

The Housing of the Working Classes Act 1890 (53 & 54 Vict. C. 70) : with notes and introduction, the forms prescribed under the Act, and all existing enactments upon the subject. Table of cases and index / by W. C. Bernard, and H. Morgan-Brown.

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THE
HOUSING OF THE
WORKING CLASSES ACT 1890.

WITH
NOTES INTRODUCTION & FORMS

BY
W. C. BERNARD
AND
H. MORGAN-BROWN

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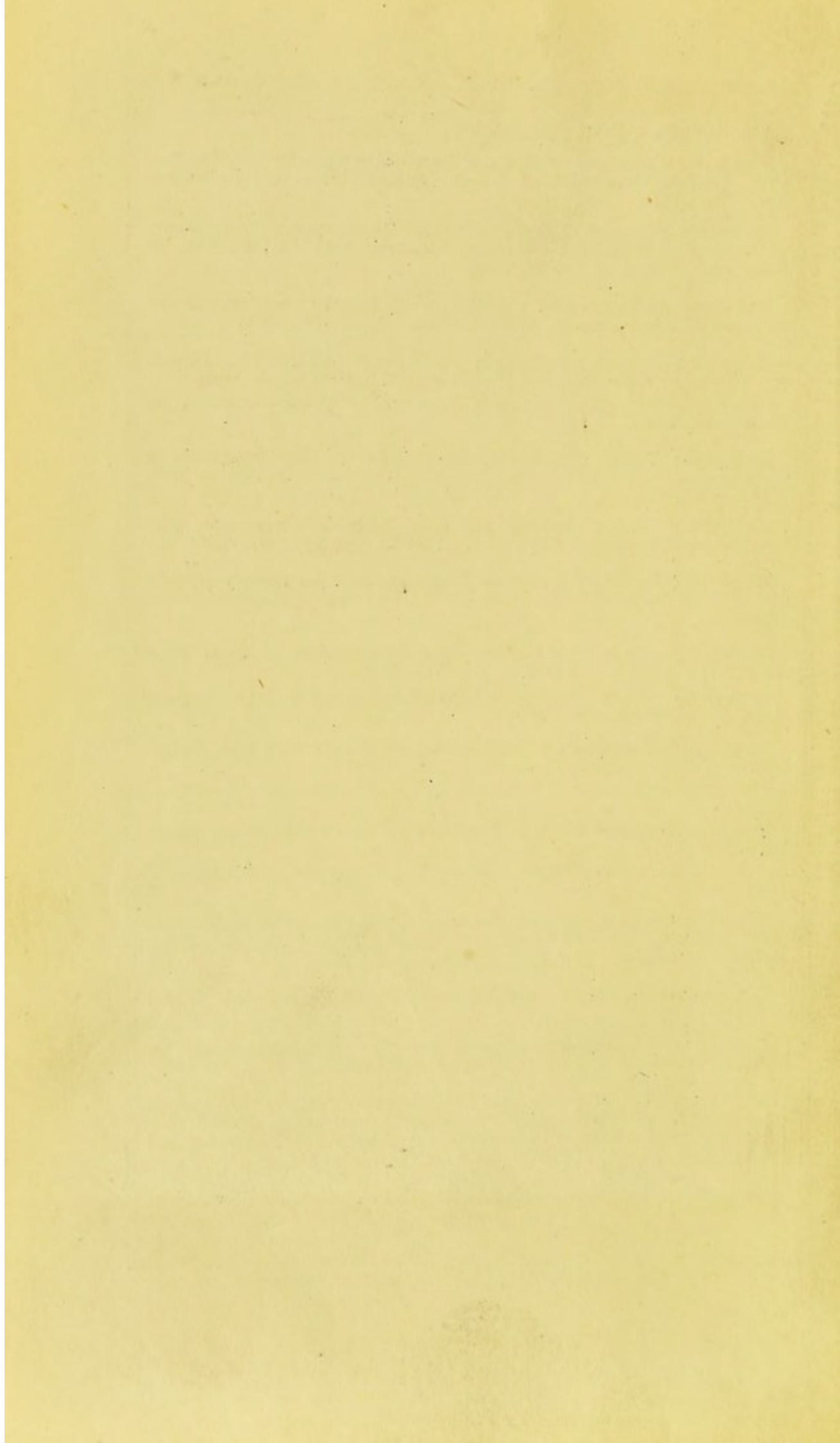
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THE
HOUSING OF THE WORKING CLASSES ACT 1890

(53 & 54 VICT. c. 70)

WITH

NOTES AND INTRODUCTION,
THE FORMS PRESCRIBED UNDER THE ACT,
AND ALL EXISTING ENACTMENTS UPON THE SUBJECT.

