it is the duty of the County Council to proceed against the local authority.

Under the Housing of the Working-Classes Act, 1890, the 'representation' of a medical officer of health is to be sent to the County Council, and, on failure of the local authority to proceed with a scheme, the County Council may use the powers conferred upon them by Section 45 of the same Act, and take up the duties of the inactive authority. The County Council may also, under Section 46 (5), take up or initiate a scheme under Section 39 under any circumstances.

Nuisances.

Nuisances are divided under the Public Health (London) Act into those which may be abated in a 'summary' manner, and others. It will be convenient to designate these two classes as 'summary' and 'non-summary' nuisances.

Summary Nuisances—

The summary nuisances are as follows:—

(1) Premises.

'Any premises in such a state as to be a nuisance or injurious to health, Section 2 (1) *a*.

(2) Foul pools, cisterns, closets, drains, dung-pits, etc.

'Any pool, ditch, gutter, watercourse, cistern, water-closet, privy, urinal, cesspool, drain, dung-pit, or ash-pit, so foul, or in such a state as to be a nuisance or injurious or dangerous to health, Section 2 (1) *b*.

(3) Animals under certain conditions.

'Any animal kept in such a place or manner as to be a nuisance or injurious or dangerous to health, Section 2 (1) *c*.

(4) Deposits.

'Any accumulation or deposit which is a nuisance or injurious or dangerous to health, Section 2 (1) *d*.

(5) Overcrowding.

'Any house, or part of a house, so overcrowded as to be injurious or dangerous to the health of the inmates, whether or not members of the same family, Section 2 (1) *e*.

(6) Absence of prescribed water-fittings.

'Absence of certain prescribed water-fittings, as set forth in Section 33, Metropolis Water Act, 1871, Section 2 (1) *f*.

(7) Dirty, badly ventilated, or overcrowded workshops or factories.

'Any factory, workshop, or workplace (which is not a factory, subject to the provisions of the Factory and Workshop Act of 1878, relating to cleanliness and overcrowding), and which is not kept in a cleanly state, free from effluvia from drains, etc., and free from other nuisances; is not properly ventilated; is overcrowded to an injurious or dangerous degree, Section 2 (1) *g*.

(8) Places for disposal of dust or house refuse.

'Places used by a sanitary authority for the treatment or disposal of house refuse (*e.g.*, dust-yards or destructors), Section 22 (2).

(9) Smoke.

'Fire-places or furnaces which do not consume, as far as practicable, the smoke, and which are used for working engines by steam or manufacturing purposes.

'Chimneys (other than those of private dwellings) sending out black smoke so as to be a nuisance, Section 24, *a*, *b*.

'An occupied house without a proper and sufficient supply of water, Section 48 (1). (10) Houses without a proper water-supply.

'A tent, van, shed, or similar structure, used for human habitation, which is in such a state as to be a nuisance or injurious or dangerous to health, or is overcrowded, Section 95 (1).' (11) Tents, vans, or sheds.

Nuisances other than Summary—

The other nuisances mentioned in the Public Health Act, and for which a summary remedy has not been specifically provided, are—

'The production of nuisance by the wilful damage or destruction of any drain, water-closet, earth-closet, privy, or ash-pit, Section 15. (1) Wilful damage to drains or other sanitary appliances.

'Nuisances arising from snow, ice, salt, dust, ashes, rubbish, offal, carrion, fish, or filth, or other like things, in the streets. (2) Snow, offal, dust, etc.

'Nuisances arising from offensive matters running from any manufactory, brewery, slaughter-house, knackers' yard, butcher's or fishmonger's shop or dung-hill, into any uncovered place. (3) Offensive liquids running from certain trades.

'Unpaved yards and open spaces, Section 11. (4) Unpaved yards.

'Nuisances connected with the keeping, feeding of swine, or allowing swine to stray, Section 17. (5) Keeping pigs.

'Nuisances connected with offensive trades, Section 21. (6) Offensive trades.

'Nuisances connected with the filthy state of sanitary conveniences, or the approaches thereto used in common, Sect. 46.' (7) Filthy sanitary conveniences.

Difference in procedure in dealing with the two classes of nuisance.

There is but little difference between the dealing with summary nuisances and non-summary nuisances. One of the chief differences is that information of the existence of a summary nuisance may be given by any person; it is, moreover, the duty of every relieving officer, and of every officer in the employ of the authority, to give notice of any nuisance which may be brought within his observation, and the local authority have to make regulations and to give the necessary directions so as to ensure this being done.

Hence, so far as information of the more ordinary nuisances goes each metropolitan authority possesses quite a number of 'inspectors' other than those definitely appointed for the purposes of the Act.

Summary nuisances are also to be brought *at once* to the notice of any person who may be required to abate the same, and this is done by the sanitary inspector serving a 'written intimation.' That is to say, as soon as practicable, after the discovery of a nuisance, the sanitary inspector sends a written intimation, without waiting for the meeting of the local authority. It is indeed believed that, in any case in which the 'written intimation' has been neglected to be sent, legal proceedings to enforce abatement might break down should a technical objection be raised that the exact statutory procedure had not been followed. As a matter of fact this prompt 'intimation' has been found, in the majority of cases, so effectual as not to require the subsequent formal notice of the local authority.

On receipt of information that a summary nuisance exists it is the imperative duty of the sanitary authority to serve a notice on the owner or occupier of the premises requiring him to abate the nuisance within a specified time, and, if the sanitary authority choose, they may state the works which are necessary to abate the nuisance (Section 4). The notice is to be served on the owner if the premises are unoccupied, or if the works are of a structural character. There is also, with regard to the removal of matters or things, *e.g.*, manure, which come

under the class of summary nuisances, a power given to the sanitary authority to sell such things and to apply the money arising from the sale to the payment of expenses, any surplus being returned to the owner (Section 9).

Bye-laws.

The bye-law has not in the past played a leading part in metropolitan sanitary law, but now a great variety of matters will be dealt with under bye-laws.

The bye-laws, which it is within the duty or power of the County Council to make, have already been enumerated (see p. 174).

List of subjects which may be governed by bye-laws—

The following is a list of bye-laws which each local sanitary authority in the administrative county of London are compelled to make :—

(*a*) Bye-laws which *must* be made.

Nuisances as to snow, ice, etc., in the streets (see *ante*, p. 179).

For prevention of nuisances arising from offensive matter running out of any manufactory, brewery, and so forth (previously enumerated, p. 179).

For the prevention of the keeping of animals on any premises in such place or manner as to be a nuisance or injurious or dangerous to health, Section 16 (1) *c*.

As to the paving of yards and open spaces in connection with dwelling-houses, Section 16 (1), *d*.

For the keeping of water-closets supplied with sufficient water for their effective action (Section 39).

For securing the cleanliness and freedom from

pollution of tanks, cisterns, and other receptacles used for storing of water used, or likely to be used, by man for drinking or domestic purposes, or for manufacturing drink for the use of man (Section 50).

(*b*) Bye-laws which *may* be made by Metropolitan Sanitary Authorities.

The metropolitan sanitary authorities may make bye-laws for—

Removal to hospital, or detention in hospital, of persons suffering from infectious disease, Section 66 (3).

For promoting cleanliness in, and the habitable condition of, tents, vans, sheds, and similar structures used for human habitation.

For preventing the spread of infectious disease by the inhabitants of such structures, and the prevention of nuisances in connection with the same (Section 95).

In relation to tenement houses (see p. 75), Housing of the Working-Classes Act, 1875, section 8.

In relation to working class lodging-houses, established under Part III., Housing of the Working-Classes Act, 1890.

For regulating the business and proceedings at the meetings of the authority and of the committees, the appointment and removal of officers and servants, and the duties, conduct, and remuneration of the same (Metropolis Local Management Act, 1855, section 202).

The local metropolitan sanitary authorities, besides enforcing the bye-laws which they themselves have power to make, are compelled to carry out and

enforce bye-laws made by the County Council under Sections 16 and 39 of the Public Health (London) Act.

Drains, Drainage, and Sewers.

Drains and sewers are treated in the Public Health (London) Act mainly from a nuisance point of view. For the definition of 'drain,' for regulations as to the drainage of new and old houses, the Metropolis Local Management Act must be consulted.

The definition of 'drain,' in the Local Management Acts, is as follows :—

Definition of 'drain' in Local Management Acts.

'"Drain" means and includes any drain of and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purposes of communicating with a cesspool or other like receptacle for drainage, or with a sewer, into which the drainage of two or more buildings or premises occupied by different persons is conveyed, and also includes any drain for draining any group or block of buildings or houses by a combined operation under the order of any vestry or district board, as well as any such combined drain laid or constructed before January 1, 1856, pursuant to the order or direction, or with the sanction and approval of the Metropolitan Commissioner of Sewers (18 and 19 Vict. c. 120, sect. 250; 25 and 26 Vict. c. 102, sect. 112).'

The practical result of this definition is that any old drain receiving more than the drainage of one house, and concerning which there is no record of 'order' or sanction to be found either in the minutes of the local authority, or in the records of the Metropolitan Commission of Sewers, *is technically a sewer, and therefore vested in the local authority.* Hence the

metropolitan local authorities will have to watch new drains in their district, and, should they consent to any combined drainage, the officers must be careful to have a properly drawn 'order' served sanctioning the combined drainage, and a record kept; otherwise, at some future date, the local authority will be saddled with maintenance of what was designed originally to be a private drain. In my own district not a year passes but a discovery is made of old combined drainage, and such combined drainage has to be taken over by the authority.

Inspection of Drains.

Inspection of Drains.

The metropolitan local authorities have possessed for many years extensive powers of inspection of drains. They are empowered, *in case of emergency*, to enter upon premises without any notice, and their surveyor or inspector and workmen may open the ground 'in any place they think fit, doing as little damage as may be;' in other cases, in which there is no emergency, *twenty-four hours' notice* has to be given to the occupier (18 and 19 Vict. c.1 20, sect. 82, P.H. (London), sect. 40). There is no provision as to a previous complaint, or as to suspicion of the state of the drains; a local authority may, if they choose, open and expose every house drain systematically in their district. If the drain is bad, or contrary to regulations, the vestry may do the work, saddling the person liable for the drain with the expenses, or may by notice require him to do the work (18 and 19 Vict. c. 120, sects. 83-85).

Should the drain and so forth be found in good order, everything must be put back as it was before, and, if any damage is done, compensation may have to be paid (*ibid.* sect. 83).

With regard to new drains there are several distinct cases.

(a) *Old houses already possessing drains.*

New drains, two cases— (*a*) Old houses.

A notice may be given to lay a new drain, or amend if in bad order, or made contrary to the directions or regulations of the local authority (*ibid.* sects. 83, 84), or

If any house or building, whether built 'before or after' the passing of the Local Management Act, 1855, is found not to be drained with a sufficient drain connected with a sewer, and such sewer is within 100 feet of sufficient size on a lower level than such house or building, it is then lawful for the local authority, at their discretion, to require the owner to construct a drain 'of such materials, of such size, at such level, and with such fall as shall be adequate for the drainage of such house or building and its several floors or storeys, and also of its areas, water-closets, privies, and offices, if any.' It is also provided that there shall be proper traps and appliances connected with the drain (*ibid.* sect. 73).

(b) *New Houses.*

(*b*) New houses.

No new house is to be erected, or a house rebuilt which has been pulled down or occupied, unless a drain with branches, and so forth, has been con-

structed and provided to 'the satisfaction of the surveyor,' and full power is given as to materials and fall. Moreover, it is enacted that should the lowest floor of the house be not high enough to allow effectual drainage, it is to be raised, the levels for the purpose of ascertaining this are to be taken by the officers of the Board.

The drainage is to be carried into a sewer, should there be one within 100 feet, or, if no sewer exists within that distance, then into such covered cesspool or 'other place not being under any dwelling-house as the Vestry or Board shall direct.'

Before laying the foundations of a house notice is to be given to the local authority, and every foundation is to be laid at such a level as will permit effectual drainage, and all such new drains are to be made under the superintendence of the local authority (*ibid.* sects. 75, 76).[1]

I fear that these sections have not been observed by every sanitary authority, otherwise the scandal of certain new public buildings having badly constructed drains could not have occurred.

Drains under the Public Health (London) Act.

With regard to legislation under the Public Health (London) Act concerning drains, foul or improperly constructed drains may be dealt with as a 'summary' nuisance under Section 2.

[1] By Section 66, 25 and 26 Vict. c. 102, there is a provision enabling metropolitan local authorities to compel drainage of houses which are so situated as to render it impracticable, or practicable only at undue expense, to connect with sewers, into a cesspool, tank, or receptacle, if a sewer is not within 200 feet. The 75th Section of Metropolitan Local Management Act, 1855, only applies to houses built or rebuilt after the date of the Act.

A person, *e.g.*, a builder, constructing a drain or repairing it in such a manner as to cause a nuisance, is liable to fine, unless he can show that the act, neglect, or default, was not wilful, Section 42.

Where there is actual nuisance from the want of a drain, in the shape of a collection of drainage, water, and so forth, use may be made of Section 43, which provides that, under such circumstances, a local authority may give a notice to construct a drain. In all ordinary cases of repair, reconstruction, or the laying of a drain, the Local Management Act is the better statute to use.

Underground rooms, according to the Public Health (London) Act, must not be occupied if a drain passes beneath them which is not 'gas-tight' Section 96 (*f*).

Although a local metropolitan authority has no powers to make bye-laws respecting house drainage, they may make *regulations* for the guidance of their officers. A number of the authorities have done this.

Sewers.

Local sewers.

The powers and duties of the London County Council with regard to the main sewers have already been detailed, and it only remains to say a few words as to the local sewers.

Each local authority has to repair and maintain the sewers vested in them. They have also to make such new sewers and works as may be necessary for the effectual drainage of their district. For this

purpose they have the power to carry their sewers across any turnpike road, street, or place, or through or under any cellar or vault which may be under the pavement or carriage-way of any street or under any lands whatsoever, making compensation for damage (18 and 19 Vict. c. 120, section 69).

New sewers must be sanctioned by County Council.

No new sewer may be made without the consent of the London County Council (*ibid.* section 69), and the plans must be submitted to the County Council for approval (25 and 26 Vict. c. 102, section 45).

Alteration or abolition of a sewer.

The alteration of a sewer, or the discontinuance of an existing sewer, involves the duty of affording to the owners of houses at least equal facilities of drainage to those they previously enjoyed; and, under such circumstances, the expense of redraining the houses or diverting the drains from the old sewer falls upon the authority (18 and 19 Vict. c. 120, section 69, *Vestry of St Marylebone* v. *Viret*, 34 L.J. M.C. 214).

Cleansing of sewers.

It is the duty of every local authority in the metropolis to keep the sewers vested in them cleared, cleansed, emptied, and kept so as not to be a nuisance or injurious to health (18 and 19 Vict. c. 120, section 72).

Ventilation of sewers.

It is also the duty of every local authority, by proper traps or other coverings, or by ventilation, or by such other ways and means as shall be practicable for the purpose, to prevent the effluvia of sewers from exhaling through gully-holes, gratings, or other openings (18 and 19 Vict. c. 120, section 71).

But this section does not allow a local authority to meddle with the ventilating shafts of sewers belonging to the London County Council, unless previous notice is given (25 and 26 Vict. c. 102, section 27).

Connection of private drains with sewers.

No person may connect his drain with a public sewer without the written consent of the authority to whom the sewer belongs (*ibid.* section 61). It is the rule for the local authority to make themselves such connections, charging the expense on the owner of the drain.

There are also other sections in force with the object of protecting sewers from injury. Thus, no one under penalty is allowed to sweep rubbish, filth, or other matters into sewer gratings or into sewers (18 and 19 Vict. c. 120, section 205). Penalties for damaging or interfering with sewers are also provided by 25 and 26 Vict. c. 102, section 69.

LECTURE XII.

METROPOLITAN SANITARY LAW

Provisions as to Water and Water Supply

Water Supply of the Metropolis.

THE water supply of London is practically wholly in the hands of public companies; the number of private wells in proportion to the whole population being very small. A description of the London water supply, the sources of the supply, and the area allotted to each company will be found in the author's *Manual of Hygiene*. Each of the companies has a special Act or Acts, besides which the supply is governed by certain sections of the Public Health (London) Act, the Waterworks Clauses Acts, 1847; the Metropolis Water Acts of 1852 and 1871.

Certain water supplies are vested in the sanitary authority.

All existing public cisterns, reservoirs, wells, fountains, pumps, and works used for the gratuitous supply of water to the inhabitants of the district of any sanitary authority, and not vested in any person or authority other than the sanitary authority, vest in, and are under the control of, the local authority. Power is also given to the local authority to provide and maintain public fountains, pumps, and so forth, and wilful damage to any such works involves the payment of the expenses of repair in

Public fountains and pumps may be provided and maintained by the sanitary authority.

addition to any punishment to which the offender may be liable. P.H. (London), section 51.

There are statutory obligations laid upon the companies so as to ensure the delivery of wholesome water, and also provisions against pollution by consumers and others.

(1) *Supply of Wholesome Water by the Companies.*

Provisions as to the purity of water supplied by the companies.

