

The Local Government (Scotland) Act in relation to public health : a handy guide for county and district councillors, medical officers, sanitary inspectors, and members of parochial boards / by John Skelton.

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PUBLIC HEALTH
AND
THE LOCAL GOVERNMENT ACT

BY JOHN SKELTON, C.B., LL.D.

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PUBLIC HEALTH

AND

THE LOCAL GOVERNMENT ACT

WILL BE PUBLISHED NEXT MONTH.

A NEW EDITION

OF

THE PUBLIC HEALTH ACTS

ANNOTATED WITH REFERENCE MORE PARTICULARLY TO THE
PROVISIONS OF THE LOCAL GOVERNMENT ACT, AND WITH
THE RULES, INSTRUCTIONS, AND DECISIONS OF
THE BOARD OF SUPERVISION, BROUGHT
UP TO DATE, AND RELATIVE FORMS.

BY JOHN SKELTON, C.B., LL.D.,
Secretary of the Board of Supervision.

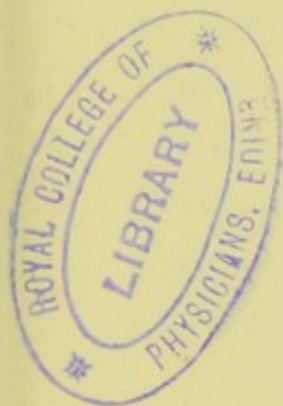
WILLIAM BLACKWOOD AND SONS.

THE
LOCAL GOVERNMENT (SCOTLAND) ACT
IN RELATION TO
PUBLIC HEALTH

A HANDY GUIDE FOR COUNTY AND DISTRICT COUNCILLORS,
MEDICAL OFFICERS, SANITARY INSPECTORS, AND
MEMBERS OF PAROCHIAL BOARDS

BY
JOHN SKELTON, C.B., LL.D.

ADVOCATE
SECRETARY OF THE BOARD OF SUPERVISION
FOR POOR LAW AND PUBLIC HEALTH



SECOND EDITION

WILLIAM BLACKWOOD AND SONS
EDINBURGH AND LONDON
MDCCCXC

PREFATORY NOTE.

I HAVE thought that the Memoranda which I had prepared for my own guidance might be useful to others interested in the operation or engaged in the execution of the Local Government Act in Scotland. Hence this little book.

J. S.

EDINBURGH, *1st December 1889.*

PREFACE TO SECOND EDITION.

SINCE the first edition of this little work was published, the provisional councils have been duly constituted. One of the earliest duties of the county councils and district committees will be to appoint sanitary officials; and the question of how these appointments can be made with due regard to efficiency and economy is already exciting considerable attention. This is not the place to enter upon a discussion of the respective functions of the medical officer and sanitary inspector; but it may be said generally, that while the medical officer is the consulting or advising, the sanitary inspector is the executive, officer of the local authority—the one the head, the other the hand. The definition is of course only approximately accurate; nor must it be held to imply that the duties of the sanitary inspector do not require tact, experience, scientific training and accom-

plishment, for their due discharge. But it rather seems to follow (and this is the one point which is of general concern at the present moment) that the number of sanitary inspectors ought always, from the nature of the case, to be largely in excess of the number of medical officers. Each of the counties, with two or three exceptions¹ (to put it at the lowest), must have one sanitary inspector appointed by the county council. The number of his assistants will depend upon the amount and nature of the work to be performed, and will vary according to the area and population of the county. It may be presumed that in most cases, for obvious reasons of economy and convenience, the county sanitary inspector will be appointed the sanitary inspector for each of the districts into which the county is divided. Within each of these districts a certain number of sanitary inspectors have been appointed by the parochial boards; and it will probably be judicious (instead of paying them off under the compensation clauses of the statute) to retain them, or a certain proportion of their number, as assistant sanitary inspectors for the districts or the parishes within the districts—as may appear most expedient in the circumstances of each district. The existing parochial sanitary inspectors will thus become the resident sanitary officers of the new local authority, and, under the control and

¹ *E.g.*, Kinross, Nairn, Selkirk.

direction of a competent inspector-in-chief, may do good service.¹

Though the questions connected with the appointment of medical officers are attended with greater difficulty, it would rather appear that the employment of a separate medical officer for each county is unnecessary. There is no reason why, by timely negotiations, the same medical practitioner should not be appointed medical officer for more than one county. The county councils of two or more contiguous counties might competently combine in selecting a fit and proper person as medical officer for the combination. In view of the formation of such combinations throughout Scotland, some general agreement as to the extent and range of the duties that the medical officer (who cannot engage, of course, in private practice) will be required to discharge in each county, must be promptly come to. At the same time, anything like precipitate action, before sufficient experience has been gained, is to be deprecated. If an altogether

¹ Police constables have, in many parishes, with the sanction of the Board, acted as sanitary inspectors; and it has been found in practice that the local constable is often an excellent man to ferret out and report upon nuisances, to inspect common lodging-houses, dairies, &c.; but it is obvious that the sanitary inspector of a county must be a person of special training and experience, qualified to give advice as to the structure and drainage of dwellings, byres, milk-shops, slaughter-houses, &c.; having a thorough knowledge of the sanitary requirements of privies, ashpits, cisterns, wells, sewers, &c.; able to supervise the removal of patients to hospital, to disinfect clothing and premises, &c.; and to do all that the highly trained and experienced officials of the large towns do at present.

unreasonable number of medical officers are appointed during the first year of the Act, it will be wellnigh impossible to reduce their number later on. It has been estimated that, were suitable and convenient combinations formed, the whole number of county medical officers for Scotland—the medical officers in supreme command, so to speak—need not exceed *six*.¹ These county medical officers, it is thought, might also be appointed the medical officers of the district committees—in which event a considerable staff of assistant medical officers would be required. There are at present upwards of 400 parochial medical

¹ This is the number suggested in an instructive memorandum by the Convener of the county of Mid-Lothian, Mr Dundas of Arniston. The counties might be grouped as follows :—

Group No. I.—Centre, Edinburgh. Population, 210,000 ; gross rental, £1,765,000.

Counties—Berwick, Roxburgh, Selkirk, Peebles, Haddington, Edinburgh, Linlithgow.

Group No. II.—Centre, Ayr. Population, 313,000 ; gross rental, £2,190,000.

Counties — Dumfries, Kirkcudbright, Wigtown, Ayr, Renfrew, Bute.

Group No. III.—Centre, Glasgow. Population, 260,000 ; gross rental, £1,600,000.

Counties—Lanark, Dumbarton.

Group No. IV.—Centre, Stirling. Population, 281,000 ; gross rental, £2,270,000.

Counties—Perth, Stirling, Clackmannan, Argyle, Fife, Kinross.

Group No. V.—Centre, Aberdeen. Population, 276,000 ; gross rental, £1,750,000.

Counties—Aberdeen, Kincardine, Forfar, Banff.

Group No. VI.—Centre, Inverness. Population, 279,000 ; gross rental, £1,090,000.

Counties—Inverness, Nairn, Elgin, Ross, Sutherland, Caithness, Orkney and Shetland.

officers of health, and from their ranks a competent staff of assistant medical officers might no doubt be obtained. The county council is entitled to distribute the business to be performed by existing officers as they think just;¹ and the sanction of the Board of Supervision is only required when an officer is to be "removed";² so that there are no technical difficulties in the way that cannot be easily dealt with.

The cost of such a scheme of sanitary administration for the whole of Scotland would not, it is estimated, exceed in the meantime £15,000 or £20,000 a-year. Thus—

6 medical officers-in-chief, £500 (rising to £600), ³	£3,000	0	0
Assistant medical officers (sum of present salaries of 412 medical officers),	1,861	0	0
30 sanitary inspectors-in-chief, £300 (rising to £400),	9,000	0	0
Assistant sanitary inspectors (sum of present salaries of 718 sanitary inspectors),	4,592	0	0
	<u>£18,453</u>	<u>0</u>	<u>0</u>

It may be added that since the English Public Health Act was passed in 1875, one half of the salaries of English sanitary officers—from £70,000 to £74,000 per annum—has been paid from a parliamentary grant. Upwards of a million in all has been thus received by

¹ § 119 (2) and (as regards districts) § 17 (3).

² § 54 (4).

³ The salaries of the medical superintendents of the district asylums are on an average about £500.

English local authorities from the Treasury during the past fifteen years. During the same period Scotland did not receive from Imperial taxation a single shilling for sanitary purposes. Under the English Local Government Act, one half of the salaries will continue to be paid out of the Exchequer contribution account;¹ but there is no similar provision in the Scotch Act. It is hardly to be expected that in these circumstances the Scotch local authorities will consider themselves justified in sanctioning a scale of expenditure equal to that which obtains among rural local authorities in England.

Under the English Act the appointment of county medical officers is optional. It is understood that a certain number of appointments have been made; but no official information as to the amount of the salaries appears to be available.

Should the Scotch counties combine, as proposed, in appointing medical officers, Scotland would then be divided into six or seven districts. The Board of Supervision have four outdoor officers, the Registrar-General has five. The salaries of the officers of the Board of Supervision rise from a minimum of £300 to a maximum of £500; those of the Registrar-General, from a minimum of £240 to a maximum of £300. It is understood that, as civil servants, they are bound to hold no other appointment, and to devote their whole time to their public duties. The

¹ 51 & 52 Vict. c. 41, § 24 (c).

duties of the outdoor officers, more especially of the Board of Supervision, are onerous and important, and under the Poor Law and Public Health Acts involve inquiries affecting the whole of the burghs and parishes of Scotland. In view of these facts, it is not unreasonable to conclude that for rural Scotland a limited number of county medical officers will suffice.

An important circular relating to the appointment of representatives from parochial boards to district committees was issued by the Board of Supervision last month, and will be found in Part II. (No. XII.)

J. S.

EDINBURGH, *27th March 1890.*



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PART I.

THE LOCAL GOVERNMENT ACT AND SANITARY
ADMINISTRATION



THE LOCAL GOVERNMENT ACT

IN RELATION TO

PUBLIC HEALTH.

§ I.

The Scope of the Act.

1. UNDER the Local Government Act of last Session the administration of the laws relating to Public Health, in so far as the country (as distinguished from the town) is concerned, has been transferred from the parochial board to the county council and the district committee. The parochial boards have been relieved of the performance of duties which it was generally believed might be more efficiently, if not more economically, undertaken by a body representing different interests and a wider area. Whether the change will be for the better remains to be proved; but that it was inevitable can hardly be doubted.

There was unquestionably a widely prevalent impression that the members of parochial boards were more or less indifferent to, if not ignorant of, the conclusions of sanitary science; that the salaries paid by them to medical officers and sanitary inspectors were too often nominal and illusory—insufficient at least to secure efficient service; and that, but for the steady pressure of the central Board, the Public Health Act in many rural districts would have become a dead letter.

2. The same arguments might possibly have been held to apply with equal force to the administration of the Act in other localities,—there being reason to believe, indeed, that the action of energetic and capable sanitary officers was nowhere more urgently needed than in certain of the smaller burghs. Under the Public Health Act of 1867, the Board of Supervision had been empowered (wherever within the bounds of a parish there was a police as well as a parochial board) to determine one or other of these bodies to be the Local Authority for the whole parish; and this power had been exercised with advantage in many cases. The burghal had been united with the landward part of the parish; and either police commissioners or parochial board had become the sole local authority.¹ It was very generally felt, therefore, that there would have been no departure from

¹ The Board of Supervision have intimated that they will recall their determinations under § 5 of the Public Health Act before the “appointed day.” See Part II., No. xi.

principle or precedent had the smaller burghs been included for sanitary purposes in the new scheme of local government; and that such a union might have been attended with mutual advantage. The framers of the Act, however,—for good reasons, no doubt,—took a different view. A sharp line has been drawn between town and country. The council have no sanitary jurisdiction within the burghs. The members from the burghs who sit upon the council are expressly excluded from participating in the sanitary business of the county.¹ It will not be necessary, therefore, in a review of the Act in its sanitary relations, to attempt any explanation of the elaborate and rather complicated machinery by which a limited representation of certain classes of burghs upon the county council is secured.

3. It may be added that the powers of the parochial board, as the body charged with the adminis-

¹ In other words, the administration of the Public Health Act has been transferred to the council in that district of the county only which lies outside the police or municipal boundaries of any burgh. Whenever, however, the parliamentary boundaries extend beyond the police or municipal boundaries of a burgh, the extra-municipal district comes within the scope of the sanitary provisions of the Act. The position of burghs of barony or regality is not quite clear. The only burghs expressly excluded are royal, parliamentary, and police; on the other hand, the words "the local authorities of parishes so far as within the county" appear to refer to parochial boards only. [The Secretary for Scotland has been advised that the police commissioners of Langholm, which is a burgh of barony with police commissioners under the Acts of William IV., continue to be the local authority under the Public Health Act, the jurisdiction being transferred in the cases of "parishes" only—*i.e.*, of parochial boards.]

tration of the Poor Law, have been carefully preserved. The reservation is consistent with the general purport of the Act; and there are probably reasons which would have made it inexpedient to transfer their functions under the Burials Grounds and Vaccination Acts to a body which has no parochial organisation.

§ II.

The Administration of the Public Health Act of 1867.

1. It may be said, in general terms, that the execution of the Public Health Act has been intrusted to police commissioners as the local authority in burghs, to the parochial board as the local authority in parishes, and to the Board of Supervision as the central sanitary authority.

2. The only officers of local authorities recognised by the Act are the medical officer and the sanitary inspector, who are appointed in terms of sect. 8. The medical officer may be removed from office by the local authority; but, save in certain cases, the sanitary inspector can be dismissed by the Board of Supervision only. In 1871 the Board required all local authorities having within their boundaries a town and village population of 2000 and upwards to appoint sanitary inspectors. In a circular issued during the previous year, the Board had intimated

that, as in many parishes the duties of the sanitary inspector must be light, it would be highly expedient that contiguous local authorities should unite, so as to secure the services of a superior officer at a moderate cost, whose whole time would be devoted to the discharge of his duties. With the sanction of the Board of Supervision and the police committee it is competent to appoint a member of the police force to the office of sanitary inspector; but a medical officer appointed under the Act cannot act as sanitary inspector.

