

The Sanitary Act, 1866 (29 & 30 Vict., c. 90) and the Sewage Utilization Acts of 1865 and 1867 (28 & 29 Vict. c. 75, and 30 & 31 Vict. c. 113) : with an introduction to and summary of the Sanitary Act, together with notes and indexes to each of the Acts / by J.B. Hutchins.

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Ireland with the Editor's Compliments
THE

SANITARY ACT, 1866,

(29 & 30 VICT., c. 90);

AND

THE SEWAGE UTILIZATION ACTS
OF 1865 AND 1867,

(28 & 29 VICT. c. 75, AND 30 & 31 VICT. c. 113);

WITH

AN INTRODUCTION TO

AND

SUMMARY OF THE SANITARY ACT,

TOGETHER WITH

NOTES AND INDEXES TO EACH OF THE ACTS.

BY

J. B. HUTCHINS, ESQ.,

Of the Medical Department of the Privy Council.

THIRD EDITION.

LONDON:

KNIGHT & Co., 90, FLEET STREET,

*Publishers by Authority to the Poor Law Board, and to the Home Office for
the Purposes of the Local Government Act, 1858.*

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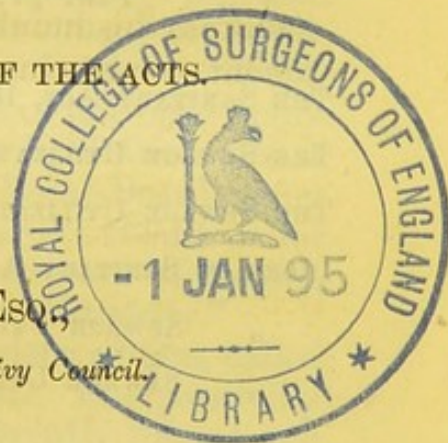
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PREFACE TO THIRD EDITION.

THE passing, last Session, of the Act which, though called the Sewage Utilization Act, 1867, amends in several particulars the Sanitary Act of 1866, has rendered it necessary to bring together the Sewage Utilization Act of 1865, the Sanitary Act of 1866, and the so-called Sewage Utilization Act of 1867; for it is impossible to carry out the provisions of any one of those Acts without an intimate acquaintance with the provisions of the others. I therefore give, in the following pages, the Sanitary Act, 1866, with the notes appended in a former edition of the Act, and also the Sewage Utilization Acts of 1865 and 1867. To the latter two Acts I have also added some explanatory notes.

By "The Sewage Utilization Act of 1867," one of the failures adverted to in my preface to the second edition of the Sanitary Act has been rectified. Section 37 of the last-mentioned Act authorizes "Sewer Authorities" to provide hospital accommodation; but as the Act specially provided against Local Boards being "Sewer Authorities," the application of this very useful section was injuriously restricted. Now, however, the hospital clause is made of universal application, for the 16th Section of the Sewage Utilization Act of 1867 directs that a Local Board (*i. e.* a Local Board under the Local Government Act, or a Local Board of Health under the Public Health Act) shall, for the purposes of Section 37 of the Sanitary Act, 1866, be a "Sewer Authority."

The other failure to which I, in a previous edition, called attention has not, however, been rectified. The possibility of there being in the same place two differently named and (perhaps) differently constituted bodies, armed with powers for one and the same object, is a mistake which the Act of last Session not only perpetuates but actually intensifies.

By the Act of 1865 the duplication of authority might be brought about. But the new Act, in making all "Local Boards" into "Sewer Authorities," will, in certain places and under certain circumstances, establish two different governing bodies, having actually the same designation of "Sewer Authority," and acting for the same purposes within the same area. For if a parish, no part of which is under the Local Government Act (and in which, consequently, the Vestry

is the Sewer Authority), should at a future time adopt the Local Government Act, there will then be two legally constituted and legally named Sewer Authorities—the Vestry and the Local Board—for the Act does not direct that the powers of a Vestry, as a Sewer Authority, shall cease on the Local Government Act being adopted.

Before the Act of 1867 was passed, there might indeed be two bodies which had jurisdiction in sewage matters within the same area, but, at any rate, they did not bear the same name of “Sewer Authority.” Henceforth, however, it is very likely to happen that there will be two Sewer Authorities in name, as well as in fact, in the same place.

It may be mentioned, in addition to the matters above referred to, that some of the principal features of “The Sewage Utilization Act of 1867” are as follows:—

The making the Sewage Utilization Acts of universal application by repealing part of the Act of 1865, and by directing that all Local Boards shall be Sewer Authorities;

The authorizing Sewer Authorities to purchase lands and execute works for the distribution of sewage without their districts;

The making into Special Drainage Districts the remainder of parishes, a portion of which is under the jurisdiction of a Local Board, and providing for the settlement of boundaries of Special Drainage Districts in certain cases;

The limiting the time of appeal against the formation of Special Drainage Districts;

The union of Sewer Authorities and the working of Joint Sewerage Boards;

The contributing to works under contracts;

The providing that, when Sewer Authorities are Vestries, the expenses shall be paid out of a separate rate, instead of out of the poor rate;

The imposing a penalty on Overseers for non-compliance with precepts of Sewer Authorities.

It must be borne in mind that the passing of the Act of 1867 has rendered obsolete some of the footnotes to Part I. of the Sanitary Act, 1866, and therefore they must now be read with circumspection. The first footnote to Section 37 of the Sanitary Act has also, for the same reason, been rendered unnecessary.

J. B. H.

MEDICAL DEPARTMENT
OF THE PRIVY COUNCIL OFFICE,
8, RICHMOND TERRACE, WHITEHALL, S.W.

November 28, 1867.

ERRATUM.

Page 23—Footnote, last line : for “power over the *things*,”
read “*no* power over the *things*.”

REMARKS

The ...-
... ..

PREFACE TO SECOND EDITION.

As the Sanitary Act, 1866, has now been in force for upwards of three months, I am enabled in this edition to point to some of its defects, and to give some instances in which the Act may be considered to come short of the objects for which it was framed.

It is not necessary that I should here note every little failure, but I will proceed to explain two points in which the Act would appear to work very differently from what was intended.

By Section 37, power is given to the Sewer Authorities in extra-metropolitan places (as well as to the District Boards and Vestries of the Metropolis) to provide Hospitals for the use of the inhabitants of their respective districts. But by Section 2 the term "Sewer Authority" is to have the same meaning as it has in the Sewage Utilization Act, 1865; and this definition is such that no Sewer Authority is assigned to any place in which either the Public Health Act, 1848, or the Local Government Act, 1858, was in operation on the 29th June, 1865. Accordingly, all places in which these Acts were in operation at the above-mentioned date, *have not any authority* for the purposes of Section 37 of the Sanitary Act. Amongst the places thus circumstanced are Wolverhampton, Bristol, Portsmouth, Nottingham, Stockport, Croydon, Salisbury, Hull.

Another instance in which I look upon the Act as failing, is in the matters of Sewerage and Water-Supply. This failure, like the one just noticed, arises from the want of consonance among the Acts* above referred to, and this second defect in the Act to which I wish particularly to draw attention, is capable of being made infinitely more disastrous to the progress of Sanitary Reform.

From the law in its present state it is quite possible (and perhaps probable) that considerable inconvenience may result

* The Public Health Act, 1848; The Local Government Act, 1858; The Sewage Utilization Act, 1865; The Sanitary Act, 1866.

with regard to the water-supply and sewerage of those places which have adopted since June 29, 1865, or shall hereafter adopt the Local Government Act. If that Act should be adopted in its entirety, the Local Board would have conferred upon it by Sections 29, 30, & 31 of the Act, full powers as to sewerage, and by Sections 51, 52, & 53 of the Act, full powers as to water-supply. But its jurisdiction in these matters would not be a sole jurisdiction, as the Vestry of the Parish within which the District is situated would, as the law stands, still retain its jurisdiction over the same matters. Should both those Authorities choose to put into force the powers with which they are respectively endowed, and be determined to assert their powers antagonistically, there is no knowing to what serious consequences this dual empowerment might lead.

If this duality of power is to be preserved, the only way in which it will be possible to avoid collision in these matters is, either to give to the Secretary of State, on the adoption of the Local Government Act by any place in which there is already a Sewer Authority under the Sewage Utilization Act, 1865, and the Sanitary Act, 1866, power to disallow the adoption of those Sections of the Act which relate to sewerage and water-supply, or else to enact that, on the adoption of the Act by a place, all the powers, &c., of all Sewer Authorities within the district shall become vested in the Local Board.

Still, it is quite certain that there can be no absolute necessity for the Board having powers for sewerage and water-supply conferred upon it, as the Sewage Utilization Act, 1865, and the Sanitary Act, 1866, have (speaking in general terms) made parochial Vestries, *nolentes volentes*, the authorities for sewerage and water-supply in their respective parishes.)

There are other instances in which the Act has proved defective, and notes of these failures, so far as they have been discovered at present, are appended to the various Sections which have been found to be faulty.

I have also been enabled to add reference and explanatory notes to many Sections of the Statute. This I could not do in the former edition, as the urgent demand made for the immediate supply of the pamphlet prevented me doing more than give a summary of the various Sections contained in the Act.

J. B. H.

INTRODUCTION.

THE Sanitary Act, 1866, which has recently received the Royal Assent, is a valuable addition to the Acts of Parliament bearing upon the question of Sanitary Legislation, and will go a great way to remedy the many defects of the old Nuisances Removal Acts, and other enactments of the same description.

The great want of additional power felt by those Local Authorities who were willing to do to the utmost all they could to procure good sanitary conditions, and which want the same Local Authorities over and over again pointed out, coupled with the necessity which existed for there being vested in some department of the Government power to compel Local Authorities to do their duty when they were guilty of a neglect of it, having been most fully confirmed, the attention of the late Government was directed to the question, and it was decided that a Bill should be brought into Parliament with the view of rendering it more easy for Local Authorities to deal effectually with nuisances which it had been found were very difficult to repress, and of giving to the Secretary of State for the Home Department compulsory powers in cases of neglect by any of the bodies entrusted with the execution of the various sanitary Acts of Parliament, and by the passing of such an Act it was believed that the sanitary state of the country would be able to be much improved.

As proof of the unsatisfactory state, in a sanitary point of view, of many parts of the country, and the necessity there was for something to be done to improve that unsatisfactory state, reference may be made to the various reports of the results of the inquiries which have been undertaken by the Privy Council during the last few years, and the detailed particulars of which will be found in the Annual Reports made to Parliament by the Medical Officer of that department. Those Reports have in each succeeding year revealed more plainly than in its predecessors, the necessity which existed, before the passing of the Sanitary Act, 1866, for alteration in the various Acts of Parliament which constituted the stock of Legislation on sanitary matters. The Reports of the Medical Inspectors who made those local inquiries teem with illustrations of this want of power to deal effectually with nuisances which were caused, some-

times by the neglect of private persons whose offendings were of such a peculiar description as to enable them to set the Local Authority at defiance, but in most instances by the shortcomings of the Nuisance Authority, who either openly refused to take the necessary steps, or cloaked its refusal under the semblance of a desire to carry the various Acts into execution. This, however, is not always the case, and as an example of the trouble to which Local Authorities, who are willing to actively discharge the duties imposed upon them, may be put, and of the difficulty which may exist in effectually dealing with a nuisance, I give the following extract from the Appendix to the Eighth Report of the Medical Officer of the Privy Council, which sets forth the impediments experienced by Local Authorities when dealing with poor landlords. The story is thus related by Dr. Buchanan, Medical Officer of Health for the parish (St. George, Bloomsbury) in 1861:—

“ In January, 1859, the Sanitary Inspector reported that there was an open privy with a cesspool at No. 30—31, Southampton Mews, and that there were very foul smells on the premises. Notice was given to the owner on 2nd February, and a second notice in March. In April the owner was summoned. In May a magistrate’s order was made to effect the necessary improvements, and meanwhile to close the premises as unfit for human habitation. In August the owner was summoned to show cause why the order was disobeyed. In December (some delay having occurred through an informality of the order) a penalty was inflicted for allowing the house to be still occupied without alteration. This was not paid, and in January, 1860, the owner was imprisoned for a month in default. In April he was again imprisoned after a repetition of these proceedings. Still nothing was done, and the rooms continued to be occupied. As the measures against the owner failed to procure any improvement, the man having no objection to the alternative of prison, application was made by the Board for assistance to the steward of the Duke of Bedford, but even up to the date of the present Report the same conditions remain. Meanwhile, in the summer of 1859, the houses of Bloomsbury Place and Bloomsbury Square, on which these premises in the Mews abut, were pervaded by bad smells and by zymotic diseases, referred by the medical attendants of the cases to the miasms of the Mews. In the summer of 1860 again the same smells, and again the same outbreak in the neighbouring houses, this time taking the form of diphtheritis. In November a child, from the house itself, died of diphtheritis in University College Hospital. And now, in the summer of 1861, among

other complaints, a medical practitioner writes from Bloomsbury Square—‘As usual, now that the abominations of Southampton Mews are upon us, and the smell has been most unpleasant, diphtheria has broken out.’”*

The result of Parliamentary deliberation on this subject is the Sanitary Act, 1866.

The Sanitary Act, 1866, is divided into Four Parts:—Part I. relates to the Sewage Utilization Act, 1865; Part II. relates to the Nuisances Removal Acts; Part III. is Miscellaneous; and Part IV. applies to Ireland only.

PART I.

This division of the Act amends portions of the Sewage Utilization Act of last session (28 & 29 Vict. c. 75). It directs that this Act shall be read as one with the above Act. It gives powers to the Sewer Authority to appoint Committees and, in certain cases, to form drainage districts, providing at the same time for appeal against this last-mentioned action of the Sewer Authority. It further regulates the drainage and water supply of the district, and directs how the expenses incurred for this latter object are to be defrayed.