Reservoirs for the storage of water for domestic purposes are to be covered when such reservoirs are situated a certain distance from the Metropolis; the water itself is to be brought in covered pipes, unless such water is filtered before distribution. All water supplied for domestic use is to be efficiently filtered by the companies (Metropolis Water Act, 1852, sections 2-4).

New sources of water are not to be taken save after notice to the Local Government Board, due inquiry by that Board, and permission given (*ibid.* sections 5-8, 35 and 36 Vict. c. 72, sect. 35).

The companies are compelled to keep proper maps, on a scale of six inches to the mile, showing the course of their mains, and these maps are to be open to the inspection of all persons interested in them, who are to be at liberty to take copies or make extracts from the same. This useful provision enables a sanitary officer, should he suspect local pollution from any cause, to ascertain, before having the ground opened, the exact position of the mains and their relation to sewers or drains.

Every company is obliged to make regulations for the prevention of undue consumption or contamination of the water (Metropolis Water Act, 1852, section 26; *ibid.* 1871, section 17).

(2) *Protection from Pollution by consumers or others.*

Provisions as to cisterns.

Cisterns and so forth are to be so constructed as effectually to prevent the flow or return of foul air or other noisome or impure matter into the mains or pipes of the company, or into any pipe communicating or connected therewith, and the company are not bound to supply such defective appliances with water (Metropolis Water Act, 1852, section 23).

Local storage regulated by bye-law.

The cleanliness of tanks, cisterns, and other receptacles for drinking water is to be regulated by each local authority under bye-laws (Public Health (London) Act, 1852, section 50).

Corruption of water by gas is prohibited in similar terms to those employed in Section 68, P.H., 1875; Public Health (London) Act, section 52.

The closing of polluted wells.

Polluted wells may be closed under Section 54, P.H. (London) Act, a section in wording practically identical with Section 70, P.H., 1875.

Dwelling-houses without water unfit for human habitation.

An occupied house without a proper and sufficient supply of water is a 'summary' nuisance, and a dwelling-house [1] without such supply is to be deemed unfit for human habitation; P.H. (London),

[1] There is a distinction in this section between an 'occupied house' and a 'dwelling-house.' A house of business, for instance, may be occupied only by day and not dwelt in; whereas, a dwelling-house may be presumed to be a house in which people live and sleep.

section 48 (1). This is an entirely new provision, and there is nothing precisely like it in the P.H., 1875.

Newly-erected houses must be certified as to water supply.

Houses newly erected or rebuilt have to be certified that they have a proper supply of water as in the provinces under the Public Health (Water) Act, 1878, section 6; P.H. (London), section 48 (2) and (3).

Company must give notice to sanitary authority if they cut off water supply.

A company, within twenty-four hours of the cutting off of a supply of water from a house, is bound to give notice to the sanitary authority that the supply has been cut off, under a penalty of £10 or less, and it is the duty of the sanitary authority to proceed against the company for neglect of the provision (P.H. (London), section 40).

When water may be legally cut off by a company.

The water companies are entitled to cut off the water supply of a house under the following circumstances :—

1. The payment in advance of each quarter day has not been made (10 and 11 Vict. c. 17, sections 70 and 74). This is, however, modified by the Water Companies (Regulation of Powers) Act, 1887, which prohibits the company cutting off the water supply of a house of which the owner, and not the tenant, pays the water-rate. For instance, if a house is let out in tenements, in nine cases out of ten, the owner pays the water-rate, and it would be illegal to deprive the tenants of water for any default of the owner.

2. Neglects, when required by the company, to provide a proper cistern with suitable appliances to

prevent waste of water, or to keep the same in good repair (10 and 11 Vict. c. 17, section 54).

3. Offends against any of the provisions of the Waterworks Clauses Act, 1847, or the Metropolis Water Acts, 1852 and 1871, or against the special Act of the company.

4. Wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption or contamination of the water (15 and 16 Vict. c. 84, section 25 ; 26 and 27 Vict. c. 93, section 16 ; 34 and 35 Vict. c. 113, section 2).

(3) *Constant Supply.*

How a company may be compelled to give a constant supply.

The greater part of the Metropolis is now under constant supply, and year by year the supply on constant service is extending. Every company may give a constant service, and is obliged to do so if required by the London County Council.

The Local Government Board may also after inquiry compel a company to give a constant service to any district, should the County Council neglect, on representation of a local authority to require the company to do so, or they may compel the company to do so on other grounds (Metropolitan Water Act, 1871, sections 7-9). A company is not bound to give a constant supply to any house unless the prescribed fittings are provided. The absence of the prescribed fittings is a 'summary' nuisance (P.H. (London), section 2).

Absence of prescribed fittings.

Examination of water supplies.

A sanitary authority may examine any water supply after twenty-four hours' notice to the occupier, or 'on emergency' without notice (P.H. (London), section 40).

(4) *Smoke.*

The provisions against smoke in force in the Metropolis are now mainly contained in the Public Health (London) Act, which repeals and consolidates the provisions of 16 and 17 Vict. c. 128, and 19 and 20 Vict. c. 107, with some amendments. Since there is nothing exactly like this smoke section in the Public Health Act, 1875, the substance of the section in the London Act may be here reproduced—

The prevention of smoke.

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

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

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

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

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

such person shall be liable to a fine not exceeding £5, and on a second conviction to a fine of £10, and on each subsequent conviction to a fine double the amount of the fine imposed on the last preceding conviction.

(3) 'Proceeds to enact provisions compelling steam vessels on the River Thames to consume their own smoke under penalties.

(4) 'Provides that the words "consume or burn the smoke" are not to be held in all cases to mean "consume or burn all the smoke," and the Court may remit the fine if of opinion that such person has so constructed his furnace as to consume or burn, as far as possible, all the smoke arising from such furnace, and has carefully attended to the same, and consumed or burned, as far as possible, the smoke arising from such furnace (P.H. (London), section 23).'

Sanitary authorities must carry out the provisions against smoke.

It must be specially noted that it is laid upon the metropolitan sanitary authorities, as a distinct duty, to carry out this 23rd Section, and, moreover, an information under the section is not to be laid except under the direction of a sanitary authority.

The proper way to carry out the section is either to appoint special inspectors, or to make the duties imposed by the section a part of the work of any existing inspectors.

It is to be noted that the 23rd Section applies also to the Port of London, and is to be enforced there by the port sanitary authority.

The Public Health (London) Act also contains a section (Section 24) corresponding to Section 91, P.H., 1875, with regard to smoke. This section has been already considered (p. 25), and the remarks made in the former lecture are applicable.

(5) *Offensive Trades.*

Certain offensive trades must not be now established.

No one, under penalty of £50 per day or less, can now establish within the metropolitan area the business of a blood-boiler, a bone-boiler, a manure manufacturer, a soap-boiler (if the soap is made from certain fats), a tallow-melter, or a knacker; but the old businesses of this kind are allowed to remain governed by the bye-laws of the County Council (P.H. (London), section 19).

A new soap-boiling business may, however, with sanction of the Council, be established, if the soap is made from olein, or any vegetable fat or oil, *ibid.* 19 (2).

Certain businesses may, with consent of County Council, be established anew.

The business of a fellmonger, tripe-boiler, slaughterer of cattle or horses, or any other business which the County Council may declare by order (confirmed by London Government Board) to be offensive, may be established anew with the sanction of the London County Council.

Added to this there are numerous minute details to be observed, with the object of ensuring that the locality has ample notice by advertisement and notice of the application, so that the inhabitants have an opportunity of opposing the application.

It will be noted that a new knacker's business cannot be established under any circumstances, but that, with sanction, the business of a slaughterer of horses may be established anew.

The knacker slaughters old, diseased, and worn-out animals, and none of the products are used for

Distinction between 'knacker' and 'slaughterer of horses.'

human food. On the contrary, the 'slaughterer of horses' is presumed to kill perfectly healthy animals for the purpose of supplying with horse-flesh those people who use it as a food.

The clause giving power to the County Council to define what an offensive trade is cannot fail to be useful. There is no such power under the Public Health Act, 1875, and the general term 'offensive trade' (P.H., 1875, sect. 112) has received various, and by no means consistent, definitions in certain leading appeal cases.

House and street refuse.

The removal of house refuse and street refuse by a sanitary authority is now to be deemed to be an offensive trade, and a complaint or proceeding under Section 21, Public Health (London) Act, may be made or taken by the County Council in like manner as if the Council were a sanitary authority. P.H. (London), sect. 22. The remaining sections as to offensive trades are practically the same as those of P.H., 1875, sects. 114, 115.

(6) *Factories and Workshops.*

It will be here convenient, in connection with the metropolitan sanitary law, to consider generally the legislation affecting the duties of officers under the Factory and Workshops Acts, 1878 to 1891, and the sections dealing with factories and workshops of the Public Health (London) Act.

It may at once be stated that the construction of the Factory and Workshops Acts is not always easy,

good definitions being absent, and certain portions not being consistent.

Effect of legislation as to factories and workshops.

The first point to which the student need direct his attention is that the effect of the factory legislation at the present time is that factories and workshops are under a dual control, viz., the Home Office and the Local Sanitary Authorities.

The agents of the Home Office appointed and removed by the Secretary of State are the Factory Inspectors, and the primary duty of sanitary inspection of *factories* belongs to the Factory Inspector. On the other hand, the primary duty of inspection of *workshops* and *workplaces* belongs to the Local Sanitary Authorities. By this statement it is not meant for a moment that the local authority has no right to inspect a factory under the operation of the Factory Acts, for there is a general duty cast upon the sanitary authority to inspect all parts of their district.

Definitions of factory, workshop, workplace—

What is a factory, a workshop, a workplace, under the Factory Acts? Factories are divided, under the Factory and Workshop Act of 1878, into textile and non-textile. Textile factory means any premises in which—

(*a*) Textile factories.

'Steam, water, or other mechanical power is used to move or work any machinery employed in preparing, manufacturing, or finishing, or in any process incident to the manufacture of cotton, wool, hair, silk, flax, hemp, jute, tow, china-grass, cocoa-nut fibre, or other like material, either separately or mixed together, or mixed with any other material, or any fabric made thereof; but printworks, bleaching and dyeing works lace

warehouses, paper mills, flax scutch mills, ropeworks, and hatworks are not to be deemed textile fabrics.'

Non-textile factories are—

(*b*) Non-textile factories.

1. 'Printworks, bleaching and dyeing works, earthenware and china works, lucifer-match works, percussion cap works, cartridge works, paper-staining works, fustian-cutting works, blast furnaces, copper mills, iron mills, foundries, metal and india-rubber works, paper mills, glass works, tobacco factories, letter-press printing works, bookbinding works, flax scutch mills.

2. 'The following are also non-textile factories, *if steam, water, or other mechanical power is used* in aid of the manufacturing process :—Hat works, rope works, bakehouses, lace warehouses, shipbuilding yards, quarries, pit-banks. On the other hand, if any of the above *do not employ machinery* they are classed as "workshops."

3. 'Factories are also places in which any manual labour aided by mechanical power, worked as above by steam, water, etc., for the purposes of gain in, "or incidental to, the following purposes—

(*a*) In or incidental to the making of any article, or of part of any article ; or

(*b*) In or incidental to the altering, repairing, or amending, or finishing of any article ; or

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

Workshop.

'*Workshops* are those trades mentioned (2) in which no mechanical power is employed, and likewise (3) where no mechanical power is employed.'

Laundries.

Such a place as a steam laundry would not come under the 1878 Act. It is not specifically mentioned in the list, nor can a laundry be considered a manufacture. Yet it is obvious that the conditions are much the same as those of a factory. For this reason, probably, 'laundries' are specifically mentioned in the Factory and Workshop Act of 1891,

and the sanitary provisions of the Acts apply to laundries.

'Workplace' is not defined, and is supposed to mean a place where people work, but which, for technical reasons, does not entirely satisfy the definition of 'workshop.'

By the Act of 1891 the section relating to cleanliness, ventilation, and so forth, in factories and workshops, cease to apply to workshops.

Duties of a factory inspector.

The duties of a factory inspector, under Section 4, Factory Act, 1878, as amended by Section 2, Factory Act, 1891, are: to bring to the notice of the sanitary authority any act or default in relation to 'any drain, water-closet, earth-closet, privy, ashpit, water supply or nuisance in factories, or workshops, or laundries (including those in which no woman, young person, or child is employed). It is then the duty of the sanitary authority to have the same inspected and to take action; failing which, the inspector has all the powers of a sanitary authority, and may take proceedings (Factory and Workshop Act, 1891, sect. 2).

Secretary of State may invest a factory inspector with powers of a sanitary authority under certain circumstances.

So also the Secretary of State, if he is satisfied that a sanitary authority is not doing its statutory duty with regard to nuisances, cleanliness, ventilation, overcrowding, or limewashing in workshops, or class of workshops or laundries, may practically invest a factory inspector with the powers (for the particular purpose) of a sanitary authority, and the sanitary authority will have to pay all expenses.

It is also the primary duty of the factory inspector,

under Section 33, Factory Act, 1878 (as amended by Factory Act, 1891), to see that the details as to cleansing, plastering, painting, and washing the walls and ceilings are carried out.

Duties of a sanitary authority.

The duties of the sanitary authority, in relation to factories and workshops, are, first, to attend to any nuisance or matter brought to their notice by the factory inspector. Secondly, with regard to factories and workshops not under the Factory Acts.

In the provinces it is the duty of the local authorities to carry out the provisions of the Public Health Act, 1875, sect. 91 (6).

In London the local authorities are to carry out the corresponding provision of the Public Health (London) Act, sect. 2 (*g*).

In the Provinces by the 4th section of the Factory Act, 1891, and in London by the 25th section of the Public Health (London) Act, 1891 (the effect of and wording of both sections being similar but not identical); where, on the certificate of a medical officer of health (or inspector of nuisances), it appears to any sanitary authority that the limewashing, cleansing, or purifying of any workshop, or any part thereof, is necessary for the health of the persons employed therein, the sanitary authority is compelled to serve a notice on the owner or occupier. Penalty in London £5, and 10s. a day or less, elsewhere 10s. per day or less. In each case the sanitary authority may, if they choose, do the work and recover the expenses.

Cleansing and limewashing of factories.

(7) *Bakehouses.*

Local sanitary authorities have to do with retail bakehouses only.

The bakehouses, the sanitary condition of which is under the local sanitary authorities, are only those denominated 'retail,' which is defined as 'any bakehouse or place, the bread, biscuits, or confectionery baked, in which are not sold wholesale but by retail; in some shop or place occupied together with such bakehouse.' Such premises as Huntley & Palmer's, or Peak & Freans, are factories, not bakehouses.

Local authorities both in London and the provinces have to carry out Sections 34, 35, and 81 of the Factory and Workshop Act, 1878, and Sections 15 and 16 of the Factory and Workshop Act of 1883.

The material parts of Section 34 are as follows :—

Cleansing, lime washing, and painting of bakehouses.

'All the inside walls of such bakehouse, the rooms of, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages and staircases of such bakehouse, shall be either painted with oil or varnished, or be partly painted or varnished, and partly limewashed; where painted with oil or varnished, there shall be three coats of paint or varnish, and the paint or varnish shall be renewed once at least in every seven years, and shall be washed with hot water and soap once at least in every six months; where limewashed, the limewashing shall be renewed once at least in every six months.

'Section 35 provides (under a fine of twenty shillings for the first and £5 for subsequent offences) that a place on the same level as a bakehouse shall not be used as a sleeping-place unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling, and unless there be an external window glazed of at least nine superficial feet in area, of which at least 4½ feet superficial are made to open for ventilation.

Section 81 provides that, if a factory or workshop is not kept in conformity with the Act, the occupier is to be liable to a fine of £10, or instead of which a court of summary jurisdiction may order certain means to be adopted for the purpose of bringing the premises into conformity with the Act. Non-compliance involves liability to £1 a day or less.

By the 15th section of the Factory Act, 1883, no room or place which was not so let or occupied as a bakehouse before 1st June 1883 is to be occupied as a bakehouse unless the following regulations are complied with :—

No water-closet to communicate directly with a bakehouse.

(1) No water-closet, earth-closet, privy, or ashpit shall be within, or communicate directly with, the bakehouse.

(2) Any cistern, for supplying water to the bakehouse, shall be separate and distinct from any cistern supplying water to a water-closet.

(3) No drain or pipe for carrying off fœtid or sewage matter shall have an opening within the bakehouse. Contravention of the section is punishable by a fine not exceeding 40s., and a further fine for continued offence, after conviction, of 5s. a day.

Penalties for using or occupying unfit bakehouses.

Section 16 of the Factory Act, 1883, provides that where a court of summary jurisdiction is satisfied that any room or place used as a bakehouse (whether the same was or was not so used before the passing of the Act, viz., 1st June 1883), is in such a state as to be on sanitary grounds, unfit for

use or occupation as a bakehouse, the occupier of the bakehouse shall be liable on summary conviction to a fine not exceeding 40s. The Court may, however, order means to be adopted to remedy the ground of complaint within a certain time, the order may, upon application, be enlarged by subsequent order, if the order is not complied with there is liability to a fine not exceeding £1 per day. The last-quoted section is one of great value, the most convenient way to put the section in force is, first of all, to give the occupier notice of the defects which render the bakeshop unsuitable; if the defects are not remedied then to apply for a summons.