3. The sanitary inspectors appointed by parochial boards holding office on 1st January 1889 numbered 718. The medical officers of health appointed by parochial boards holding office on the same day numbered 412.

4. It can hardly be questioned that the sanitary condition of the people, even in rural districts, has vastly improved since the passing of the Act. In the remoter counties this is mainly due to the steady pressure of the central Board. Each parish in Scotland has been annually visited and reported upon by their outdoor officers; the complaints of ratepayers have been carefully inquired into; incompetent officials have been dismissed; and when the local authorities themselves proved obstinately obstructive, action has been taken in the Court of Session. The total expenditure under the Act has been more than three millions; and since the amending Act of 1875 was

passed, loans amounting to a million and a half have been obtained on the recommendation of the Board at a low rate of interest from the Public Works Loan Commissioners. The present indebtedness of parochial boards as local authorities probably amounts to about £400,000.

§ III.

Preliminary Proceedings.

1. The county will be divided for the first election into electoral divisions by the sheriff (thereafter by the boundary commissioners).¹

2. The provisions as to the representation of royal and parliamentary burghs on the one hand, and of police burghs on the other, on the county council will be found in the Act. It is not necessary, in connection with the sanitary administration of the county, to explain these provisions. They are to the effect, speaking generally, that the county councillors from royal and parliamentary burghs shall be elected by the town council, and that the police burghs shall each, as an electoral division, return a councillor.²

3. The county electors are the parliamentary voters within the county, with the addition of peers, women, and those burgh voters whose qualifying premises are situated within the parliamentary but beyond the

¹ §§ 47, 48.

² A populous police burgh may be divided into more than one electoral division, and return more than one councillor. § 4 (2).

police or municipal boundaries of a burgh returning a member to Parliament.¹

4. Only a county elector can be elected a county councillor, and women are not eligible for election; but a woman may in certain cases act as a county or district councillor.²

5. The first election of county councillors will take place on the first Tuesday of February 1890. (Subsequent elections will be held on the first Tuesday of December.)³

6. Between the day of election and "the appointed day" the persons elected shall act as a provisional council.⁴

7. The "appointed day" shall be 15th May, or such other day as the Secretary for Scotland may appoint; and the first meeting of the council will be held on the first Thursday thereafter.⁵

8. The provisional council are empowered, *inter alia*, to make the necessary arrangements with the several authorities whose powers and duties are transferred to them, with reference more especially to the distribution of duties among the different officers.⁶

9. The local authorities whose powers and duties are transferred are empowered to meet for the purpose of making arrangements with the provisional council, and for concluding and winding up their business.⁷

10. The council at their first meeting in May shall

¹ § 28 (2).

² §§ 9 (1), 78.

³ § 30 (1).

⁴ § 106.

⁵ §§ 110, 73 (2).

⁶ § 107.

⁷ § 107 (5).

divide the county into Districts, so that each district shall comprise a group of electoral divisions, and the whole of a parish be in one district.¹

11. In the case of a county containing fewer than six parishes, or which has not been divided for the maintenance and management of highways, such division into districts shall not be made if the county council consider it unnecessary or inexpedient.²

12. The district committee shall consist of the councillors for the electoral divisions in the district, together with one representative from the parochial board of each parish in the district, and of one representative of each of certain specified burghs.³

13. When the county has not been divided into districts, the functions of the district committee shall be discharged by the council, with one representative from each parochial board and burgh (as in the case of districts) in the county. The representatives of the parochial boards and burghs shall be deemed to be county councillors.⁴

14. Women being eligible as members of parochial boards, a woman may be appointed to represent the parochial board on the district committee, and, in the undivided counties, on the county council.

15. The duties of a district committee are the maintenance and management of highways, and the administration of the laws relating to public health.

16. In the transaction of sanitary business the

¹ § 77 (1).

² § 78 (3).

³ § 78 (1).

⁴ § 78 (3).

burgh councillors or representatives shall not act or vote. This limitation applies to the sanitary business of the county council as well as of the district committee,—burghs not being assessed for sanitary purposes by the county.¹

17. The officers of the parochial board, as local authority under the Public Health Act, are transferred to the county council as from the appointed day; but the members of the local authority continue to hold office until 31st May.²

18. The first meeting of the district committee shall take place “as soon as may be” after 31st May, and shall be called by the county clerk.³

19. When the preliminary arrangements have been completed—when the new sanitary organisation has been brought into working order—the duties connected with the protection of the public health will be distributed among the following bodies: 1, the county council; 2, the district committee; 3, the standing joint committee of the county; 4, the Board of Supervision. With a trained and capable staff of medical officers and sanitary inspectors, it can hardly be doubted that sufficient machinery has been provided to ensure a considerable measure of sanitary progress. The machinery is no doubt costly and elaborate; and it is to be regretted that, by the exclusion of the burghs, the area it covers is comparatively narrow.

¹ § 73 (8).

² §§ 118, 117.

³ § 80.

§ IV.

The Sanitary Duties of the County Council.

1. By section 11 of the Act the whole powers and duties of the parochial board as sanitary authority are transferred to the county council. But the powers and duties thus transferred are only retained to a limited extent by the council,—the executive body, the real working local authority, being the district committee.

The powers reserved to the council are these:—

a. They exercise the borrowing powers conferred by the Public Health Acts,—the power of raising loans on the security of the assessments for water-supply, drainage, and hospitals.

b. They make general regulations for the conduct of the business of the district committee.¹

c. They have power, in the event of an appeal by any five ratepayers, to review any order, not arising out of proceedings for the removal of a nuisance, of

¹ § 17, which deals exclusively with public health, empowers the county council to make “general regulations for the government of a district committee,” as (it may be presumed) the local authority under the Public Health Act. Again, § 74 empowers the county council to make “regulations respecting the quorum and proceedings” of any committee, including (§ 80) a district committee. One code of regulations would appear to be sufficient for district committees, but it should probably be stated in the preamble that it is framed under both sections. The distinction between regulations “for the government” and regulations “respecting the proceedings” of a committee is not very obvious.

the district committee. They are also entitled to entertain an appeal from the medical officer or sanitary inspector of the county or district.

d. They impose and levy the assessments under the Public Health Act.

e. They have a general power of "doing any matter or thing whatever" which will remove friction in the working of the Act.

f. When the rating provisions of the Act cannot, from special circumstances, conveniently receive effect without modification or addition, the council, with the consent of the sheriff, can make such modification or addition.

g. They appoint and pay the medical officer and sanitary inspector of the county.

h. If they are dissatisfied with the manner in which a district committee enforce the Sanitary Acts, they may cause a representation to be made to the Board of Supervision.

i. They are a local authority entitled to enforce, either by themselves or along with other local authorities, the provisions of the Rivers Pollution Prevention Act of 1876.

j. They can make bye-laws for the prevention and suppression of nuisances not already punishable in a summary manner.¹

2. The council is thus mainly a court of review or appeal,—the ordinary executive functions of the

¹ §§ 17, 52, 55, 57, 63.

local authority being vested in the district committee. Questions as to its power of review may very possibly arise. The right to appeal is excluded in any proceedings for the removal of a nuisance. But it may fairly be argued that there are few, if any, proceedings authorised by the Sanitary Acts which may not be regarded as proceedings for the removal of a nuisance. The reasonable construction would appear to be, that whenever the order of the district committee refers to works of a permanent or exceptionally onerous character—such as the introduction of a drainage-system, or the provision of a water-supply, or the erection of a hospital—an appeal will lie to the council. It is true, that as regards works involving capital expenditure the consent of the standing joint committee must be first obtained; but there may be cases in which it will prove of advantage that a minority should be entitled to complain of the resolution of a district committee declining (say) to erect a hospital, or to proceed with a water or drainage scheme.

3. On the other hand, the power of appeal to the county council is anomalous in the cases where a power of appeal is provided by the Public Health Act to the sheriff or the Board of Supervision. It may probably be held by a court of law, that the right of appeal under the Public Health Act to the sheriff or the Board of Supervision is not superseded by the appeal to the council provided by the Local Govern-

ment Act; but the question is not free from difficulty.¹

4. There are other cases in which the power of appeal may prove embarrassing to the district committee. Their resolution to proceed with a scheme of sanitary improvement may have been taken in obedience to an order of the Board of Supervision. Should the council determine on appeal that the scheme is unsatisfactory or unnecessary, and rescind the resolution, the order of the Board of Supervision could only be enforced in a court of law. The right of the Board to take legal action is expressly reserved; but they can take action against the district committee only.² It is the county council, however, and not the district committee, who are in default. A somewhat similar difficulty, it will be seen later on, may arise should the standing joint committee refuse to grant the statutory consent to capital works which have been undertaken by the district committee at the instance of the central Board.

5. There is reason to expect, however, that upon the whole the powers reserved to the council will be exercised in such a manner as to secure steady and uniform action in the execution of the Act.

¹ Might it be held that the resolution of the county council dismissing or sustaining an appeal becomes the resolution that is subject to review by the sheriff or the Board of Supervision?—the resolution of the local authority not being final and exhaustive until the decision of the county council has been given.

² § 17 (2, c).

§ V.

The Sanitary Duties of the District Committee.

1. The district committees are the acting sanitary authorities under the Local Government Act. The county is divided by the council into Districts,—each district comprehending a certain number of electoral divisions. The approximate area and population of a district are not defined by the Act; but it will probably be convenient that the public health districts should correspond with the districts that have been formed under the Roads and Bridges Act. Whether it will be practicable or desirable to make them identical, is not yet clear.¹ Each district must contain one or more entire parishes and one or more entire divisions. Neither parish nor division can be divided and distributed among different districts.² A complete list of the districts formed under the Roads and Bridges Act and under private Acts will be found in Part II. of this work; and it may be taken as indicating generally the lines on which the council will proceed.

2. The district committee, like the council itself, is a variable quantity,—its constitution at any time

¹ It will not be practicable in those cases where the existing road districts do not comprehend entire parishes or entire electoral divisions.

² § 77 (1). The boundary commissioners, in forming electoral divisions, must have regard to the districts, so that no electoral division shall be in more than one district, § 47 (1). Nor can a parish be in more than one district, 77 (1), although the commissioners have power to divide parishes into two or more electoral divisions, § 47 (1).

depending upon the business with which it is dealing,—the determining principle being that rating gives representation. When sitting as the local authority under the Sanitary Acts, the committee will consist exclusively of members representing the landward part of the district.¹ These are the councillors for rural divisions, and the representatives of parochial boards, within the district. All councillors for and representatives of burghs will be excluded.

3. When the county is not divided into districts, the county council itself becomes the sole local authority under the Public Health Act; and, as regards the administration of the Sanitary Acts, the representatives sent by the parochial boards are deemed to be county councillors.²

4. The council are not required to divide the county into districts if it contains fewer than six parishes, or has not been divided for the management of highways.³

5. Eight counties—Kinross, Clackmannan, Selkirk, Caithness, Elgin, Nairn, Peebles, Sutherland—have not been divided into districts for the management of highways.

¹ But it is presumed that the representatives from burghal parishes (assuming that burghal parishes if within the district are to send representatives) will be entitled to act and vote on matters relating to public health—the provisions of § 73 (8) applying only to the representatives of burghs; yet the parochial board in a burghal parish was not the local authority under the Public Health Act, and the assessments under that Act have been and are imposed and levied by the burgh authorities.

² § 78 (3).

³ § 77 (1).

6. It is doubtful if any county in Scotland will hereafter contain fewer than six parishes in the sense of the Act. There are four counties in Scotland¹ which contain fewer than six *entire* parishes; but each of these counties contains parts of other parishes. The contents and boundaries of counties are meantime those which they have (or will have), under the Roads and Bridges Act (§ 44, *a*); and this arrangement is continued provisionally (§ 44), until the boundary commissioners have finally determined to which county a divided parish is to belong. It is possible, therefore, that as the result of their determinations it may be found that there is no county in Scotland with fewer than six parishes. One of the earliest inquiries of the commissioners will probably be directed to the determination of a question on which the division of a county into districts may depend.² The Board of Supervision have determined, under sect. 6 of the Public Health Act, the counties in which thirteen parishes are situated for the purposes of that Act. These determinations, it is thought, may now be recalled.

7. Women being eligible as members of parochial

¹ Kinross, Selkirk, Clackmannan, Nairn.

² As to a "detached" part of a county and parish, see § 40 of the Roads and Bridges Act. The Local Government Act provides that, where part of a parish is situate within and part of it without any county, the expression "parish" "includes each such part," § 105. The parochial board of a parish cut in two by the boundary line between two counties will therefore be entitled to send a representative to a district committee in each county.

boards, there seems no reason to doubt that they may act as representatives from the parochial boards of which they are members upon the district committee. Though "no woman is eligible for *election* as a county councillor," the disqualification does not seem to attach to women who, in an undivided county, are nominated by parochial boards to represent them on the council.

8. Except in so far as their powers and duties are expressly limited, the district committee become to all effects and purposes the local authority under the Public Health Act. They are consequently entitled to take action under any of the statutes, the administration of which devolved on or was vested in a parochial board *as local authority*. To the district committee is intrusted "the administration of the laws relating to public health," in so far as these have hitherto been administered by the local parochial authorities under the Sanitary Acts.¹ These Acts include the various Public Health Acts; the bakehouse clauses of the Factory and Workshops Act of 1883; the Housing of the Working Classes Act, 1885; the Pollution of Rivers Prevention Act, 1876; the Notification of Infectious Disease Act, 1889; the Alkali Act, 1881; and, as regards the sanitation of byres and milk-houses, the Contagious Diseases Animals Acts, 1878-1886.² This

¹ § 77.