The principal effect of the Sections contained in this division of the Act is that Sewer Authorities have the same power given to them to deal with the questions of sewerage and water-supply as is possessed by Local Boards in places to which the Public Health Act has been applied, or in which the Local Government Act has been adopted. Yet, though under the Sewage Utilization Act, 1865, and the Sanitary Act, 1866, the Vestries of many places are empowered to provide efficient drainage for their parishes, there will be some places left in as bad a state as ever, by reason of the Acts being for this purpose inoperative therein, for the powers given by the Sewage Utilization Act cannot be exercised in any parish in a part of which parish either the Local Government Act, 1858, or the Public Health Act, 1848, was in force at the time of the passing of that Act.†

By the 11th Section of the present Act, which enables the Sewer Authority as mentioned above to provide an efficient water-supply, it is enacted that, “A Sewer Authority within

* I have just been informed by Dr. Buchanan that proceedings are now pending with regard to a similar description of nuisance on these premises.

† June 29th, 1865.

its district shall have the same powers in relation to the supply of water that a Local Board has within its district," and it goes on to enact further that the Sewer Authority may, if it think it expedient so to do, dig wells, make and maintain reservoirs, and do any other Acts necessary for providing a water-supply.

This Section of the Act does not, however, as regards sewerage and water supply, interfere with places under the Public Health and Local Government Acts, but still leaves to Local Boards formed under either of those Acts, the duty of providing and maintaining an efficient system of drainage and water supply.

PART II.

This division of the Act treats mainly of matters which may directly or indirectly be considered as causing nuisance. It states what Acts of Parliament shall be considered as Nuisances Removal Acts; it declares Nuisance Authority to be any authority empowered to execute the Nuisances Removal Acts; it provides for action by the Chief Officer of Police (under order of Secretary of State) in cases where the Nuisance Authority neglects its duty so far as relates to the removal of a nuisance; it abolishes *at once* the jurisdiction over nuisances of all Nuisance Removal Committees (except in the Metropolis) and of Highway Boards. It also provides that a written requisition of ten inhabitants of a place shall, in the case of nuisance arising from the carrying on of noxious or offensive trades, be deemed equivalent to the medical certificate required by the Nuisances Removal Act, 1855.* By this new Act the application of the term "Nuisance" is much extended. It is made an imperative duty of Nuisance Authorities to inspect their districts from time to time for the purpose of discovering nuisances and procuring their abatement; and the next Section directs how the Authorities shall proceed. The Act then goes on to empower the Nuisance Authority to cause the disinfection of premises, and to provide means for the free disinfection of articles of clothing, &c. Power is also given to the Nuisance Authority to provide carriages for the conveyance of infected persons either to or from their own homes, and to pay the expenses. Owners of public conveyances are

* 18 & 19 Vict. c. 121, sec. 27.

enabled to recover damages from infected persons who enter such conveyances without previously notifying to the owner or driver that they are suffering from a dangerous infectious disease; and persons found so suffering, and without proper lodging, or being on board ship, may be removed to hospital. The Nuisance Authority is empowered to provide places for the reception of the infectious dead, also for purposes of post-mortem examination, and, with the sanction of the Privy Council, to make regulations for removing to hospital sick persons brought by ships or other vessels which, for the purposes of the Act (when they are in a place not within the district of a Nuisance Authority, and until the Privy Council shall prescribe the districts within which they shall be) shall be held to be within the district of the Nuisance Authority nearest to them.

A modification is made in the time during which the power of entry which is given by the Nuisances Removal Act, 1855,* can be exercised, and now the officer entitled to entry may claim admission at "any hour when the business in respect of which the nuisance arises is in progress or is usually carried on," and the order of the Justices under which the entry is made is by this Act to continue in force until the nuisance in question has been abated.

Ships and vessels lying in rivers and harbours are held to be in the same district as the water is in, and the officer in charge is held to be the occupier of such ship.

Provision is next made for the payment of expenses incurred in cases where the Guardians are the Nuisance Authority for a *part* only of a parish.

The last Section in this division states that, when the Nuisance Authority has performed any works, the Authority may require, and also compel by proceeding before justices, the occupier of the premises on which the work has been performed (and if need be the succeeding occupiers) to pay the cost out of the rent and deduct the amount or amounts so paid from the rent, but the Authority cannot compel payment of a larger sum than is due from the occupier to the owner at the time of taking the proceedings.

One of the chief features of this division of the Act is, that Nuisance Authorities are enabled to deal effectually with many conditions which had been found to be very injurious and hurtful to persons necessarily subjected to their influence, and for procuring the amelioration of which no power was possessed by Local Authorities. But by this Act power is

* 18 & 19 Vict. c. 121. sec. 11.

now given to Nuisance Authorities to deal with any house, or part of a house which is so overcrowded as to be dangerous or prejudicial to health ; with any factory, workshop, or work-place in an uncleanly state, or so ill-ventilated that any gases, vapours, dust, or other impurities, generated in the course of the work carried on therein, are not, as far as possible, rendered harmless ; with any fire-place or furnace which does not, as far as practicable, consume its own smoke, and with any chimney (not being a chimney of a private house) which largely emits black smoke. This provision of the Act will doubtless cause beneficial changes to be made in the *modus operandi* of many trades which are now carried on under conditions seriously hurtful to those engaged in them.

PART III.

The first two Sections (Secs. 35 and 36) in this division of the Act relate to Lodging Houses, or rather to houses which do not come legally within the definition of "Common Lodging Houses," but which are let out to several families in small separate and distinct holdings, so that the renter of each of these holdings is looked upon as a separate tenant ; and consequently each room in a large house, let in this way, is looked upon and treated as a separate house.*

This portion of the Act has been framed, doubtlessly, with the view of preventing the scandalous overcrowding, which to a very great extent exists throughout the country—in towns of the class described in the foot-note below, and in rural parts of the huddling together of farm labourers, somewhat after the same style as cattle are put into trucks for

* As bearing upon this question I quote the following extract from the last Report of the Medical Officer of the Privy Council :—"As a particular class of cases, in which both evils [house-accommodation *bad in quantity* and *bad in quality*] are combined to one monstrous form of nuisance, I ought expressly to mention certain of the so-called 'tenement houses' of the poor ; especially those large but ill-circumstanced houses, once perhaps wealthily inhabited, but now pauperized, and often without a span of court-yard either front or back ; where in each house perhaps a dozen or more rooms are separately let to a dozen or more families—each family with but a room to itself, and perhaps lodgers ; and where in each house the entire large number of occupants (which even in England may be little short of a hundred) will necessarily have the use of but a single staircase, and of a privy, which perhaps is placed in the cellar."

railway transit. This Statute, however, gives to the Authorities power to deal with this great social question, so momentous to the public health, for Sec. 19 makes overcrowding of *any* house a nuisance, and thus strikes especially at the root of the system of packing families into small hovels which have the appellation of houses, but which in many instances are, in a sanitary point of view, in a much more crowded state than many stables, where the breathing space allotted for one horse is considerably more than a farm labourer and his family (often a large one) is considered by his employers to require, or at all events allowed by them to have. The whole system of overcrowding is, however, undermined by the present Act, for another Section (35) relates to overcrowding in cities and towns containing not less than 5,000 inhabitants, in the City of London, in the Metropolis as defined by the Metropolis Local Management Act, in any Municipal Borough, or in any place under the Local Government Act, 1858, or any Local Improvement Act. The acknowledged lodging-houses legally so called are separately dealt with by the "Common Lodging Houses" Acts.

Under this Statute the Secretary of State is empowered to declare that the Nuisance Authority may make and enforce regulations for the following purposes:—

1. For fixing the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family:
2. For the registration of houses thus let or occupied in lodgings:
3. For the inspection of such houses, and the keeping the same in a cleanly and wholesome state:
4. For enforcing therein the provision of privy accommodation and other appliances and means of cleanliness in proportion to the number of lodgings and occupiers, and the cleansing and ventilation of the common passages and staircases:
5. For the cleansing and lime-whiting at stated times of such premises.

These regulations are not, however, in any way to be applied to Common Lodging Houses as defined by the Common Lodging Houses Acts. The next Section (36) provides that if two convictions are obtained in the space of three months against the same premises, the premises shall be closed—in the case of cellars permanently, and in other cases for such time as the Justices may deem necessary.

The Act then empowers the Sewer Authority, or, in the

Metropolis, the Nuisance Authority, to provide hospitals and temporary places for the sick; and directs how the expenses shall be defrayed.

The Act, after, in the two Sections next following, imposing penalties for infected persons exposing themselves, and for persons letting infected houses, gives to the Privy Council power to direct that, where in any place two or more Boards of Guardians or Local Authorities have jurisdiction, such Boards shall act together for purposes of the Diseases Prevention Act, and to prescribe for the defrayment of the expenses of such joint action.

The following Sections (41 to 48) deal with various matters, as for instance: Evidence under Common Lodging Houses Act, 1851, as to overcrowding; extends to the whole of England and Ireland the Section of the Public Health Act which relates to cellar dwellings; the establishment of Baths, &c.; for enabling Local Boards to be also Burial Boards; imposes penalty for wilfully damaging Public Works; makes Local Boards and other Authorities corporate bodies; extends powers of Secretary of State with reference to the taking of lands by Local Boards; and as to the manner in which Local Authorities may take legal proceedings.

Then follows a Section of the Act, which is certainly a most important one, and which supplies a deficiency which has long been felt to exist in our code of sanitary legislation. In this Section (49) power is given to the Secretary of State on complaint being made to him of the neglect or refusal of Local Authorities to take the necessary steps for carrying out the provisions of the Acts which they respectively administer, to make inquiry into the matter of complaint, and if he is satisfied of the laches of the Authority complained against, to make an order on such Authority to perform its duty, and if such order be not obeyed to appoint some one else to do the necessary work, and direct the amount of remuneration, &c., to be paid by the Local Authority in default, who, should it be necessary, may be proceeded against in the Queen's Bench.

The want of such a power as this has been experienced, not only in cases where the Local Authority has positively refused* to do its duty, but also in numerous other cases

* As an illustration of the want of this power the following case is given:—Last year, on complaint being made by the Vicars of Aylesford and Birilng, that the Local Authority (the Board of Guardians of the Malling Union) had refused to take the necessary steps for abating nuisances in those parishes, though particularly urged to do so, on account of a fatal case of cholera having occurred in one of them, the Lords of the Council, through their Medical Officer, remonstrated with the Board, but as they met with the same perverseness which the complainants had experienced,

where, though the Local Authority has been merely obstructive, it has quite as effectually impeded the work of sanitary reform. However, by this Section, such recusant authorities will now be able to be dealt with in a comparatively summary manner, and somewhat like an individual who perversely acts in defiance of the law.

The Act then goes on to provide for the recovery in a summary manner of expenses for water supply in certain cases; for the reduction of penalties under the Quarantine Act;* and describes what vessels come within the provisions of that Act.

The next Section (53) deals with a question which has long been a source of great trouble, namely the removal of manure and other refuse matters from mews and such like places. But as this kind of nuisance is more especially one connected with the Metropolis and large towns and their suburbs, other places which do not fall within this description, and in which the Nuisance Authority is the Board of Guardians, or the Overseers of the poor, are specially exempted from the operation of this clause. Now, the Nuisance Authority is empowered, either itself or by its officers, to order the periodical removal of such matters, and a penalty of 20s. a-day is imposed for refusal or neglect to obey the order of the Nuisance Authority.

Of the last two Sections in this division of the Act, the former provides for the recovery of penalties, and the latter declares the powers given by the Act to be cumulative.

PART IV.

This last division of the Act relates solely to Ireland, and applies the various sections of the Act to that portion of the United Kingdom. Still in their application changes are required, as the Executive Government of Ireland is differently constituted from what it is in England, and therefore alterations are absolutely necessary to enable the Authorities to carry the Act into execution.

the matter was referred to the then Law Officers of the Crown, who reported as their opinion that the law had not provided means for compelling Local Authorities to perform the duties imposed upon them by the Nuisances Removal Acts, when they obstinately refuse to do as those Acts directed. (For fuller particulars of this case, see 8th report of the Medical Officer of the Privy Council, pp. 23-25.)

* 6 Geo. IV. c. 78.

In applying Part I. of the Act to Ireland, the Sewer Authority is to be as defined in the first Schedule to the Act.

In applying Part II. to Ireland, it is provided that the Sewer Authority shall be the Nuisance Authority, and shall, for the purposes of the 22nd Section of the Nuisances Removal Act, 1855, have the same power of entering land, and of levying assessments and other rates as is conferred on a Sewer Authority in England by the Sewage Utilization Act of 1865.

It provides how expenses are to be defrayed when the Nuisance Authority is not a Board of Guardians, and also when it is a Board of Guardians. It further provides for the recovery of penalties.

In applying the provisions of Part III. to Ireland, the Act orders that in Ireland the Lord Lieutenant in Council shall have the same power as the Privy Council in England, and the Lord Lieutenant acting by himself shall have the same power as the Secretary of State, and may direct the regulations as to Lodging Houses* in Part III. to be in force in *any* Nuisance District, while in England the application of the regulations is limited to certain places.

Section 62 applies to Ireland, the English Diseases Prevention Act, 1855, as amended by the Act of 1860 and by the present Act, and makes the changes necessary for such application. By Section 63, all Committees and Officers under Dispensaries Act are ordered to aid the Local Authority. The Act next incorporates with it the Dispensary Act 1851, and provides for the remuneration of medical practitioners for services performed under the directions and regulations of the Irish Poor Law Commissioners.

The Lord Lieutenant is empowered to direct the Poor Law Commissioners to make inquiries as to matters concerning the Public Health similar to the inquiries which the Privy Council in England is empowered to conduct.

Section 68 provides for the exercise in Ireland of the powers which are given to the Privy Council and Secretary of State in England, and Section 69 (the last) repeals certain Statutes (enumerated in the second Schedule) which are applicable to Ireland.