Illegal employment of women and children.

Medical officers of health do not appear to have any express duty cast upon them of searching for the employment of children, women, or young persons in workshops, but should in any way the medical officer of health become aware of the employment in a workshop of any child (that is, any one under the age of fourteen), any young person (that is, persons aged 14-18), or women (that is, females 18 years and above), he is to give written notice to the factory inspector, P.H. (London), sect. 27; Factory and Workshops Act, 1891.

(8) *Street scavenging, and the removal of house, trade, and stable refuse.*

Under old laws, the occupier of any premises was required, during frost or snow, to cleanse and sweep the foot pavement in front of his premises before

10 A.M. At the same time the sanitary authority were required to sweep and cleanse footways generally, but this did not relieve occupiers of their liability (57 Geo. III., c. 29, sect. 63; 2 and 3 Vict. c. 47, sect. 60; 18 and 19 Vict. c. 120, sect. 117); these enactments have been repealed, and it is the duty of each local metropolitan authority to keep the streets of their district, including the footways, 'swept and cleansed, so far as is reasonably practicable, and to collect and remove from the said streets, so far as is reasonably practicable, all street refuse' P.H. (London) Act, sect. 29 (1). Neglect is punishable by fine of £20 or less, and every sanitary authority is bound to employ directly, or indirectly, a sufficient number of scavengers for this and other purposes (*ibid.* sect. 31). The practicability of doing this is so much a debateable point, that several of the London Vestries have declared that it is not possible for them to employ a sufficiently large staff to keep the footways clean and swept in ordinary times, much less in times of snowfall. It must at the same time be noted that, so far as I know, not a single metropolitan authority has endeavoured by *actual trial* to ascertain how far the section quoted can be carried out.

Duty of metropolitan authorities as to streets and footways.

(9) *House and Trade Refuse.*

What is house refuse?

'House refuse' is defined as ashes, cinders, breeze, rubbish, night-soil, and filth, but does not include trade refuse.

While 'trade refuse' means the refuse of any trade, manufacture, or business, or of any building materials.

There is endless contention about the real meaning of these terms. The same thing may be under one set of circumstances, trade; under another, house refuse; for example, if an ordinary householder entertain his friends, and the straw casings of the champagne bottles be cast in the dust-bin, the straws are so much rubbish included in the definition of 'house refuse;' but, should a wine merchant at his place of business have similar waste material, it would be considered 'trade refuse.' In the leading case of *St. Martin's Vestry* v. *Gordon*, it was decided that clinkers were ashes, and therefore house refuse that the sanitary authority was bound to remove. A Magistrate has recently decided that the refuse from a London theatre, including torn scenery, broken bottles, shavings, and so forth, is house refuse: a doubtful judgment.

St. Martin's Vestry v. *Gordon.*

The settlement of disputes as to what is trade and what is house refuse is to be referred to a Petty Sessional Court, and 'the decision of the Court shall be final,' this, however, only means that the nature of the subject-matter is a question of fact, and as to fact the decision is final, but whether the subject-matter comes within the words trade refuse involves a question of law, and therefore may be revised by a Superior Court. (*R.* v. *Bridge* (1890) 24 Q.B.D. 609.)

It is the duty of the sanitary authority to secure

Duty of a sanitary authority to remove house refuse.

the due removal of house refuse at proper periods from premises within their district, and, on receipt of a written notice from an occupier, they are bound to comply within forty-eight hours, exclusive of Sundays and public holidays, under a penalty of £20, unless there is a reasonable excuse (P.H. (London) Act, sect. 30). The reasonable cause of excuse would be, I should imagine, such occurrences as a heavy fall of snow, or the freezing of any waterway along which refuse was conveyed away by boat, or the sudden outbreak of influenza among the horses belonging to the authority or its contractor, and so forth. The authority can, of course, if a contractor is employed, put all or any of these penalties in the contract, so that though, in each and every case, the authority is primarily liable, the penalty will really fall on the contractor.

Sanitary authority to remove trade refuse on payment.

Trade refuse the sanitary authority are also compelled to remove if the occupier requires such removal, but he is bound to pay a reasonable sum, such sum, in case of dispute, to be settled by the order of a Petty Sessional Court. In at least one contract between contractor and vestry, provision is made that any case of dispute shall be, with the consent of both parties, referred to the medical officer of health, who is to settle the matter by arbitration—a sensible, speedy, and costless proceeding.

Removal of dung.

As for the removal of other matters, such as accumulations of dung and filth, the law in London is now pretty well the same as in the country under P.H., 1875, see Sections 35 and 36, P.H. (London),

and compare these sections with Sections 49 and 50, P.H., 1875.

(10) *Regulations as to Water-Closets.*

Section 37 of the London Health Act should be compared with Sections 35-38 of P.H., 1875. The powers are similar, but not identical; in the country the law is satisfied if a new house, or one that has been rebuilt, has a *sufficient* earth-closet, water-closet, or *privy*; in London a new or rebuilt house must have one or more 'proper and sufficient water-closets as circumstances may require,' and a privy or earth-closet is only permitted, in those rare circumstances, where sewerage or water supply is not reasonably available. A privy in the country may be, under certain circumstances, allowed to be used by the inmates of two houses; but not in London, although where a water-closet has, before the commencement of the P.H. (London) Act, 'been and is used in common by the inmates of two or more houses, and in the opinion of the sanitary authority may continue to be properly so used, they need not require a water-closet to be provided for each house.'

One or more sufficient water-closets to be provided in new houses.

Regulations as to the use of privies.

An aggrieved person may appeal against the notice or act of a sanitary authority under this section to the County Council (P.H. (London), section 37).

In the provinces, a tradesman, who botches up a drain, or constructs in an inefficient manner a water-closet, only renders himself liable to a civil action;

in London such offences may be criminal, for Section 42, P.H. (London), provides:

Penalty for faulty sanitary work.

'If a water-closet or drain is so constructed or repaired as to be a nuisance or injurious or dangerous to health, the person who undertook or executed such construction or repair shall, unless he shows that such construction or repair was not due to any wilful act, neglect, or default, be liable to a fine not exceeding £20.'

As honest tradesmen are often victimised by their workmen, there is further provision made, giving facilities for the tradesman to defend himself by proving that the faulty work was done against his directions by his workman. In that case the workman is fined, and not the master.

(11) *Public Lavatories and Sanitary Conveniences.*

Of late years the local authorities have turned their attention to the erection of public lavatories with urinals and closets for both sexes. The underground lavatories are for the most part of model construction, as, for example, at Piccadilly and Oxford Circus, and repay the original cost of construction, for the fees received are in excess of the cost of maintenance. The P.H. (London) Act gives ample facilities for the construction of such places and for their proper management by embodying, with verbal amendment, Section 39 of the P.H., 1875, and the Sections of the P.H. Amendment Act, 1890, dealing with the same subject. It is to be specially noted that for this purpose the subsoil of the road is vested in the sanitary authority. Such vesting does not,

Facilities for the construction of public lavatories.

however, take away the rights of the Crown, and the metropolitan authorities who have constructed underground conveniences beneath the surface of roads over which the Crown has rights have had to obtain permission, and to pay a nominal rent.

(12) *Unsound Food.*

Seizure of unsound food.

Under the P.H., 1875, section 116, an imperfect list of articles of food to which the Act applied was given, and action was restricted to the articles in the list. So defective, indeed, was this list, that it omitted eggs, cheese, and butter. The Public Health Acts (Amendment) Act remedied this by extending the application of the Act to *all* articles intended for the food of man (Section 28); but it was reserved for the framers of the P.H. (London) Act to draft a more model and comprehensive section as follows :—

Sect. 47. (1) 'Any medical officer of health or sanitary inspector may at all reasonable times enter any premises and inspect and examine—

(*a*) Any animal intended for the food of man which is exposed for sale, or deposited in any place for the purpose of sale, or of preparation for sale; and

(*b*) *Any article, whether solid or liquid*, intended for the food of man, and sold or exposed for sale, or deposited in any place for the purpose of sale, or of preparation for sale :

the proof that the same was not exposed or deposited for any such purpose, or was not intended for the food of man, resting with the person charged; and if any such animal or article appears to such medical officer or inspector to be diseased or unsound, or unwholesome or unfit for the food of man, he may

seize and carry away the same himself or by an assistant, in order to have the same dealt with by a Justice.

(2) If it appears to a Justice that any animal or article which has been seized, or is liable to be seized under this section is diseased, or unsound, or unwholesome, or unfit for the food of man, he shall condemn the same and order it to be destroyed or so disposed of as to prevent it from being exposed for sale or used for the food of man; and the person to whom the same belongs, or did belong at the time of sale or exposure for sale, or deposit for the purpose of sale or of preparation for sale, or in whose possession or on whose premises the same was found, shall be liable on summary conviction to a fine not exceeding £50 for every animal or article, or if the article consists of fruit, vegetables, corn, bread, or flour, for every parcel thereof so condemned, or, at the discretion of the Court, without the infliction of a fine, to imprisonment for a term of not more than six months, with or without hard labour.

(3) Where it is shown that any article liable to be seized under this section, and found in the possession of any person, was purchased by him from another person for the food of man, and when so purchased was in such a condition as to be liable to be seized and condemned under this section, the person who so sold the same shall be liable to the fine and imprisonment above mentioned, unless he proves that at the time he sold the said article he did not know, and had no reason to believe, that it was in such condition.

(4) Where a person convicted of an offence under this section has been within twelve months previously convicted of an offence under this section, the Court may, if it thinks fit, and finds that he knowingly and wilfully committed both such offences, order that a notice of the facts be affixed, in such form and manner, and for such period not exceeding twenty-one days, as the Court may order, to any premises occupied by that person, and that the person do pay the costs of such affixing; and if any person obstructs the affixing of such notice, or removes, defaces, or conceals the notice while affixed during the said period, he shall for each offence be liable to a fine not exceeding £5.

(5) If the occupier of a licensed slaughter-house is convicted

of an offence under this section, the Court convicting him may cancel the license for such slaughter-house.

(6) If any person obstructs an officer in the performance of his duty, under any warrant for entry into any premises granted by a Justice in pursuance of this Act for the purposes of this section, he shall, if the Court is satisfied that he obstructed with intent to prevent the discovery of an offence against this section, or has within twelve months previously been convicted of such obstruction, be liable to imprisonment for any term not exceeding one month, in lieu of any fine authorised by this Act for such obstruction.

(7) A Justice may act in adjudicating on an offender under this section, whether he has or has not acted in ordering the animal or article to be destroyed or disposed of.

(8) Where a person has in his possession any article which is unsound, or unwholesome, or unfit for the food of man, he may by written notice to the sanitary authority, specifying such article, and containing a sufficient identification of it, request its removal, and the sanitary authority shall cause it to be removed as if it were trade refuse.'

The most obvious defect in the section is the absence of any definition of what unsoundness or unfitness may be as regards animal food. The consequence is that, in such a malady as tuberculosis, there is generally much contention and difference of opinion between expert witnesses as to whether the whole of the animal is diseased or only a part. In a Melbourne Act relative to food, a list of diseases is given which are stated to render the animal unfit for use; hence, the local authority has only to prove the fact of, say tuberculosis, or actinomycosis, and no matter whether the malady is apparently localised or not, the whole animal is condemned.

(13) *Infectious Diseases.*

The Infectious Disease Notification and Infectious Disease Prevention Acts are embodied in the Public Health (London) Act, and have been previously considered (pp. 104-118). There are, however, a few modifications necessitated by the fact that the whole of the Metropolis has been formed into one asylum district, under managers designated the Metropolitan Asylum Managers or Metropolitan Asylums Board, by a special statute, 30 Vict. c. 6, as amended by 32 and 33 Vict. c. 63, sects. 1 and 39 Vict. c. 61, sect. 40. The duties of the Board are the provision of asylums for the insane and infirm, and of hospitals for certain infectious diseases—that is, smallpox, relapsing fever, typhus, typhoid, scarlet fevers, diphtheria, and cholera; hitherto erysipelas, measles, influenza, and other infectious maladies have not been admitted. Non-pauper patients may be admitted into the Asylum Board hospitals, and such admission deprives the person so admitted of no right or qualification, nor is such admission to be considered charity, or of the nature of Poor-Law relief (P.H. (London), sect. 80).

Metropolitan Asylum Board.

An important difference of notification procedure in London and the country is the provision (P.H. (London), section 55 (4) for sending a copy of the certificate of a case of the notifiable disease both to the Asylums Board and to the head teacher of the 'school attended by the patient (if a child), or by any child who is an inmate of the same house as the

Copy of certificate must be sent both to head teacher of school and Asylum Board.

patient.' Besides this, the different medical officers of health receive week by week a full and complete list from the Asylums Board of all notifications in the respective districts in the Metropolis, so that they are able to watch the progress of an epidemic over the whole area, and know quickly when danger approaches their own district.

The ambulance service of the Metropolitan Asylums Board is an admirable and complete one, and, by a resolution of the managers, has been practically placed at the service of the public for the conveyance, at a moderate charge, of persons suffering from the disease received at the Asylums Hospitals to other hospitals or places.

(14) *Underground Rooms.*

The only essential matter remaining to speak about in reference to Metropolitan Sanitary Law is the sections (96-98) of the London Act, which considerably amend former statutes as to the conditions under which underground rooms may be occupied.

Provisions as to occupation of underground rooms.

An underground room must not be occupied in London unless—

(*a*) It is seven feet high, and the ceiling is at least *three feet* above the surface of the adjoining street; but, if the area outside is as much as six feet in width, then the height may be one foot above the street.

(*b*) Every wall has to have a damp-proof course, and, if in contact with the soil, is to be effectually secured against dampness from that soil.

(*c*) The area outside the room must be open, and extend along the whole length : that is, must not be curtailed by, *e.g.*, a cistern, a wash-house, or other structure. It must be at least *four feet wide* in every part, must be properly paved, and must be *six inches at least below* the level of the floor. The area will still be called open if there are necessary steps over and across it, but the steps must not be over or across any window.

(*d*) The paved area and the soil immediately below the room must be effectually drained.

(*e*) If the floor has a hollow floor, the space immediately below must be effectually ventilated. (Solid floors, in contradistinction to hollow, are made of such materials as wooden blocks laid on asphalte.)

(*f*) Any drain passing under the room must be properly constructed of gas-tight pipe.

(*g*) There must be no effluvia or exhalation passing into the room.

(*h*) The occupiers must have the use of a water-closet and an ash-pit placed in a convenient place (in the language of the Act ' appurtenant ').

(*i*) The room must be efficiently ventilated.

(*j*) The room must have a fireplace, with a proper chimney or flue.

(*k*) The room must have one or more windows opening directly into the external air, clear of the sash frames, equal to at least one-tenth of the floor area of the room, and so constructed that one-half at least of each window of the room can be opened,

and the opening in each case must extend to the top of the window.

'Occupation' is defined as 'passing the night.' Upon the defendant lies the burden of proof that the person does not pass the night in the room. The usual presumption of occupation at night, in default of direct evidence, is the discovery of a bed in the room; hence, according to the strict interpretation of the Act, a night watchman, who never sleeps by night but takes his rest in the day, might legally occupy such a room. What is occupation?

A family occupying both back and front kitchens, and yet using only one for sleeping, is to be considered as occupying both.

The enforcement of the letter and spirit of these regulations will enormously decrease the occupation of underground rooms in London, but it is expressly enacted that the sanitary authority, either 'by general regulations providing for classes of underground rooms, or on the application of the owner of such room in any particular case, may dispense with or modify any of the said requisites, which involve the structural alteration of the building, if they are of opinion that they can properly do so, having due regard to the fitness of the room for human habitation, to the house accommodation in the district, and to the sanitary condition of the inhabitants, and to other circumstances, but any requisite required before the passing of this Act shall not be so dispensed with or modified.' Sanitary authority may exempt underground rooms from the statute in certain cases.

APPENDIX

SPECIMENS OF BYE-LAWS IN FORCE IN THE METROPOLIS AS TO CERTAIN OFFENSIVE TRADES[1]

Tripe Boiler—(date of bye-laws 1876)

Ventilation.

Every tripe boiler shall cause the premises on which his business is carried on at all times to be well and thoroughly ventilated by suitable openings, windows, Louvre boards, or otherwise.

Water Supply.

Every tripe boiler shall cause the premises on which his business is carried on to be constantly provided with an adequate supply of water, which shall be received and stored in cisterns, or other suitable receptacles, properly constructed.

Lime-Washing and Cleansing.

Every tripe boiler shall cause every part of the premises on which his business is carried on to be thoroughly washed from time to time, as often as may be necessary, and to be kept at all times thoroughly clean.

He shall cause every inner wall of the premises on which his business is carried on to be kept at all times thoroughly

[1] *N.B.*—The bye-laws are classified under the headings Ventilation, Water Supply, etc., so that the various Acts may be compared one with the other; the bye-laws themselves are not so arranged, but are, as a rule, simply numbered.

clean and in good order and repair. He shall cause every such wall to be thoroughly washed with hot lime-wash in the first week of each of the months of March, June, September, and December.