² An analysis of the more important Acts is given in Part II.

is the reasonable reading of the Act; but it is provided that if any question should arise as to whether certain powers and duties have been transferred, the question can be decided by the Inner House of the Court of Session in a summary way.¹

9. Where special drainage and water-supply districts have been formed under the Public Health Act, sub-committees of the district committee may be formed for the management of the works, and may in part consist of persons resident within the special district, although not members of the county council or district committee.²

10. The district committee may appoint officers under the Public Health Act, either for the whole or any part of the district, as may be deemed expedient.³

11. The district committee will take its name from the district, and may sue or be sued under that name.⁴

12. It is obvious that some difficulty may be experienced at the outset in securing that uniformity of practice which is desirable throughout the district of a local authority. It is clearly undesirable that rules for the regulation of common lodging-houses, for instance, should be operative in one part of a district only. The rules, therefore, prepared by the Board of Supervision should be adopted without delay by the

¹ § 61.

² § 81.

³ § 17 (3).

⁴ § 79.

district committee, and applied to all common lodging-houses within the district.¹

§ VI.

The Sanitary Duties of the Standing Joint Committee.

1. The standing joint committee of the county is composed of an equal number of county councillors and Commissioners of Supply, with the sheriff as a member *ex officio*.²

2. The county council must obtain the written consent of the standing committee to any loan which they propose to obtain on the security of the assessments under the Public Health Acts.³

3. No works involving capital expenditure (that is, expenditure which is not defrayed out of the assessments for the year) can be undertaken without the written consent of the standing committee. Works involving capital expenditure include drainage and water-works and hospitals.⁴

4. Loans thus obtained must be wholly repaid within a period not exceeding thirty years.⁵ Under the Public Health Act of 1875 loans obtained on the

¹ "District councillor" would be a convenient name for the member of a district committee.

² § 18. Can burgh members act on the standing joint committee when it is dealing with sanitary business? See § 73 (8).

³ § 67.

⁴ § 18 (6, 7).

⁵ § 67 (2).

recommendation of the Board of Supervision from the Public Works Loan Commissioners for sanitary purposes might be repaid within a period not exceeding fifty years. The rate of interest charged by the Public Works Loan Commissioners depends upon the period over which the loan extends, and will be found in Part II. of this work.

§ VII.

The Sanitary Duties of the Board of Supervision.

1. Under the Public Health Acts the Board have exercised a general supervision over local authorities; and when local authorities were dilatory or obstructive, have taken action in the Court of Session to compel them to carry out the Acts.

2. The Board could require local authorities to appoint medical officers and sanitary inspectors.

3. Sanitary inspectors (except where there was a local Act or a burgh population of 10,000 or upwards) could be dismissed by the Board only.

4. The recommendation of the Board was required for any loan obtained from the Public Works Loan Commissioners under the Act of 1875.

5. The Board will continue to exercise these and similar functions under the Local Government Act,—the only change of importance being that medical officers cannot now be removed without its sanction.

§ VIII.

Duties of the Court of Session under the Act.

Where any doubt exists as to whether any power or duty imposed upon local authorities under the Public Health Acts has been duly transferred to the county council or the district committee, the judgment of the Inner House can be obtained in a summary way.¹

§ IX.

The Sanitary Officers of the County Council and District Committee.

1. The two officers of a sanitary authority specified in the Public Health Act are the medical officer and the sanitary inspector.²

2. A table showing the numbers and salaries of officers appointed in each county holding office on 1st January 1889 will be found in Part II. of this work. There were in all 412 medical officers and 718 sanitary inspectors appointed under the Act by parochial boards acting as local authorities. The salaries of the medical officers amounted, during

¹ § 61.

² The inspector of poor frequently acts as clerk to the local authority, and is paid for his services as such ; but the clerk is not a statutory officer, and is not entitled to compensation.

the previous year, to £1861 ; of the sanitary inspectors, to £4592.

3. A local authority was not bound to appoint a medical officer or sanitary inspector except when required by the Board of Supervision. Both officers were appointed by the local authority,—the approval of the Board not being required. But (except in certain burghs) the sanitary inspector could be dismissed by the Board only. The tenure of office of the medical officer was more precarious, the local authority having been entitled to dispense with his services at any time on due notice.

4. Under the Local Government Act the medical officers and sanitary inspectors appointed by the parochial boards as local authorities are transferred to the county councils. They continue to hold office as the parochial sanitary officers, whose duties in the meantime are limited to the parish ; but the council may hereafter distribute the business to be performed by them as they may think just. If any existing officer loses his office, he is entitled to compensation, which is not to exceed the amount to which a civil servant is entitled on abolition of office.¹

5. It is provided by sect. 52 of the Act, that the council of every county shall appoint and pay a

¹ §§ 119, 120 (1). By the 22 Vict. cap. 26, § 2, a civil servant's salary is divided into sixtieths, and he is entitled to one-sixtieth for each year of service. The total, however, is not, as a rule, to exceed forty-sixtieths. The terms on abolition of office are somewhat more liberal. § 7.

medical officer or medical officers, and a sanitary inspector or sanitary inspectors, who shall not hold any other appointment, or engage in private practice or employment, without the express written consent of the council.

6. Arrangements, however, may be made between the county council and the district committee for rendering the services of such officer or officers regularly available in the district. So long as such an arrangement is in force, the officers are the officers of the district under the Public Health Act, and the district committee are not bound to appoint others.¹

7. It is provided by sect. 54 that no person shall hereafter be appointed the medical officer of any county or district or parish, unless he is a registered medical practitioner; and that after 1st January 1893, no person shall be appointed the medical officer under the Public Health Acts for a county or district or parish which contains a population of thirty thousand or upwards, unless, besides being qualified as above, he is also registered as the holder of a diploma in sanitary science, public health, or State medicine.²

8. It is also provided by the same section that no person, except with the express consent of the Board of Supervision, shall be appointed as the sanitary inspector for a county unless he has been, during the

¹ § 52 (2).

² Under 49 & 50 Vict. c. 48, § 21.

three consecutive years preceding his appointment, the sanitary inspector of a local authority under the Public Health Acts. The Public Health Acts here referred to appear to be those which apply to Scotland only,—a person who has held similar appointments in England not being eligible, except with the consent of the Board of Supervision. Many of the most experienced sanitary officers are the assistant inspectors in the populous burghs; but these likewise are not eligible except with the Board's consent.¹

9. It is also provided by the same section that medical officers and sanitary inspectors appointed under the Local Government or Public Health Acts are removable from office only with the consent of the Board of Supervision.²

10. The Board of Supervision are to frame rules for regulating the duties of medical officers and sanitary inspectors. The rules prepared by the Board, and hitherto in use (which, however, may require modification), will be found in Part II. of this work. A copy of every report by a medical officer or sanitary inspector made to the Board in terms of these rules must be sent to the county council.³

11. The whole arrangements connected with the sanitary staff will require careful consideration by

¹ The board, however, it may be presumed, when the record of an assistant sanitary inspector is satisfactory, will be prepared at once to grant the statutory consent.

² But the district committee can, without consent, remove the district clerk and the district treasurer.

³ § 53.

the county council and the district committee. The existing officers receive, as a rule, very inadequate salaries; and many of them, it may be presumed, will be willing to retire. Others are indifferent or inefficient, and their services can be dispensed with. The police constables who, with the sanction of the Board of Supervision and the police committee, have been employed as sanitary inspectors, are changed from one police station to another so frequently, that their tenure of office is altogether uncertain. A not inconsiderable proportion of the existing officers will thus be weeded out. Of those that remain, a few may merit promotion; and the remainder will become the subordinate members of the sanitary staff. It may be assumed that in most of the counties the district committees will consult their own interest by securing the services of the medical officer and sanitary inspector appointed for the county; and it is not improbable that the more enlightened members of the local authorities in the smaller burghs may be anxious to obtain the co-operation of trained and experienced officers. There will thus be a resident medical officer or sanitary inspector in each parish or group of parishes capable of carrying out the instructions of the experts employed by the county. It is quite possible that, in the course of a few years, it may be found that by judicious and well-considered arrangements, increased efficiency has been secured without any corresponding or extravagant increase of cost.

§ X.

Duties of the Parochial Board under the Act.

1. It is mainly in regard to the mode in which the transfer of powers is to be effected that parochial boards are interested in the Local Government Act. Except that they are authorised to send a representative to the district committee, their connection with sanitary administration ceases on May 31.¹

2. The representative from the parochial board on the district committee is to be appointed from time to time, and he is to hold office until the appointment of his successor has been duly intimated. The words are somewhat indefinite; nor does it clearly appear when the first representative is to be chosen. Until at its first meeting on May 22 the council have defined the boundaries of the district, neither the district

¹ But the important question already referred to—viz., whether the parochial boards continue to act as local authorities under certain sanitary statutes, the administration of which has not been expressly transferred—may possibly have to be settled by the Court of Session. It appears to me, however, that the sound construction of the Act is, that parochial boards having ceased to be local authorities, all the duties hitherto imposed upon parochial boards acting as local authorities are now transferred to the bodies who take their place in, as the Act phrases it, “the administration of the laws relating to public health” (§ 77). The words used in sect. 11, “the whole powers and duties of local authorities under the Public Health Acts of parishes so far as within the county,” are intended to identify the bodies,—not to define or limit the duties. So that all the powers conferred by whatever statute upon the rural local authorities created by the Public Health Act may now be exercised by the county council and the district committee.

nor the committee can be said to have any legal existence. It would have been convenient had parochial boards been authorised to appoint their representatives at any time before May 31; but the safest course will be to hold the meeting, at which the representative is appointed, on a day between May 22 and May 31. Many of the half-yearly statutory meetings are held during that month; and at any time a special meeting can be convened on due notice. It will be fitting that the member who has taken the most active interest in parochial sanitation should be selected as the representative of the parochial board.¹

¹ See minute of Board of Supervision printed in Part II. (No. XII.) In that minute the Board state that they are of opinion that the representative must be a member of the parochial board. The phraseology of the section—"a representative," not *of*, but "*from* the parochial board"—appears to point to the representative being one of their own number; and it is to be observed that hitherto, when power to nominate an "outsider" has been given by statute, the language used has been much more explicit. Thus under § 17 of the Poor Law Act, the magistrates of burghs are empowered to "*nominate four persons* to be members of the parochial board." Again, by § 81 of the Local Government Act, where certain persons are authorised to act upon sub-committees, it is declared in express words that these persons need not be members of the district committee if they are otherwise qualified. Moreover, it is clear that the object of the provision was to include in the district committee certain members of the existing local authorities (which are exclusively composed of members of the parochial board), whose experience might be of service. The obvious intention of the framers of the Act would be defeated if a representative were nominated who had not been a member of the parochial board, and who consequently had had no experience of the working of the Act. [But see footnote page 108.]

The representative from the parochial board ought not to be a member who, as a county councillor, is already a member of the district committee; and such an appointment might possibly be regarded as

3. The parochial boards may continue to act as local authorities until May 31. They are required to meet for the purpose of winding up their sanitary business, and making proper arrangements with the provisional council for handing it over to the county council. They are empowered, moreover, to levy and collect after the appointed day any assessments that had been imposed by them before that day. The accounts must be balanced and audited in the usual way before being handed over.¹

4. It is provided that all heritable property such as drainage and water-supply works, and all moveable property such as books and furniture, held by the parochial board as local authority, shall on the appointed day be transferred to and vested in the council. If any question should arise as to what heritable or moveable subjects are or are not transferred, the question will be determined provisionally by the Secretary for Scotland, and finally by the boundary commissioners.²

5. The meetings of the parochial boards as local authorities have commonly been held in the parochial offices,—buildings leased or owned by the parochial boards for poor-law purposes. No title, however, it is thought, to the use of the building that can be transferred to the county council or district committee has been thereby acquired by the local authority.

invalid. The objection, however, would not apply with the same force (if at all) to a county councillor who is not, as such, a member of the district committee on which he is to act.

¹ §§ 117, 112.

² §§ 25, 90.

6. Some difficulty, however, may be experienced as to the transfer of the books and records of the parochial board relating to sanitary business. The Board of Supervision have frequently expressed an opinion that separate records should be kept; but it is feared that in many cases their instructions have not been complied with. When separate records have not been kept, the parochial board will require to furnish the council with certified extracts from the books. Where the parochial board have been, under a determination of the Board of Supervision, local authority in the burghal as well as in the landward part of a parish, a somewhat similar difficulty will occur. To which of the new local authorities—the police commissioners or the district committee — are the books to be handed over?

7. The powers of the boundary commissioners with reference to the area of parishes are not so wide as those conferred on the Secretary for Scotland. The Secretary for Scotland may hereafter divide a parish, or combine two or more parishes, for all purposes whenever he considers it expedient; whereas it would rather appear, that the commissioners can deal only with parishes (with a view to consolidation or rectification of boundaries) which are detached, or situated in more than one county.¹

¹ §§ 45, 49, 51. The commissioners are to communicate in the first instance with the parochial board of any parish affected by their determinations.

8. There is no rule of the Board of Supervision which prevents an inspector of poor (or a medical officer under the Poor Law Act) from becoming a member of the county council or district committee. But, of course, any complaint that the duties devolving upon a county or district councillor had prevented an inspector of poor from satisfactorily discharging his duties as a poor-law officer would form the subject of inquiry by the Board. The medical officer and sanitary inspector appointed by the parochial board as local authority under the Public Health Act are, of course, not eligible to be appointed representatives.

§ XI.

The Finance of the County Council and District Committee.