J. B. H.

MEDICAL DEPARTMENT

OF THE PRIVY COUNCIL OFFICE,
8, RICHMOND TERRACE, WHITEHALL, S.W.

August 29th, 1866.

* See Section 35.

THE SANITARY ACT, 1866.

ANNO VICESIMO NONO ET TRICESIMO VICTORIÆ REGINÆ.

CAP. XC.

An Act to amend the Law relating to the Public Health. [7th August 1866.]

WHEREAS it is expedient to amend the Law relating to Public Health: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preliminary.

1. This Act may be cited for all purposes as The Sanitary Act, 1866.

Short Title of Act.

PART I.

Amendment of the Sewage Utilization Act, 1865.

2. "Sewer Authority"* in this Act shall have the same meaning as it has in the Sewage Utilization Act, 1865.

Definition of "Sewer Authority:" "Lord Lieutenant in Council."

The words "Lord Lieutenant in Council" shall mean in this Act the Lord Lieutenant or any Chief Governor or Chief Governors in *Ireland* acting by and with the consent of Her Majesty's Privy Council in *Ireland*.

3. This part of this Act shall be construed as one with The Sewage Utilization Act, 1865, and the expression "The

This part to be construed with 28 & 29 Vict. c. 75.

* Sewer Authorities are as follows:—

In boroughs (with the exception of the Boroughs of Oxford and Cambridge) not within the jurisdiction of a Local Board—the Mayor, Aldermen, and Burgesses acting by the Town Council;

In the Boroughs of Oxford and Cambridge, and any town or place not included within the above descriptions and under the jurisdiction of Commissioners, Trustees, or other persons intrusted by any Local Act with powers of improving, cleansing, lighting, or paving any town—the Commissioners, Trustees, or other persons intrusted by any Local Act of Parliament with powers of improving, cleansing, lighting, or paving the town;

In parishes (not within the jurisdiction of any Sewer Authority hereinbefore mentioned) in which a rate is levied for the maintenance of the poor—the Vestry, Select Vestry, or other body of persons acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a Vestry or Select Vestry.

Sewage Utilization Act, 1865," as used in this or any other Act of Parliament or other document, shall mean the said Sewage Utilization Act, 1865, as amended by this Act.

Power to Sewer Authority to form Committee of its own members and others.

4. Any Sewer Authority may from time to time, at any meeting specially convened for the purpose, form one or more Committee or Committees consisting wholly of its own members, or partly of its own members and partly of such other persons contributing to the rate or fund out of which the expenses incurred by such Authority are paid, and qualified in such other manner as the Sewer Authority may determine, and may delegate, with or without conditions or restrictions, to any Committee so formed, all or any powers of such Sewer Authority, and may from time to time revoke, add to, or alter any powers so given to a Committee.

A Committee may elect a Chairman of its Meetings. If no Chairman is elected, or if the Chairman elected is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting. A Committee may meet and adjourn as it thinks proper. The quorum of a Committee shall consist of such number of members as may be prescribed by the Sewer Authority that appointed it, or, if no number be prescribed, of three members. Every question at a meeting shall be determined by a majority of votes of the members present, and voting on that question; and in case of an equal division of votes the Chairman shall have a second or casting vote.

The proceedings of a Committee shall not be invalidated by any vacancy or vacancies amongst its members.

A Sewer Authority may from time to time add to or diminish the number of the members or otherwise alter the constitution of any Committee formed by it, or dissolve any Committee.

A Committee of the Sewer Authority shall be deemed to be the agents of that Authority, and the appointment of such Committee shall not relieve the Sewer Authority from any obligation imposed on it by Act of Parliament or otherwise.

Formation of Special Drainage District.

5. Where the Sewer Authority of a district is a vestry, select vestry, or other body of persons acting by virtue of any Act of Parliament, prescription, custom, or otherwise as or instead of a vestry or select vestry, it may, by resolution at any meeting convened for the purpose after twenty-one clear days' notice affixed to the places where parochial notices are usually affixed in its district, form any part of such district into a Special Drainage District* for the purposes of the Sewage

* It is as well to note that Vestries, or bodies acting as Vestries, only have the power of forming Special Drainage Districts.

Utilization Act, and thereupon such special drainage district shall, for the purposes of the Sewage Utilization Act, 1865, and the powers therein conferred, be deemed to be a parish in which a rate is levied for the maintenance of the poor, and of which a vestry is the Sewer Authority, subject, as respects any meeting of the inhabitants thereof in vestry, to the Act of the fifty-eighth year of the reign of King *George* the Third, chapter sixty-nine, and the Acts amending the same; and any officer or officers who may from time to time be appointed by the Sewer Authority of such Special Drainage District for the purpose shall have within that district all the powers of levying a rate for the purpose of defraying the expense of carrying the said Sewage Utilization Act into effect that they would have if such district were such parish as aforesaid, and such rate were a rate for the relief of the poor, and they were duly appointed overseers of such parish.

6. Where the Sewer Authority of any place has formed a Special Drainage District in pursuance of this Act, if any number of the inhabitants of such place, not being less than twenty, feel aggrieved by the formation of such district, or desire any modification in its boundaries, they may, by petition* in writing under their hands, bring their case under the consideration of one of Her Majesty's Principal Secretaries of State, and the said Secretary of State may after due investigation annul the formation of the Special Drainage District or modify its boundaries as he thinks just.

Appeal
against con-
stitution of
Special
Drainage
District.

7. A copy of the resolution of a Sewer Authority forming a Special Drainage District shall be published by affixing a notice thereof to the church door of the parish in which the district is situate, or of the adjoining parish if there be no church in the said parish, and by advertising notice thereof in some newspaper published or circulating in the county in which such district is situate; and the production of a newspaper‡ containing such advertisement, or a certificate under the hand of the clerk or other officer performing the duties of clerk for the time being of the Sewer Authority which passed the resolution forming the district, shall be evidence of the formation of such district, and after the expiration of three months from the date of the resolution forming the district such district shall be presumed to have been duly

Evidence of
formation
of Special
Drainage
District.

* No limit of time is stated within which this appeal must be made, but as the Sewer Authority cannot, in this respect, take any practical action under this Statute until three months after the date of the Resolution forming the Special Drainage District, it may be inferred that the right of appeal would lie throughout the whole of that period.

† This, of course, means a local newspaper.

formed, and no objection to the formation thereof shall be entertained in any legal proceedings whatever.

Power to
drain into
sewers of
Sewer
Authority.

8. Any owner or occupier of premises within the district of a Sewer Authority shall be entitled to cause his drains to empty into the sewers of that authority on condition of his giving such notice as may be required by that authority of his intention so to do, and of complying with the regulations of that authority in respect of the mode in which the communications between such drains and sewers are to be made, and subject to the control of any person who may be appointed by the Sewer Authority to superintend the making of such communications; but any person causing any drain to empty into any sewer of a Sewer Authority without complying with the provisions of this Section shall incur a penalty not exceeding twenty pounds, and it shall be lawful for the Sewer Authority to close any communication between a drain and sewer made in contravention of this Section, and to recover in a summary manner from the person so offending any expenses incurred by them under this Section.

Use of Sewers
by persons
beyond dis-
trict.

9. Any owner or occupier of premises beyond the limits of the district of a Sewer Authority may cause any sewer or drain from such premises to communicate with any sewer of the Sewer Authority* upon such terms and conditions as may be agreed upon between such owner or occupier and such Sewer Authority, or in case of dispute may, at the option of the owner or occupier, be settled by two justices or by arbitration in manner provided by The Public Health Act, 1848, in respect of matters by that Act authorised or directed to be settled by arbitration.

As to the
drainage of
houses.

10. If a dwelling house within the district of a Sewer Authority is without a drain or without such drain as is sufficient for effectual drainage, the Sewer Authority may by notice require the owner of such house within a reasonable time therein specified to make a sufficient drain emptying into any sewer which the Sewer Authority is entitled to use, and with which the owner is entitled to make a communication, so that such sewer be not more than one hundred feet from the site of the house of such owner; but if no such means of drainage are within that distance then emptying into such covered cesspool or other place not being under any house, as the Sewer Authority directs; and if the person on whom such notice is served fails to comply with the same, the Sewer Authority may itself, at the expiration of the time

* This power is similar to that given in Section 48 of the "Public Health Act, 1848" (11 and 12 Vict., c. 63).

specified in the notice, do the work required, and the expenses incurred by it in so doing may be recovered from such owner in a summary manner.

11. A Sewer Authority within its district shall have the same powers in relation to the supply of water* that a Local Board has within its district, and the provisions of the Sections herein-after mentioned shall apply accordingly in the same manner as if in such provisions "Sewer Authority" were substituted for "Local Board of Health" or "Local Board," and the district in such provisions mentioned were the district of the Sewer Authority and not the district of the Local Board; that is to say, the Sections numbered from seventy-five to eighty, both inclusive, of The Public Health Act, 1848, Sections fifty-one, fifty-two, and fifty-three of The Local Government Act, 1858, and Section twenty of The Local Government Act, 1858, Amendment Act, 1861.

Supply of water to district of Sewer Authority.

The Sewer Authority may, if it think it expedient so to do, provide a supply of water for the use of the inhabitants of the district by

- (1). Digging wells;
- (2). Making and maintaining reservoirs;
- (3). Doing any other necessary acts;

and they may themselves furnish the same, or contract with any other persons or companies to furnish the same: Provided always that no land be purchased or taken under this Clause except by agreement or in manner provided by The Local Government Act, 1858.

12. Any expenses incurred by a Sewer Authority in or about the supply of water to its district, and in carrying into effect the provisions hereinbefore in that behalf mentioned, shall be deemed to be expenses incurred by that authority in carrying into effect The Sewage Utilization Act, 1865, and be payable accordingly.

Expenses of Sewer Authority in supplying water.

13. All property in wells, fountains, and pumps,† and powers in relation thereto, vested in the Nuisance Authority by the seventh Section of the Act passed in the Session of the twenty-third and twenty-four years of the reign of Her present Majesty, chapter seventy-seven, shall vest in the Sewer Authority, where the Sewer Authority supplies water to its district.

Wells, &c., belonging to any place vested in Sewer Authority, &c. 23 & 24 Vict. c. 77, s. 7.

* See preface as to this matter.

† This Section relates only to public pumps, &c., and does not include the pumps which are often to be found in the courts in poor localities, and which are private property. No matter how polluted the water may be, the Sewer Authority has no power to close the pump if the owner objects.

PART II.

Amendment of the Nuisances Removal Acts.

Definition of
"Nuisances
Removal
Acts."

14. The expression "Nuisances Removal Acts" shall mean the Acts passed in the years following of the reign of Her present Majesty, that is to say, the one in the Session of the eighteenth and nineteenth years, chapter one hundred and twenty-one,* and the other in the Session of the twenty-third and twenty-four years, chapter seventy-seven,† as amended by this part of this Act; and this part of this Act shall be construed as one with the said Acts, and all expenses incurred by a Nuisance Authority in carrying into effect any of the provisions of this part of this Act shall be deemed to be expenses incurred by it in carrying into effect the Nuisances Removal Acts.

Definition of
"Nuisance
Authority."

15. "Nuisance Authority" shall mean any authority empowered to execute the Nuisances Removal Acts.‡

Power of
police with
respect to
nuisances.

16. In any place within the jurisdiction of a Nuisance Authority the chief officer of police within that place, by and under the directions of one of Her Majesty's Principal Secretaries of State, on its being proved to his satisfaction that the Nuisance Authority has made default in doing its duty, may institute any proceeding which the Nuisance Authority of such place might institute with respect to the removal of nuisances: Provided always, that no officer of police shall be at liberty to enter any house or part of a house used as the dwelling of any person without such person's consent, or without the warrant of a Justice of the Peace, for the purpose of carrying into effect this Act.§

Sect. 3 of
23 & 24 Vict.
c. 77, re-
pealed.

17. The third Section of the said Act of the Session of the twenty-third and twenty-four years of the reign of Her present Majesty, chapter seventy-seven, shall be repealed, and all powers vested in any Highway Board or "Nuisance Removal Committee" under the Nuisances Removal Acts shall determine, and all property belonging to them for the purposes of the said Nuisances Removal Acts shall, subject to any debts or liabilities affecting the same, be transferred to or vested in the Nuisance Authority under the said Acts:¶ Provided always, that this Section shall not extend to any

* "Nuisances Removal Act for England, 1855."

† "Nuisances Removal and Diseases Prevention Acts of 1855 Amendment Act."

‡ For information with reference to the bodies empowered to execute the "Nuisances Removal Acts," see 23 and 24 Vict., c. 77, Section 2.

§ See also Sections 21, 31, 49.

¶ See, for Authorities, 23 and 24 Vict., c. 77, Section 2.

Vestry or District Board, under the Act of the Session of eighteenth and nineteenth years of the reign of Her present Majesty, chapter one hundred and twenty, intituled *An Act for the better Local Management of the Metropolis*, or to any Committee appointed by such Vestry or District Board for the purpose of carrying into effect the Nuisances Removal Acts or any of them.

18 & 19 Vict.
c. 120.

18. A requisition in writing under the hands of any ten inhabitants of a place shall for the purposes of the twenty-seventh Section of "The Nuisances Removal Act for *England*, 1855,"* be deemed to be equivalent to the Certificate of the Medical Officer or medical practitioners therein mentioned, and the said Section shall be enforced accordingly.

Requisition of ten inhabitants equivalent to Certificate of Medical Officer.

19. The word "Nuisances" under the Nuisance Removal Acts† shall include,

Addition to definition of Nuisance.