He shall cause every tub, box, vessel, boiler, or receptacle provided or used upon, or in connection with, the premises on which his business may be carried on, to be kept at all times thoroughly clean, so as to prevent any offensive smell.

Receptacles.

Every tripe boiler shall provide a sufficient number of tubs, boxes, or vessels, constructed of galvanised iron or other non-absorbent material, and furnished with tight or close-fitting covers, for the purpose of receiving and conveying away all manure, garbage, offal, and filth. He shall, from time to time as often as occasion may require, cause such manure, garbage, offal, and filth to be placed in such tubs, boxes, and vessels, and to be removed from his premises without delay.

Every tripe boiler shall cause all offal or other materials used in his business, when delivered on to the premises across a public footpath, to be conveyed in vessels properly covered and constructed.

As to dealing with Offensive Vapours.

Every tripe boiler shall cause every boiler or other vessel from which any offensive or noxious vapour or gas may be evolved in the operation of boiling, or otherwise to be properly covered, and in all other respects to be so constructed and used as to cause all such vapour or gas to be effectually conveyed into, or through, a furnace fire, or otherwise to be prevented from escaping into the external atmosphere.

Provisions as to Storage or Removal of Material.

Every tripe boiler shall remove, or cause to be removed, from the premises on which his business is carried on, every bone, fat, offal, garbage, or other similar article before it has become putrid or offensive.

Structure of Premises.

Every tripe boiler shall cause the premises on which his business is carried on to be well paved with asphalte, Yorkshire flag-stone, Stourbridge paving bricks, closely set in cement upon a bottom of 4 inches of good concrete, or with other suitable material, and to be laid with a proper slope and channel towards a gully, and to be effectually drained by an adequate drain of glazed pipes communicating with the public sewer, and properly ventilated. He shall cause such gully to be properly trapped, and to be covered with a grating, the bars of which shall not be more than three-eighths of an inch apart.

KNACKER'S BUSINESS—(DATE OF BYE-LAWS 1876).

Ventilation.

The occupier shall cause the slaughter-house to be well and thoroughly ventilated.

Water-Supply.

The occupier shall cause the slaughter-house to be provided with an adequate tank or other proper receptacle for water and water supply, and so placed that the bottom thereof shall not be less than 6 feet above the level of the floor.

Lime-Washing and Cleansing.

The occupier shall keep every covered and other receptacle used in the slaughter-house at all times thoroughly cleansed and purified, so as to prevent any offensive smell.

The occupier shall keep the inner walls of the slaughter-house always thoroughly clean and in good order and repair, and shall cause the internal surface of the roof and upper portion of the walls to be thoroughly washed with quicklime, at least once in every three months, and he shall also keep every yard and other part of the premises clean.

Receptacles.

The occupier shall provide and keep a sufficient number of tubs, boxes, or vessels, formed out of proper non-absorbent

materials, with tight and close-fitting covers thereto, for the purpose of receiving and conveying away all manure, garbage, offal, and filth; and shall, in all cases, immediately after the slaughtering is completed, cause all such manure, garbage, offal, and filth, to be placed in such tubs, boxes, and vessels; and shall cause all the blood arising from the slaughtering to be put into separate tubs or vessels formed out of the like materials as above, with close-fitting covers; and every such tub, box, and vessel, together with their contents, to be removed from the premises within twenty-four hours.

As to dealing with offensive Vapours.

The occupier shall cause every boiler and vessel from which any offensive or noxious vapour or gas may be evolved in the operation of boiling or otherwise, to be covered over and constructed so that every such gas and vapour shall be effectually conveyed into or through a furnace fire, or shall be otherwise prevented from escaping into the external atmosphere.

Provisions as to Storage or Removal of Refuse.

The occupier shall cause every hide and skin to be removed from the premises within forty-eight hours after slaughtering, and every hide of a glandered or farcied horse, mule, or ass to be disinfected before removal.

The occupier shall remove, or cause to be removed from the premises, every carcase, bone, hide, skin, and all meat, fat, offal, blood, garbage, and other articles before the same have become putrid or offensive.

Structure of Premises.

The occupier shall cause the slaughter-house to be well paved with asphalte, or flag-stone, or proper paving bricks, set in cement, to be laid with proper slope and channel towards a gulley, and to be effectually drained by an adequate drain of glazed pipes, or in other sufficient manner communicating with the public sewer, and the gulley to be trapped by an appropriate trap, and to be covered with a grating, the bars of which shall not be more than three-eighths of an inch apart.

The occupier shall cause every inner wall of a slaughter-house to be covered with hard, smooth, impervious material, to the height of 4 feet at the least, and to be always kept in good order and repair.

Miscellaneous.

No animal fit for human food to be slaughtered in the premises.

No room over a slaughter-house to be inhabited.

Slaughter-house not to be used for any other purpose than for that which it is licensed.

No slaughtering to be conducted within public view.

Animals suffering from infectious diseases not to be removed, but information given to County Council and to the cattle inspector for the district.

Catgut Maker.

Ventilation.[1]

No catgut maker shall, after the expiration of twelve months from the date of the publication of these Bye-laws, open or permit to be opened any vessel or receptacle containing gut or other offensive material, or carry on or permit to be carried on, the process of cleansing and scraping the gut, except in a chamber constructed in accordance with the requirements of the bye-law in that behalf herein contained, and effectually closed so as not to allow any offensive smell to escape therefrom into the external atmosphere, or into the other parts of the premises.

Water-Supply.

Every catgut maker shall cause the premises on which his business is carried on to be constantly provided with an adequate supply of water, which shall be received and stored in a cistern or other suitable receptacle, properly constructed; or, in the case of a constant supply of water, by a pipe communicating with a water company's main.

[1] The Close Chamber specially ventilated. See heading 'Structure of Premises.'

Lime-Washing and Cleansing.

Every catgut maker shall cause every part of such premises to be thoroughly washed from time to time, as often as may be necessary; and to be kept at all times thoroughly clean.

He shall, at the same time, cause the floor of the chamber in which any such process may have been carried on, and every tank, tub, vessel, or receptacle, scraping board, and other utensils or instrument which may have been in use during the day, or which may be in a foul or offensive condition, to be effectually cleansed, and to be disinfected by the application thereto of a sufficient quantity of chloride of lime, carbolic acid, or some other effectual disinfectant.

Receptacles.

Every catgut maker shall cause all gut, other than dried gut, and every other offensive material which may at any time be brought or kept upon the premises, to be so brought or kept in closed vessels or receptacles; and shall in all other respects adopt such precautions in the bringing or keeping of any such gut or other material upon the premises as effectually to prevent the emission of any offensive smell from such gut or other material.

He shall cause every vessel or receptacle which may be used for the bringing, keeping, or manipulation of such gut or other offensive material upon the premises, to be constructed of galvanised iron or other non-absorbent material, and to be furnished with tight and close-fitting covers.

Every catgut maker, on every day during which the processes of cleansing and scraping any gut may be carried on, shall, immediately after the completion of such cleansing and scraping, cause all offensive gut, garbage, filth, refuse, or other offensive matter retained upon the premises, to be placed in proper vessels or receptacles constructed of non-absorbent materials and effectually closed.

As to dealing with Offensive Vapours.

Every catgut maker, at all times while the process of cleansing or scraping any gut may be carried on, shall cause

such process to be so carried on, and in all other respects such precautions to be taken, as may be necessary to prevent the emission of any offensive smell into the external atmosphere from the chamber in which such process may be carried on.

Every catgut maker shall, after the expiration of the time aforesaid, during the process of opening any vessel or receptacle, or of cleansing or scraping any gut, or of cleansing or disinfecting any close chamber or any utensil, cause the atmosphere of the close chamber wherein such process may be carried on to be continuously drawn into a shaft, and conveyed into or through a furnace fire in such a manner as to effectually consume or destroy all noxious and offensive gases or vapours which may have arisen from such process therein.

Every catgut maker shall provide, or cause to be provided, upon the premises on which his business is carried on, machinery or appliances for effectually drawing the atmosphere from a close chamber or chambers, and from every room or place in which any offensive vapour or gas may be evolved, through a shaft and into a furnace fire.

Provisions as to Storage or Removal of Refuse.

Every catgut maker shall, from time to time, as often as occasion may require, cause all garbage, filth, or refuse to be removed from his premises in properly closed vessels or receptacles constructed of galvanised iron or other non-absorbent material.

Structure of Premises.

(*a*) The walls shall be of brick, stone, or concrete; and the walls and the ceiling shall be constructed in such a manner that the atmosphere of the close chamber cannot escape into the external atmosphere.

(*b*) The windows or lights shall be of glass, not less than one-quarter of an inch in thickness, and shall be fixed in the walls or roof in such a manner as not to open, and to be air-tight, and such windows or lights shall be covered externally with a wire-netting.

(*c*) There shall be only one doorway in a close chamber,

and the door thereto shall be made to closely fit the doorway in such a manner that when shut the atmosphere of a close chamber cannot escape through such doorway.

(*d*) The paving shall be asphalte, Yorkshire flagstone, Stourbridge paving bricks closely set in cement upon a bottom of four inches of good concrete or other suitable material; and shall be laid with a proper slope and channel towards a gully, and shall be effectually drained by an adequate drain of glazed pipes communicating with the public sewer, and properly ventilated. The drain shall be properly trapped, and be covered with a fixed grating, the bars of which shall not be more than three-eighths of an inch apart.

(*e*) The inner walls shall be covered with hard, smooth, impervious material, to the height of four feet at the least, and such covering shall be always kept in good order and repair.

(*f*) There shall be provided one or more inlet valves for air, adequate for supplying a sufficient quantity of fresh air from the outside of the chamber for the persons employed and working therein, and so constructed as not to allow the atmosphere of the chamber to escape thereby; and such valve or valves shall be always kept in good working order and repair.

(*g*) There shall be provided a shaft to lead from the upper part of a close chamber to a furnace, and such shaft shall be so constructed that any gas or air drawn through the shaft shall be consumed in the furnace fire.

(*h*) There shall be no room or loft over any such chamber, other than a room used solely for the purpose of the business; and such room shall be provided with separate means of access from without, and shall not communicate directly or indirectly with any close chamber.

Gut Scraper (date of bye-laws 1882).

Water Supply.

Every gut scraper shall cause the premises on which his business is carried on to be constantly provided with an adequate supply of water, and he shall cause every part of such premises to be thoroughly washed from time to time, as often

as may be necessary, and to be kept at all times thoroughly clean.

Lime Washing and Cleansing.

Every gut scraper shall cause the floor of any part of the premises where gut-scraping may have been carried on, and every tank, tub, vessel, or receptacle, scraping-board, and other utensil or instrument which may have been in use, or which may be in a foul or offensive condition, to be effectually cleansed, and to be disinfected by the application thereto of a sufficient quantity of chloride of lime, carbolic acid, or other effectual disinfectant.

Every gut scraper shall cause every inner wall of the premises on which his business is carried on to be kept at all times thoroughly clean and in good order and repair. He shall cause the upper part of every inner wall, and also every ceiling in every part of his premises where any process of his business may be carried on, to be thoroughly washed with hot lime-wash in the first week of each of the months of March and September, and also as often as may be necessary for the purpose of keeping such part of the premises in a clean and wholesome state.

Receptacles.

Every gut scraper shall cause every vessel or receptacle which may be used for the bringing, keeping, or manipulation of such gut or other offensive material upon the premises, to be constructed of galvanised iron or other non-absorbent material, and to be furnished with tight and close-fitting covers.

Every gut scraper shall cause every vessel, receptacle, utensil, or instrument provided or used upon, or in connection with the premises on which his business may be carried on, to be kept, when not actually in use, at all times thoroughly clean, so as to prevent the emission of any offensive smell from such vessel, receptacle, utensil, or instrument.

As to dealing with offensive Vapours.

Every gut scraper shall cause his business to be so carried on and shall in all other respects cause such precautions to be

taken, as may be necessary to prevent the emission of any offensive smell into the external atmosphere from any part of the premises where such business may be carried on.

Provisions as to Storage or Removal of Refuse.

Every gut scraper shall cause all gut, and every other offensive material which may at any time be brought or kept upon the premises, to be so brought or kept in closed vessels or receptacles; and shall in all other respects adopt such precautions in the bringing or keeping of any such gut or other material upon the premises as effectually to prevent the emission of any offensive smell from such gut or other material.

Every gut scraper shall cause all offensive gut, garbage, filth, refuse, or other offensive matter upon the premises, to be placed in proper vessels or receptacles constructed of non-absorbent materials and effectually closed.

Every gut scraper shall, from time to time, as often as occasion may require, cause all garbage, filth, or refuse to be removed from his premises in properly closed vessels or receptacles, constructed of galvanised iron or other non-absorbent material.

Structure of Premises.

Every gut scraper shall cause every floor upon which any process of his business is carried on, in any part of his premises, to be properly covered with a layer of concrete, or other suitable jointless, impervious material, laid (in the case of a ground floor) upon a suitable bottom of at least four inches in thickness. He shall cause every such floor to have a proper slope towards a channel or gully; and shall cause every part of his premises wherein any such floor may be constructed to be effectually drained by adequate drains communicating with a public sewer. He shall also cause every drain to be properly trapped, and the entrance thereto to be covered with a fixed grating, the bars of which shall not be more than three-eighths of an inch apart.

Every gut scraper shall cause the inner walls of every part of his premises within which gut-scraping is carried on, to be covered with hard, smooth, impervious material, to the height of four feet at the least; and such covering shall be always kept in good repair.

GLUE AND SIZE MANUFACTURER—(DATE OF BYELAWS 1879)

Water Supply.

Every glue and size manufacturer shall cause the premises to be constantly provided with an adequate supply of water for the purpose of cleansing.

Lime-Washing and Cleansing.

Every glue and size manufacturer shall cause the floor of every place in which glue or size is boiled, and of every place in which any process of the business (except the drying and packing processes) is carried on, to be thoroughly cleansed with water at least once in twenty-four hours.

Every glue and size manufacturer shall cause every inner wall of the premises on which his business is carried on to be kept at all times thoroughly clean and in good order and repair. He shall cause every inner wall and every ceiling in every part of his premises where any process of boiling, cooling, cutting, or washing may be carried on, to be thoroughly washed with hot lime-wash in the month of March in every year, and from time to time thereafter, as often as may be necessary for the purpose of keeping such part of the premises in a cleanly and wholesome state.

Receptacles.

Every glue and size manufacturer shall cause all scutch or refuse from the boiling pans, and all refuse, residue, or other matter from which offensive effluvia or vapours are evolved or are liable to be evolved, to be placed in properly closed receptacles, or to be otherwise dealt with in such manner as to prevent any offensive effluvia or vapours therefrom escaping into the external atmosphere.

Every glue and size manufacturer shall cause every vessel, receptacle, utensil, or instrument provided or used upon, or in connection with the premises on which his business may be carried on, to be kept, when not actually in use, at all times

thoroughly clean, so as to prevent the emission of any offensive smell from such vessel, receptacle, utensil, or instrument.

As to dealing with Offensive Vapours.

Every glue and size manufacturer shall cause every process of his business in which any offensive effluvia, vapours, or gases are generated to be carried on in such manner that no offensive effluvia, vapours, or gases shall escape into the external atmosphere in such a way as to create a nuisance; and he shall cause all such offensive effluvia, vapours, or gases to be effectually destroyed, or discharged into the atmosphere at a sufficient elevation to render them inoffensive.

Every glue and size manufacturer shall cause his premises to be provided with appliances capable of effectually destroying all offensive effluvia, vapours, or gases arising in any process of his business, or from any material, residue, or other substance which may be kept or stored upon his premises; or with such appliances as shall be effectual for drawing off and discharging such effluvia, vapours, or gases, into the atmosphere at a sufficient elevation to render them inoffensive.

Provisions as to Storage or Removal of Material.

Every glue and size manufacturer shall cause all moist fleshings and other material liable to decomposition, which may be kept or stored upon his premises, to be kept or stored only in such part or parts of his premises as are properly paved with asphalte, concrete, or other suitable jointless material, and covered with a water-tight roof; and he shall keep or store such material in such manner that no offensive effluvia or vapours therefrom shall escape into the external atmosphere.

Every glue and size manufacturer shall cause all scraps of glue and size, and all litter composed of fleshings, trimmings, clippings, and other matters liable to become decomposed, to be constantly gathered or swept up and placed in proper receptacles.

Structure of Premises.

Every glue and size manufacturer shall cause every floor upon which any process of his business (except the drying and

packing processes) is carried on, in any part of his premises, to be properly covered with a layer of concrete, or other suitable jointless and impervious material, laid (in the case of a ground floor) upon a suitable bottom of at least four inches in thickness. He shall cause such floor to have a proper slope towards a channel or gully; and shall cause every part of his premises wherein any such floor may be constructed to be effectually drained by adequate drains communicating with a public sewer. He shall also cause every drain to be properly trapped, and the entrance thereto to be covered with a fixed grating, the bars of which shall not be more than three-eighths of an inch apart.

Blood Drier (date of bye-laws 1879).

Water Supply.

Every blood drier shall cause the premises to be constantly provided with an adequate supply of water for the purpose.

Lime Washing and Cleansing.