1. The financial year of the county council will run from May 15.¹

2. As the valuation roll according to which the assessments are imposed is not available till autumn, the assessments for the year are not to be collected before November 1. To enable the county council to defray the current expenditure during the interval, they are authorised (*without* the consent of the standing joint committee) to borrow, on the security of the

¹ § 62 (1).

rates, to the extent of one-half of the rates that have not been recovered. Had the financial year begun at Martinmas, the necessity for anticipating the assessments would have been avoided.¹

3. The borrowing powers conferred on the county council for sanitary purposes have already been explained under sect. 6.

4. The expenditure other than capital for sanitary purposes is to be defrayed out of the assessments under the Public Health Act which the county council are authorised to levy within the district. It does not very clearly appear, however, out of what fund the county medical officer and sanitary inspector are to be paid. The county council is to appoint and pay them,—which may point to payment being made out of the general purposes fund, for which a rate is levied over the whole county. On the other hand, the rates for the expenditure incurred in the administration of the laws relating to public health are to be imposed within the district only; and the administration of these laws is expressly declared not to be a general county purpose. It would rather appear, however, that the payment of a medical officer and sanitary inspector for the county may be regarded as a branch of expenditure for which no provision has hitherto been made, and which may therefore come within the scope of a general purposes fund.²

¹ § 62.

² Compare §§ 17 (4), 26 (3), and 27 (1).

5. The assessments under the Public Health Acts are either special or general. Special assessments are levied within special drainage and water-supply districts; whereas general assessments are levied over the whole district of the local authority. Both special and general assessments, where the local authority is a parochial board, are levied as the assessment for the relief of the poor is levied—on the net rental; one-half being recovered from the owners, one-half from the occupiers. In certain parishes there is a differential rating in favour of the owners and occupiers of agricultural lands and other subjects, while in others the occupiers only are classified.

6. The sanitary assessments under the Local Government Act are to be levied in precisely the same manner as the assessments under the Public Health Act have been levied. It is possible, therefore, that within the same district various modes of rating may be found to exist. There will be parishes with a poor-law classification, parishes with a public health classification, parishes without any classification. Had the sanitary assessments been made uniform throughout the district or the county, many difficulties would have been avoided; and it is probable that an assessment on the gross rental, with a classification in favour of the occupiers of agricultural lands, would have been generally accepted as fair and reasonable.

7. The cases in which agreements for the joint use

of a hospital have been entered into between a parish and a burgh may also be attended with difficulty. There is power to borrow for the erection of a hospital upon the security of the assessments, but the area of assessment is not localised as is the case in special districts; nor is there any provision in either Act for localising it. So that a whole district might require to be assessed for the benefit of the parish to which the use of the hospital is confined. But possibly in all the cases to which reference has been made the provision of sect. 63, by which a wide power of modification is given to the council, may be found to supply a remedy.

8. The district committee must, prior to October in each year, transmit to the finance committee an estimate of the probable expenditure for the year. The finance committee will thereupon prepare the local annual budget, and submit it to the council at its meeting in October. At that meeting the council will revise the estimates and impose the assessments. The assessments under the Sanitary Acts are to be imposed and levied within the district or special district (as the case may be), in terms of the Public Health Acts, and thereafter paid into the bank account of the district committee. The accounts of the council are to be so kept as to prevent any risk of the rate raised for one purpose being applied to another. The county and district accounts will be made up and

balanced for the year as at May 15, and thereafter audited as provided by the Act.¹

9. These are all the enactments of the Act to which attention need here be directed. It is sufficient to say in conclusion that, whatever may be thought of its other provisions, the sanitary clauses at least mark a distinct advance. By enlarging the area of administration, and by enlisting the services of trained and independent officers, most of the obstacles which have hitherto stood in the way of a steady and consistent application of the laws affecting the public health have been removed.

¹ §§ 26 (6), 71, 26 (4), 17 (4), 27 (1), 27 (3), 82, 26 (5), 68, 69.

PART II.

NOTES AND ILLUSTRATIONS



No. I.

NUMBER OF MEDICAL OFFICERS AND SANITARY INSPECTORS APPOINTED BY PAROCHIAL BOARDS AS LOCAL AUTHORITIES UNDER THE PUBLIC HEALTH ACT, WITH THE AMOUNT OF THEIR SALARIES.

	Number of Parishes in County.	MEDICAL OFFICERS.				SANITARY INSPECTORS.			
		Number of M. O.'s in County.	Total of M. O.'s Salaries.			Number of S. I.'s in County.	Total of S. I.'s Salaries.		
			£	s.	d.		£	s.	d.
1. Aberdeen . .	82	30	113	0	6	58	246	15	6
2. Argyll . . .	38	27	172	5	0	37	228	5	0
3. Ayr	46	33	116	15	0	45	421	2	0
4. Banff . . .	23	11	33	6	0	16	69	3	6
5. Berwick . .	32	3	16	0	0	5*	18	7	0
6. Bute	6	3	20	10	0	4	25	16	0
7. Caithness . .	10	6	22	7	0	9	46	4	0
8. Clackmannan	5	3	22	0	0	4	33	0	0
9. Dumbarton .	12	5	29	10	0	10	198	12	0
10. Dumfries . .	43	17	35	15	0	41	137	1	0
11. Edinburgh .	30	22	140	4	4	30	220	4	0
12. Elgin . . .	19	3	15	7	0	17	54	18	0
13. Fife	62	33	106	16	6	49	279	14	0
14. Forfar . . .	52	19	41	17	6	38	183	11	0
15. Haddington .	24	11	54	19	0	23	71	18	0
16. Inverness . .	32	18	84	16	0	27	126	7	0
Carry forward .	516	244	1025	8	10	413	2360	18	0

* Also 27 sanitary inspectors "paid by county." It may be explained that in Berwickshire a first-class sergeant of police acts as sanitary inspector for 27 parishes. His salary is charged to the police rate of the county, and his services are given free to each parish in which he is appointed sanitary inspector. This practice has been

No. I.—*continued.*

	Number of Parishes in County.	MEDICAL OFFICERS.			SANITARY INSPECTORS.		
		Number of M. O.'s in County.	Total of M. O.'s Salaries.			Number of S. I.'s in County.	Total of S. I.'s Salaries.
			£	s.	d.		£ s. d.
Brought forward	516	244	1025	8	10	413	2360 18 0
17. Kincardine .	19	10	27	13	6	13	76 12 0
18. Kinross . .	4	2	2	1	0	4	5 10 0
19. Kirkcudbright	28	4	9	2	0	26	89 7 0
20. Lanark . .	40	26	169	3	0	38	749 7 6
21. Linlithgow .	13	8	60	13	0	13	111 0 0
22. Nairn . . .	4	2	5	0	0	3	10 3 0
23. Orkney and Shetland }	33	8	32	0	0	22	70 15 0
24. Peebles . .	14	2	4	16	0	10	35 10 0
25. Perth . . .	74	39	146	9	6	64	307 0 0
26. Renfrew . .	17	16	139	0	0	14	244 0 0
27. Ross . . .	33	15	77	13	0	22	118 5 0
28. Roxburgh . .	32	9	28	14	0	24	95 19 0
29. Selkirk . .	5	5	16 10 0
30. Stirling . .	24	15	78	2	0	23	178 0 0
31. Sutherland .	13	7	41	13	4	8	35 10 0
32. Wigtown . .	17	5	14	0	0	16	88 0 0
Total . . .	886	412	1861	9	2	718	4592 6 6

followed for a number of years past, and, it is understood, has given entire satisfaction. The chief constable exercises a general supervision, and the sanitary inspector is assisted by the local constables in his duties of inspection. During the past half-year the drains, ash-pits, pigsties, common lodging-houses, slaughter-houses, &c., inspected numbered 13,388; while the number of nuisances and other offences against the Act reported by the sanitary inspector amounted to 480.

No. II.

DISTRICT COMMITTEES.

I. COUNTIES in which, either under the Roads and Bridges Act, 1878, or under Private Acts, Districts have been formed.

ABERDEEN (*Private Act*).—8 districts: Deer (13 parishes), Ellon (8 parishes), Garioch (15 parishes), Kincardine O'Neil (12 parishes), Turriff (9 parishes), Aberdeen (11 parishes), Alford (13 parishes), Huntly (7 parishes).

ARGYLL (*Private Act*).—11 districts: North Argyll (4 parishes), South Argyll (8 parishes), Ardnamurchan (3 parishes), Cowal (7 parishes), Dunoon (1 parish), Islay (5 parishes), Kintyre (5 parishes), Lorn (10 parishes), Morven (2 parishes), Mull (5 parishes), Tarbert (4 parishes).

AYR (*Roads & Bridges Act*).—7 districts: Ayr (11 parishes), Beith and Largs (6 parishes), Girvan (3 parishes), Irvine (5 parishes), Kilmarnock (10 parishes), Mauchline (5 parishes), Maybole (6 parishes).

BANFF (*Private Act*).—2 districts: Banff (11 parishes), Keith (13 parishes).

BERWICK (*Roads & Bridges Act*).—3 districts: East (12 parishes), Middle (13 parishes), West (9 parishes).

BUTE (*Roads & Bridges Act*).—3 districts: Bute (3 parishes), Arran (2 parishes), Cumbrae (2 parishes).

DUMBARTON (*Roads & Bridges Act*).—2 districts : No. 1 (1 parish), No. 2 (9 parishes).

DUMFRIES (*Roads & Bridges Act*).—8 districts : 1st (4 parishes), 2d (6 parishes), 3d (7 parishes), 4th (5 parishes), 5th (5 parishes), 6th (7 parishes), 7th (4 parishes), 8th (5 parishes).

EDINBURGH (*Roads & Bridges Act*).—4 districts : Suburban (8 parishes), Calder (6 parishes), Lasswade (8 parishes), Gala Water (8 parishes).

FIFE (*Roads & Bridges Act*).—4 districts : Cupar (21 parishes), Dunfermline (10 parishes), St Andrews (19 parishes), Kirkcaldy (14 parishes).

FORFAR (*Roads & Bridges Act*).—4 districts : Dundee (11 parishes), Forfar (16 parishes), Brechin (18 parishes), Arbroath (10 parishes).

INVERNESS (*Roads & Bridges Act*).—9 districts : Inverness (6 parishes), Aird (6 parishes), Badenoch (7 parishes), Lochaber (4 parishes), Skye (7 parishes), Harris (1 parish), North Uist (1 parish), South Uist (1 parish), Barra (1 parish).

KINCARDINE (*Roads & Bridges Act*).—5 districts : Lower Deeside (3 parishes), Upper Deeside (4 parishes), Stonehaven (4 parishes), St Cyrus (5 parishes), Laurencekirk (5 parishes).

KIRKCUDBRIGHT (*Private Act*).—7 districts : Kirkcudbright (5 parishes), Castle Douglas (5 parishes), Dalbeattie (4 parishes), Kirkbean and New Abbey (2 parishes), Maxwelltown (4 parishes), New Galloway (4 parishes), Creetown (4 parishes).

LANARK (*Roads & Bridges Act*).—3 districts : Upper Ward (22 parishes), Middle Ward (14 parishes), Lower Ward (6 parishes). The three

wards become under the Local Government Act the districts for roads and for public health. But the county council have power to subdivide, § 37 (1).

LINLITHGOW (*Roads & Bridges Act*).—2 districts: Northern (8 parishes), Southern (5 parishes).

ORKNEY (*Roads & Bridges Act*).—11 districts: Mainland (10 parishes), Sanday (2 parishes), Westray (2 parishes). Of the 7 remaining parishes, 6 form separate districts, and 1 is divided into 2 districts.

SHETLAND (*Private Act*).—14 districts. Of the 12 parishes 10 form separate districts; the remaining two are divided into 2 districts each.

PERTH (*Roads & Bridges Act*).—5 districts: Highland (13 parishes), Western (10 parishes), Central (14 parishes), Perth (23 parishes), Blairgowrie or Eastern (17 parishes.)

RENFREW (*Roads & Bridges Act*).—2 districts: 1st or Upper (11 parishes), 2d or Lower (9 parishes).

ROSS (*Private Act*).—15 districts: 1st (3 parishes), 2d (3 parishes), 3d (3 parishes), 4th (2 parishes), 5th (3 parishes), 6th (3 parishes), 7th (4 parishes), 8th (4 parishes), 9th (3 parishes), 10th (1 parish), 11th (1 parish), 12th (2 parishes), 13th (3 parishes), Lews (4 parishes), Stornoway (1 parish).

ROXBURGH (*Roads & Bridges Act*).—5 districts: Jedburgh (8 parishes), Kelso (12 parishes), Hawick (6 parishes), Liddesdale (1 parish), Melrose (6 parishes).

STIRLING (*Roads & Bridges Act*).—4 districts: Western (9 parishes), Southern (4 parishes), Central or Stirling (8 parishes), Eastern or Falkirk (7 parishes).

WIGTOWN (*Private Act*).—2 districts: Upper (8 parishes), Lower (8 parishes).

II. COUNTIES under the Roads and Bridges Act in which Districts have not been formed.

KINROSS, CLACKMANNAN, SELKIRK, SUTHERLAND.

III. COUNTIES under Private Acts in which Districts have not been formed.

CAITHNESS, ELGIN, NAIRN, PEEBLES.

No. III.

RATES OF INTEREST FOR LOANS FROM PUBLIC WORKS
LOAN BOARD.

EXTRACT from Eleventh Annual Report of Public
Works Loan Board.

“VI. During the past financial year the Lords Commissioners of Her Majesty’s Treasury have, under the powers contained in the Public Works Loans Act, 1879, 42 & 43 Vict. c. 77, reduced the rates of interest on loans granted for sanitary purposes in Great Britain, on and after the 15th May 1885, and on loans to school boards in Great Britain granted on and after the 18th June 1885.

“The following is the reduced scale of interest on loans :—

“Repayable within a period not exceeding 35 years, $3\frac{1}{2}$ per cent.