1. Any house or part of a house so overcrowded as to be dangerous or prejudicial to the health of the inmates:‡

2. Any factory, workshop, or workplace not already under the operation of any General Act for the Regulation of Factories or Bakehouses, not kept in a cleanly state, or not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are a nuisance or injurious or dangerous to health, or so overcrowded while work is carried on as to be dangerous or prejudicial to the health of those employed therein :

3. Any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used in such fireplace or furnace, and is used within the district of a nuisance authority for working engines by steam, or in any mill, factory, dye-house, brewery, bakehouse, or gas-work, or in any manufactory or trade process whatsoever :

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

Provided, first, that in places where at the time of the passing of this Act no enactment is in force com-

* This Section of the "Nuisances Removal Act, 1855," relates to nuisance arising in cases of noxious trades, businesses, processes, or manufactures.

† The nuisances under the "Nuisances Removal Act" are:—

Any premises in such a state as to be injurious to health;

Any pool, ditch, gutter, water-course, privy, urinal, cesspool, drain, or ashpit so foul as to be a nuisance or injurious to health;

Any animal so kept as to be a nuisance or injurious to health;

Any accumulation or deposit (not necessary for business or manufacturing purposes, provided same is not kept longer than is required for such purposes) which is a nuisance or injurious to health.

‡ See also Section 35 as to regulations for Lodging Houses.

elling 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:*

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

Duties of
Nuisance
Authorities
as to inspec-
tion of
nuisances,
&c.

20. It shall be the duty of the Nuisance Authority to make from time to time, either by itself or its Officers, inspection of the district,† with a view to ascertain what Nuisances exist calling for abatement under the powers of the Nuisance Removal Acts, and to enforce the provisions of the said Acts in order to cause the abatement thereof, also to enforce the provisions of any Act that may be in force within its district requiring fireplaces and furnaces to consume their own smoke; and any Justice upon complaint upon oath may make an order to admit the Nuisance Authority or their officers for these purposes, as well as to ground proceedings under the eleventh Section of the Nuisances Removal Act, 1855.

As to pro-
ceedings
of Nuisance
Authority
under Sect.
12 of 18 & 19
Vict. c. 121.

21. The Nuisance Authority or Chief Officer of Police shall, previous to taking proceedings‡ before a Justice under the twelfth Section of the Nuisances Removal Act, 1855, serve a notice on the person by whose act, default, or sufferance the nuisance arises or continues, or, if such person cannot be found or ascertained, on the owner or occupier§ of

* In the cases referred to here, this Clause will come into operation on August 8, 1867.

† By Section 9 of 23 and 24 Vict., c. 77, Local Authorities are empowered to appoint Inspectors of Nuisances, and by Section 14 of the same Act, Boards of Guardians are empowered to employ one of their Medical Officers to inquire into the sanitary state of any portion of their union or parish—these powers are, however, quite optional. Under the present Act it is made an imperative duty of Nuisance Authorities to periodically inspect their districts, and cause the removal of any nuisances which they may discover.

‡ See also Sections 16, 31, 49.

§ See Section 34.

the premises on which the nuisance arises, to abate the same, and for that purpose to execute such works and to do all such things as may be necessary within a time to be specified in the notice: Provided,

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

Secondly, that where the person causing the nuisance cannot be found, and it is clear that the nuisance does not arise or continue by the act, default, or sufferance of the owner or occupier of the premises, then the Nuisance Authority may itself abate the same without further order, and the cost of so doing shall be part of the costs of executing the Nuisances Removal Acts, and borne accordingly.

22. If the Nuisance Authority shall be of opinion, upon the certificate of any legally qualified medical practitioner, that the cleansing and disinfecting of any house or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious or contagious disease, it shall be the duty of the Nuisance Authority to give notice in writing requiring the owner or occupier of such house or part thereof to cleanse and disinfect the same as the case may require; and if the person to whom notice is so given fail to comply therewith within the time specified in the notice, he shall be liable to a penalty of not less than one shilling and not exceeding ten shillings for every day during which he continues to make default; and the Nuisance Authority shall cause such house or part thereof to be cleansed and disinfected, and may recover the expenses incurred from the owner or occupier in default in a summary manner; when the owner or occupier of any such house or part thereof as is referred to in this Section is from poverty or otherwise unable, in the opinion of the Nuisance Authority, effectually to carry out the requirements of this Section, such Authority may, without enforcing such requirements on such owner or occupier, with his consent, at its own expense, cleanse and disinfect such house or part thereof and any articles therein likely to retain infection.*

Power to cause premises to be cleansed or otherwise disinfected.

* This Section gives power to the Nuisance Authority to order houses and things to be disinfected, and empowers the Nuisance Authority, in case of neglect to obey the order, to cause the *house* to be disinfected, but it has power over the *things*. This is probably an oversight.

Power to provide means of disinfection.

23. The Nuisance Authority in each district may provide a proper place, with all necessary apparatus and attendance, for the disinfection of woollen articles, clothing, or bedding which have become infected, and they may cause any articles brought for disinfection to be disinfected free of charge.*

Nuisance Authorities may provide carriages for conveyance of infected persons.

24. It shall be lawful at all times for the Nuisance Authority to provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any contagious or infectious disease, and to pay the expense of conveying any person therein to a hospital or place for the reception of the sick or to his own home.†

Penalty on person suffering from infectious disorder entering public conveyance without notifying to driver that he is so suffering.

25. If any person suffering from any dangerous infectious disorder shall enter any public conveyance‡ without previously notifying to the owner or driver thereof that he is so suffering, he shall on conviction thereof before any Justice be liable to a penalty not exceeding five pounds, and shall also be ordered by such Justice to pay to such owner and driver all the losses and expenses they may suffer in carrying into effect the provisions of this Act; and no owner or driver of any public conveyance shall be required to convey any person so suffering until they shall have been first paid a sum sufficient to cover all such losses and expenses.

Removal of persons of infectious disorders, and without proper lodging, in any district.

26. Where a hospital or place for the reception of the sick is provided within the district of a Nuisance Authority, any Justice may, with the consent of the superintending body of such hospital or place, by order on a certificate signed by a legally qualified medical practitioner, direct the removal§ to such hospital or place for the reception of the sick, at the cost of the Nuisance Authority, of any person suffering from any dangerous contagious or infectious disorder, being without proper lodging or accommodation, or lodged in a room occupied by more than one family, or being on board any ship or vessel.||

* This power was not hitherto possessed by the Nuisance Authority, except in times when the "Diseases Prevention Act" has been in force—and only then by the Nuisance Authority, provided it was also the Authority under the "Diseases Prevention Act." Now, however, the Nuisance Authority will at all times have power to provide for disinfection.

† See note to Section 23, which also, *mutatis mutandis*, applies to this Section.

‡ See also Section 38, as to exposure of infected persons, and as to infection of public conveyances.

§ This Section gives a power which the Authority under the "Diseases Prevention Act," when that Act is in force, is erroneously supposed to possess.

|| See also Sections 29, 30.

27. Any Nuisance Authority may provide a proper place for the reception of dead bodies,* and where any such place has been provided and any dead body of one who has died of any infectious disease is retained in a room in which persons live or sleep, or any dead body which is in such a state as to endanger the health of the inmates of the same house or room is retained in such house or room, any Justice may, on a certificate signed by a legally qualified medical practitioner, order the body to be removed to such proper place of reception at the cost of the Nuisance Authority, and direct the same to be buried within a time to be limited in such order; and unless the friends or relations of the deceased undertake to bury the body within the time so limited, and do bury the same, it shall be the duty of the Relieving Officer to bury such body at the expense of the poor rate, but any expense so incurred may be recovered by the Relieving Officer in a summary manner from any person legally liable to pay the expense of such burial.

Places for the reception of dead bodies may be provided at the public expense.

28. Any Nuisance Authority may provide a proper place (otherwise than at a workhouse or at a mortuary house as lastly hereinbefore provided for) for the reception of dead bodies for and during the time required to conduct any *post-mortem* examination ordered by the Coroner of the district or other constituted authority, and may make such regulations as they may deem fit for the maintenance, support, and management of such place; and where any such place has been provided, any Coroner or other constituted authority may order the removal of the body for carrying out such *post-mortem* examination and the re-removal of such body, such costs of removal and re-removal to be paid in the same manner and out of the same fund as the cost and fees for *post-mortem* examinations when ordered by the Coroner.

Places for reception of dead bodies during time required for post-mortem examination may be provided.

29. Any Nuisance Authority may, with the sanction of the Privy Council, signified in manner provided by "The Public Health Act, 1858," lay down rules for the removal to any hospital to which such authority is entitled to remove patients, and for keeping in such hospital so long as may be necessary any persons brought within their district by any ship or boat who are infected with a dangerous and infectious disorder, and they may by such rules impose any penalty not exceeding five pounds on any person committing any offence against the same.

Power to remove to hospital sick persons brought by ships.

* Similar powers are possessed by Local Boards of Health in places to which the "Public Health Act, 1848," has been applied, see 11 and 12 Vict., c. 63, Section 81.

Provision as to district of Nuisance Authority extending to places where ships are lying.

30. For the purposes of this Act any ship, vessel, or boat that is in a place not within the district of a Nuisance Authority shall be deemed to be within the district of such Nuisance Authority as may be prescribed by the Privy Council, and until a Nuisance Authority has been prescribed then of the Nuisance Authority whose district* nearest adjoins the place where such ship, vessel, or boat is lying, the distance being measured in a straight line, but nothing in this Act contained shall enable any Nuisance Authority to interfere with any ship, vessel, or boat that is not in *British* waters.

Power of entry to Nuisance Authority or their officer under Sect. 11 of 18 & 19 Vict. c. 121.

31. The power of entry given to the authorities by the eleventh Section of The Nuisances Removal Act, 1855, may be exercised at any hour when the business in respect of which the nuisance arises is in progress or is usually carried on.

And any Justices Order† once issued under the said Section shall continue in force until the nuisance has been abated, or the work for which the entry was necessary has been done.

Provision as to ships within the jurisdiction of Nuisance Authority.

32. Any ship or vessel lying in any river, harbour, or other water shall be subject to the jurisdiction of the Nuisance Authority of the district‡ within which such river, harbour, or other water is, and be within the provisions of the Nuisances Removal Acts, in the same manner as if it were a house within such jurisdiction, and the Master or other officer in charge of such ship shall be deemed for the purposes of the Nuisances Removal Acts to be the occupier of such ship or vessel; but this Section shall not apply to any ship or vessel belonging to Her Majesty or to any foreign Government.

Provision for raising money in divided parishes.

33. Where the Guardians are the Nuisance Authority for part of any parish only, and shall require to expend money on account of such part in execution of the provisions of the said Acts, the overseers of the parish shall, upon receipt of an order from the said Guardians, raise the requisite amount from the persons liable to be assessed to the poor rate therein§ by a rate to be made in like manner as a poor rate, and shall

* In rivers, &c., having different Local Authorities on opposite sides, the districts are held to extend to the middle of the water.

† The order of the Justices under the Act cited became void on entry once being made—and therefore, for each occasion of entry necessary, a fresh order had to be obtained—now the order is in force until the work, respecting which the order is made, has been completed.

‡ See note to Section 30.

§ Grammatically speaking, the word "therein" refers to the parish, but doubtless the intention of the Legislature was that the rate should be levied only in that part in which the money is to be expended.

have all the same powers of making and recovering the same, and of paying the expense of collecting the rate when made, and shall account to the Auditor of the district for receipt and disbursement of the same, in like manner, and with the same consequences, as in the case of the poor rate made by them.

34. That it shall be lawful for the Nuisance Authority, at their discretion, to require the payment of any costs or expenses which the owner of any premises may be liable to pay under the said Nuisances Removal Acts or this Act, either from the owner or from any person who then or at any time thereafter occupies such premises, and such owner or occupier shall be liable to pay the same, and the same shall be recovered in manner authorized by the Nuisance Removal Acts, and the owner shall allow such occupier to deduct the sums of money which he so pays out of the rent from time to time becoming due in respect of the said premises, as if the same had been actually paid to such owner as part of such rent: * Provided always, that no such occupier shall be required to pay any further sum than the amount of rent for the time being due from him, or which, after such demand of such costs or expenses from such occupier, and after notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, becomes payable by such occupier, unless he refuse, on application being made to him for that purpose by or on behalf of the Nuisance Authority, truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable, but the burden of proof that the sum demanded from any such occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall lie upon such occupier; provided also, that nothing herein contained shall be taken to affect any contract made or to be made between any owner or occupier of any house, building, or other property whereof it is or may be agreed that the occupier shall pay or discharge all rates, dues, and sums of money payable in respect of such house, building, or other property, or to affect any contract whatsoever between landlord or tenant.

Nuisance Authority may require payment of costs or expenses from owner or occupier, and occupier paying to deduct from rent.

* This Section throws the expenses for works upon the premises, and empowers the Nuisance Authority to receive the amounts by instalments—but this only refers to works executed by the Nuisance Authority.

PART III.

Miscellaneous.

In cities, boroughs, or towns, Secretary of State, on application of Nuisance Authority, may empower them to make regulations as to Lodging Houses.

35. On application to one of Her Majesty's Principal Secretaries of State by the Nuisance Authority of the City of *London*, or any district or parish included within the Act for the better Local Government of the Metropolis, or of any municipal borough, or of any place under The Local Government Act, 1858, or any Local Improvement Act, or of any city or town containing, according to the census for the time being in force, a population of not less than five thousand inhabitants, the Secretary of State may, as he may think fit, by notice to be published in the *London Gazette*, declare the following enactment to be in force in the district of such Nuisance Authority, and from and after the publication of such notice the Nuisance Authority shall be empowered to make regulations* for the following matters; that is to say,

1. For fixing the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family :
2. For the registration of houses thus let or occupied in lodgings :
3. For the inspection of such houses, and the keeping the same in a cleanly and wholesome state :
4. For enforcing therein the provision of privy accommodation and other appliances and means of cleanliness in proportion to the number of lodgings and occupiers, and the cleansing and ventilation of the common passages and staircases :
5. For the cleansing and lime-whiting at stated times of such premises :

The Nuisance Authority may provide for the enforcement of the above regulations by penalties not exceeding forty shillings for any one offence, with an additional penalty not exceeding twenty shillings for every day during which a default in obeying such regulations may continue ; but such regulations shall not be of any validity unless and until they shall have been confirmed by the Secretary of State.