Every blood drier shall cause the floor of every place in which any process of the business (except the drying and packing processes) is carried on to be thoroughly cleansed with water, at least once in twenty-four hours.

Every blood drier shall cause every inner wall of the premises on which his business is carried on to be kept at all times thoroughly clean and in good order and repair. He shall (except as is hereinafter provided) cause every such wall or part of such wall which is not covered with hard, smooth, and impervious material, and every ceiling, to be thoroughly washed with hot lime-wash in the first week of each of the months of March and September in every year; provided always that this requirement shall not be deemed to extend to any chamber used for the purpose of drying albumen.

Receptacles.

Every blood drier shall cause all blood, blood-clot, or any refuse, residue, or other matter from which offensive effluvia or

vapours are evolved, or are liable to be evolved, to be placed in properly closed receptacles, or to be otherwise dealt with in such manner as to prevent any offensive effluvia or vapours therefrom escaping into the external atmosphere.

Every blood drier shall cause every vessel, receptacle, utensil, or instrument provided or used upon, or in connection with, the premises on which his business may be carried on, to be kept at all times thoroughly clean, so as to prevent the emission of any offensive smell from such vessel, receptacle, utensil, or instrument.

As to dealing with offensive Vapours.

Every blood drier shall cause every process of his business in which any offensive effluvia, vapours, or gases are generated, to be carried on in such manner that no offensive effluvia, vapours, or gases shall escape into the external atmosphere; and he shall cause all such offensive effluvia, vapours, or gases to be effectually destroyed.

Every blood drier shall cause his premises to be provided with appliances capable of effectually destroying all offensive effluvia, vapours, or gases arising in any process of his business, or from any material, residue, or other substance which may be kept or stored upon his premises.

Provisions as to Storage or Removal of Refuse.

Every blood drier shall cause all blood brought upon his premises to be brought in closed vessels or receptacles constructed of galvanized iron or other non-absorbent material.

Structure of Premises.

Every blood drier shall cause every process of his business (except the drying and packing processes) to be carried on in a building properly paved with asphalte, concrete, or other suitable jointless material, having walls covered to a height of at least six feet with hard, smooth, and impervious material.

Every blood drier shall cause the floor of the yard and every part of his premises in which any process of his business (except

the drying and packing processes) is carried on, to be properly paved with asphalte, concrete, or other suitable jointless material, laid upon a suitable bottom of at least four inches in thickness, and such floor to have a proper slope towards a channel or gully; and shall cause his premises to be effectually drained by adequate drains communicating with a public sewer. The drains shall be properly trapped, and the entrance thereto shall be covered with fixed gratings, the bars of which shall not be more than three-eighths of an inch apart.

Every blood drier shall cause the inner wall of every building in which any process of his business (except the drying and packing processes) is carried on, to be covered to a height of at least six feet with hard, smooth, impervious material.

Fat Melter or Fat Extractor—(date of bye-laws 1881).

Water-Supply.

Every fat melter or fat extractor shall cause the premises to be constantly provided with an adequate supply of water for the purpose of cleansing.

Lime-washing and Cleansing.

Every fat melter or fat extractor shall cause the floor of every place in which any process of the business is carried on, to be kept thoroughly cleansed.

Every fat melter or fat extractor shall cause every inner wall of the premises on which his business is carried on to be kept at all times thoroughly clean and in good order and repair. He shall cause every inner wall and every ceiling in every part of his premises where any process of his business may be carried on, to be thoroughly washed with hot lime-wash, at least twice in every year, that is to say, in the months of March and September, and likewise as often as may be necessary for the purpose of keeping such part of the premises in a cleanly and wholesome state.

As to dealing with offensive Vapours.

Every fat melter or fat extractor shall cause every process of his business in which any offensive effluvia, vapours, or gases are generated, to be carried on in such manner that no offensive effluvia, vapours, or gases shall escape into the external atmosphere, but shall cause all such offensive effluvia, vapours, or gases to be effectually destroyed.

Every fat melter or fat extractor shall cause his premises to be provided with appliances capable of effectually destroying all offensive effluvia, vapours, or gases arising in any process of his business, or from any material residue, or other substance which may be kept or stored upon his premises.

Provisions as to Storage or Removal of Refuse.

Every fat melter or fat extractor shall cause all material used, or offensive material or refuse from the boiling pans, and all refuse, residue, or other matter from which offensive effluvia, vapours, or gases are evolved, or are liable to be evolved, to be placed in properly closed receptacles, or to be otherwise dealt with in such manner as to prevent any offensive effluvia, vapours, or gases therefrom escaping into the external atmosphere.

Every fat melter or fat extractor shall cause all scraps or litter composed of matters liable to become decomposed, to be constantly gathered or swept up and placed in properly covered receptacles.

Every fat melter or fat extractor shall cause every vessel, receptacle, utensil, or instrument provided or used upon, or in connection with, the premises on which his business may be carried on, to be kept, when not actually in use, at all times thoroughly clean, so as to prevent the emission of any offensive smell from such vessel, receptacle, utensil, or instrument.

Structure of Premises.

Every fat melter or fat extractor shall cause every floor upon which any process of his business is carried on, in any part of his premises, to be properly covered with a layer of concrete, or other suitable jointless impervious material, laid (in the case of

a ground floor) upon a suitable bottom of at least four inches in thickness. He shall cause every such floor to have a proper slope towards a channel or gully; and shall cause every part of his premises wherein any such floor may be constructed to be effectually drained by adequate drains communicating with a public sewer. He shall also cause every drain to be properly trapped, and the entrance thereto to be covered with a fixed grating, the bars of which shall not be more than three-eighths of an inch apart.

Animal Charcoal Manufacturer—(date of bye-laws 1888)

As to dealing with Offensive Vapours.

Every animal charcoal manufacturer shall cause every process of his business in which any offensive effluvia, vapours, or gases are generated, to be carried on in such manner that no offensive effluvia, vapours, or gases shall escape into the external atmosphere, and shall cause all such offensive effluvia, vapours, or gases to be effectually arrested or destroyed.

Every animal charcoal manufacturer shall cause his premises to be provided with appliances capable of effectually arresting or destroying all offensive effluvia, vapours, or gases arising in any process of his business, or from any material, residue, or other substance which may be kept or stored upon his premises.

Provisions as to Storage or Removal of Material.

Every animal charcoal manufacturer shall cause all material used in his business, and all offensive material from the retorts, and all refuse, residue, or other matter upon his premises from which offensive effluvia, vapours, or gases are evolved or are liable to be evolved, to be placed in properly closed receptacles, or to be otherwise dealt with in such manner as to prevent any offensive effluvia, vapours, or gases therefrom escaping into the external atmosphere.

Every animal charcoal manufacturer shall cause every vessel, receptacle, utensil, or instrument provided or used upon, or in

connection with, the premises on which his business may be carried on, to be so kept, when not actually in use, as to prevent the emission of any offensive smell from such vessel, receptacle, utensil, or instrument.

Miscellaneous.

No offensive refuse to discharge into the drains.

LONDON COUNTY COUNCIL.

BYE-LAWS PROPOSED TO BE MADE BY THE LONDON COUNTY COUNCIL UNDER THE PUBLIC HEALTH (LONDON) ACT, 1891.

(11th April 1893.)

Bye-laws under Section 16 (2).

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

Fæcal and offensive matter.

1. Every person who shall remove or carry by road or water in or through London any fæcal or offensive or noxious matter or liquid, whether such matter or liquid shall be in course of removal or carriage from within or without or through London, shall not remove or carry such matter or liquid in or through London except between the hours of four o'clock and ten o'clock in the forenoon during the months of March, April, May, June, July, August, September, and October, and except between the hours of six o'clock in the forenoon and twelve o'clock at noon during the months of November, December, January, and February. Such person shall use a suitable carriage or vessel properly constructed and furnished with a sufficient covering so as to prevent the escape of any such matter or liquid therefrom, and so as to prevent any nuisance arising therefrom.

Provided that this bye-law shall not apply to the carriage of horse-dung manure.

As to the closing and filling up of cesspools and privies.

Closing and filling up of cesspools and privies.

2. Any person who shall by any works or by any structural alteration of any premises render the further use of a cesspool or privy unnecessary, and the owner of any premises on which shall be situated a disused cesspool or privy, or a cesspool or privy which has become unnecessary, shall completely empty such cesspool or privy of all fæcal or offensive matter which it may contain, and shall completely remove so much of the floor, walls, and roof of such privy or cesspool as can safely be removed, and all pipes and drains leading thereto or therefrom, or connected therewith, and any earth or other material contaminated by such fæcal or offensive matter. He shall completely close and fill up the cesspool with concrete or with suitable dry clean earth, dry clean brick rubbish, or other dry clean material, and where the walls of such cesspool shall not have been completely removed, he shall cover the surface of the space so filled up with earth, rubbish, or material, with a layer of concrete six inches thick.

3. Every person who shall propose to close or fill up any cesspool or privy shall, before commencing any works for such purpose, give to the sanitary authority for the district not less than forty-eight hours' notice in writing, exclusive of Sunday, Good Friday, Christmas Day, or any bank holiday, specifying the hour at which he will commence the closing and filling up of such cesspool or privy, and during the progress of any such work shall afford any officer of the sanitary authority free access to the premises for the purpose of inspecting the same.

As to the removal and disposal of refuse, and as to the duties of the occupier of any premises in connection with house refuse so as to facilitate the removal of it by the scavengers of the sanitary authority.

Removal and disposal of refuse.

4. The occupier of any premises who shall remove or cause to be removed any refuse produced upon his premises shall not, in the process of removal, deposit such refuse, or cause or allow

such refuse to be deposited upon any footway, pavement, or carriageway.

Provided that this bye-law shall not be deemed to prohibit the occupier of any premises from depositing upon the kerbstone or upon the outer edge of the footpath immediately in front of his house, between such hours of the day as the sanitary authority shall fix and notify by public announcement in their district, a proper receptacle containing house refuse, other than night soil, or filth, to be removed by the sanitary authority in accordance with any bye-law in that behalf.

5. Every person who shall convey any house, trade, or street refuse across or along any footway, pavement, or carriageway shall use a suitable receptacle, cart, carriage, or other means of conveyance properly constructed so as to prevent the escape of the contents thereof, and in the case of offensive refuse so covered as to prevent any nuisance therefrom, and shall adopt such other precautions as may be necessary to prevent any such refuse from being slopped or spilled, or from falling in the process of removal upon such footway, pavement, or carriageway.

If in the process of such removal any such refuse be slopped or spilled, or fall upon such footway, pavement, or carriageway, such person shall forthwith remove such refuse from the place whereon the same may have been slopped or spilled, or may have fallen, and shall immediately thereafter thoroughly sweep or otherwise thoroughly cleanse such place.

Daily removal of house refuse.

6. Where a sanitary authority arrange for the daily removal of house refuse in their district or in any part thereof, the occupier of any premises in such district or part thereof on which any house refuse may from time to time accumulate shall, at such hour of the day as the sanitary authority shall fix and notify by public announcement in their district, deposit on the kerbstone or on the outer edge of the footpath immediately in front of the house or in a conveniently accessible position on the premises, as the sanitary authority may prescribe, by written notice served upon the occupier, a moveable receptacle, in which shall be placed, for the purposes of removal by or on behalf of the sanitary authority, the house refuse which has accumulated on such premises since the preceding collection by such authority.

The sanitary authority shall collect such refuse, or cause the same to be collected, between such hours of the day as they have fixed and notified by public announcement in their district.

Weekly removal of house refuse.

7. The sanitary authority shall cause to be removed not less frequently than once in every week the house refuse produced on all premises within their district.

Offensive refuse.

8. Where, for the purposes of subsequent removal, any cargo, load, or collection of offensive refuse has been temporarily brought to or deposited in any place within a sanitary district, the owner (whether a sanitary authority or any other person) or consignee of such cargo, load, or collection of refuse, or any person who may have undertaken to deliver the same, or who is in charge of the same, shall not without a reasonable excuse permit or allow or cause such refuse to remain in such place for a longer period than twenty-four hours.

Provided (*a*) that this bye-law shall not apply in cases where the place of temporary deposit is distant at least one hundred yards from any street, and is distant at least three hundred yards from any building or premises used wholly or partly for human habitation, or as a school, or as a place of public worship, or of public resort or public assembly, or from any building or premises in or on which any person may be employed in any manufacture, trade, or business, or from any public park or other open space dedicated or used for the purposes of recreation, or from any reservoir or stream used for the purposes of domestic water supply; (*b*) that this bye-law shall not prohibit the deposit, within the prescribed distances, of road slop unmixed with stable manure for any period not exceeding one week, which may be necessary for the separation of water therefrom.

9. Where a sanitary authority or some person on their behalf shall remove any offensive refuse from any street or premises within their district, such sanitary authority or such person shall properly destroy by fire or otherwise dispose of such refuse in such manner as to prevent nuisance.

Provided always that this bye-law shall not be deemed to require or permit any sanitary authority or person to dispose of or destroy by fire any night-soil, swine's-dung, or cow-dung.

10. A sanitary authority or any person on their behalf who shall remove any offensive refuse from any street or premises

within their district shall not deposit such refuse, otherwise than in the course of removal, at a less distance than three hundred yards from any two or more buildings used wholly or partly for human habitation or from any building used as a school, or as a place of public resort or public assembly, or in which any person may be employed in any manufacture, trade, or business, or from any public park or other open space dedicated or used for the purpose of recreation, or from any reservoir or stream used for the purposes of domestic water supply.

Provided always that this bye-law shall not be deemed to prohibit such deposit of such refuse for a period of twenty-four hours, when such refuse is deposited for the purpose of being destroyed by fire, in accordance with any bye-law in that behalf.

11. For the purposes of the foregoing bye-laws the expression 'offensive refuse' means any refuse, whether 'house refuse,' 'trade refuse,' or 'street refuse' in such a condition as to be or to be liable to become offensive.

Penalties.

12. Every person who shall offend against any of the foregoing bye-laws shall be liable for every such offence to a penalty of five pounds, and in the case of a continuing offence to a further penalty of forty shillings for each day after written notice of the offence from the sanitary authority. Provided nevertheless that the Court before whom any complaint may be made, or any proceedings may be taken in respect of any such offence, may, if the Court think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this bye-law. Penalties.

Bye-laws under Section 39 (1).

With respect to water-closets, earth-closets, privies, ash-pits, cesspools, and receptacles for dung, and the proper accessories thereof in connection with buildings, whether constructed before or after the passing of this Act.

1. Every person who shall hereafter construct a water-closet or earth-closet in connection with a building shall con- Water-closets and earth-closets.

struct such water-closet or earth-closet in such a position that, in the case of a water-closet, one of its sides at the least shall be an external wall, and in the case of an earth-closet two of its sides at the least shall be external walls, which external wall or walls shall abut immediately upon the street, or upon a yard or garden or open space of not less than one hundred square feet of superficial area, measured horizontally at a point below the level of the floor of such closet. He shall not construct any such water-closet so that it is approached directly from any room used for the purpose of human habitation, or used for the manufacture, preparation, or storage of food for man, or used as a factory, workshop, or workplace, nor shall he construct any earth-closet so that it can be entered otherwise than from the external air.

He shall construct such water-closet so that on any side on which it would abut on a room intended for human habitation, or used as a factory, workshop, or workplace, it shall be enclosed by a solid wall or partition of brick or other materials, extending the entire height from the floor to the ceiling.

He shall provide any such water-closet that is approached from the external air with a floor of hard, smooth, impervious material, having a fall to the door of such water-closet of half an inch to the foot.

He shall provide such water-closet with proper doors and fastenings.

Provided always that this bye-law shall not apply to any water-closet constructed below the surface of the ground, and approached directly from an area or other open space available for purposes of ventilation, measuring at least forty superficial feet in extent, and having a distance across of not less than five feet, and not covered in otherwise than by a grating or railing.

2. Every person who shall construct a water-closet in connection with a building, whether the situation of such water-closet be or be not within or partly within such building, and every person who shall construct an earth-closet in connection with a building, shall construct in one of the walls of such water-closet or earth-closet, which shall abut upon the public way, yard, garden, or open space, as provided by the preceding bye-law, a window of such dimensions that an area of not less

than two square feet, which may be the whole or part of such window, shall open directly into the external air.

He shall, in addition to such window, cause such water-closet or earth-closet to be provided with adequate means of constant ventilation by at least one air-brick built in an external wall of such water-closet or earth-closet, or by an air-shaft, or by some other effectual method or appliance.

Water-closets.

3. Every person who shall construct a water-closet in connection with a building shall furnish such water-closet with a cistern of adequate capacity for the purpose of flushing, which shall be separate and distinct from any cistern used for drinking purposes, and shall be so constructed, fitted, and placed as to admit of the supply of water for use in such water-closet, so that there shall not be any direct connection between any service-pipe upon the premises and any part of the apparatus of such water-closet other than such flushing cistern.

Provided always that the foregoing requirement shall be deemed to be complied with in any case where the apparatus of a water-closet is connected for the purpose of flushing with a cistern of adequate capacity, which is used solely for flushing water-closets or urinals.