“Repayable within a period exceeding 35 years, but not exceeding 40 years, $3\frac{3}{4}$ per cent.

“Repayable within a period exceeding 40 years, but not exceeding 50 years, 4 per cent.”

Loans are repayable either—

(1.) By equal annual instalments of the principal with a yearly diminishing amount of interest; or—

(2.) By way of annuity in equal annual sums of principal and interest during whole period of loan.

No. IV.

EXTRACT CIRCULAR OF BOARD OF SUPERVISION AS TO THE PUBLIC HEALTH ACT, 16TH DECEMBER 1869.

The Board would take this opportunity of impressing local authorities with the grave responsibility which must rest upon them if they fail to execute the Public Health Act in any particular required by the condition of the districts within their several jurisdictions. The statute confers upon local authorities a large discretionary power, as to the mode of pro-

cedure and many other matters of detail. But it was not the intention of the Legislature to give to them the option of allowing the statute to remain in abeyance, when evils exist which it is the object of the Act to abate. Wherever such evils exist the Act truly leaves no alternative, but imposes upon the local authority the duty of taking the requisite steps to remove them. The local authority ought not even to wait until complaints are made to them regarding nuisances, defective drainage, deficient water-supply, overcrowded or underground dwellings, or any other of the matters dealt with by the Act. They should, of their own accord, take means to ascertain whether such defects exist, and they should lose no time in using the extensive powers which the statute devolves upon them, to remedy whatever may be found defective. The Board are aware that, since the passing of the Act, much important work has been voluntarily accomplished by local authorities; but they fear that many local authorities still entertain a false impression as to the extent of their duty and responsibility, and imagine that there is no call upon them to adopt sanitary measures, until forced by external pressure or the presence of epidemic disease. The Board would urgently recommend all local authorities to use with promptitude the large powers vested in them, wherever these may conduce to the benefit of the population.

No. V.

EPITOME OF THE PUBLIC HEALTH ACT, 1867

(30 & 31 VICT. CAP. 101).

Part I. of the Act defines the constitution, powers, and duties of the local authorities and the Board of Supervision.

Section 5, which constitutes the different local authorities, is in these terms:—

“V. The following bodies shall respectively be the local authority to execute this Act in the districts hereunder stated in Scotland:

In places within the jurisdiction of any town council, and not subject to the jurisdiction of police commissioners or trustees as after mentioned,—the town council:

In places within the jurisdiction of police commissioners or trustees exercising the functions of police commissioners under any general or local Act,—the police commissioners or trustees:

In any parish, or part thereof, over which the jurisdiction of a town council or of police commissioners or trustees exercising the functions of police commissioners does not extend,—the parochial board of such parish.

Provided always, that where any parish shall be partly within and partly beyond the jurisdiction of a town

council and of police commissioners or trustees, and of a parochial board, or of any two or more of such bodies, the Board, if application be made to them by any of these bodies, or by any person having interest, may, if they see fit, determine which of the said several bodies shall be the local authority within the whole limits or within any portion of such parish, and the Board may from time to time recall or vary such determination; and provided further, that all determinations already made under the fifth section of the Nuisances Removal (Scotland) Act, 1856, shall be valid and effectual till recalled or varied under this Act."

Sect. 8, which authorises the appointment of medical officers and sanitary inspectors, is in these terms:—

"VIII. The local authority may, and where it shall be thought necessary by the Board for the purposes of this Act the local authority shall, appoint a sanitary inspector or inspectors, who shall be also inspector or inspectors of common lodging houses, and a medical officer or medical officers, and may make byelaws for regulating the duties of such inspectors and medical officers, which byelaws shall not be effectual until they are approved of by the Board; and the local authority shall appoint convenient places for their offices, and shall allow to every such inspector or medical officer on account of his employment a proper salary; and if no such inspector or medical officer is appointed the local authority shall, in all cases in which any duty is laid on them by this Act, appoint some person, where the same shall be necessary, to perform such duty, and

shall remunerate him as they shall see fit; and the names and addresses and salaries of the said inspectors and medical officers shall be reported by the local authority to the Board immediately on such persons being appointed and such salaries fixed; and the said inspectors and medical officers shall be bound to make such returns and special reports to the Board as the Board shall require them to make; and the said inspectors shall be removable from office only by the Board, except in the case where the local authority is the town council or police commissioners or trustees in any burgh in Scotland having a local Act for police purposes, or having a population of ten thousand or upwards according to the census last taken, in which case the inspectors shall be removable from office by the local authority."

Part II. is devoted to the proceedings for the removal of nuisances. The word "nuisance" is defined by sect. 16, and includes—

"(a.) Any insufficiency of size, defect of structure, defect of ventilation, want of repair or proper drainage, or suitable water-closet, or privy accommodation or cesspool, and any other matter or circumstance rendering any inhabited house, building, premises, or part thereof, injurious to the health of the inmates or unfit for human habitation or use:

"(b.) Any pool, watercourse, ditch, gutter, drain, sewer, privy, urinal, cesspool, or ashpit so foul as to be injurious to health, or any well or other water supply used as a beverage or in the preparation of human food, the water of which is so tainted with impurities or otherwise unwholesome as to be injurious

to the health of persons using it, or calculated to promote or aggravate epidemic disease :

“(c.) Any stable, byre, pigstye, or other building in which any animal or animals are kept in such a manner as to be injurious to health :

“(d.) Any accumulation or deposit of manure or other offensive matter within fifty yards of any dwelling-house within the limits of any burgh, or wherever situated, if injurious to health, or any accumulation of police manure within a quarter of a mile of the municipal boundaries of any burgh (excepting the city of Glasgow), or any accumulation of deposits from ash-pits or manure from town or village laid nearer than fifty yards to a public or parish road or dwelling-house :

“(e.) Any work, manufactory, trade, or business injurious to the health of the neighbourhood, or so conducted as to be offensive or injurious to health, or any collection of bones or rags injurious to health :

“(f.) Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates :

“(g.) Any factory, workshop, or workplace, not under the operation of any general Act for the regulation of factories or bakehouses, and not kept in a cleanly state, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein, and injurious or dangerous to the health of persons employed therein, or any such factory, workshop, or workplace as is so overcrowded, while work is carried on therein, as to be dangerous or injurious to the health of those employed therein :

“(h.) Any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible matter used in such fireplace or furnace, and is used within any burgh, for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, or gaswork, or in any manufactory or trade process whatsoever :

“(i.) Any chimney (not being the chimney of a private dwelling-house) sending forth smoke so as to be injurious to health :

“Provided that in places where at the time of the passing of this Act no enactment is in force compelling fireplaces or furnaces to consume their own smoke, the foregoing enactment as to fireplaces and furnaces consuming their own smoke shall not come into operation until the expiration of one year from the date of the passing of this Act :

“(j.) Any churchyard, cemetery, or place of sepulture so situated or so crowded with bodies or otherwise so conducted as to be offensive or injurious to health.”

Part III. refers to exceptional powers given to the Board of Supervision when any part of the United Kingdom is threatened with or affected by any formidable epidemic, endemic, or contagious disease.

Part IV. is concerned with the general prevention and mitigation of disease by means of hospitals, isolation, disinfection, and vaccination of adults.

Part V. relates to the regulation of common lodging-houses, for which a model set of rules has been prepared by the Board.

Part VI. deals with drainage and water-supply, which the local authority may provide either under their general powers (when the assessment is spread over the whole district), or by means of special districts (when the assessment is confined to the special district).

Part VII. provides for the assessments to be levied, which, where the local authority is a parochial board, are levied in like manner as the assessment for the relief of the poor, except where there is a burgh in the district, in which case agricultural lands and certain other subjects are assessed on one-fourth only of the annual value. The assessments under the Act of 1867 were limited to one shilling and threepence in the pound where a water-supply had been introduced, and to threepence where it had not. By the amending Act of 1871 (34 & 35 Vict. cap. 38) the maximum assessment was raised to two shillings and sixpence where hospitals had been built, or a drainage or water scheme had been introduced, and to sixpence where no such works had been executed.

Part VIII. contains the provisions by which action can be taken in a court of law against the local authority to compel them to carry out the Act.

No. VI.

THE SECTIONS OF THE LOCAL GOVERNMENT ACT
RELATING TO SANITARY ADMINISTRATION.1. *County Councils, District Committees, and
their Officers.*

§ 11. Subject to the provisions of this Act there shall be transferred to and vested in the council of each county, on and after the appointed day, or at such times as are in this Act in that behalf respectively specified:—

(4.) The whole powers and duties of the local authorities under the Public Health Acts of parishes so far as within the county (excluding burghs and police burghs).

§ 17. With respect to the transference to the county council of the powers and duties of certain local authorities under the Public Health Acts, the following provisions shall have effect:

(1.) For the purposes of the administration of the laws relating to public health, the county shall, except as herein-after provided, be divided into districts in the manner provided in this Act, and there shall be a district committee for each such district constituted as provided in this Act.

(2.) A district committee shall, subject to the provisions of this Act, be the local authority under

the Public Health Acts, and as such shall have and may exercise within its district all the powers and duties and be subject to all the liabilities by this Act transferred to or conferred on the county council with respect to the administration of the laws relating to public health, except those relating to medical officers or sanitary inspectors for the county, and subject to the provisions following :

- (a.) A district committee shall have no power of raising money by rate or loan :
- (b.) The county council shall make general regulations for the government of a district committee, and such committee shall conform to those regulations :
- (c.) Any five ratepayers in the district may appeal from any proceedings or order of a district committee to the county council, who shall have power to confirm or vary or rescind such proceedings or order ; and such proceedings or order shall be stayed pending the appeal, but the power of appeal hereby given shall not apply to any proceedings for the removal of a nuisance ; and nothing in this Act contained shall affect or prejudice any proceedings to enforce the provisions of the Public Health Acts, save only that when necessary such proceedings shall be taken by or against the district committee instead of against the parochial board as local authority under the said Acts. The medical officer or the sanitary inspector of the county or district may appeal to the

county council, and the county council may on such appeal make an order under the Public Health Acts.

- (3.) The power of appointing officers under the Public Health Acts is hereby varied, so that it shall be lawful to appoint such officers either for the whole district or for any part thereof or parish therein as shall be deemed expedient. The officers so appointed shall have, as nearly as may be, within the areas respectively assigned to them the same powers, duties, rights, and tenure (if any) as the officers, as the case may be, of the existing local authority have within the area of the parish.

§ 52.—(1.) The council of every county shall appoint and pay a medical officer or medical officers and a sanitary inspector or sanitary inspectors, who shall not hold any other appointment or engage in private practice or employment without express written consent of the council.

(2.) The county council and any district committee, as the local authority under the Public Health Acts, may from time to time make and carry into effect arrangements for rendering the services of such officer or officers regularly available in the district of the district committee, on such terms as to the contribution by the district committee to the salary of any medical officer or sanitary inspector, or otherwise, as may be agreed, and the medical officer or sanitary inspector shall have within such district all the powers and duties of a medical officer or sanitary inspector appointed by a district committee.

(3.) So long as such an arrangement is in force, the obligation of the district committee as the local authority under the Public Health Acts to appoint a medical officer or sanitary inspector shall be deemed to be satisfied without the appointment of a separate medical officer or sanitary inspector.

§ 53.—(1.) Every medical officer and sanitary inspector under the Public Health Acts for a district in any county shall send to the county council a copy of every report of which a copy is for the time being required by the regulations of the Board of Supervision (which they are hereby authorised to make) to be sent to that Board.

(2.) If it appears to the county council that the Public Health Acts have not been properly put in force within any district, or that any other matter affecting the public health of the district requires to be remedied, the council may cause a representation to be made to the Board of Supervision on the matter.

§ 54.—(1.) No person shall hereafter be appointed the medical officer of any county or district or parish, unless he is a registered medical practitioner.

(2.) No person shall after the first day of January one thousand eight hundred and ninety-three be appointed the medical officer under the Public Health Acts for a county or district or parish which contained, according to the last published census for the time being, a population of thirty thousand or upwards, unless he is qualified as above mentioned, and also is registered on the Medical Register as the holder of a diploma in sanitary science, public health, or State

medicine under section twenty-one of the Medical Act, 1886.

(3.) No person shall, except with the express consent of the Board of Supervision, be appointed as the sanitary inspector for a county unless he has been during the three consecutive years preceding his appointment the sanitary inspector of a local authority under the Public Health Acts.

(4.) Every medical officer and every sanitary inspector appointed under this Act or under the Public Health Acts shall be removable from office only with the sanction of the Board of Supervision.

§ 73.—(8.) The councillors or members of district committees appointed to represent a burgh or an electoral division consisting of a police burgh or part of a police burgh shall not act or vote in respect of any matters involving expenditure to which such burgh does not contribute or for which the lands and heritages in such burgh or police burgh are not assessed.

§ 74.—(1.) A county council appointing under this Act any committee may from time to time, subject to the provisions of this Act, make, vary, and revoke regulations respecting the quorum and proceedings of such committee; but, subject to such regulations, the proceedings and quorum and the place of meeting, whether within or without the county, shall be such as the committee may from time to time direct, and the chairman at any meeting of the committee shall have a casting vote as well as a deliberative vote.

(2.) Every committee shall report its proceedings to the county council by whom it was appointed.

§ 76.—(1.) Any county councils or county councils

and town councils may from time to time join in appointing out of their respective bodies a joint committee for any purpose of this Act in respect of which they are jointly interested.

(10.) For the purposes of this section town council shall include police commissioners of a burgh or police burgh.

§ 77. In order to give effect to the provision of this Act that (except as herein-after provided) every county shall be divided into districts for the purposes of the management and maintenance of highways, and the administration of the laws relating to public health, there shall be enacted the following provisions:—

(1.) The county council shall at their first meeting in the month of May next after the passing of this Act, and thereafter from time to time, divide the county into districts for the purposes in this section mentioned in such manner that each district shall comprise a group of electoral divisions, and that each parish, so far as within the county, shall be wholly included in one district. Provided always that such division into districts shall not be made if it shall appear to the county council unnecessary or inexpedient in the case of a county containing fewer than six parishes, or which has not been divided into districts for the purposes of the management and maintenance of highways therein.