But this Section shall not apply to common lodging houses within the provisions of The Common Lodging Houses Act, 1851, or any Act amending the same.

* In most instances, before the regulations made under this Section have been approved by the Secretary of State, they have been referred to the Medical Officer of the Privy Council, who has reported upon the measures which the Authority proposes to enforce. By this course of proceeding, all likelihood of sanctioning any regulations but such as are conducive to health is avoided.

36. Where two convictions against the provisions of any Act relating to the overcrowding of a house, or the occupation of a cellar as a separate dwelling place, shall have taken place within the period of three months, whether the persons so convicted were or were not the same, it shall be lawful for any two Justices to direct the closing of such premises for such time as they may deem necessary, and, in the case of cellars occupied as aforesaid, to empower the Nuisance Authority to permanently close the same, in such manner as they may deem fit, at their own cost.

Cases in which two convictions have occurred within three months.

37. The Sewer Authority,* or in the Metropolis the Nuisance Authority,† may provide for the use of the inhabitants within its district hospitals or temporary places for the reception of the sick.

Power to provide hospitals.

Such Authority may itself build such hospitals or places of reception, or make contracts for the use of any existing hospital or part of a hospital, or for the temporary use of any place for the reception of the sick.

It may enter into any agreement with any person or body of persons having the management of any hospital for the reception of the sick inhabitants of its district, on payment by the Sewer Authority of such annual or other sum as may be agreed upon.

The carrying into effect this Section shall in the case of a Sewer Authority be deemed to be one of the purposes of the said Sewage Utilization Act, 1865, and all the provisions of the said Act shall apply accordingly.

Two or more Authorities having respectively the power to provide separate hospitals may combine in providing a common hospital, and all expenses incurred by such Authorities in providing such hospital shall be deemed to be expenses incurred by them respectively in carrying into effect the purposes of this Act.

38. Any person suffering from any dangerous infectious disorder who wilfully exposes himself,‡ without proper precaution against spreading the said disorder, in any street, public place, or public conveyance, and any person in charge of one so suffering who so exposes the sufferer, and any owner or

Penalty on any person, with infectious disorder, exposing himself or on any person in

* In numerous places—in fact, in all places under the control of Boards formed under the "Public Health" and "Local Government Acts"—this Section cannot be carried out by reason of the term "Sewer Authority" being defined (Section 2) as having the same meaning as in the "Sewage Utilization Act, 1865" (28 and 29 Vict. c. 75), which, under Section 2 of the Act, cannot be applied. *see now Sec 15 of Sewage Util. Act 1867 - p 54 part*

† The Vestries and District Boards of Works under the "Metropolis Local Management Act, 1855."

‡ This, formerly, could only be punished by indictment, a tedious and expensive mode of proceeding.

charge of such sufferer causing such exposure.

driver of a public conveyance who does not immediately provide for the disinfection of his conveyance* after it has, with the knowledge of such owner or driver, conveyed any such sufferer, and any person who without previous disinfection gives, lends, sells, transmits, or exposes any bedding, clothing, rags, or other things which have been exposed to infection from such disorders, shall, on conviction of such offence before any Justice, be liable to a penalty not exceeding five pounds: provided that no proceedings under this Section shall be taken against persons transmitting with proper precautions any such bedding, clothing, rags, or other things for the purpose of having the same disinfected.

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

39. If any person knowingly lets any house, room, or part of a house in which any person suffering from any dangerous infectious disorder has been to any other person without having such house, room, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of a qualified medical practitioner as testified by a certificate given by him, such person shall be liable to a penalty not exceeding twenty pounds. For the purposes of this Section the keeper of an inn shall be deemed to let part of a house to any person admitted as a guest into such inn.

Guardians, &c., of the Poor to be the Local Authorities for executing Diseases Prevention Act.

40. Where in any place two or more Boards of Guardians or Local Authorities† have jurisdiction, the Privy Council may, by any order made under The Diseases Prevention Act, 1855, authorize or require such Boards to act together for the purposes of that Act, and may prescribe the mode of such joint action and of defraying the costs thereof.

Evidence of family in case of overcrowded houses.

41. In any proceedings under The Common Lodging Houses Act, 1851, if the inmates of any house or part of a house allege that they are members of the same family, the burden of proving such allegation shall lie on the persons making it.‡

* See also Section 25.

† The Local Authorities under the "Diseases Prevention Act" are, in the metropolis, the Vestries and District Boards; and in other places, the Boards of Guardians, unless otherwise ordered by the Privy Council. This Section was put in force (Sept. 5, 1866) in Oxford, where three Boards have jurisdiction, and the regulations then made for their joint execution may be taken for a guide as to the mode of action likely to be required by the Privy Council.

‡ This Section appears to assume that the "Common Lodging-Houses Act, 1851," contains some definition or regulation based on the "inmates of a house, or part of a house," being "of the same family." In that Act, however, there is no reference to any such point. But in the metropolis, and perhaps elsewhere, the definition of "Common Lodging-House" which the Authorities have, with the sanction of the Justices, laid down in making regulations for such establishments, is based upon the fact of inmates being of different families, and to such non-statutory definition the clause would appear to apply.

42. The sixty-seventh Section of The Public Health Act, 1848,* relating to cellar dwellings, shall apply to every place in *England* and *Ireland* where such dwellings are not regulated by any other Act of Parliament, and in applying that Section to places where it is not in force at the time of the passing of this Act the expression "this Act" shall be construed to mean the "Sanitary Act, 1866," and not the said Public Health Act, 1848. In construing the said sixty-seventh Section as applied by this Act Nuisance Authority shall be substituted for the Local Board.

Extension to the whole of England and Ireland of Sect. 67 of 11 & 12 Vict. c. 63.

43. Local Boards acting in execution of The Local Government Act, 1858, may adopt the Act to encourage the establishment of public baths and wash-houses, and any Act amending the same, for districts in which those Acts are not already in force, and when they have adopted the said Acts they shall have all the powers, duties, and rights of Commissioners under the said Acts; and all expenses incurred by any Local Board in carrying into execution the Acts referred to in this Section shall be defrayed out of the General District Rates, and all receipts by them under the said Acts shall be carried to the District Fund Account.

Local Board in certain cases may adopt Baths and Wash-houses Acts.

44. When the District of a Burial Board is conterminous with the District of a Local Board of Health, the Burial Board may, by resolution of the Vestry, and by agreement of the Burial Board and Local Board, transfer to the Local Board all their estate, property, rights, powers, duties, and liabilities, and from and after such transfer the Local Board shall have all such estate, property, rights, powers, duties, and liabilities as if the Local Board had been appointed a Burial Board by Order in Council under the fourth Section of the Act of the Session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter eighty-one.

Power to Burial Boards in certain cases to transfer their powers to Local Board.

45. If any person wilfully damages any works or property belonging to any Local Board, Sewer Authority, or Nuisance Authority, he shall be liable to a penalty not exceeding five pounds.

Penalty for wilful damage of works.

46. The following bodies, that is to say, Local Boards, Sewer Authorities, and Nuisance Authorities, if not already

Incorporation of sanitary authorities.

* The 67th Section of 11 and 12 Vict. c. 13, provides, amongst other conditions, that in no part shall the place (cellar, &c.) be less than 7 feet high (3 feet of which must be above the path of the street), with an open area, and other arrangements of a sanitary nature. Other Acts are in operation locally, as at Leeds (1862), where the only condition is that cellars shall have a window and fireplace; at Newcastle (1865), where the Act does not prescribe any exact conditions of cellar inhabitation, but leaves unfitness for human habitation to be proved in each instance.

incorporated, shall respectively be bodies corporate designated by such names as they may usually bear or adopt, with power to sue and be sued in such names, and to hold lands for the purposes of the several Acts conferring powers on such bodies respectively in their several characters of Local Boards, Sewer Authorities, or Nuisance Authorities.

Extent of authority to make provisional orders respecting lands under Sect. 75 of 21 & 22 Vict. c. 98.

47. The authority conferred on one of Her Majesty's principal Secretaries of State by Section seventy-five of The Local Government Act, 1858, to empower by provisional order a Local Board to put in force, with reference to the land referred to in such order, the powers of The Lands Clauses Consolidation Act, 1845, with respect to the purchase and taking of lands otherwise than by agreement, shall extend and apply and shall be deemed to have always extended and applied to every case in which, by The Public Health Act, 1848, and The Local Government Act, 1858, or either of them, or any Act extending or amending those Acts, or either of them, a Local Board are authorized to purchase, provide, use, or take lands or premises for any of the purposes of the said Acts, or either of them, or of any such Act as aforesaid; and Sections seventy-three and eighty-four of The Public Health Act, 1848, shall be construed as if the words "by agreement" therein respectively used had been expressly repealed by Section seventy-five of The Local Government Act, 1858.

Appearance of Local Authorities in legal proceedings.

48. Any Local Board, Sewer Authority, or Nuisance Authority may appear before any Justice or Justices, or in any legal proceeding, by its clerk or by any officer or member authorized generally or in respect of any special proceeding by resolution of such board or authority, and such person being so authorized shall be at liberty to institute and carry on any proceeding which the Nuisance Authority is authorized to institute and carry on under the Nuisance Removal Acts or this Act.

Mode of proceeding where Sewer Authority has made default in providing sufficient sewers, &c.

49. Where complaint is made to one of Her Majesty's principal Secretaries of State* that a Sewer Authority or Local Board of Health has made default in providing its District with sufficient sewers, or in the maintenance of existing sewers, or in providing its district with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or that a Nuisance Authority has made default in enforcing the provisions of the Nuisance Removal Acts, or that a Local

* See also Sections 16, 21, 31.

Board has made default in enforcing the provisions of the Local Government Act, the said Secretary of State, if satisfied after due inquiry made by him that the Authority has been guilty of the alleged default, shall make an order limiting a time for the performance of its duty in the matter of such complaint; and if such duty is not performed by the time limited in the order, the said Secretary of State shall appoint some person to perform the same, and shall by order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the costs of the proceedings, shall be paid by the Authority in default; and any order made for the payment of such costs and expenses may be removed into the Court of Queen's Bench, and be enforced in the same manner as if the same were an order of such Court.

50. All expenses incurred by a Sewers Authority or Local Board in giving a supply of water to premises under the provisions of the seventy-sixth Section of The Public Health Act, 1848, or the fifty-first Section of The Local Government Act, 1858, and recoverable from the owners of the premises supplied, may be recovered in a summary manner.

Recovery of certain expenses of water supply.

51. All penalties imposed by the Act of the sixth year of King George the Fourth, chapter seventy-eight, intituled *An Act to repeal the several Laws relating to Quarantine, and to make other provisions in lieu thereof*, may be reduced by the Justices or Court having jurisdiction in respect of such penalties to such sum as the Justices or Court think just.

Power to reduce penalties imposed by 6 G. 4, c. 78.

52. Every vessel having on board any person affected with a dangerous or infectious disorder shall be deemed to be within the provisions of the Act of the sixth year of King George the Fourth, chapter seventy-eight, although such vessel has not commenced her voyage, or has come from or is bound for some place in the United Kingdom; and the Lords and others of Her Majesty's Most Honourable Privy Council, or any three or more of them (the Lord President of the Council or one of Her Majesty's Principal Secretaries of State being one), may, by order or orders to be by them from time to time made, make such rules, orders and regulations* as to them shall seem fit, and every such order shall be

Description of vessels within provisions of 6 G. 4, c. 78.

* On August 25, 1866, an order of Council was issued under this section; the following extract gives the definition of certain terms in the order which makes regulations for ships infected with cholera:—

“ 1. In this Order—

“ The term ‘ship’ includes vessel or boat:

“ The term ‘master’ includes the officer or person for the time being in charge or command of a ship:

certified under the hand of the clerk in ordinary of Her Majesty's Privy Council, and shall be published in the *London Gazette*, and such publication shall be conclusive evidence of such order to all intents and purposes; and such orders shall be binding and be carried into effect as soon as the same shall have been so published, or at such other time as shall be fixed by such orders, with a view to the treatment of persons affected with cholera and epidemic, endemic, and contagious disease; and preventing the spread of cholera and such other diseases as well on the seas, rivers, and waters of the United Kingdom, and on the high seas within three miles of the coasts thereof, as on land; and to declare and determine by what Nuisance Authority or Authorities such orders, rules, and regulations shall be enforced and executed; and any expenses incurred by such Nuisance Authority or Authorities shall be deemed to be expenses incurred by it or them in carrying into effect the Nuisances Removal Acts.

Periodical
removal of
manure in
mews, &c.

53. Where notice has been given by the Nuisance Authority, or their officer or officers, for the periodical removal of manure or other refuse matter from mews, stables, or other premises (whether such notice shall be by public announcement in the locality or otherwise), and subsequent to such notice the person or persons to whom the manure or other refuse matter belongs shall not so remove the same, or shall permit a further accumulation, and shall not continue such periodical removal at such intervals as the Nuisance Authority, or their officer or officers, shall direct, he or they shall be liable, without further notice, to a penalty of twenty shillings *per* day for every day during which such manure or other refuse matter shall be permitted to accumulate, such penalty to be recovered in a summary manner: Provided always, that this Section shall not apply to any

" The term ' cholera ' includes choleraic diarrhoea :

" The term ' Nuisance Authority ' has the same meaning as in ' The Sanitary Act, 1866 :'

" 2. The Master of every ship within the district of a Nuisance Authority, having on board any person affected with cholera, or the body of any person dead of cholera, or anything infected with or that has been exposed to the infection of cholera, shall, as long as the ship is within such district, moor, anchor, or place her in such position as from time to time the Nuisance Authority directs.