He shall cause every flushing cistern that may be of such a kind as to be emptied at one pull of the flushing apparatus to be so constructed that the inlet for water shall be capable of charging the cistern in not less than one minute.

He shall construct or fix the pipe and union connecting such flushing cistern with the pan, basin, or other receptacle with which such water-closet may be provided, so that such pipe and union shall not in any part have an internal diameter of less than one inch and a quarter.

He shall furnish such water-closet with a suitable apparatus for the effectual application of water to any pan, basin, or other receptacle with which such apparatus may be connected and used, and for the effectual flushing and cleansing of such pan, basin, or other receptacle, and for the prompt and effectual removal therefrom and from the trap connected therewith of any solid or liquid filth which may from time to time be deposited therein.

He shall furnish such water-closet with a pan, basin, or

other suitable receptacle of non-absorbent material, and of such shape, of such capacity, and of such mode of construction as to receive and contain a sufficient quantity of water, and to allow all filth which may from time to time be deposited in such pan, basin, or receptacle, to fall free of the sides thereof, and directly into the water received and contained in such pan, basin, or receptacle.

He shall not construct or fix under such pan, basin, or receptacle, any 'container' or other similar fitting.

He shall construct or fix immediately beneath or in connection with such pan, basin, or other suitable receptacle, an efficient siphon trap, so constructed that it shall at all times maintain a sufficient water seal between such pan, basin, or other suitable receptacle, and any drain or soil-pipe in connection therewith. He shall not construct or fix in or in connection with the water-closet apparatus any D trap or other similar trap.

If he shall construct any water-closet, or shall fix or fit any trap to any existing water-closet or in connection with a soil-pipe, which is itself in connection with any other water-closet, he shall cause the trap of every such water-closet to be ventilated into the open air at a point as high as the top of the soil-pipe, or into the soil-pipe at a point above the highest water-closet connected with such soil-pipe, and so that such ventilating pipe shall have in all parts an internal diameter of not less than two inches, and shall be connected with the arm of the soil-pipe at a point not less than three and not more than twelve inches from the highest part of the trap, and on that side of the water seal which is nearest to the soil-pipe.

Soil-pipes.

4. Any person who shall provide a soil-pipe in connection with a building to be hereafter erected shall cause such soil-pipe to be situated outside such building, and any person who shall provide or construct or refit a soil-pipe in connection with an existing building, shall, whenever practicable, cause such soil-pipe to be situated outside such building, and in all cases where such soil-pipe shall be situated within any building, shall construct such soil-pipe in drawn lead, or of heavy cast-iron, jointed with molten lead and properly caulked.

He shall construct such soil-pipe so that its weight in

proportion to its length and internal diameter shall be as follows :—

Diameter.	Lead. — Weight per 10 feet length. Not less than	Iron. — Weight per 6 feet length. Not less than
3½ inches	65 lbs.	48 lbs.
4 „	74 „	54 „
5 „	92 „	69 „
6 „	110 „	84 „

Every person who shall provide a soil-pipe outside or inside a building shall cause such soil-pipe to have an internal diameter of not less than three and a half inches, and to be continued upwards without diminution of its diameter, and (except where unavoidable) without any bend or angle being formed in such soil-pipe, to such a height and in such a position as to afford, by means of the open end of such soil-pipe, a safe outlet for foul air, and so that such open end shall in all cases be above the highest part of the roof of the building to which the soil-pipe is attached, and, where practicable, be not less than three feet above any window within twenty feet measured in a straight line from the open end of such soil-pipe.

He shall furnish the open end of such soil-pipe with a wire-guard covering, the openings in the meshes of which shall be equal to not less than the area of the open end of the soil-pipe.

In all such cases where he shall connect a lead trap or pipe with an iron soil-pipe or drain he shall insert between such trap or pipe and such soil-pipe or drain a brass thimble, and he shall connect such lead trap or pipe with such thimble by means of a wiped or over-cast lead joint, and he shall connect such thimble with the iron soil-pipe or drain by means of a joint made with molten lead, properly caulked.

In all such cases where he shall connect a stoneware trap or pipe with a lead soil-pipe, he shall insert between such stoneware trap or pipe and such soil-pipe or drain a brass socket or other similar appliance, and he shall connect such stoneware

trap or pipe by inserting it into such socket, making the joint with Portland cement, and he shall connect such socket with the lead soil-pipe by means of a wiped or over-cast lead joint.

In all cases where he shall connect a stoneware trap or pipe with an iron soil-pipe or drain, he shall insert such stoneware trap or pipe into a socket on such iron soil-pipe or drain, making the joint with Portland cement.

He shall so construct such soil-pipe that it shall not be directly connected with the waste of any bath, rain-water pipe, or of any sink other than that which is provided for the reception of urine or other excremental filth, and he shall construct such soil-pipe so that there shall not be any trap in such soil-pipe or between the soil-pipe and any drain with which it is connected.

Water-closets.

5. A person who shall newly fit or fix any apparatus in connection with any existing water-closet, shall, as regards such apparatus and its connection with existing soil-pipe or drain, comply with such of the requirements of the foregoing bye-laws as would be applicable to the apparatus so fitted or fixed if the water-closet were being newly constructed.

Earth-closets.

6. Every person who shall construct an earth-closet in connection with a building shall furnish such earth-closet with a reservoir or receptacle, of suitable construction and of adequate capacity, for dry earth, and he shall construct and fix such reservoir or receptacle in such a manner and in such a position as to admit of ready access to such reservoir or receptacle for the purpose of depositing therein the necessary supply of dry earth.

He shall construct or fix in connection with such reservoir or receptacle suitable means or apparatus for the frequent and effectual application of a sufficient quantity of dry earth to any filth which may from time to time be deposited in any receptacle for filth constructed, fitted, or used, in or in connection with such earth-closet.

He shall construct such earth-closet so that the contents of such reservoir or receptacle may not at any time be exposed to any rainfall or to the drainage of any waste water or liquid refuse from any premises.

7. Every person who shall construct an earth-closet in connection with a building shall construct such earth-closet for use in combination with a movable receptacle for filth.

He shall construct such earth-closet so as to admit of a movable receptacle for filth, of a capacity not exceeding two cubic feet, being placed and fitted beneath the seat in such a manner and in such a position as may effectually prevent the deposit upon the floor or sides of the space beneath such seat, or elsewhere than in such receptacle, of any filth which may from time to time fall or be cast through the aperture in such seat.

He shall construct such receptacle for filth in such a manner and in such a position as to admit of the frequent and effectual application of a sufficient quantity of dry earth to any filth which may be from time to time deposited in such receptacle for filth, and in such a manner and in such a position as to admit of ready access for the purpose of removing the contents thereof.

He shall also construct such earth-closet so that the contents of such receptacle for filth may not at any time be exposed to any rainfall or to the drainage of any waste water or liquid refuse from any premises.

Privies.

8. Every person who shall construct a privy in connection with a building shall construct such privy at a distance of twenty feet at the least from a dwelling-house, or public building, or any building in which any person may be, or may be intended to be, employed in any manufacture, trade, or business.

9. A person who shall construct a privy in connection with a building shall not construct such privy within the distance of one hundred feet from any well, spring, or stream of water used, or likely to be used, by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution.

10. Every person who shall construct a privy in connection with a building shall construct such privy in such a manner and in such a position as to afford ready means of access to such privy, for the purpose of cleansing such privy and of removing

filth therefrom, and in such a manner and in such a position as to admit of all filth being removed from such privy, and from the premises to which such privy may belong, without being carried through any dwelling-house, or public building, or any building in which any person may be, or may be intended to be, employed in any manufacture, trade, or business.

11. Every person who shall construct a privy in connection with a building, shall provide such privy with a sufficient opening for ventilation as near to the top as practicable and communicating directly with the external air.

He shall cause the floor of such privy to be flagged or paved with hard tiles or other non-absorbent material, and he shall construct such floor so that it shall be in every part thereof at a height of not less than six inches above the level of the surface of the ground adjoining such privy, and so that such floor shall have a fall or inclination towards the door of such privy of half an inch to the foot.

12. Every person who shall construct a privy in connection with a building shall construct such privy for use in combination with a movable receptacle for filth, and shall construct over the whole area of the space immediately beneath the seat of such privy a floor of flagging or asphalte or some suitable composite material, at a height of not less than three inches above the level of the surface of the ground adjoining such privy; and he shall cause the whole extent of each side of such space between the floor and the seat, other than any part that may be occupied by any door or other opening therein, to be constructed of flagging, slate, or good brickwork, at least nine inches thick, and rendered in good cement or asphalted.

He shall construct the seat of such privy, the aperture in such seat, and the space beneath such seat, of such dimensions as to admit of a movable receptacle for filth of a capacity not exceeding two cubic feet being placed and fitted beneath such seat in such a manner and in such a position as may effectually prevent the deposit, upon the floor or sides of the space beneath such seat or elsewhere than in such receptacle, of any filth which may from time to time fall or be cast through the aperture in such seat.

He shall construct such privy so that for the purpose of

cleansing the space beneath the seat, or of removing therefrom or placing or fitting therein an appropriate receptacle for filth, there shall be a door or other opening in the back or one of the sides thereof capable of being opened from the outside of the privy, or in any case where such a mode of construction may be impracticable, so that for the purposes aforesaid the whole of the seat of the privy, or a sufficient part thereof, may be readily moved or adjusted.

13. A person who shall construct a privy in connection with a building shall not cause or suffer any part of the space under the seat of such privy, or any part of any receptacle for filth in or in connection with such privy, to communicate with any drain.

Water-closets, earth-closets, and privies.

14. Every person who shall intend to construct any water-closet, earth-closet, or privy, or to fit or fix in any water-closet, earth-closet, or privy any apparatus or any trap or soil-pipe connected therewith, shall, before executing any such works, give notice in writing to the clerk of the sanitary authority.

Earth-closets and privies.

15. Every owner of an earth-closet or privy existing at the date of the confirmation of these bye-laws shall, before the expiration of six months from and after such date of confirmation, cause the same to be reconstructed in such manner that its position, structure, and apparatus shall comply with such of the requirements of the foregoing bye-laws as are applicable to earth-closets or privies newly constructed.

Ash-pits.

16. When any person shall provide an ash-pit in connection with a building, he shall cause the same to consist of one or more movable receptacles sufficient to contain the house refuse which may accumulate during any period not exceeding one week. Each of such receptacles shall be constructed of metal and shall be provided with one or more suitable handles and cover. The capacity of each of such receptacles shall not exceed two cubic feet.

Provided that the requirement as to the size of each of such receptacles shall not apply to any person who shall construct such receptacle or receptacles in connection with any premises to which there is attached as part of the conditions of tenancy the right to dispose of house refuse in an ash-pit used in common

by the occupiers of several tenancies, but in no case shall such ash-pit be of greater capacity than is required to enable it to contain the refuse which may accumulate during any period not exceeding one week.

17. The occupier of any premises who shall use any ash-pit shall, if such ash-pit consist of a movable receptacle, cause such receptacle to be kept in a covered place, or to be properly covered, so that it shall not be exposed to rainfall, and if such ash-pit consist of a fixed receptacle, he shall cause the same to be kept properly covered.

18. Where the sanitary authority have arranged for the daily removal of house refuse in their district, or in any part thereof, the owner of any premises in such district or part thereof shall provide an ash-pit which shall consist of one or more movable receptacles, sufficient to contain the house refuse which may accumulate during any period not exceeding three days, which the sanitary authority may determine, and of which the sanitary authority shall give notice by public announcement in their district. Each of such receptacles shall be constructed of metal, and provided with one or more suitable handles and cover. The capacity of each of such receptacles shall not exceed two cubic feet.

Provided always that this bye-law shall not apply to the owner of any premises until the expiration of three months after the sanitary authority have publicly notified their intention to adopt a system of daily collection of house refuse in that part of their district which comprises such premises.

19. Where any receptacle shall have been provided as an ash-pit for any premises in pursuance of any bye-law in that behalf, no person shall deposit the house refuse which may accumulate on such premises in any ash-pit that does not comply with the requirements of these bye-laws.

Cesspools.

20. Every person who shall construct a cesspool in connection with a building, shall construct such cesspool at a distance of one hundred feet at the least from a dwelling-house, or public building, or any building in which any person may be, or may be intended to be, employed in any manufacture, trade, or business.

21. A person who shall construct a cesspool in connection

with a building, shall not construct such cesspool within the distance of one hundred feet from any well, spring, or stream of water.

22. Every person who shall construct a cesspool in connection with a building, shall construct such cesspool in such a manner and in such a position as to afford ready means of access to such cesspool, for the purpose of cleansing such cesspool, and of removing the contents thereof, and in such a manner and in such a position as to admit of the contents of such cesspool being removed therefrom, and from the premises to which such cesspool may belong, without being carried through any dwelling-house, or public building, or any building in which any person may be, or may be intended to be, employed in any manufacture, trade, or business.

He shall not in any case construct such cesspool so that it shall have, by drain or otherwise, any means of communication with any sewer or any overflow outlet.

23. Every person who shall construct a cesspool in connection with a building, shall construct such cesspool of good brickwork bedded and grouted in cement, properly rendered inside with cement, and with a backing of at least nine inches of well-puddled clay around and beneath such brickwork, and so that such cesspool shall be perfectly watertight.

He shall also cause such cesspool to be arched or otherwise properly covered over, and to be provided with adequate means of ventilation.

Receptacles for dung.

24. A person shall not use as a receptacle for dung any receptacle so constructed or placed that one of its sides shall be formed by the wall of any room used for human habitation, or under a dwelling-house, factory, workshop, or workplace, and he shall not use any receptacle in such a situation that it would be likely to cause a nuisance or become injurious or dangerous to health.

25. Every owner of any existing receptacle for dung shall, before the expiration of six months from the date of the confirmation of these bye-laws, and every person who shall construct a receptacle for dung, shall cause such receptacle to be so constructed that its capacity shall not be greater than two cubic yards, and so that the bottom or floor thereof shall not, in any

case, be lower than the surface of the ground adjoining such receptacle.

He shall so construct such receptacle that a sufficient part of one of its sides shall be readily removable for the purpose of facilitating cleansing.

He shall also cause such receptacle to be constructed in such a manner and of such materials, and to be maintained at all times in such a condition, as to prevent any escape of the contents thereof, or any soakage therefrom into the ground or into the wall of any building.

He shall cause such receptacle to be so constructed that no rain or water can enter therein, and so that it shall be freely ventilated into the external air.

Provided that a person who shall construct a receptacle for dung, the whole of the contents of which are removed not less frequently than every forty-eight hours, shall not be required to construct such receptacle so that its capacity shall not be greater than two cubic yards.

And provided that a person who shall construct a receptacle for dung, which shall contain only dung of horses, asses, or mules with stable litter, and the whole of the contents of which are removed not less frequently than every forty-eight hours, may, instead of all other requirements of this bye-law, construct a metal cage, and shall beneath such metal cage adequately pave the ground at a level not lower than the surrounding ground, and in such a manner and to such an extent as will prevent any soakage into the ground; and if such cage be placed near to or against any building, he shall adequately cement the wall of such building in such a manner and to such an extent as will prevent any soakage from the dung within or upon such receptacle into the wall of such building.

Cleansing of water-closets, earth-closets, privies, and receptacles for dung.

26. The occupier of any premises shall cause every water-closet belonging to such premises to be thoroughly cleansed from time to time as often as may be necessary for the purpose of keeping such water-closet in a cleanly condition.

The occupier of any premises shall once at least in every week cause every earth-closet, privy, and receptacle for dung belonging to such premises to be emptied and thoroughly cleansed.

The occupier of any premises shall once at least in every three months cause every cesspool belonging to such premises to be emptied and thoroughly cleansed.

Provided that where two or more lodgers in a lodging-house are entitled to the use in common of any water-closet, earth-closet, privy, cesspool, or receptacle for dung, the landlord shall cause such water-closet, earth-closet, privy, cesspool, or receptacle for dung to be cleansed and emptied as aforesaid.

The landlord of any lodging-house shall provide and maintain in connection with such house, water-closet, earth-closet, or privy accommodation in the proportion of not less than one water-closet, earth-closet, or privy, for every twelve persons.

For the purposes of this bye-law, 'a lodging-house' means a house or part of a house which is let in lodgings or occupied by members of more than one family. 'Landlord,' in relation to a house or part of a house which is let in lodgings, or occupied by members of more than one family, means the person (whatever may be the nature or extent of his interest) by whom or on whose behalf such house or part of a house is let in lodgings or for occupation by members of more than one family, or who for the time being receives, or is entitled to receive, the profits arising from such letting. 'Lodger,' in relation to a house or part of a house which is let in lodgings or occupied by members of more than one family, means a person to whom any room or rooms in such house or part of a house may have been let as a lodging or for his use or occupation.

Nothing in this bye-law shall extend to any common lodging-house.

27. The owner of any premises shall maintain in proper condition of repair every water-closet, earth-closet, privy, ash-pit, cesspool, and receptacle for dung, and the proper accessories thereof belonging to such premises. Maintenance of closets, etc.

Penalties.

28. Every person who shall offend against any of the foregoing bye-laws shall be liable for every such offence to a penalty of five pounds, and in the case of a continuing offence to Penalties.

a further penalty of forty shillings for each day after written notice of the offence from the Sanitary Authority. Provided nevertheless that the Court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if the Court think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this bye-law.