(2.) Each district shall have the same contents and boundaries for all the purposes in this section mentioned.

§ 78. Whenever, for the purposes of this Act, a

county is, as herein-before provided, divided into districts, the following provisions shall have effect with respect to the constitution of the district committee for each district:

- (1.) The district committee shall consist of the county councillors for the electoral divisions comprised in the district, together with one representative from the parochial board of each parish comprised or partly comprised therein, and one representative of each burgh within the meaning of the Roads and Bridges (Scotland) Act, 1878, where the management and maintenance of the highways within the burgh have, under the provisions of the last-mentioned Act, been transferred to the county. Provided that in the case of parishes partly landward and partly burghal the representative from every such parish shall be a ratepayer within the meaning of this Act.
- (2.) The representatives of the parochial boards and burghs as aforesaid shall be appointed from time to time by their respective boards and town councils, and their appointment shall be forthwith intimated in writing to the county clerk, and, after his appointment as herein-after provided, to the clerk of the district committee. Each such representative shall hold office until the appointment of his successor has been duly intimated.
- (3.) Provided that where a county is not divided into districts the powers and duties and liabilities of a district committee under this Act shall devolve upon the county council, and for the

purposes of the management and maintenance of highways, and the administration of the laws relating to public health, the following persons shall be deemed to be county councillors; that is to say, one representative from a parochial board of each parish comprised or partly comprised within the county, and one representative of each burgh within the meaning of the Roads and Bridges (Scotland) Act, 1878, where the management and maintenance of the highways within the burgh have, under the provisions of the last-mentioned Act, been transferred to the county; and the provisions of the immediately preceding sub-section shall apply to those representatives.

§ 79. Each district committee shall have and may exercise all the powers and duties and be subject to all the liabilities transferred to or conferred upon it, as the case may be, by or in pursuance of but subject to the provisions of this Act, and shall be designated according to the district within which it acts, and may sue and be sued under that designation.

§ 80. The first meeting of a district committee shall take place as soon as may be after the thirty-first day of May next after the passing of this Act, and shall be called by the county clerk by circular addressed to each member whose appointment has been intimated to him. The committee may act notwithstanding any vacancy upon it. For the purpose of the regulation of its quorum and proceedings a district committee shall be deemed to be a committee of the county council.

Provided that a district committee may from time

to time elect a chairman who shall hold office for such period as shall be fixed at his election, and in the case of an equality of votes for two or more persons as chairman, one of those persons shall be elected by lot. The chairman shall have a casting vote as well as a deliberative vote. A district committee shall have power to appoint and remove a district clerk and district treasurer, if need be, and, subject to the approval of the county council, to fix the salary which shall be payable to them.

§ 81. With respect to special drainage districts or special water supply districts the following provisions shall have effect:—

- (1.) Where a special drainage district or special water supply district has been formed in any parish under the public Health Acts, the district committee may, subject to regulations to be from time to time made with the consent of the county council, appoint a sub-committee for the management and maintenance of the drainage or water supply works, and such sub-committee shall in part consist of persons, whether members of the district committee or not, who are resident within the special drainage district or special water supply district;
- (2.) Where a special drainage district or special water supply district is partly within a county and partly within a burgh or police burgh, the sub-committee appointed under the immediately preceding sub-section and such number of the town council or police commissioners (as the case may be) of such burgh or police burgh as failing

agreement the Secretary for Scotland may determine having regard to all the circumstances of the case, shall be charged with the management and maintenance of the drainage or water supply works within such special district, and the determination of the Secretary for Scotland may provide for the regulation of the proceedings and for the allocation and payment of the expenses incurred under this sub-section ;

- (3.) Where a special drainage district or special water supply district is wholly within a police burgh formed after the passing of this Act, the police commissioners of such police burgh shall become the local authority under the Public Health Acts for such special district, and the assessments in respect of the drainage and water supply shall be levied in the same manner as they were before such district was formed into a police burgh.

§ 99. Nothing in this Act shall interfere with the formation of police burghs under the provisions of the General Police and Improvement (Scotland) Act, 1862 ; and on the formation of any police burgh the commissioners of police thereof shall become the local authority therein under the Public Health Acts, subject to adjustment by the sheriff in regard to the property and debts and liabilities affected by such change.

§ 117. The members of a local authority of a parish under the Public Health Acts holding office at the appointed day shall continue to hold office until the thirty-first day of May next after the first election of county councillors under this Act and no longer ; and

thereafter the district committee constituted under this Act shall come into office.

§ 118.—(1.) All persons who at the appointed day hold office as treasurer, collector, assessor, inspector, or surveyor, or are officers of the commissioners of supply, county road trustees, local authority under any Act of Parliament, or quarter sessions or justices of the county, or are servants thereof and perform any duties in respect of the business transferred by or in pursuance of this Act to the county council, and also, but subject to the provisions of this Act, the clerk of supply and the county road clerk, shall after the appointed day become the officers and servants of the county council.

§ 119.—(1.) The officers and servants of any authority who held office at the passing of this Act, and who, by virtue of this Act, become officers and servants of a county council (in this Act referred to as existing officers), shall hold their offices by the same tenure, and upon the same terms and conditions as if this Act had not passed, and while performing the same duties shall receive not less salaries or remuneration, and be entitled to not less pensions (if any) than they would have received or been entitled to if this Act had not passed, and when any such officer can only be removed with the consent of some specified authority, such consent shall be part of the tenure of his office.

(2.) The county council may distribute the business to be performed by existing officers in such manner as the council may think just, and every existing officer shall perform such duties in relation to that business as may be directed by the council.

(3.) The county council may abolish the office of any existing officer whose office they may deem unnecessary, but such officer shall be entitled to similar compensation under this Act as he would have been entitled to under his former engagement.

2. *The Standing Joint Committee.*

§ 18.—(6.) No works involving capital expenditure (in this Act referred to as capital works) shall be undertaken in any county, or any district thereof, under or in pursuance of powers transferred or conferred by this Act, or any other Act, without the consent in writing of the standing joint committee appointed in terms of this section.

(7.) Capital works shall include the erection, rebuilding, or enlargement of buildings, the construction, reconstruction, or widening of roads and bridges, the construction or extension of drainage or water supply works, and shall also include the acquisition of land or of any right or interest or servitude in or over land or water for the purposes of any capital work.

3. *Finance.*

§ 26.—(3.) In this Act “general county purposes” means all purposes for which the county council are for the time being authorised by law to incur any expenditure, with the exception of (1) the management and maintenance of highways, (2) the administration of the laws relating to public health, and (3) any special purpose in respect of which the county has

been or may be divided into divisions or districts under the provisions of any general or local Act of Parliament or of this Act.

(4.) If the county fund is insufficient to meet the expenditure, rates (in this Act referred to as the owners consolidated rate and the occupiers consolidated rate, and together as the consolidated rates) may be levied to meet such deficiency for general county purposes upon all rateable property in the county, or, in the case of expenditure for the management and maintenance of highways, the administration of the laws relating to public health, or other special purpose as herein-before mentioned, upon all rateable property within the several districts or parishes of the county, as the case may be, in the manner and subject to the conditions in this Act provided.

(5.) The county council shall keep such accounts of the county fund, and of the sums raised by rates, as will prevent a rate being applied to any purpose to which it is not properly applicable.

§ 71. At their meeting in the month of October in each local financial year every county council shall cause to be submitted to them the estimates, prepared as herein-before provided by the finance committee, of the receipts and expenditure of such council (including those of the district committees) during that financial year, whether on account of property, contributions, rates, loans, or otherwise, and shall revise such estimates and authorise such expenditure and make such provision for meeting the same as they shall approve under the provisions herein-before contained.

4. *Borrowing.*

§ 67.—(1.) The county council may from time to time, with the consent in writing (signed by two members and the county clerk) of the standing joint committee appointed in pursuance of this Act, borrow on the security of any rate leviable by the council under or in pursuance of this Act or of any other Act, such sums as may be required for the following purposes, or any of them; that is to say,

(a.) For any purpose for which any authority whose powers and duties are by or in pursuance of this Act transferred to the county council were, at the passing of this Act, authorised to borrow;

but neither the transfer of powers by this Act nor anything else in this Act, shall, save as herein-after provided, confer on the county council any power to borrow without the consent above mentioned, and that consent shall dispense with the necessity of obtaining any other consent which may be required by any Acts relating to such borrowing, and the said standing joint committee, before giving their consent, shall take into consideration any representation made by any ratepayer.

(2.) A loan under this section shall be repaid within such period, not exceeding thirty years, as the county council, with the consent of the said standing joint committee, determine in each case.

5. *Rating.*

§ 17.—(4.) The sums necessary to meet any deficiency in respect of the expenditure under the Public

Health Acts within any district shall be levied by the county council by a rate imposed on all lands and heritages within such district, or within any special drainage or water supply district within the meaning and subject to the provisions of the Public Health Acts.

§ 27.—(3.) The consolidated rates shall be imposed upon lands and heritages according to the annual value thereof as appearing on the valuation roll, but subject always to the provisions of the Public Health (Scotland) Act, 1867, in regard to all assessments leviable under that Act.

(5.) An outgoing occupier removing from any lands or heritages during the currency of a year for which a rate has been imposed shall have a right of relief against the incoming occupier for the proportion of the rate applicable to the period of the year remaining unexpired at his removal.

§ 62.—(2.) The demand note shall set forth the several branches of expenditure in respect of which the consolidated rates are imposed and the amount in the pound applicable to each several branch, and shall state the amount to be paid by the person named in the note and the manner and time of appealing against and paying such amount and such other particulars as shall be prescribed.

§ 63. In any case in which it shall happen that, by reason of the special enactments regulating the rating in any division or district of a county, the provisions contained in this Act cannot conveniently receive effect without modification or addition, the county council may by regulations make such mod-

ification or addition, and such regulations shall have effect as if they were contained in this Act. But no such regulations shall be made unless public notice of their purport has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such regulations relate, and also in the Edinburgh Gazette.

Provided that such regulations shall have no effect until they have been confirmed by the sheriff after such publication and inquiry as he shall think necessary.

No. VII.

BYE-LAWS RECOMMENDED BY THE BOARD OF SUPERVISION FOR REGULATING THE DUTIES OF MEDICAL OFFICERS UNDER THE PUBLIC HEALTH (SCOTLAND) ACT, 1867.

1. The medical officer shall inform himself, as far as practicable, respecting all influences affecting or threatening to affect injuriously the public health within the district of which he is medical officer.

2. The medical officer shall inquire into and ascertain, by such means as are at his disposal, the causes, origin, and distribution of diseases within the district; and ascertain to what extent the same have resulted from or may depend on insanitary conditions capable of removal or mitigation.

3. The medical officer shall, by inspection of the district, both systematically at certain periods, and at intervals as occasion may require, keep himself informed of the conditions injurious to health existing therein.

4. The medical officer shall be prepared to advise the local authority on all matters affecting the health of the district, and on all sanitary points involved in the action of the local authority; and, in cases requiring it, he shall certify, for the guidance of the local authority, or of the sheriff, or any magistrate or justice, as to any matter in respect of which the certificate of a medical officer or a medical practitioner is required as the basis or in aid of sanitary action.

5. On receiving information of the outbreak of any contagious, infectious, or epidemic disease of a dangerous character within the district, the medical officer shall visit the spot without delay, and inquire into the causes and circumstances of such outbreak, and advise the persons competent to act as to the measures which may appear to him to be required to prevent the extension of the disease, and, so far as he may be lawfully authorised, assist in the execution of the same.

6. The medical officer shall immediately report to the sanitary inspector, for the information of the Board of Supervision and local authority, the existence of any disease of an infectious or contagious kind in his district, which in his opinion threatens to become dangerous or epidemic.

7. On receiving information from the sanitary in-

spector that his intervention is required in consequence of the existence of any nuisance injurious to health, or of any overcrowding in a house, the medical officer shall, as early as practicable, take such steps authorised by the statute in that behalf as the circumstances of the case may justify and require.

8. The medical officer shall perform all the duties imposed upon him by any bye-laws and regulations of the local authority duly approved in respect of any matter affecting the public health, and he shall further observe and execute, so far as the circumstances of the district may require, the instructions of the Board of Supervision and all the lawful orders and directions of the local authority applicable to his office.

9. The medical officer shall attend at the office of the local authority, or at some other appointed place, at such stated times as they may direct.

10. The medical officer shall keep a book or books, to be provided by the local authority, in which he shall make an entry of his visits, and notes of his observations and instructions thereon, and also the date and nature of applications made to him, the date and result of the action taken thereon, and of any action taken on previous reports; and shall produce such book or books whenever required to the local authority, the Board of Supervision, and the inspecting officer of the board.

11. The medical officer shall at least once in every half-year report, in writing, to the local authority, his proceedings and the measures which in his opinion should be adopted for the improvement or protection of the public health in the district, and he shall

append to each such report a statement as to the sickness and mortality within the district, so far as he has been enabled to ascertain the same.

12. The medical officer shall from time to time make such special reports and returns as may be called for by the local authority or the Board of Supervision.

BYE-LAWS RECOMMENDED BY THE BOARD OF SUPERVISION FOR
REGULATING THE DUTIES OF SANITARY INSPECTORS AND INSPECTORS OF COMMON LODGING-HOUSES.

1. The sanitary inspector shall attend, if required, meetings of the local authority, and committees thereof.

2. The sanitary inspector shall make all such investigations and reports relating to nuisances and common lodging-houses, or as to the execution of the Public Health Act, as may be ordered by the local authority or the Board of Supervision.