" 3. If at any time a Nuisance Authority is informed that cholera exists, or within three days previously has existed, in a ship within its district, such authority shall cause the ship to be forthwith visited, inspected, and otherwise dealt with (according to the circumstances of the case), in like manner as nearly as may be as if the ship were a house within the district of such authority, and shall give all such medical and other directions with reference to the persons therein, as seem to such authority requisite or proper for preventing the spread of the disease therefrom, and for disinfection or disposal of anything infected, or that has been exposed to infection therein or therefrom."

place where the Board of Guardians or Overseers of the poor are the Nuisance Authority.

54. Penalties under this Act, and expenses directed to be recovered in a summary manner, may be recovered before two Justices in manner directed by an Act passed in the Session holden in the eleventh and twelfth years of the reign of Her Majesty Queen *Victoria*, chapter forty-three, intituled *An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to summary convictions and orders*, or any Act amending the same.

Recovery of penalties.

55. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any Local Authority by Act of Parliament, law, or custom, and such Authority may exercise such other powers in the same manner as if this Act had not passed:

Powers of Act cumulative.

PART IV.

Application of Act to Ireland.

56. In applying the first part of this Act to *Ireland* the following changes shall be observed:

Modifications necessary for application of Part I. to Ireland.

(1.) The provisions of the Sections numbered from seventy-five to eighty, both included, of the Public Health Act, 1848, and Sections fifty-one, fifty-two, and fifty-three of the Local Government Act, 1858, and Section twenty of the Local Government Act, 1858, Amendment Act, 1861, referred to in the first part of this Act, shall for all purposes connected with the execution of this Act be extended to *Ireland*:

(2.) The Sewage Utilization Act, 1865, shall be amended by substituting in *Ireland* the Sewer Authority, as defined by the First Schedule to this Act, for the Sewers Authority as defined by said Act.

57. The Nuisance Removal Acts as amended by the Second Part of this Act shall apply to *Ireland*; provided, however, that in such application the following changes shall be observed:

Modifications necessary for application of Part II. to Ireland.

(1.) Sewer Authority as defined by the Sewage Utilization Act, 1865, and amended by this Act, shall in *Ireland* be the Nuisance Authority for executing the Nuisance Removal Acts:

- (2.) The expenses of executing the Nuisance Removal Acts shall be defrayed out of the Funds herein-after provided :
- (3.) The penalties shall be recovered in the manner herein-after provided :
- (4.) The expressions " Mayor, Aldermen, and Burgesses," " Council," " Borough Rate," " Borough Fund," and " Town Rate," shall in the First Schedule hereto have respectively the same meaning as in the Acts for the Regulation of Municipal Corporations in *Ireland* :
- (5.) For the purposes of the twenty-second Section of The Nuisance Removal Act, 1855, the Nuisance Authority shall in *Ireland* have the power of entering land conferred by The Sewage Utilization Act, 1865, and shall have the same power of levying assessments under the said Section that they have of levying any other rates they are authorized by law to impose.

How ex-
penses to be
defrayed in
Ireland when
Nuisance
Authority
not a Board
of Guardians.

58. In *Ireland*, the Nuisance Authority, not being the Guardians of the Poor, shall pay all expenses incurred by them in carrying the Nuisance Removal Acts into effect out of the fund in the First Schedule in that behalf mentioned, and where such fund arises wholly or in part from rates shall have, in addition to their existing powers of rating, all such powers for making and levying any extra rate, if necessary, respectively, as in the case of any rate authorized to be made under the provisions of the respective Acts of Parliament under which the Nuisance Authorities are constituted or authorized to levy rates; and all provisions of such Acts respectively shall be applicable in respect thereof; provided that when the rates to be assessed by such authority are limited by law to a certain rateable amount, such limitation shall not apply or extend to expenses incurred in carrying this Act into execution; and it shall be lawful for such authority to assess the expenses under this Act in addition to such limited assessment.

When Board
of Guardians
is Nuisance
Authority,
how expenses
to be defray-
ed in *Ireland*.

59. In *Ireland*, a Nuisance Authority, being Guardians of the Poor, shall pay all expenses incurred by them in carrying this Act into effect out of the poor rates of the Union, and charge the same to the Union, or any electoral division or electoral divisions thereof, in such manner as the Poor Law Commissioners shall from time to time, by general orders applicable to classes of cases, or by order in any particular case, direct.

Recovery of
penalties in
Ireland.

60. In *Ireland*, penalties under this Act and expenses or compensation directed to be recovered in a summary manner, and nuisances and other offences liable to be prosecuted sum-

marily, shall be recovered and prosecuted in manner directed by the Petty Sessions (*Ireland*) Act, 1851, or any Act amending the same; and all penalties recovered by any authority under this Act shall be paid to them respectively, and by them applied in aid of their expenses under this Act.

Any order authorized to be made by Justices under this Act shall be deemed to be an order made upon a complaint on which Justices are authorized to make orders under the last-mentioned Act.

61. In applying the provisions of Part III. of this Act to *Ireland* the following changes shall be observed:

- (1.) Applications for power to make regulations as to lodging houses may be made by any Nuisance Authority, except a Board of Guardians, and shall be made to the Lord Lieutenant in Council,* and the said Lord Lieutenant in Council shall have the power of declaring the enactments as to lodging houses in the Third Part of this Act to be in force in any nuisance district:
- (2.) The said Lord Lieutenant in Council shall have and exercise the power, in respect of Boards of Guardians acting together, vested in the Privy Council by the said Third Part of this Act:
- (3.) In *Ireland*, any Nuisance Authority, except a Board of Guardians, may exercise the powers conferred on Local Boards acting in the execution of the Local Government Act, 1858, by the said Third Part of this Act:
- (4.) Sewer and Nuisance Authorities in *Ireland* shall be incorporated for the purposes of this Act by the names set forth in the said First Schedule hereto; and such Sewer or Nuisance Authorities may hold lands by such names for the purposes of Burial Ground (*Ireland*) Act, 1856:
- (5.) The penalties under the Third Part of this Act shall be recovered in like manner as hereinbefore provided with respect to penalties under the Second Part of this Act.

Modifications
necessary for
application
of Part III.
to Ireland.

62. The Diseases Prevention Act, 1855,† as amended by The Nuisance Removal and Disease Prevention Amendment Act, 1860, and this Act, shall extend to *Ireland*: Provided,

Modifications
necessary for
application
of Disease
Prevention
Act to
Ireland.

* For definition of term "Lord Lieutenant in Council," see Section 2.

† This Act was put in force in Ireland on August 17, 1866, and on November 14, 1866, an order for Ireland was issued similar to the order for England (under Section 52), dated August 25, 1866, defining certain terms, and making certain regulations as to ships with cholera on board. For the regulations, see note to Section 52, ante.

however, that in such Application the following changes shall be observed :

- (1.) The Lord Lieutenant in Council shall have the power with respect to *Ireland* which the Privy Council has under such provisions for prevention of disease in *England* :
- (2.) The Commissioners for administering the laws for the relief of the poor in *Ireland*, herein-after called the Poor Law Commissioners, shall be the Authority in *Ireland* for issuing regulations to carry the provisions of said Act into effect :
- (3.) The regulations of the Poor Law Commissioners shall be authenticated in like manner as orders of theirs under the Dispensary Act, 1851, Stat. 14 & 15 *Vict.* c. 68, Sect. 8 :
- (4.) In defraying the expenses of the prevention of disease out of the poor-rate of the Union under this Act the Guardians of the poor shall charge the same to the Union, or any dispensary district or electoral division or divisions thereof, in such manner as the Poor Law Commissioners shall from time to time, by general orders applicable to classes of cases, or by orders in particular cases, direct.

Committee and officers under Dispensaries Act to aid Local Authority in execution of this Act.

63. In *Ireland*, all Committees, Inspectors, Medical Officers, and other persons appointed or employed under the powers of Statute fourteenth and fifteenth *Victoria*, chapter sixty-eight (the Dispensaries Act, 1851), shall and they are hereby required within their respective districts to aid the Local Authority, and such officers or persons as they shall appoint or employ, in the superintendence and execution of any directions and regulations which may at any time be issued by the Poor Law Commissioners for the time being under the authority and by virtue of this Act.

The provisions of 14 & 15 *Vict.* c. 68, as to duties and appointment of medical inspectors in *Ireland* incorporated with this Act.

64. In *Ireland*, the provisions of The Dispensary Act, 1851 (Statute 14 & 15 *Vict.* c. 68), with respect to the duties and appointment of medical inspectors, shall be incorporated with this Act, and the Prevention of Disease and Inquiry into Public Health under this Act shall be deemed one of the purposes for which such medical inspectors have been or may be appointed, in like manner as if its provisions had been referred to in the said Act of 1851, instead of the provisions of the said Nuisance Removal and Diseases Prevention Act of 1848.

Remuneration to medical practitioners for services

65. In *Ireland*, whenever in compliance with any direction or regulation of the Poor Law Commissioners which they may be empowered to make under the laws for the time being as

to the public health, any Medical Officer of a Union or Dispensary District, or any other Medical Practitioner specially employed by the Guardians for the purpose, shall perform any extra medical service in any Union or part of a Union, it shall and may be lawful for the Guardians of the Union to determine, subject to the approval of the said Commissioners, and if they shall not approve the amount determined by the Guardians, for the said Commissioners to fix by order under their seal, such remuneration, proportioned to the nature and extent of such services as aforesaid, as to them shall appear just and reasonable; and the amount of such remuneration shall be paid to such Medical Officer or other Medical Practitioner by the Guardians of the Union out of the rates raised for the relief of the poor, and shall be charged either to the Union at large, or to such part or parts of the Union, according to the nature of the case, as the said Commissioners shall in each case direct.

under the directions and regulations of the Poor Law Commissioners in Ireland.

66. The Lord Lieutenant in Council may from time to time direct the Poor-Law Commissioners to cause to be made such inquiries as the Lord Lieutenant in Council see fit in relation to any matters concerning the public health in any place or places in *Ireland*, and the Poor-Law Commissioners shall report the result of such inquiries to the Lord Lieutenant in Council.

Poor Law Commissioners to make inquiries as to public health in Ireland.

67. Publication shall be made in the *Dublin Gazette* in any case in *Ireland* where publication in the *London Gazette* is required in *England*.

Publication in Ireland to be made in Dublin Gazette.

68. All powers relating to the execution of this Act in *England*, and by this Act vested in one of Her Majesty's principal Secretaries of State, shall, with regard to the execution of this Act in *Ireland*, in all cases not herein-before expressly provided for, be vested in the Lord Lieutenant or other chief Governor or Governors of *Ireland*; and all powers relating to the execution of this Act in *England*, and by this Act vested in the Privy Council in *England*, shall, with regard to the execution of this Act in *Ireland*, in all cases not herein-before expressly provided for, be vested in the Lord Lieutenant in Council in *Ireland*.

Powers in Secretary of State in *England* to be exercised in *Ireland* by the Lord Lieutenant in Council.

69. From and after the passing of this Act the Acts set forth in the second Schedule hereto shall be repealed, so far as they are still in force: Provided always, that all proceedings commenced or taken under the said Acts and not yet completed may be proceeded with under said Acts, and that all contracts and works undertaken by virtue of said Acts shall continue and be effective as if said Acts had not been repealed.

Repeal of statutes applicable to Ireland

SCHEDULES.

FIRST SCHEDULE.

APPLICATION TO IRELAND.

Description of Sewers and Nuisance Authority in Ireland.	Description of Sewers and Nuisance District in Ireland.	Corporate Name, for the purpose of suing or being sued, or holding Property, under the Provisions of this Act.	Rate or Fund out of which Expenses incurred by Sewers or Nuisance Authority under this Act to be defrayed.
The Right Honourable the Lord Mayor, Aldermen, and Burgesses, acting by the Town Council.	The City of Dublin.	The Right Honourable the Lord Mayor, Aldermen, and Burgesses of the City of Dublin.	The Borough Rate or Borough Fund.
The Mayor, Aldermen, and Burgesses, acting by the Town Council.	Towns Corporate, with Exception of Dublin.	The Mayor, Aldermen, and Burgesses of the City or Town of—	The Borough Rate or Borough Fund.
The Town Commissioners.	Towns having Town Commissioners, under the Towns Improvement (Ireland) Act, 1854 (17 & 18 Vict. c. 113), or under any Local Act.	The Town Commissioners of—	
The Township Commissioners.	Townships having Commissioners under Local Acts.	The Township Commissioners of—	Any Rate levied by the Commissioners.
The Commissioners appointed by virtue of an Act made in the 9th year of the reign of George the Fourth, intituled "An Act to make Provision for the Lighting, Cleansing, and Watching of Cities and Town Corporate and Market Towns in Ireland in certain Cases."	Towns under such Commissioners.	The Lighting and Cleansing Commissioners of the Town of—	
The Municipal Commissioners.	Towns having Municipal Commissioners, under 3 & 4 Vict. c. 108.	The Municipal Commissioners of—	The Town Fund.
The Guardians of the Poor of each Union.	Such part of each Union as is not under another Sewer or Nuisance Authority.	The Guardians of the Poor of the— Union.	The Poor Rate of Union.

SECOND SCHEDULE.

Statutes repealed.

Local Boards of Health Act for Ireland, 1818; Statute 58 Geo. 3, c. 47. ss. 10 to 15 inclusive.

Officers of Health Act for Ireland, 1819; Statute 59 Geo. 3, c. 41.

Nuisance Removal and Disease Prevention Act, 1848.

Nuisance Removal and Disease Prevention Act, 1849.

REVISED EDITION

THE HISTORY OF THE
CITY OF BOSTON
FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME
BY NATHANIEL BENTLEY
VOL. I.

THE SEWAGE UTILIZATION ACT, 1865.