SALE OF FOOD AND DRUGS

[38 *and* 39 *Vict. Chap.* 63.]

Arrangement of Clauses.

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Clause.

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2. Interpretation of words.

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3. Prohibition of the mixing of injurious ingredients, and of selling the same.
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6. Prohibition of the sale of articles of food and of drugs not of the proper nature, substance, and quality.
7. Provision for the sale of compounded articles of food and compounded drugs.
8. Protection from offences by giving of label.
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18. Form of the certificate.
19. Quarterly report of the analyst.

Proceedings against Offenders.

20. Proceedings against offenders.
21. Certificate of analyst *primâ facie* evidence for the prosecution, but analyst to be called if required. Defendant and his wife may be examined.
22. Power to Justices to have articles of food and drug analysed.
23. Appeal to Quarter Sessions.
24. In any prosecution defendant to prove that he is protected by exception or provision.
25. Defendant to be discharged if he prove that he bought the article in the same state as sold, and with a warranty. No costs except on issues proved against him.
26. Application of penalties.
27. Punishment for forging certificate or warranty; for wilful misapplication of warranty; for false warranty; for false label.
28. Proceedings by indictment and contracts not to be affected.

Expenses of Executing the Act.

29. Expenses of executing Act.

Special Provision as to Tea.

30. Tea to be examined by the Customs on importation.
31. Interpretation of Act.
32. Provision for the liberty of a cinque port.
33. Application of the Act to Scotland.
34. Interpretation of terms in application of Act to Ireland.
35. Commencement of the Act.
36. Title of the Act.

SCHEDULE.

SALE OF FOOD AND DRUGS

[38 *and* 39 *Vict. Chap.* 63.]

AN ACT TO REPEAL THE ADULTERATION OF FOOD ACTS, AND TO MAKE BETTER PROVISION FOR THE SALE OF FOOD AND DRUGS IN A PURE STATE. (11th August 1875.) A.D. 1875.

WHEREAS it is desirable that the Acts now in force relating to the adulteration of food should be repealed, and that the law regarding the sale of food and drugs in a pure and genuine condition should be amended:

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

Repeal of statutes.

1. From the commencement of this Act the statutes of the twenty-third and twenty-fourth of Victoria, chapter eighty-four, of the thirty-first and thirty-second of Victoria, chapter one hundred and twenty-one, section twenty-four, of the thirty-third and thirty-fourth of Victoria, chapter twenty-six, section three, and of the thirty-fifth and thirty-sixth of Victoria, chapter seventy-four, shall be repealed, except in regard to any appointment made under them and not then determined, and in regard to any offence committed against them or any prosecution or other act commenced, and not concluded or completed, and any payment of money then due in respect of any provision thereof.

Interpretation of words.

2. The term 'food' shall include every article used for food or drink by man, other than drugs or water:

The term 'drug' shall include medicine for internal or external use.

The term 'county' shall include every county, riding, and division, as well as every county of a city or town not being a borough:

The term 'Justices' shall include any police and stipendiary

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magistrate invested with the powers of a Justice of the Peace in England, and any Divisional Justices in Ireland.

Description of Offences.

Prohibition of the mixing of injurious ingredients, and of selling the same.

3. No person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any article of food with any ingredient or material so as to render the article injurious to health, with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained, or powdered, under a penalty in each case not exceeding fifty pounds for the first offence; every offence, after a conviction for a first offence, shall be a misdemeanour, for which the person, on conviction shall be imprisoned for a period not exceeding six months with hard labour.

Prohibition of the mixing of drugs with injurious ingredient, and of selling the same.

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

Exemption in case of proof of absence of knowledge.

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

Prohibition of the sale of articles of food and of drugs not of the proper nature, substance, and quality.

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

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

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

(3) Where the food or drug is compounded as in this Act mentioned;

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

Provision for the sale of compounded articles of food and compounded drugs.

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

Protection from offences by giving of label.

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

Prohibition of the abstraction of any part of an article of food before sale, and selling without notice.

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

Appointment and Duties of Analysts, and Proceedings to obtain Analysis.

Appointment of analysts.

10. In the city of London and the liberties thereof the Commissioners of Sewers of the city of London and the liberties

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thereof, and in all other parts of the metropolis the vestries and district boards acting in execution of the Act for the better local management of the metropolis, the court of quarter sessions of every county, and the town council of every borough having a separate court of quarter sessions, or having under any general or local Act of Parliament or otherwise a separate police establishment, may, as soon as convenient after the passing of this Act, where no appointment has been hitherto made, and in all cases as and when vacancies in the office occur, or when required so to do by the Local Government Board, shall, for their respective city, districts, counties, or boroughs, appoint one or more persons possessing competent knowledge, skill, and experience, as analysts of all articles of food and drugs sold within the said city, metropolitan districts, counties, or boroughs, and shall pay to such analysts such remuneration as shall be mutually agreed upon, and may remove him or them as they shall deem proper; but such appointments and removals shall at all times be subject to the approval of the Local Government Board, who may require satisfactory proof of competency to be supplied to them, and may give their approval absolutely or with modifications as to the period of the appointment and removal, or otherwise: Provided that no person shall hereafter be appointed an analyst for any place under this section who shall be engaged directly or indirectly in any trade or business connected with the sale of food or drugs in such place.

In Scotland the like powers shall be conferred and the like duties shall be imposed upon the commissioners of supply at their ordinary meetings for counties, and the commissioners or boards of police, or where there are no such commissioners or boards, upon the town councils for boroughs within their several jurisdictions; provided that one of Her Majesty's Principal Secretaries of State in Scotland shall be substituted for the Local Government Board of England.

In Ireland the like powers and duties shall be conferred and imposed respectively upon the grand jury of every county and town council of every borough; provided that the Local Government Board of Ireland shall be substituted for the Local Government Board of England.

Town council of a borough

11. The town council of any borough may agree that the

analyst appointed by any neighbouring borough or for the county in which the borough is situated, shall act for their borough during such time as the said council shall think proper, and shall make due provision for the payment of his remuneration, and if such analyst shall consent, he shall during such time be the analyst for such borough for the purposes of this Act.

may engage the analyst of another borough or of the county.

12. Any purchaser of an article of food or of a drug in any place being a district, county, city, or borough, where there is any analyst appointed under this or any Act hereby repealed, shall be entitled, on payment to such analyst of a sum not exceeding ten shillings and sixpence, or if there be no such analyst then acting for such place, to the analyst of another place, of such sum as may be agreed upon between such person and the analyst, to have such article analysed by such analyst, and to receive from him a certificate of the result of his analysis.

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

13. Any medical officer of health, inspector of nuisances, or inspector of weights and measures, or any inspector of a market or any police constable under the direction and at the cost of the local authority appointing such officer, inspector, or constable, or charged with the execution of this Act, may procure any sample of food or drugs, and if he suspect the same to have been sold to him contrary to any provision of this Act, shall submit the same to be analysed by the analyst of the district or place for which he acts, or, if there be no such analyst then acting for such place, to the analyst of another place, and such analyst shall, upon receiving payment as is provided in the last section, with all convenient speed analyse the same and give a certificate to such officer, wherein he shall specify the result of the analysis.

Officer named to obtain a sample of food or drug to submit to analyst.

14. The person purchasing any article with the intention of submitting the same to analysis shall, after the purchase shall have been completed, forthwith notify to the seller, or his agent selling the article, his intention to have the same analysed by the public analyst, 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, and shall, if required to do so, proceed

Provision for dealing with the sample when purchased.

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accordingly, and shall deliver one of the parts to the seller or his agent.

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

Provision when sample is not divided.

15. If the seller or his agent do not accept the offer of the purchaser to divide the article purchased in his presence, the analyst receiving the article for analysis shall divide the same into two parts, and shall seal or fasten up one of those parts, and shall cause it to be delivered, either upon receipt of the sample or when he supplies his certificate to the purchaser, who shall retain the same for production in case proceedings shall afterwards be taken in the matter.

Provision for sending article to the analyst through the post office.

16. If the analyst do not reside within two miles of the residence of the person requiring the article to be analysed, such article may be forwarded to the analyst through the post office as a registered letter, subject to any regulations which the Postmaster-General may make in reference to the carrying and delivery of such article, and the charge for the postage of such article shall be deemed one of the charges of this Act or of the prosecution, as the case may be.

Person refusing to sell any article to any officer liable to penalty.

17. If any such officer, inspector, or constable, as above described, shall apply to purchase any article of food or any drug exposed to sale, or on sale by retail on any premises or in any shop or stores, and shall tender the price for the quantity which he shall require for the purpose of analysis, not being more than shall be reasonably requisite, and the person exposing the same for sale shall refuse to sell the same to such officer, inspector, or constable, such person shall be liable to a penalty not exceeding ten pounds.

Form of the certificate.

18. The certificate of the analysis shall be in the form set forth in the schedule hereto, or to the like effect.

Quarterly report of the analyst.

19. Every analyst appointed under any Act hereby repealed or this Act shall report quarterly to the authority appointing him the number of articles analysed by him under this Act during the foregoing quarter, and shall specify the result of each analysis and the sum paid to him in respect thereof, and such report shall be presented at the next meeting of the authority appointing such analyst, and every such authority shall annually

transmit to the Local Government Board, at such time and in such form as the Board shall direct, a certified copy of such quarterly report.

Proceedings against Offenders.

Proceedings against offenders.

20. When the analyst having analysed any article shall have given his certificate of the result, from which it may appear that an offence against some one of the provisions of this Act has been committed, the person causing the analysis to be made may take proceedings for the recovery of the penalty herein imposed for such offence, before any Justices in petty sessions assembled having jurisdiction in the place where the article or drug sold was actually delivered to the purchaser, in a summary manner.

Every penalty imposed by this Act shall be recovered in England in the manner prescribed by the eleventh and twelfth of Victoria, chapter forty-three. In Ireland such penalties and proceedings shall be recoverable, and may be taken with respect to the police district of Dublin metropolis, subject and according to the provisions of any Act regulating the powers and duties of Justices of the Peace for such district, or of the police of such district; and with respect to other parts of Ireland, before a Justice or Justices of the Peace sitting in petty sessions, subject and according to the provisions of 'The Petty Sessions (Ireland) Act, 1851,' and any Act amending the same.

Every penalty herein imposed may be reduced or mitigated according to the judgment of the Justices.

Certificate of analyst *primâ facie* evidence for the prosecution, but analyst to be called if required.

21. At the hearing of the information in such proceeding the production of the certificate of the analyst shall be sufficient evidence of the facts therein stated, unless the defendant shall require that the analyst shall be called as a witness, and the parts of the articles retained by the person who purchased the article shall be produced, and the defendant may, if he think fit, tender himself and his wife to be examined on his behalf, and he or she shall, if he so desire, be examined accordingly.

Defendant and his wife may be examined.

Power to Justices to have articles of food and drug analysed.

22. The Justices before whom any complaint may be made, or the Court before whom any appeal may be heard, under this Act may, upon the request of either party, in their discretion

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cause any article of food or drug to be sent to the Commissioners of Inland Revenue, who shall thereupon direct the chemical officers of their department at Somerset House to make the analysis, and give a certificate to such Justices of the result of the analysis; and the expense of such analysis shall be paid by the complainant or the defendant as the Justices may by order direct.

Appeal to quarter sessions.

23. Any person who has been convicted of any offence punishable by any Act hereby repealed or by this Act by any Justices may appeal in England to the next general or quarter sessions of the peace which shall be held for the city, county, town, or place wherein such conviction shall have been made, provided that such person enter into a recognisance within three days next after such conviction, with two sufficient sureties, conditioned to try such appeal, and to be forthcoming to abide the judgment and determination of the court at such general or quarter sessions, and to pay such costs as shall be by such court awarded; and the Justices before whom such conviction shall be had are hereby empowered and required to take such recognisance; and the court at such general or quarter sessions are hereby required to hear and determine the matter of such appeal, and may award such costs to the party appealing or appealed against as they or he shall think proper.

In Ireland any person who has been convicted of any offence punishable by this Act may appeal to the next court of quarter sessions to be held in the same division of the county where the conviction shall be made by any Justice or Justices in any petty sessions district, or to the recorder at his next sessions where the conviction shall be made by the Divisional Justices in the police district of Dublin metropolis, or to the recorder of any corporate or borough town when the conviction shall be made by any Justice or Justices in such corporate or borough town (unless when any such sessions shall commence within ten days from the date of any such conviction, in which case if the appellant sees fit, the appeal may be made to the next succeeding sessions to be held for such division or town), and it shall be lawful for such court of quarter sessions or recorder (as the case may be) to decide such appeal, if made in such form and manner and with such notices as are required by the Petty Sessions

Acts respectively herein-before mentioned as to appeals against orders made by Justices at petty sessions, and all the provisions of the said Petty Sessions Acts respectively as to making appeals and as to executing the orders made on appeal, or the original orders where the appeals shall not be duly prosecuted, shall also apply to any appeal made under this Act.

In any prosecution defendant to prove that he is protected by exception or provision.

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

Defendant to be discharged if he prove that he bought the article in the same state as sold, and with a warranty. No costs except on issues proved against him.

25. If the defendant in any prosecution under this Act prove to the satisfaction of the Justices or Court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the prosecutor, and with a written warranty to that effect, that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as when he purchased it, he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor, unless he shall have given due notice to him that he will rely on the above defence.

Application of penalties.

26. Every penalty imposed and recovered under this Act shall be paid in the case of a prosecution by an officer, inspector, or constable of the authority, who shall have appointed an analyst, or agreed to the acting of an analyst within their district, to such officer, inspector, or constable, and shall be by him paid to the authority for whom he acts, and be applied towards the expenses of executing this Act, any Statute to the contrary notwithstanding; but in the case of any other prosecution the same shall be paid and applied in England according to the law regulating the application of penalties for offences punishable in a summary manner, and in Ireland in the manner directed by the Fines Act (Ireland), 1851, and the Acts amending the same.

Punishment for forging certificate or warranty

27. Any person who shall forge, or shall utter, knowing it to be forged for the purposes of this Act, any certificate or any writing purporting to contain a warranty, shall be guilty of a misdemeanour, and be punishable on conviction by imprisonment for a term of not exceeding two years with hard labour;

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for wilful misapplication of warranty;

Every person who shall wilfully apply to an article of food, or a drug, in any proceedings under this Act, a certificate or warranty given in relation to any other article or drug, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds;

for false warranty;

Every person who shall give a false warranty in writing to any purchaser in respect of an article of food, or a drug sold by him as principal or agent, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds;

for false label.

And every person who shall wilfully give a label with any article sold by him which shall falsely describe the article sold, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds.

Proceedings by indictment and contracts not to be affected.

28. Nothing in this Act contained shall affect the power of proceeding by indictment, or take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals, and the rights and remedies belonging thereto.

Provided that in any action brought by any person for a breach of contract on the sale of any article of food or of any drug, such person may recover alone or in addition to any other damages recoverable by him the amount of any penalty in which he may have been convicted under this Act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he prove that the article or drug the subject of such conviction was sold to him as and for an article or drug of the same nature, substance, and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it; the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was unreasonable.

Expenses of executing the Act.

Expenses of executing Act.

29. The expenses of executing this Act shall be borne, in the city of London and the liberties thereof, by the consolidated rates raised by the Commissioners of Sewers of the city of

London and the liberties thereof, and in the rest of the metropolis by any rates or funds applicable to the purposes of the Act for the better local management of the metropolis, and otherwise as regards England, in counties by the county rate, and in boroughs by the borough fund or rate;

And as regards Ireland, in counties by the grand jury cess, and in boroughs by the borough fund or rate; all such expenses payable in any county out of grand jury cess shall be paid by the treasurer of such county; and

The grand jury of any such county shall, at any assizes at which it is proved that any such expenses have been incurred or paid without previous application to presentment sessions, present to be raised off and paid by such county the moneys required to defray the same.

Special Provision as to Tea.

Tea to be examined by the Customs on importation.

30. From and after the first day of January one thousand eight hundred and seventy-six all tea imported as merchandise into and landed at any port in Great Britain or Ireland shall be subject to examination by persons to be appointed by the Commissioners of Customs, subject to the approval of the Treasury, for the inspection and analysis thereof, for which purpose samples may, when deemed necessary by such inspectors, be taken and with all convenient speed be examined by the analysts to be so appointed; and if upon such analysis the same shall be found to be mixed with other substances or exhausted tea, the same shall not be delivered unless with the sanction of the said commissioners, and on such terms and conditions as they shall see fit to direct, either for home consumption or for use as ships' stores or for exportation; but if on such inspection and analysis it shall appear that such tea is in the opinion of the analyst unfit for human food, the same shall be forfeited and destroyed, or otherwise disposed of in such manner as the said commissioners may direct.

Interpretation of Act.

31. Tea to which the term 'exhausted' is applied in this Act shall mean and include any tea which has been deprived of its proper quality, strength, or virtue by steeping, infusion, decoction, or other means.

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Provision for the liberty of a cinque port.

32. For the purposes of this Act every liberty of a cinque port not comprised within the jurisdiction of a borough shall be part of the county in which it is situated, and subject to the jurisdiction of the Justices of such county.