3. The sanitary inspector shall from time to time prepare such special reports as to the sanitary condition of the parish or burgh or district to which he may be appointed, and also as to the condition of all common lodging-houses within the said parish or burgh or district, as may be required by the local authority or the Board of Supervision.

4. The sanitary inspector shall insert in a book, to be kept for the purpose, to be called the 'Sanitary Inspector's Journal and Report Book,' and to be provided by the local authority, notes of all his investi-

gations and proceedings in the execution of his duty, and submit the same to every meeting of the local authority, or committee thereof.

5. The sanitary inspector shall personally, or by an assistant to be appointed by the local authority, visit and inquire as to the sanitary state of all parts of the parish or burgh or district to which he has been appointed, at least once in *three months*, or oftener if required by the local authority, and report the result to the local authority.

6. The sanitary inspector shall personally, or by an assistant to be appointed by the local authority, visit and inquire as to the condition of each common lodging-house within the parish, burgh, or district to which he has been appointed, at least once every *calendar month*, or oftener if required by the local authority, and enter in his journal a report of the result.

7. The sanitary inspector shall report in writing to the local authority all unregistered common lodging-houses.

8. In addition to the stated periodical visits and inspections required by these bye-laws, the sanitary inspector shall make such investigations and visits as may be requisite, in order to ascertain the actual sanitary condition of any house or place, or premises, or lodging-house within his parish, burgh, or district, and record the fact and the result in his journal.

9. Whenever it shall come to the knowledge of the sanitary inspector, whether by written complaint or otherwise, that a nuisance under the Public Health Act, from whatever cause arising, exists, or that any

irregularity or violation of the rules and regulations in a common lodging-house has occurred, he shall intimate the same within twenty-four hours thereafter to the author of the nuisance, or to the keeper of the common lodging-house as the case may be, and on the expiry of the time allowed in the aforesaid intimation, he shall ascertain and report the result in writing to the local authority, and act in accordance with such instructions as he may receive.

10. Whenever the sanitary inspector has reason to believe or to suspect that a contravention of any of the enactments of the Public Health Act (other than those referred to in the immediately preceding bye-law) has taken place, he shall immediately make inquiry, and report the result in writing to the local authority.

11. In every case in which it shall be reported or otherwise become known to him that any person in a common lodging-house is suffering from any infectious or contagious disease, the sanitary inspector shall forthwith report the same to the medical officer, and act under his instructions. But if there be no medical officer, he shall, on his own responsibility, adopt such measures for the care and proper treatment of such patient or patients as may, with the advice of a medical man, be deemed necessary, to be reported without delay to the local authority.

12. The sanitary inspector shall be bound to observe and execute all lawful orders and instructions of the local authority and the Board of Supervision applicable to his office; and, if required, he shall attend upon the inspecting officer of the Board of Supervision, and

afford him all information relating to the execution of the Public Health Act.

13. The sanitary inspector shall, if necessary, call upon the police to aid him in the execution of his duty.

14. It shall be the duty of the sanitary inspector to report without delay to the Board of Supervision and local authority, the existence of any disease of an infectious or contagious kind within the district of the local authority, which, in the opinion of the medical officer, threatens to become dangerous or epidemic within the district.

SANITARY INSPECTORS' DUTIES IN CASES OF INFECTIOUS DISEASE.

BOARD OF SUPERVISION,
EDINBURGH, *26th April* 1880.

The Board are of opinion that any person holding the office of sanitary inspector must be prepared, in the due discharge of his duties, to enter the house or room in which cases of infectious disease exist.

The Board are aware that in some parts of the country an unreasonable and exaggerated dread of infection is entertained by the population, and it is especially necessary that, in places where such feeling exists, the sanitary inspector should know what his duties are, and should discharge these duties faithfully.

No. VIII.

RESPECTIVE OBLIGATIONS OF LOCAL AUTHORITIES AND
PAROCHIAL BOARDS IN REGARD TO PATIENTS SUFFERING FROM
INFECTIOUS DISEASE.

BOARD OF SUPERVISION,
EDINBURGH, *21st March 1888.*

SIR,—With reference to your letter of 15th ultimo, as to case of a family ill with gastric fever, I am to refer you to the opinions expressed by the Board as to the respective obligations of local authorities and parochial boards in regard to fever patients, which you will find printed on page 12 of the Board's instructions to local authorities.

The question of the respective duties of the parochial board and local authority in dealing with cases of infectious or contagious disease is not altogether free from difficulty, and a good deal must depend upon the circumstances of each case.

1. A pauper, or the dependant of a pauper, is attacked with infectious or contagious disease. In such a case it is the duty of the parochial board to provide such medical relief and attendance as may be necessary for the proper treatment of the patient. Even in the case of a pauper, however, it may become the duty of the local authority to intervene; that is to say, should they be of opinion that, for the pro-

tection of the public health of the district, it is necessary that the pauper or his dependants should be removed to a hospital or elsewhere, it would become their duty to effect such removal, and the expense thereby incurred would form a proper charge against the assessment under the Public Health Act.

2. The dependant of an able-bodied man is attacked with contagious or infectious disease. In such circumstances it would probably be held that the parent had no claim to parochial relief. But it is precisely in such a case that the isolation and treatment of the patient is, in the interest of the public health, most imperative; and there can be no doubt that the local authority would be bound to take immediate measures to prevent the spread of the disease. This can only be done by the medical treatment and effective isolation of the patient, and the expense thus incurred would, in the opinion of the Board, form a proper charge against the assessment under the Public Health Act.

The Board are aware that cases may arise which do not belong to either of these classes, and it is in these cases that the difficulties to which the Board allude may be expected to arise. But it may perhaps be laid down as a general rule that a local authority is better able to cope with an outbreak of infectious or contagious disease than the parochial board, and that it is the primary duty of the local authority to be prepared to take without delay such measures as may be necessary to check the spread of the disease. Wherever, therefore, the sanitary inspector or the medical officer of the local authority learns that a case of infectious or

contagious disease exists in a family which is not in receipt of parochial relief, he should lose no time in securing the isolation and treatment of the patient; and even in the case of a family in receipt of relief (and who are being attended by the medical officer of the parochial board), he ought to visit the house for the purpose of satisfying himself that the circumstances and surroundings of the family are such as to render action on the part of the local authority unnecessary.—I am, sir, your obedient servant,

JOHN SKELTON, *Secretary.*

No. IX.

CONTAGIOUS DISEASES (ANIMALS) ACTS, 1878-1886.

BOARD OF SUPERVISION,
EDINBURGH, 27th January 1887.

SIR,—The duty of putting in force the provisions of the Contagious Diseases (Animals) Act of 1878, in so far as regards the regulation of dairies, cow-sheds, and milk-shops, in terms of section 34 of that Act, having now devolved upon the local authorities under the Public Health Act, many communications have been received by the Board in reference to the provisions of the Act and the relative Privy Council Order of 1885, to which the Board have given their best consideration. The Board are anxious to assist

local authorities as far as is in their power, and they trust that the explanations which they now propose to give will facilitate the action of the local boards.

The circular of the Board, dated 16th August last, indicated in a general way the purposes of the Act and of the Order. The specific duties imposed upon local authorities by the Act and by the Order may be considered under the following heads:—I. Registration; II. Regulations; III. Inspection; IV. Prosecutions and Penalties.

I. Registration of Persons carrying on the Trade of Cow-keeper, Dairyman, or Purveyor of Milk.

The Order declares that it shall not be lawful for any person to carry on the trade of cow-keeper, dairyman, or purveyor of milk in the district of any local authority unless he is registered as such therein; and it requires every local authority to keep a register of such persons, and from time to time to revise and correct the register.

The Board have prepared for the guidance of local authorities various forms in connection with registration, of which copies are herewith sent.

- a.* A form of Application for Registration.
- b.* A form of Certificate of Registration.
- c.* A form of Register.

These forms are not compulsory, but the Board think they may be adopted with advantage.

Local authorities are bound, on application, to register every person carrying on the trade within their districts, with certain exceptions; and they are

not entitled to refuse to register any such persons
The exceptions are—

- a.* Persons who carry on the trade of cow-keeper or dairyman for the purpose only of making and selling butter and cheese, or both, and who do not carry on the trade of purveyor of milk ; and
- b.* Persons who sell milk of their own cows in small quantities to their workmen or neighbours, for their accommodation.

These two classes of persons do not require to be registered.

In the case of persons who were entered in the register of the local authority under the Contagious Diseases (Animals) Act (which register, or a copy thereof, has now been handed over to the local authority under the Public Health Act) a repetition of their registration is not necessary. Nor does the Act or the Order provide for the annual or periodical renewal of registration ; but the local authority are bound from time to time to revise and correct the register.

The local authority must bear in mind that registration applies to persons, not to premises. They cannot therefore refuse to register any person, though his premises may be considered unfit for the purposes of the trade. But the fact of registration does not preclude proceedings being taken against such person for contravention of the provisions of the Order, or of any regulation made thereunder.

It will be observed that registration is also necessary in the case of persons who sell milk, from carts or otherwise (though not occupying premises), within the district.

II. *Regulations of Local Authorities.*

Where the local authority consider it necessary, they may issue regulations for the purposes specified in Article 13 of the Order. Any regulations made by the local authority under the Contagious Diseases (Animals) Act are continued in force, and it is the duty of the local authority to see that they are complied with. Such regulations do not require to be advertised of new by the local authority.

All new regulations made by local authorities require to be published by advertisement in a newspaper circulating in the district, and a copy of every regulation must be sent to the Board not less than one month before the date named in such regulation for the same to come into force.

The approval of the Board is not required to the regulations, but the Board are empowered at any time to direct the revocation of any regulation which they deem to be of too restrictive a character, or otherwise objectionable (Art. 14, (2) and (3), of Order of 1885).

It will be observed that the effect of the Act is to substitute the Board of Supervision for the Privy Council.

The Board understand that the practice of the Privy Council in regard to the disallowing of regulations has been as follows :—

a. Registration.

Registration is not one of the purposes specified in Article 13 of the Order for which regulations may be made. When local authorities made regulations as to registration, or for enabling them to refuse or cancel

registration where requirements were not complied with, they were informed—(1) that they had no power to make regulations as to registration, and (2) that registration applies to persons and not to premises, and cannot be refused.

b. Inspection.

Article 13 of the Order empowers local authorities to make regulations “for the inspection of cattle in dairies.” Regulations authorising the periodical inspection of premises where cattle were kept by persons following the trade of cow-keepers or dairymen were not objected to by the Privy Council; but where regulations proposed to authorise the inspection of milk-shops (where cattle were not kept) they were disallowed.

c. Notification of disease, &c.

The following regulations were disallowed by the Privy Council as being of too stringent a character, if not *ultra vires*, viz. :—

1. Purveyors of milk to give notice to local authority of outbreak of (human) disease on premises.

2. Purveyors of milk to keep books showing names of customers and farms or sources from which milk is supplied to each customer.

3. Power to prohibit dairymen from supplying milk coming from particular farms (the farms not necessarily being within the district of the local authority).

The first of these regulations appeared to the Privy Council to be part of a much larger subject; and as regards the other two it seemed doubtful whether they could be said to be “precautions for protecting milk against infection or contamination,” their object being

rather to prevent the supply of milk when contaminated.

The above are the principal grounds on which regulations were disallowed by the Privy Council.

The Board will in general be disposed to follow the course adopted by the Privy Council. They are prepared, however, if applied to by a local authority, to consider whether, as the duties have now been intrusted to the Board charged with the administration of the Public Health Acts, it may not be competent and desirable in certain cases to extend the scope of the regulations hitherto sanctioned.

The local authority can alter or revoke any regulation in force within their district. In the case of alteration, the same procedure must be gone through as in framing new regulations. In the case of revocation, intimation should be made to the Board, and public notice should also be given by advertisement in the newspapers.

III. *Inspection.*

The Board deem it expedient that in every district in which any person carries on the trade of cow-keeper, dairyman, or purveyor of milk, the local authority should appoint an inspector of dairies, &c., to see that the provisions of the Act and the Order are carried out. It will be convenient, as a rule, that the sanitary inspector should also be inspector of dairies. This, however, is not compulsory; and it is competent for the local authority to appoint an inspector of dairies other than the sanitary inspector.

The sanitary inspector, if appointed to act, should receive additional remuneration in respect of his new duties.

IV. *Prosecutions and Penalties.*

Section 9 (5) of the Contagious Diseases (Animals) Act, 1886, provides that—"The like penalties for offences against orders or regulations made for the purposes of section 34 of the principal Act as amended by this section may be imposed by the Board of Supervision or local authority making the same, and such offences may be prosecuted and penalties recovered in a summary manner, and subject to the like provisions, as if such orders or regulations were rules and regulations of a local authority under the Public Health (Scotland) Act, 1867."

The Board are of opinion that the effect of this enactment is to render inapplicable to future Orders and regulations, and also to the Privy Council's Order of 1885, and regulations thereunder, the penalties fixed by section 60 of the Contagious Diseases (Animals) Act of 1878, for contravention of Orders or regulations. They have accordingly issued an Order, which has been confirmed by Her Majesty's Secretary for Scotland, imposing penalties for contraventions of the Order of 1885. It will now be necessary for any local authority which has already made regulations (or may hereafter make regulations) to impose penalties for contraventions of such regulations similar to those imposed for contraventions of rules and regulations under the Public Health Act of 1867. The penalties

to be imposed should not exceed £5 for each offence. Penalties may be sued for summarily under the Summary Jurisdiction Acts, 1864 and 1881.—I am, sir, your obedient servant,

JOHN SKELTON, *Secretary*.

No. X.

THE INFECTIOUS DISEASE (NOTIFICATION) ACT, 1889.

(52 & 53 VICT. CAP. 72.)

BOARD OF SUPERVISION,
EDINBURGH, 1st November 1889.