ANNO VICESIMO OCTAVO ET VICESIMO NONO VICTORIÆ REGINÆ.

CAP. LXXV.

An Act for facilitating the more useful Application
of Sewage in *Great Britain and Ireland.*

[29th June 1865.]

WHEREAS it is expedient to remove difficulties under which Local Boards and other bodies having the care of sewers labour in disposing of the sewage of their districts so as not to be a nuisance, and to give facility to such authorities to make arrangements for the application of such sewage to land for agricultural purposes: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same :

1. This Act, for all purposes, may be cited as "The Sewage Utilization Act, 1865." Short Title.

2. This Act shall not extend to any part of the Metropolis as defined by the Act of the Session eighteenth and nineteenth years of the present reign, chapter one hundred and twenty, for better Local Management of the Metropolis, [*and shall not, with the exception of Clause fifteen, extend to any Parish as defined in the Schedule to this Act in a part of which Parish the Public Health Act, 1848, and the Local Government Act, 1858, or one of such Acts, is in force at the time of the passing of this Act.*] * Application of Act.

3. The expression "Sewer Authority" † shall, in the several places in the Schedule annexed hereto in that behalf mentioned, mean the persons or bodies of persons referred to in the first column of the Schedule annexed hereto ; and the term "District," in relation to a Sewer Authority, shall, Definition of Sewer Authority.

* Section 6 of 30 and 31 Vict., c. 113, repeals the part in italics and within brackets, and Section 7 enacts that in any parish in a portion of which the Local Government Act, 1858, is in force, the remaining portion is to become a special drainage district, unless petitioned against within three months of the passing of the Act of 1867.

† See footnote * to Schedule.

as respects each Authority, mean the place in that behalf referred to in the second column of the said Schedule.

“Local Board” shall mean a Local Board authorized in pursuance of the “Public Health Act, 1848,” and “The Local Government Act, 1858,” or one of such Acts.

Powers of
Sewer Au-
thorities.

4. Sewer Authorities* shall have power to construct such sewers † as they may think necessary for keeping their district properly cleansed and drained, and shall, as respects all sewers constructed by them or under their control, whether the same were made before or after the passing of this Act, have all the powers that Local Boards have, in respect of sewers vested in or constructed by them, under the forty-fifth and forty-sixth Sections of “The Public Health Act, 1848,” the thirtieth Section of “The Local Government Act, 1858,” and the fourth Section of “The Local Government Act, 1858, Amendment Act, 1861,” subject to the provisions of the fifth and sixth Sections of the last-mentioned Act, and to the saving Clauses in “The Local Government Act, 1858,” mentioned, from sixty-eight to seventy-four, both inclusive; and in *Scotland*, in addition to such of the aforesaid powers as are applicable to *Scotland*, all the powers contained in Section seven (Public Sewers) of Part IV. of “The General Police and Improvement (*Scotland*) Act, 1862.”

Power of
entry.

5. The Sewer Authority shall have the powers of entry conferred by the one hundred and forty-third Section of the “Public Health Act, 1848,” for the purposes of making or keeping in repair any works made or to be made by them, as well as for the purposes specified in the said Section.

Payment of
expenses.

6. A Sewer Authority shall pay all expenses incurred by them in carrying this Act into effect out of the fund or rate in the Schedule in that behalf mentioned, ‡ and shall have all such powers of borrowing money on the security of such fund or rate as Local Boards have of borrowing money under

* By Section 4 of the Sanitary Act, 1866, Sewer Authorities may delegate their powers to committees, but such delegation will not relieve Sewer Authorities from any obligations imposed on them by Act of Parliament or otherwise; and by Section 5 of the same Act Sewer Authorities, when Vestries, Select Vestries, or like bodies, may form portions of their districts into “Special Drainage Districts.” See also as relating to these districts Sections 6 and 7 of the Act, and Section 9 of 30 and 31 Vict., c. 113, post.

† By Section 11 of the Sanitary Act a Sewer Authority is made the authority for the supply of water within its district, and is empowered (in addition to the powers given to Local Boards in this matter) to dig wells, to make and maintain reservoirs, and to do any other necessary Acts in relation thereto. See also Section 13 of the Sanitary Act.

‡ When the Sewer Authority is a Vestry, Select Vestry, or like body, the rate is to be a separate one, see Section 17 of 30 and 31 Vict., c. 113, post.

“The Local Government Act, 1858,” and the Acts amending that Act, on the security of the funds or rates in the said Acts in that behalf mentioned, subject to the conditions and sanction under which such powers are exercised by Local Boards under the said Acts.

7. A Sewer Authority shall, for the purposes of this Act, have the powers of taking Lands conferred on Local Boards by the seventy-fifth Section of “The Local Government Act, 1858,” and any Act amending the same.

Power to
take lands.

8. Full compensation shall be made, out of any fund or rate applicable to the purposes of this Act, to all persons sustaining any damage by reason of the exercise of any of the powers of this Act; and in case of dispute as to amount, the same shall be settled by arbitration, as provided in “The Public Health Act, 1848,” or any Act amending the same, or if the compensation claimed do not exceed the sum of twenty pounds, the same may be ascertained by and recovered before Justices in a summary manner, in manner provided by the Acts mentioned in this Section.

Compensa-
tion.

9. Two or more Sewer Authorities, including under that expression for the purposes of this Section Local Boards, may combine together for the purpose of executing and maintaining any works that may be for the benefit of their respective districts, and all moneys they may agree to contribute for the execution and maintenance of such common works shall, in the case of each Authority, be deemed to be expenses incurred by them in the execution of works within their district, and shall be raised accordingly.*

Power of
Sewer Au-
thorities to
combine.

10. A Sewer Authority, with the sanction of Her Majesty’s Attorney-General in *England*, and of the Attorney-General for *Ireland* in *Ireland*, and of the Lord Advocate in *Scotland*, may, either in its own name or in the name of any other person, with the consent of such person, take such proceedings by indictment, bill in Chancery, action, or otherwise, as it may deem advisable, for the purpose of protecting any watercourse within its jurisdiction from pollutions arising from sewage either within or without its district; and the costs of and incidental to any such proceedings, including any costs that may be awarded to the defendant, shall be deemed to be expenses properly incurred by the Sewer Authority in carrying into effect the purposes of this Act.

Sewer Au-
thority may
take pro-
ceedings to
prevent
pollution of
streams.

* See also Sections 10 to 14 of “The Sewage Utilization Act” (30 and 31 Vict., c. 113), post.

Sewers not allowed to drain into any stream, &c.

11. Nothing contained in this Act, or in the Acts referred to therein, shall authorize any Sewer Authority to make a sewer so as to drain direct into any stream or watercourse.

Power to Public Works Loan Commissioners to lend money to Sewer Authorities.

12. The Public Works Loan Commissioners, as defined by "The Public Works Loan Act, 1853," may advance to any Sewer Authority, upon the security of any rate applicable to the purposes of this Act, without any further security, such sums of money as may be recommended by one of Her Majesty's Principal Secretaries of State, to be applied by such Authority in carrying into effect the purposes of this Act.

Powers of Act cumulative.

13. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any Sewer Authority by Act of Parliament, law, or custom; and the Sewer Authority may exercise such other powers in the same manner as if this Act had not passed.

Sewer Authority may enter into contract for supply of sewage.

14. The Sewer Authority of any place may from time to time, for the purpose of utilizing its sewage, agree with any person or body of persons, corporate or unincorporate, as to the supply of such sewage, and works to be made for the purpose of that supply, and the parties to execute the same and to bear the costs thereof, and the sums of money, if any, to be paid for that supply; provided that no contract shall be made for the supply of sewage for a period exceeding twenty-five years.

Application of 27 & 28 Vict. c. 114, to Works, &c., for supply of sewage.

15. The making of works of distribution and service for the supply of sewage to lands for agricultural purposes shall be deemed an "Improvement of Land" authorized by the "Land Improvement Act, 1864," and the provisions of that Act shall apply accordingly.

Board of Works in Ireland to have power of Secretary of State in sewage matters.

16. The Commissioners of Public Works in *Ireland* shall, in respect to any Sewage Authority or sewage matter in *Ireland*, have and exercise all the powers conferred by this Act, or any Act incorporated herewith, on one of Her Majesty's Principal Secretaries of State; and all applications by this Act, or any Act incorporated herewith, authorized or directed to be made to one of Her Majesty's Principal Secretaries of State in respect to sewage matters, or the powers conferred by this Act on Sewage Authorities, shall in *Ireland* be made to the Commissioners of Public Works; and all orders made on such applications by said Commissioners shall have the same force and effect as orders made by one of Her Majesty's Principal Secretaries of State on similar applications in *England* and *Scotland*.

SCHEDULE.*

ENGLAND AND WALES.

Description of Local Authority.	Description of Places.	Rate or Fund out of which Expenses to be paid.
The Mayor, Aldermen, and Burgesses acting by the Council.	In Boroughs, with the exception of the Boroughs of Oxford and Cambridge, not within the jurisdiction of a Local Board.	The Borough Fund or Borough Rate.
The Commissioners, Trustees, or other persons intrusted by any Local Act of Parliament with powers of improving, cleansing, lighting, or paving the Town.	The Boroughs of Oxford and Cambridge, and any town or place not included within the above descriptions, and under the jurisdiction of Commissioners, Trustees, or other persons intrusted by any Local Act with powers of improving, cleansing, lighting, or paving any town.	Any Rate leviable by the Commissioners, Trustees, or other persons.
The Vestry, Select Vestry, or other body of persons acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a Vestry or Select Vestry.	In Parishes† not within the jurisdiction of any Sewer Authority hereinbefore mentioned, and in which a Rate is levied for the Maintenance of the Poor.	The Poor Rate.‡

* By 30 and 31 Vict., c. 107, Section 2, it is enacted, that the expression "Sewer Authority" shall also include a Local Board, and any "collegiate or other corporate body required or authorized by or in pursuance of any Act of Parliament to divert its sewers or drains from any river or to construct new sewers, and any public department of the Government." It also enacts that the term shall include "any person appointed by the Secretary of State, in pursuance of the 49th Section of the Sanitary Act, 1866." In the last case, however, the power of levying rates is withdrawn.

† The word "Parish" includes any township or other place in which a separate rate is levied for the relief of the poor. See 30 and 31 Vict., c. 113, sec. 16, post.

‡ The 17th Section of 30 and 31 Vict., c. 113, directs that payment shall be out of a separate rate instead of out of the Poor Rate.

SCOTLAND.

Description of Local Authority.	Description of Places.	Rate or Fund out of which Expenses to be paid.
The Town Council	Places within the jurisdiction of any Town Council and not subject to the [separate jurisdiction of Police Commissioners or Trustees.	The Revenue of the Burgh, or any Rate applicable to Sewers leviable by the Town Council.
The Police Commissioners or Trustees.	In places where Police Commissioners or Trustees exercise the functions of Police Commissioners or Trustees under any General or Local Act.	Any Rate leviable by the Commissioners or Trustees, or any Fund belonging to them.
The Parochial Board ..	Any Town or Village not included in the above descriptions.	The Poor Rate.

IRELAND.

The Right Hon. the Lord Mayor, Aldermen, and Burgesses.	The City of Dublin	The District Sewer Rate.
The Mayor, Aldermen, and Burgesses.	Towns Corporate or Boroughs (with the exception of Dublin).	Any Rate leviable by the Town Council, or any Fund belonging to them, applicable in the whole or in part to the making or repairing of Sewers within their Jurisdiction.
The Town Commissioners or other governing body.	Towns having Town Commissioners under 9 Geo. IV. c. 82, or 17 and 18 Vict. c. 103, or any Acts amending the same, or having Commissioners or other governing body under any Local Act.	Any Rate leviable by these bodies, or any Fund belonging to them, applicable in the whole or in part to the making or repairing of Sewers within their jurisdiction.
The Board of Guardians or any Committee thereof appointed by the Board.	Any Town or Village in any Union not included in the above descriptions.	The Poor Rate; but the Expenses to be charged only on the Electoral Division in which the Town or Village is situated.

THE SEWAGE UTILIZATION ACT, 1867.

ANNO TRICESIMO ET TRICESIMO PRIMO VICTORIÆ REGINÆ.

CAP. CXIII.

An Act for facilitating the Distribution of Sewage Matter over Land, and otherwise amending the Law relating to Sewer Authorities.

[20th August 1867.]

WHEREAS the governing bodies of cities, towns, and other places are required by divers Acts of Parliament effectually to drain their districts: and whereas it is expedient to give further facilities for the distribution for agricultural purposes of sewage matter over land, and otherwise to amend the law relating to Sewer Authorities:

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preliminary.

1. This Act may be cited for all purposes as The Sewage Utilization Act, 1867. Short Title.

2. The expression "Sewer Authority" shall in this Act have the same meaning as in The Sewage Utilization Act, 1865, and in addition shall include a Local Board,* and shall in this Act and the said Sewage Utilization Act, 1865, include any collegiate or other corporate body required or authorized by or in pursuance of any Act of Parliament to divert its sewers or drains from any river or to construct new sewers, and any public department of the Government; and any person appointed by the Secretary of State in pursuance of the forty-ninth Section of The Sanitary Act, 1866, to perform the duty of a Sewer Authority or Local Board that has been guilty of a default as therein mentioned, shall, in the performance of such duty and for the purposes thereof, be invested with all the powers of the Sewer Authority or Local Board in default, except the power of levying rates. Definition of Sewer Authority.

* It does not appear in what order of precedence the "Local Boards" are to be placed as Sewer Authorities, nor does it appear that, in parishes where the Sewer Authority is now the Vestry, and where the Local Government Act shall be adopted, at some future period, the powers of the Vestry as a Sewer Authority are to cease and determine.

Powers for Distribution of Sewage.

Sewer Authority may exercise without their district powers in relation to Distribution of Sewage.