Application of the Act to Scotland.

33. In the application of this Act to Scotland the following provisions shall have effect:

(1) The term 'misdemeanour' shall mean a 'crime or offence:'

(2) The term 'defendant' shall mean 'defender' and include 'respondent:'

(3) The term 'information shall include 'complaint:'

(4) This Act shall be read and construed as if for the term 'justices,' wherever it occurs therein, the term 'sheriff' were substituted:

(5) The term 'sheriff' shall include 'sheriff-substitute:'

(6) The term 'borough' shall mean any royal burgh and any burgh returning or contributing to return a member to Parliament:

(7) The expenses of executing this Act shall be borne in Scotland, in counties, by the county general assessment, and in burghs by the police assessment:

(8) This Act shall be read and construed as if for the expression 'the Local Government Board,' wherever it occurs therein, the expression 'one of Her Majesty's Principal Secretaries of State' were substituted:

(9) All penalties provided by this Act to be recovered in a summary manner shall be recovered before the sheriff of the county in the sheriff court, or at the option of the person seeking to recover the same in the police court, in any place where a sheriff officiates as a police magistrate under the provisions of 'The Summary Procedure Act, 1864,' or of the Police Act in force for the time in any place in which a sheriff officiates as aforesaid, and all the jurisdiction, powers, and authorities necessary for this purpose are hereby conferred on sheriffs:

Every such penalty may be recovered at the instance of the procurator-fiscal of the jurisdiction, or of the person who caused the analysis to be made from which it appeared that an offence had been committed against some one of the provisions of this Act:

Every penalty imposed and recovered under this Act shall be paid to the clerk of court, and by him shall be accounted for and paid to the treasurer of the county general assessment, or the police assessment of the burgh, as the sheriff shall direct:

(10) Every penalty imposed by this Act may be reduced or mitigated according to the judgment of the sheriff:

(11) It shall be competent to any person aggrieved by any conviction by a sheriff in any summary proceeding under this Act to appeal against the same to the next circuit court, or where there are no circuit courts to the High Court of Justiciary at Edinburgh, in the manner prescribed by such of the provisions of the Act of the twentieth year of the reign of King George the Second, chapter forty-three, and any Acts amending the same, as relate to appeals in matters criminal, and by and under the rules, limitations, conditions, and restrictions contained in the said provisions.

Interpretation of terms in application of Act to Ireland.

34. In the application of this Act to Ireland,—

The term 'borough' shall mean any borough subject to the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, intituled 'An Act for the regulation of Municipal Corporations in Ireland:'

The term 'county' shall include a county of a city and a county of a town not being a borough:

The term 'assizes' shall, with respect to the county of Dublin, mean 'presenting term:'

The term 'treasurer of the county' shall include any person or persons or bank in any county performing duties analogous to those of the treasurer of the county in counties, and, with respect to the county of Dublin, it shall mean the finance committee:'

The term 'police constable' shall mean, with respect to the police district of Dublin Metropolis, constable of the Dublin Metropolitan Police, and with respect to any other part of Ireland, constable of the Royal Irish Constabulary.

Commencement of the Act.

35. This Act shall commence on the first day of October one thousand eight hundred and seventy-five.

A.D. 1875.

Title of the Act.

36. This Act may be cited as 'The Sale of Food and Drugs Act, 1875.'

SCHEDULE.

Form of Certificate.

To*

I, the undersigned, public analyst for the
do hereby certify that I received on the day of
18 , from† , a sample of
for analysis (which then weighed‡), and have analysed the same, and declare the result of my analysis to be as follows:—

I am of opinion that the same is a sample of genuine

or,

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under.

Observations.§

As witness my hand this day of
A.B.,
at

---

* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample.

‡ When the article cannot be conveniently weighed, this passage may be erased, or the blank may be left unfilled.

§ Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary, or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

SALE OF FOOD AND DRUGS ACT AMENDMENT ACT, 1879.

[42 *and* 43 *Vict. Chap.* 30.]

AN ACT TO AMEND THE SALE OF FOOD AND DRUGS ACT, 1875. A.D. 1879.
(21st July 1879.)

WHEREAS conflicting decisions have been given in England and in Scotland in regard to the meaning and effect of section six of the Sale of Food and Drugs Act, 1875, in this Act referred to as the principal Act, and it is expedient, in this respect and otherwise, to amend the said Act: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:— 38 & 39 Vict. c. 63.

1. This Act may be cited for all purposes as the Sale of Food and Drugs Act Amendment Act, 1879. Short title.

2. In any prosecution under the provisions of the principal Act for selling to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, it shall be no defence to any such prosecution to allege that the purchaser, having bought only for analysis, was not prejudiced by such sale. Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature or in substance or in quality, was not defective in all three respects. In sale of adulterated articles no defence to allege purchase for analysis.

3. Any medical officer of health, inspector of nuisances, or inspector of weights and measures, or any inspector of a market, or any police constable under the direction and at the cost of the local authority appointing such officer, inspector, or constable, or charged with the execution of this Act, may procure at the place of delivery any sample of any milk in course of delivery to the purchaser or consignee in pursuance of any contract for the sale to such purchaser or consignee of such milk; Officer, inspector, or constable may obtain a sample of milk at the place of delivery to submit to analyst.

A.D. 1879.

and such officer, inspector, or constable, if he suspect the same to have been sold contrary to any of the provisions of the principal Act, shall submit the same to be analysed, and the same shall be analysed, and proceedings shall be taken, and penalties on conviction be enforced in like manner in all respects as if such officer, inspector, or constable had purchased the same from the seller or consignor under section thirteen of the principal Act.

Penalty for refusal to give milk for analysis.

4. The seller or consignor or any person or persons intrusted by him for the time being with the charge of such milk, if he shall refuse to allow such officer, inspector, or constable to take the quantity which such officer, inspector, or constable shall require for the purpose of analysis, shall be liable to a penalty not exceeding ten pounds.

Extension of Act as to sale in streets, etc.

5. Any street or open place of public resort shall be held to come within the meaning of section seventeen of the principal Act.

Reduction allowed to the extent of 25 degrees under proof for brandy, whisky, or rum, and 35 degrees for gin.

6. In determining whether an offence has been committed under section six of the said Act by selling, to the prejudice of the purchaser, spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit more than twenty-five degrees under proof for brandy, whisky, or rum, or thirty-five degrees under proof for gin.

Extension of meaning of 'county.'

7. Every liberty having a separate court of quarter sessions, except a liberty of a cinque port, shall be deemed to be a county within the meaning of the said Act.

Quarter sessions boroughs not to contribute to county analysts.

8. The town council of any borough having a separate court of quarter sessions shall be exempt from contributing towards the expenses incurred in the execution of the principal Act in respect to the county within which such borough is situate, and the treasurer of the county shall exclude the expenses so incurred from the account required by section one hundred and seventeen of the Municipal Corporation Act, 1835, to be sent by him to such town council.

5 and 6 W. IV. c. 76.

Provision for boroughs with separate police.

9. The town council of any borough having under any general or local Act of Parliament, or otherwise, a separate police establishment, and being liable to be assessed to the county rate of the county within which the borough is situate,

A.D. 1879.

shall be paid by the Justices of such county the proportionate amount contributed towards the expenses incurred by the county in the execution of the principal Act by the several parishes and parts of parishes within such borough in respect of the rateable value of the property assessable therein, as ascertained by the valuation lists for the time being in force.

Special provision as to time for proceedings.

10. In all prosecutions under the principal Act, and notwithstanding the provisions of section twenty of the said Act, the summons to appear before the magistrates shall be served upon the person charged with violating the provisions of the said Act within a reasonable time, and in the case of a perishable article not exceeding twenty-eight days from the time of the purchase from such person for test purposes of the food or drug, for the sale of which in contravention to the terms of the principal Act the seller is rendered liable to prosecution, and particulars of the offence or offences against the said Act of which the seller is accused, and also the name of the prosecutor, shall be stated on the summons, and the summons shall not be made returnable in a less time than seven days from the day it is served upon the person summoned.

MARGARINE ACT, 1887

[50 *and* 51 *Vict. Chap.* 29.]

AN ACT FOR THE BETTER PREVENTION OF THE FRAUDULENT SALE OF MARGARINE. (23rd August 1887.)

A.D. 1887.

WHEREAS it is expedient that further provision should be made for protecting the public against the sale as butter of substances made in imitation of butter, as well as of butter mixed with any such substances:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords

A.D. 1887.

Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Margarine Act, 1887.

Commencement of Act.

2. This Act shall come into operation on the first day of January one thousand eight hundred and eighty-eight.

Definition.

3. The word 'butter' shall mean the substance usually known as butter, made exclusively from milk or cream, or both, with or without salt or other preservative, and with or without the addition of colouring matter.

The word 'Margarine' shall mean all substances, whether compounds or otherwise, prepared in imitation of butter, and whether mixed with butter or not, and no such substance shall be lawfully sold, except under the name of margarine, and under the conditions set forth in this Act.

Penalty.

4. Every person dealing in margarine, whether wholesale or retail, whether a manufacturer, importer, or as consignor or consignee, or as commission agent or otherwise, who is found guilty of an offence under this Act, shall be liable on summary conviction for the first offence to a fine not exceeding twenty pounds, and for the second offence to a fine not exceeding fifty pounds, and for the third or any subsequent offence to a fine not exceeding one hundred pounds.

Exemption from penalty.

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

Marking of cases.

6. Every person dealing in margarine in the manner described in the preceding section shall conform to the following regulations:

Every package, whether open or closed, and containing margarine, shall be branded or durably marked 'Margarine' on

A.D. 1887.

the top, bottom, and sides, in printed capital letters, not less than three-quarters of an inch square; and if such margarine be exposed for sale, by retail, there shall be attached to each parcel thereof so exposed, and in such manner as to be clearly visible to the purchaser, a label marked in printed capital letters not less than one and a half inches square, 'Margarine;' and every person selling margarine by retail, save in a package duly branded or durably marked as aforesaid, shall in every case deliver the same to the purchaser in or with a paper wrapper, on which shall be printed in capital letters, not less than a quarter of an inch square, 'Margarine.'

Presumption against vendor.

7. Every person dealing with, selling, or exposing, or offering for sale, or having in his possession for the purpose of sale, any quantity of margarine contrary to the provisions of this Act, shall be liable to conviction for an offence against this Act, unless he shows to the satisfaction of the Court before whom he is charged that he purchased the article in question as butter, and with a written warranty or invoice to that effect, that he had no reason to believe at the time when he sold it that the article was other than butter, and that he sold it in the same state as when he purchased it, and in such case he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor unless he shall have given due notice to him that he will rely upon the above defence.

Margarine imported or manufactured.

8. All margarine imported into the United Kingdom of Great Britain and Ireland, and all margarine, whether imported or manufactured within the United Kingdom of Great Britain and Ireland, shall, whenever forwarded by any public conveyance, be duly consigned as margarine; and it shall be lawful for any officer of Her Majesty's Customs or Inland Revenue, or any medical officer of health, inspector of nuisances, or police constable, authorised under section thirteen of the Sale of Food and Drugs Act, 1875, to procure samples for analysis if he shall have reason to believe that the provisions of this Act are infringed on this behalf, to examine and take samples from any package, and ascertain, if necessary, by submitting the same to be analysed, whether an offence against this Act has been committed.

38 and 39 Vict. c. 63.

Registration of manufactory.

9. Every manufactory of margarine within the United

A.D. 1887.

Kingdom of Great Britain and Ireland shall be registered by the owner or occupier thereof with the local authority from time to time in such manner as the Local Government Boards of England and Ireland and the Secretary for Scotland respectively may direct, and every such owner or occupier carrying on such manufacture in a manufactory not duly registered shall be guilty of an offence under this Act.

Power to inspectors to take samples without purchase.

10. Any officer authorised to take samples under the Sale of Food and Drugs Act, 1875, may, without going through the form of purchase provided by that Act, but otherwise acting in all respects in accordance with the provisions of the said Act as to dealing with samples, take for the purpose of analysis samples of any butter, or substances purporting to be butter which are exposed for sale, and are not marked 'Margarine,' as provided by this Act; and any such substance not being so marked shall be presumed to be exposed for sale as butter.

Appropriation of penalties.

11. Any part of any penalty recovered under this Act may, if the Court shall so direct, be paid to the person who proceeds for the same, to reimburse him for the legal costs of obtaining the analysis, and any other reasonable expenses to which the Court shall consider him entitled.

Proceedings.

12. All proceedings under this Act shall, save as expressly varied by this Act, be the same as prescribed by sections twelve to twenty-eight inclusive of the Sale of Food and Drugs Act, 1875, and all officers employed under that Act are hereby empowered and required to carry out the provisions of this Act.

Definition of local authority.

13. The expression 'local authority' shall mean any local authority authorised to appoint a public analyst under the Sale of Food and Drugs Act, 1875.

SALE OF HORSEFLESH, ETC., REGULATION ACT, 1889.

[52 *and* 53 *Vict. Chap.* 11.]

AN ACT TO REGULATE THE SALE OF HORSEFLESH FOR HUMAN FOOD. (24th June 1889.) A.D. 1889.

WHEREAS it is desirable to make regulations with respect to the sale of horseflesh for human food: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Signs on horseflesh shops.

1. No person shall sell, offer, expose, or keep for sale any horseflesh for human food, elsewhere than in a shop, stall, or place over or upon which there shall be at all times painted, posted, or placed in legible characters of not less than four inches in length, and in a conspicuous position, and so as to be visible throughout the whole time, whether by night or day, during which such horseflesh is being offered or exposed for sale, words indicating that horseflesh is sold there.

Horseflesh not to be sold as other meat.

2. No person shall supply horseflesh for human food to any purchaser who has asked to be supplied with some meat other than horseflesh, or with some compound article of food which is not ordinarily made of horseflesh.

Power of medical officer of health to inspect meat, etc.

3. Any medical officer of health or inspector of nuisances or other officer of a local authority acting on the instructions of such authority, or appointed by such authority for the purposes of this Act, may at all reasonable times inspect and examine any meat which he has reason to believe to be horseflesh, exposed for sale or deposited for the purpose of sale, or of preparation for sale, and intended for human food, in any place other than such shop, stall, or place as aforesaid, and if such meat appears to him to be horseflesh he may seize and carry away, or cause to be seized and carried away, the same, in order to have the same dealt with by a Justice as hereinafter provided.

A.D. 1889.

Power of Justice to grant warrant for search.

4. On complaint made on oath by a medical officer of health or inspector of nuisances, or other officer of a local authority, any Justice may grant a warrant to any such officer to enter any building, or part of a building other than such shop, stall, or place as aforesaid, in which such officer has reason for believing that there is kept or concealed any horseflesh which is intended for sale, or for preparation for sale for human food, contrary to the provisions of this Act; and to search for, seize, and carry away, or cause to be seized and carried away, any meat that appears to such officer to be such horseflesh, in order to have the same dealt with by a Justice as hereinafter provided.

Any person who shall obstruct any such officer in the performance of his duty under this Act shall be deemed to have committed an offence under this Act.

Power of Justice with reference to disposal of horseflesh.

5. If it appears to any Justice that any meat seized under the foregoing provisions of this Act is such horseflesh as aforesaid, he may make such order with regard to the disposal thereof as he may think desirable; and the person in whose possession or on whose premises the meat was found shall be deemed to have committed an offence under this Act, unless he proves that such meat was not intended for human food contrary to the provisions of this Act.

Penalty.

6. Any person offending against any of the provisions of this Act, for every such offence shall be liable to a penalty not exceeding twenty pounds, to be recovered in a summary manner; and if any horseflesh is proved to have been exposed for sale to the public in any shop, stall, or eating-house other than such shop, stall, or place as in the first section mentioned, without anything to show that it was not intended for sale for human food, the onus of proving that it was not so intended shall rest upon the person exposing it for sale.

Definition of 'horseflesh.'

7. For the purposes of this Act 'horseflesh' shall include the flesh of asses and mules, and shall mean horseflesh, cooked or uncooked, alone or accompanied by or mixed with any other substance.

Local authorities for purposes of Act.

8. For the purposes of this Act the local authorities shall be, in the City of London and the liberties thereof, the Commissioners of Sewers, and in the other parts of the county of London the vestries and district boards acting in the execution

of the Metropolis Local Management Acts, and in other parts of England the urban and rural sanitary authorities, and in Ireland the urban and rural sanitary authorities under the Public Health (Ireland) Act, 1878. 41 and 42 Vict. c. 52.

Application to Scotland. 38 and 39 Vict. c. 63.

9. In the application of this Act to Scotland the expression 'Justice' shall include sheriff and sheriff-substitute, and the expression 'local authority' shall mean any local authority authorised to appoint a public analyst under the Sale of Food and Drugs Act, 1875, and the procedure for the enforcement of this Act shall be in the manner provided in the thirty-third section of the said Sale of Food and Drugs Act, 1875.

Short title.

10. This Act may be cited as the Sale of Horseflesh, etc., Regulation Act, 1889.

Commencement of Act.

11. This Act shall come into operation on the twenty-ninth day of September one thousand eight hundred and eighty-nine.

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