SIR,—I am directed by the Board of Supervision to draw the attention of the local authority to the provisions of the Infectious Disease (Notification) Act, 1889, which it is hoped may materially assist the local authorities in checking the spread of infectious disease, by enabling them to obtain early and accurate information with respect to the cases of infectious disease occurring within their district.

Provisions for the notification of infectious disease are incorporated in the Local Police Acts obtained by the local authorities of the burghs of Edinburgh, Dundee, Aberdeen, Kilmarnock, Hamilton, Coatbridge, and Greenock. It will be observed that it is provided by section 17 of the Act of this year, that “the

powers contained in this Act shall be in addition to and not in lieu of any powers existing in any local authority by virtue of any general or local Act." The same section also defines the expression "local authority" as meaning the local authority under the Public Health Act of 1867, and any amending Act.

The Act is therefore general in its application, and may be taken advantage of by every local authority in Scotland.

The Act, however, can only be adopted by a resolution passed at a meeting of the local authority. Fourteen clear days at least before such meeting, special notice of the meeting and of the intention to propose the resolution must be given to every member of the authority.

When a resolution has been passed adopting the Act, it must be published by advertisement in a local newspaper, and by handbills, and otherwise in such manner as the local authority think sufficient for giving notice thereof to all persons interested.

The resolution will come into operation at such time, not less than one month after the first publication of the advertisement thereof, as the local authority may fix; and upon its coming into operation, the Act will extend to the district. A copy of the resolution must be sent to the Board when it is published.

With regard to the provisions which will take effect when the Act extends to a district, the Board direct me to point out that the Act provides that where an inmate of any building used for human habitation (including ships, tents, vans, &c.) within a district to which the Act extends is suffering from an infectious

disease to which the Act applies, then, unless such building is a hospital in which persons suffering from an infectious disease are received, the following provisions shall have effect,—

- (a.) The head of the family to which the patient belongs, and in his default the nearest relatives present in the building or being in attendance, and in default of such relatives every person in charge of or in attendance, and in default of any such person the occupier of the building, shall, as soon as he becomes aware that the patient is suffering from an infectious disease to which the Act applies, send notice thereof to the medical officer of health of the district.
- (b.) Every medical practitioner attending on or called in to visit the patient shall forthwith, on becoming aware that the patient is suffering from an infectious disease to which the Act applies, send to the medical officer of health for the district a certificate stating the name of the patient, the situation of the building, and the infectious disease from which, in the opinion of such medical practitioner, the patient is suffering.

Every person required by this section to give a notice or certificate who fails to give the same, will be liable on summary conviction in manner provided by the Summary Jurisdiction Acts to a fine not exceeding forty shillings. If, however, a person is not required to give notice in the first instance, but only in default of some other person, he will not be liable to any fine if he satisfies the court that he had reasonable cause to suppose that the notice had been duly given.

The expression "occupier," which occurs in section 3, is defined by section 16 as including a person having the charge, management, or control of a building, or of the part of a building in which the patient is; and in the case of a house the whole of which is let out in separate tenements, or in the case of a lodging-house the whole of which is let to lodgers, the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person; and in the case of a ship, vessel, or boat, the master or other person in charge thereof.

Section 4 of the Act enables the Board from time to time to prescribe forms for the purpose of certificates under the Act, and requires any forms so prescribed to be used in all cases to which they apply. The Board, in pursuance of this power, have prescribed the form of certificate required by the Act to be sent to the medical officer of health by the medical practitioner. A copy of this form will be forwarded by the Board to any local authority who may adopt the Act when a copy of the resolution adopting the Act has been received by the Board.

Where the Act has been adopted, the local authority will be required to gratuitously supply forms of certificate to any medical practitioner residing or practising in their district who applies for the same, and to pay to every medical practitioner for each certificate duly sent by him in accordance with the Act a fee of two shillings and sixpence if the case occurs in his private practice, and of one shilling if the case occurs in his practice as medical officer of any public body or institution.

Any expenses incurred by a local authority in the execution of the Act will be paid as part of the expenses of such authority in the execution of the Acts relating to the public health.

The Board are strongly of opinion that no time should be lost by the local authority in availing themselves of the provisions of the Act, with the view of checking the spread of infectious disease within their district. The experience of the local authorities who have already exercised similar powers under local Acts, proves that the notification of cases of infectious disease by medical practitioners and others is of unquestionable utility in the protection of the public health.—I am, sir, your obedient servant,

JOHN SKELTON, *Secretary*.

Definition of Infectious Disease in Act.

§ 6. In this Act the expression "infectious disease to which this Act applies" means any of the following diseases, namely, smallpox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric, relapsing, continued, or puerperal, and includes as respects any particular district any infectious disease to which this Act has been applied by the local authority of the district in manner provided by this Act.

§ 7.—(1.) The local authority of any district to which this Act extends may, from time to time, by a resolution passed at a meeting of such authority where the like special notice of the meeting and of the intention to propose the resolution has been given as is required in the case of a meeting held for adopting this Act, order that this Act shall

apply in their district to any infectious disease other than a disease specifically mentioned in this Act.

(2.) Any such order may be permanent or temporary, and, if temporary, the period during which it is to continue in force shall be specified therein, and any such order may be revoked or varied by the local authority which made the same.

(3.) An order under this section and the revocation and variation of any such order shall not be of any validity until approved by the Board of Supervision.

No. XI.

THE LOCAL GOVERNMENT ACT AND LOCAL AUTHORITIES UNDER THE PUBLIC HEALTH ACT.

DETERMINATIONS BY BOARD OF SUPERVISION.

BOARD OF SUPERVISION,
EDINBURGH, *6th November 1889.*

SIR,—It is provided by section 11 of the Local Government (Scotland) Act, 1889, that on and after the appointed day there shall be transferred to and vested in the council of each county the whole powers and duties of the local authorities under the Public Health Acts of parishes so far as within the county, excluding burghs and police burghs.

It is provided by section 17 that, with respect to the transference to the county council of the powers and duties of the said local authorities, the county

shall be divided into districts, for each of which districts a committee shall be appointed for the purpose of administering the laws relating to Public Health, such committee to be the local authority within its district.

It is provided by section 110 that the appointed day under the Act shall be the 15th day of May 1890 ; but under section 117 the members of the existing local authority continue to hold office until the 31st day of May.

The local authority will observe that after the 31st day of May next the Public Health Act will be administered in burghs and police burghs by the town council or police commissioners as local authority, but that its administration, as regards parishes or the landward parts of parishes, is thereafter vested in the county council and the district committee.

It is provided by section 5 of the Public Health Act that where any parish is partly landward and partly burghal, the Board of Supervision, on application being made to them by any person having interest, may determine whether the parochial board or the police commissioners shall be local authority within the whole or any part of the parish, and may from time to time recall or vary such determinations.

Numerous applications have been made to the Board under this section, and the determinations at present in force number about forty. Speaking generally, the effect of these determinations is to make either the police commissioners or the parochial board local authority for the whole parish.

Having regard to the provisions of the Local

Government Act, the Board have resolved to recall, *prior to 15th May 1890*, all the determinations made by them under section 5 of the Public Health Act (or section 5 of the Nuisances Removal Act) which are still in force. The result will be that in all cases, until 31st May 1890, the administration of the Public Health Act will be restored to the body which would have been the local authority if no determination had been made by the board.

The Board have deemed it expedient to give this early intimation in order that the police commissioners, who do not at present administer the Public Health Act, may be prepared to make such arrangements as may then be necessary for putting the Act in force within their jurisdiction. The Local Government Act provides that the county council shall appoint a medical officer and sanitary inspector, who are not to hold any other appointment except with the consent of the council. Whether it will be possible for the police commissioners to secure the services of the medical officer and sanitary inspector appointed by the county council, will depend upon whether the county council are prepared to grant their consent; but if such consent can be obtained, it will be for the police commissioners to consider whether such an arrangement would not be advantageous.

The parochial board, of course, is in a different position, and as they will cease to be the local authority after 31st May, it will not be necessary for them to appoint officials for the administration of the Act.—I am, sir, your obedient servant,

JOHN SKELTON, *Secretary.*

No. XII.

APPOINTMENT OF REPRESENTATIVE FROM PAROCHIAL
BOARD TO DISTRICT COMMITTEE OR
COUNTY COUNCIL.BOARD OF SUPERVISION,
EDINBURGH, 19th February 1890.

SIR,—The Board have had numerous communications from members and officers of parochial boards with reference to the appointment of representatives from the parochial boards to the district committees or the county councils (as the case may be),¹ in terms of section 78 of the Local Government (Scotland) Act; and they think it may be convenient that they should state shortly, for the guidance of the parochial board, the opinions they have expressed:—

1. The appointment of a representative should be made at a meeting, duly called in terms of the Board's

¹ It is provided by section 77 that the division of the county into districts shall not be made "if it shall appear to the county council unnecessary or inexpedient in the case of a county containing fewer than six parishes, or which has not been divided into districts for the purposes of the management and maintenance of highways therein." Section 78 provides that when the county is not divided into districts, the representatives from the parochial boards of each parish, comprised or partly comprised in the county, shall, for the maintenance and management of highways and the administration of the laws relating to public health, be deemed to be county councillors.

rules, and, in the notice calling the meeting, it should be intimated that the appointment will be made.

2. The appointment of a representative should be made by the parochial board, and not by a committee of the parochial board.

3. The Act merely provides that the appointment is to be made from time to time, and does not specify the time when the first appointment is to be made, nor the time for which the office is to be held. The districts will not be formed until the first meeting of the council on Thursday, May 22d; and it appears somewhat anomalous to appoint representatives before the districts are formed. There may be substantial reasons, moreover, which may induce a parochial board to hold that they are not in a position to select the best qualified representative until they have been made acquainted with the limits of the district over which the jurisdiction of the district committee is to extend. Many of the half-yearly statutory meetings are held during the month of May; and they can be held (without the approval of the Board being obtained of new) on any day before the close of the month. Probably the most satisfactory course will be to fix the meeting for the appointment of a representative for a day between May 22d and May 31st;¹ but the Board are not prepared to say that appointments made before May 22d will be incompetent or irregular. The min-

¹ It is provided by section 117 that the parochial board shall continue to act as local authority until the 31st day of May after the first election of county councillors. By section 118 the officers of the parochial board acting as local authority are transferred to the county council as from "the appointed day." The "appointed day" is May 15th, unless the Secretary for Scotland determine otherwise.

ute containing the appointment should specify the period for which it is to be held.

4. The Board are of opinion that "the representative *from* the parochial board" must be a member of the parochial board; and that the appointment will be *ipso facto* vacated by the representative ceasing to be a member of the parochial board.¹

5. An elected member of the parochial board may be appointed the representative; but he will cease to act at the end of the year for which he is elected, and thereafter a new appointment must be made.

6. It appears to the Board that a mandatory is not eligible for appointment; but they are not prepared to say that the disqualification attaches to a commissioner and factor, who is authorised by his commission to act and vote at meetings of the parochial board, and whose commission and factory has been duly stamped and recorded.

7. Medical officers and sanitary inspectors appointed

¹ Since this circular was issued, Sir Herbert Maxwell has stated in the House of Commons that the Lord Advocate's construction of the Act is that the representative need not necessarily be a member of the parochial board. Though it has been hitherto understood that where there was no enabling provision in a statute, the presumption was rather in favour of the representative being a member of the statutory body entitled to representation; and though the words of the section—a representative *from* (not a representative *of*) the Parochial Board—would be construed, if used in their literary and colloquial, and not in their legal sense, to confer the statutory eligibility on the members only of the body sending the representative, the opinion of so eminent a lawyer carries much weight, and must indeed until a judicial decision is given be regarded as decisive. It is thought, however, that for the reasons stated elsewhere (p. 43) a parochial board will be well advised to send as their representative to the district committee an experienced member of their own body.

by parochial boards, acting as local authorities under the Public Health Act, become, on the "appointed day," the officers of the county councils, and are not therefore eligible to be appointed as representatives from parochial boards to the district committees or county councils.

8. It is provided by section 78 ⁽¹⁾ of the Local Government Act that "in the case of parishes partly landward and partly burghal, the representative from every such parish shall be a ratepayer within the meaning of this Act." By section 105, "ratepayer" is defined to mean "any owner or occupier liable in payment of any rate imposed under or in pursuance of this Act." The effect of the proviso appears to be that in any parish which contains a burgh where no rate is imposed under or in pursuance of the Local Government Act, the representative from the parochial board must be an owner or occupier in that part of the parish which is beyond the police or municipal boundaries of the burgh.¹

9. By section 105, "parish" is defined to mean "a parish *quoad civilia*, for which a separate parochial board is or can be appointed;" and it is added, "where part of a parish is situate within and part of it without any county or other area, includes each such part;" and section 78 ⁽¹⁾ provides that the district committee

¹ Any other reading of the section would lead to the conclusion that in purely landward parishes the representative need not be a ratepayer in the sense of the Act. But the reason why he should be a ratepayer in the one case and not in the other (or why a person who is not a ratepayer should be eligible as a representative) is not very obvious, and seems to be inconsistent with the principle that rating gives representation.

shall consist of "the county councillors for the electoral divisions comprised in the district, together with one representative from the parochial board of each parish comprised or partly comprised therein, &c." The parochial board of a parish which is partly in one county and partly in another is therefore entitled to send a representative to the district committee or county council of each of the counties in which it is situated; and it would appear to be desirable and in conformity with other provisions of the Act that the representative should be a ratepayer in that part of the parish which is within the district of the committee of which he will be a member.

10. The Board have to point out, in conclusion, that it will be necessary for the parochial board, before they cease to be local authority on May 31st, to confer with the provisional council, so that the sanitary business of the parish may be wound up, and the books and other documents relating to the administration of the Public Health Acts handed over to the district committee or county council.—I am, sir, your obedient servant,

JOHN SKELTON, *Secretary*.

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