3. A Sewer Authority may, without their district, provide any works and do any act for the purpose of receiving, storing, disinfecting, or distributing sewage which they may provide or do within their district, subject to the conditions to which they would be subject in providing such works or doing such acts within their district, and to the conditions imposed on Local Boards in carrying into effect the fourth Section of The Local Government Act (1858) Amendment Act, 1861.*

Sewer Authority may purchase land for distribution of sewage in pursuance of Sect. 75 of Local Government Act. 21 & 22 Vict. c. 98.

4. A Sewer Authority for the purpose of receiving, storing, disinfecting, and distributing sewage, and of the construction of any works for receiving, storing, disinfecting, or distributing sewage, and of the construction of any sewer or drain, or for any of the above purposes, may purchase or take on lease any lands either within or without their district, and shall for carrying into effect any such purchase have all the powers of taking land conferred by the seventy-fifth Section of The Local Government Act, 1858,† as amended by this Act.‡

* The fourth Section of the Act here referred to authorizes Local Boards to exercise without their districts, for the purposes of outfall or distribution of sewage, the powers which Section 45 of the Public Health Act, 1848, authorizes them to exercise within their district. And Section 45 of the Public Health Act, 1848 (11 and 12 Vict. c. 63), enacts that Local Boards shall repair all sewers vested in them, and make others if necessary; and to enable them to do this, it further enacts that they "may carry any such sewers through, across, or under any turnpike-road, or any street, or under any cellar or vault which may be under the pavement or carriageway of any street, [and after reasonable notice in writing in that behalf (if upon the report of the Surveyor it should appear to be necessary), into, through, or under any lands whatsoever;" and "may from time to time enlarge, lessen, alter, arch over, or otherwise improve all or any of the sewers vested in them by this Act, and discontinue, close up, or destroy such of them as they may deem to have become unnecessary." It provides, however, that, in exercising these powers, no nuisance shall be created; and, should a person be thereby deprived of the lawful use of any sewer, the Boards shall provide other sewers which shall be as effectual as that of which he has been deprived.

† The seventy-fifth Section of the Local Government Act, 1858, directs that "The Lands Clauses Consolidation Act, 1845, shall be incorporated with this Act, except the provisions relating to access to the special Act;" and provides that the Local Board, before putting in force any of the powers of the said Lands Clauses Consolidation Act, with respect to the purchase and taking of land otherwise than by agreement, shall publish notices, and also serve them upon owners, &c. It also directs in what manner the notice is to be served. It further empowers the Local Board to petition the Secretary of State, who may direct inquiry and make provisional order; but no provisional order is to be valid until confirmed by Parliament. It likewise directs how the costs incurred by the Secretary of State are to be defrayed.

‡ The effect of this is, that the Sewage Utilization and Sanitary Acts can be applied to any part of the country. It must, however, be observed that if part of a parish is under the jurisdiction of a Local Board, the remainder becomes a Special Drainage District for the purposes of these Acts. See also Section 7, post.

5. A Sewer Authority may deal with any land held by them for the purpose of receiving, storing, disinfecting, or distributing sewage in such manner as they deem most profitable, either by leasing the same for a period not exceeding seven years for agricultural purposes, or by contracting with some person to take the whole or a part of the produce of such land, or by farming such land and disposing of the produce thereof; subject to this restriction, that in any appropriation which may be made of land held by a Sewer Authority for the above purposes, care shall be taken that provision be made for receiving, storing, disinfecting, or distributing all the sewage which it is the duty of the Sewer Authority to cause to be disposed of in that manner.

Power for Sewer Authority to deal with land appropriated to sewage purposes.

Special Drainage District.

6. There shall be repealed so much of the second Section of "The Sewage Utilization Act, 1865," as provides that "this Act* shall not, with the exception of Clause fifteen, extend to any parish as defined in the Schedule to this Act, in a part of which parish The Public Health Act, 1848, and The Local Government Act, 1858, or one of such Acts, is in force at the time of the passing of this Act."*

Repeal of a part of Sect. 2 of 28 & 29 Vict. c. 75., excluding from Act Parish partly under Local Government Act.

7. Where part of a parish as defined in the Schedule to The Sewage Utilization Act, 1865, as amended by this Act, is at the time of the passing of this Act subject to the jurisdiction of a Local Board in pursuance of the Local Government Act, 1858,† the portion of such parish which is not subject to the jurisdiction of any Local Board shall for the purposes of The Sewage Utilization Act, 1865, and of this Act, be deemed to be by this Act constituted a Special Drainage District, unless the Secretary of State, upon petition presented to him in manner provided by the sixth Section of The Sanitary Act, 1866,‡ within three months after the passing of this Act, otherwise directs.

Where part of parish is at time of passing of this Act under 21 & 22 Vict. c. 98, the other part constituted Special Drainage District.

It shall not be necessary in the case of part of a parish which is by this Section constituted a Special Drainage Dis-

* It is evident that the words "this Act" apply to the Sewage Utilization Act, 1865, and not to the Act of 1867.

† This is held to include Local Boards under the Public Health Acts.

‡ The Section referred to requires that not less than twenty inhabitants must "petition in writing under their hands," but it does not limit the time within which the petition must be presented: this Section, however, directs that it must be presented within three months of the passing of this Act. And Section 9 of the Act now under consideration also directs that all petitions, presented in pursuance of the sixth Section of the Sanitary Act, must be presented within three months of the date of the resolution.

trict, to give the notices required by Section seven of The Sanitary Act, 1866.

Power of undefined inhabited place to apply to be constituted a Special Drainage District.

8. Any inhabited place not having a known or defined boundary may petition one of Her Majesty's principal Secretaries of State in manner provided in the sixteenth Section of The Local Government Act, 1858,* to settle its boundaries for the purposes of The Sewage Utilization Act, 1865, and of this Act, and the Secretary of State may, by order made in manner provided by the said Section, settle the same accordingly, and from and after the date of such order the place shall be deemed to have been constituted a Special Drainage District for the purposes of the said Sewage Utilization Act, 1865, and of this Act.

A copy of the order of the Secretary of State shall be published in manner provided by the seventh Section of The Sanitary Act, 1866, and that Section shall be construed in reference to a Special Drainage District formed under this Section as if the order of the said Secretary of State were substituted for "Resolution of a Sewer Authority."

Time for appeal against Special Drainage District.

9. No Petition of Appeal shall be presented to the Secretary of State in pursuance of the sixth Section of the Sanitary Act, 1866, except within three months after the date of the resolution forming the district, and the said Section shall be read as if after the words "petition in writing under their hands" there were inserted the words "presented within three months after the date of the resolution forming the district." †

Union of Districts.

Constitution of Joint Sewerage District.

10. Where it appears to the Sewer Authority of any district that it would be for the advantage of such district, and of any district or districts adjoining or lying within the same drainage area, or otherwise conveniently situate, that all such districts should be formed into a United District for the purposes of The Sewage Utilization Act, 1865, and of this Act, or for any of such purposes, such Sewer Authority may, with the consent of the Sewer Authority of every district affected, apply to one of Her Majesty's principal Secretaries of State for an order forming such districts into one district, hereinafter referred to as a United District, and

* The sixteenth Section of 21 and 22 Vict. c. 98, directs that the petition shall state the proposed boundaries of the place, shall be signed by one-tenth of the ratepayers resident within such boundaries, and shall be supported by such evidence as the Secretary of State may require.

† See note † to Section 7, ante.

the Secretary of State, if satisfied of the expediency of such Union of Districts, may make an order accordingly.*

11. The intention of a Sewer Authority to apply to one of Her Majesty's principal Secretaries of State for an order forming a United District shall be advertised in some newspaper circulating within the area of such proposed United District once at least in each of the three weeks before such application is made.

Advertisement of intention to form United District.

12. A United District shall be subject to the jurisdiction of a Joint Sewerage Board consisting of Members elected by each of the Sewer Authorities of the component districts in such manner as may be determined by the said Secretary of State, and such Board shall be a Body Corporate, with perpetual succession and a common seal, having a capacity to acquire and hold lands for all the purposes of The Sewage Utilization Act, 1865, and of this Act, or for any of such purposes.

Constitution of Joint Sewerage Board.

The first meeting of a Joint Sewerage Board shall be held in such manner and at such time as may be determined by the said Secretary of State, and "the Rules as to Proceedings of Drainage Boards" † contained in the second part of the Schedule annexed to The Land Drainage Act, 1861, shall apply to a Joint Sewerage Board constituted under this Act.

13. A Joint Sewerage Board shall, in the United District, have all the same powers,‡ except the power of levying a rate, and be subject to the same obligations, so far as relate to the purposes of its constitution, as if it were the only Sewer Authority of that district subject to this proviso, that the said Joint Board may delegate to any Sewer Authority of a component district such powers of superintendence or otherwise within its own district as such Joint Board think fit.

Powers of Joint Sewerage Board.

14. Any expenses incurred by a Joint Sewerage Board in pursuance of this Act shall be defrayed out of a common fund to be contributed by the component districts in proportion to the rateable value of each district, or in such other proportion as the said Secretary of State may, with the

Expense of Joint Sewerage Board how defrayed.

* This authority is similar to that given, by Section 27 of the Local Government Act, 1858, to Local Boards to amalgamate.

† These "rules" relate to the conduct of the business, and amongst other things they require that not less than three members shall be present "at the commencement and close of such business;" they direct that no order involving the expenditure of more than 100*l.* shall be made unless a month's previous notice has been given; they also empower the Boards to appoint Committees, and provide for voting and for other things to be done in conducting the business. The Land Drainage Act, 1861, is the 24 and 25 Vict. c. 133.

‡ These powers are contained in the Sewage Utilization Act, 1865, as amended by the 1st part of the Sanitary 1866, and by this Act.

consent of the Sewer Authority of each component district, by order determine.

The rateable value of a district shall be deemed to be the value on which any such rate would be assessed as would, if such district were not in union, be applicable by the Sewer Authority of that district to the payment of any expenses legally incurred by that Authority, and the amount of contribution shall be paid out of such last-mentioned rate, and the Sewer Authority of each component district shall levy the same accordingly.

Contribution to Works under Contracts.

Sewer Authority, &c., may contribute to Works under Contracts relating to Supply of Sewage.

15. Where a Sewer Authority, or any corporate or other body, under any power enabling them in that behalf, or by any agreement confirmed by Parliament, has agreed or hereafter agrees with any person or persons, or body of persons, corporate or unincorporate, as to the supply of all or any of the sewage of any place, and the works to be made for the purpose of that supply, they may contribute to the expense of carrying into execution by such person or persons, or body of persons, all or any of the purposes of such agreement, and may become Shareholders in any company with which any agreement in relation to the matters aforesaid has been or may hereafter be entered into by such Sewer Authority or corporate or other body, or to or in which the benefits and obligations of such agreement may have been or may be transferred or vested; and all expenditure in consequence of the exercise of the power hereby conferred shall be deemed to have been incurred by such Sewer Authority or corporate or other body in the construction or due maintenance of the necessary sewers for carrying away the said sewage, and shall be provided for accordingly.

Amendment of Acts.

Amendment of definitions.

16. "Parish" in the Schedule to The Sewage Utilization Act, 1865, shall include any township or other place in which a separate rate is levied for the relief of the poor, and "Sewer Authority" in the thirty-seventh Section of The Sanitary Act, 1866,* shall include a Local Board.

* This Section of the Sanitary Act, 1866, authorizes the Sewer Authority to provide hospitals and temporary places for the sick; but as in many towns no Sewer Authority existed for this purpose (see preface to second edition, and footnote to the Section), this clause for the Act was but of very limited applicability. Now, however, Local Boards will be able to carry out the hospital clause of the Sanitary Act.

17. Where the Sewer Authority of a district is a vestry, select vestry, or other body of persons acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a vestry or select vestry, such authority shall for the purpose of defraying any expenses incurred in carrying into effect The Sewage Utilization Act, 1865, or this Act, issue their precept to the Overseers of the parish of which they are the authority, requiring such Overseers to pay over the amount specified in such precept to the Sewer Authority, or to their Officer named in the precept, or into some bank mentioned in such precept.

In parishes a separate rate to be levied for sewage purposes.

The Overseers shall comply with the requisitions of such precept by levying a separate rate * in the same manner as if it were a rate for the relief of the poor, with this exception, that the owner of any tithes or of any tithe commutation rentcharge, or the occupier of any land used as arable, meadow, or pasture-ground only, or as woodlands, market-gardens, or nursery-grounds, and the occupier of any land covered with water, or used only as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall, where a special assessment is made for the purpose of such rate, be assessed in respect of such property in the proportion of one fourth part only of the rateable value thereof; or, where no special assessment is made, shall pay in respect of the said property one fourth part only of the rate in the pound payable in respect of houses and other property.

A separate rate under this Act shall, as respects the powers of the Overseers in relation to making, assessing, and levying such rate, and as respects the appeal against the same, and all other incidents thereof except the purposes to which it is applicable, be deemed to be a rate levied for the relief of the poor.

The expression "Overseers" shall include any officer authorized to levy a rate in a Special Drainage District, and any person or body of persons authorized or required to levy rates for the relief of the poor.

18. In case the amount ordered by any precept of a Sewer Authority to be paid by the Overseers of any parish be not paid in manner directed by such precept and within the time therein specified for that purpose, it shall be lawful for any Justice of the Peace, upon the complaint by the Sewer Authority or by any person authorized by the Sewer Authority, to issue his warrant for levying the amount or so

Penalty on nonpayment of rates by overseers.

* The payments by Vestries when Sewer Authorities were directed by the Act of 1865 to be made out of the poor rate.

much thereof as may be in arrear by distress and sale of the goods of all or any of the said Overseers; and in case the goods of all the Overseers be not sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which is directed to be made in such parish for the purposes of The Sewage Utilization Act, 1865, or this Act, and shall be collected by the like methods.

Saving Clause.

Powers of Act to be in addition and not in derogation of other powers.

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

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