TABLE OF CASES AND INDEX.

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PREFACE.



THE Editors believe that the Act with which they have dealt in the following pages is one of great and growing importance. They have endeavoured, so far as was possible with a scarcity of judicial decisions thereon, to make clear the somewhat intricate provisions of the Act. With this object in view they have compiled an Introduction, upon which they have bestowed considerable care, in the hope that, while by no means a summary of the Act, it may serve as a trustworthy guide to its provisions. Every effort has been made to render the Index convenient and complete. The forms which the Home Office and the Local Government Board have respectively issued under the Act are given in an Appendix.

W. C. BERNARD.

H. MORGAN-BROWN.

4, ESSEX COURT, TEMPLE,

10th June, 1891.



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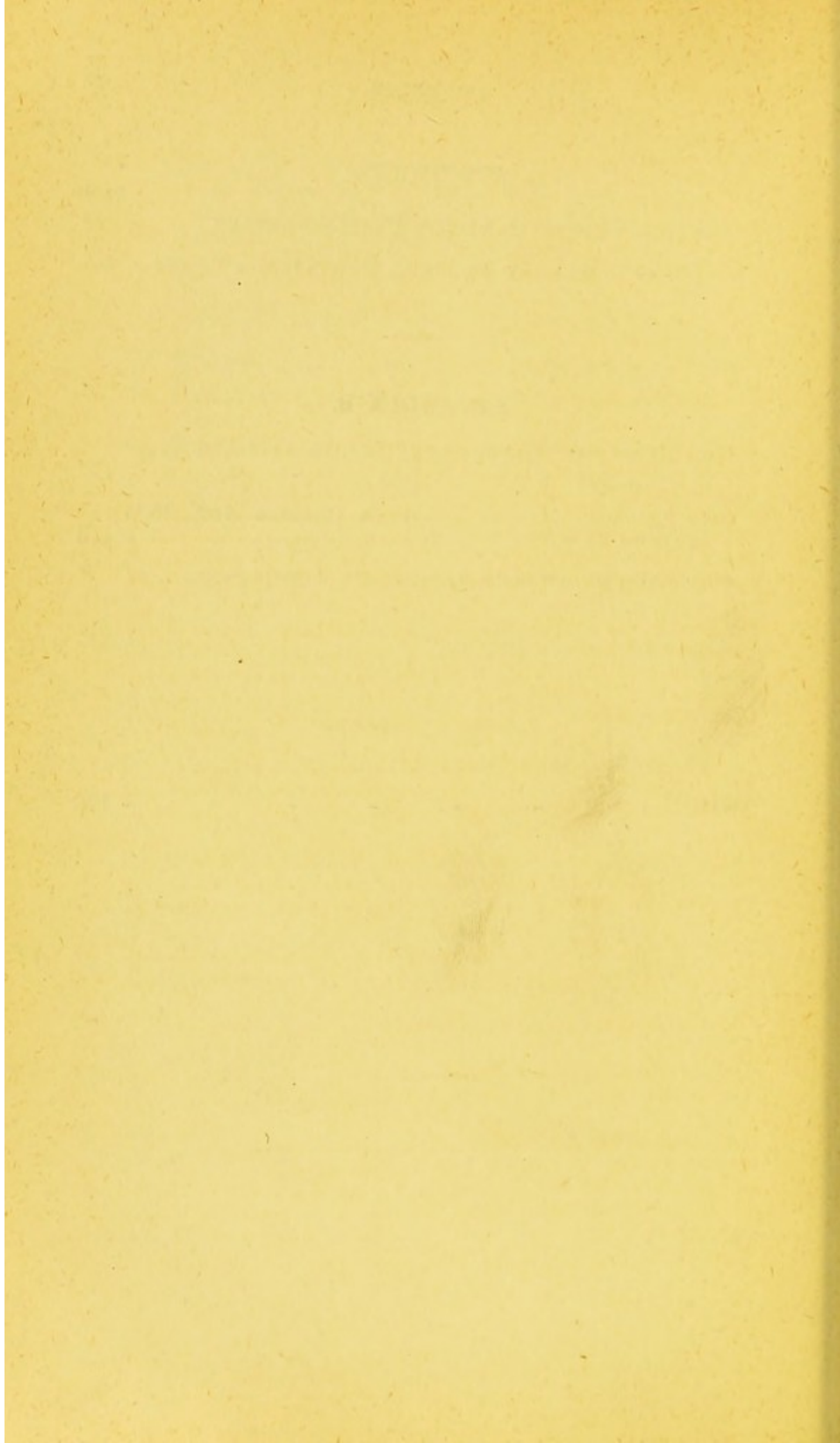


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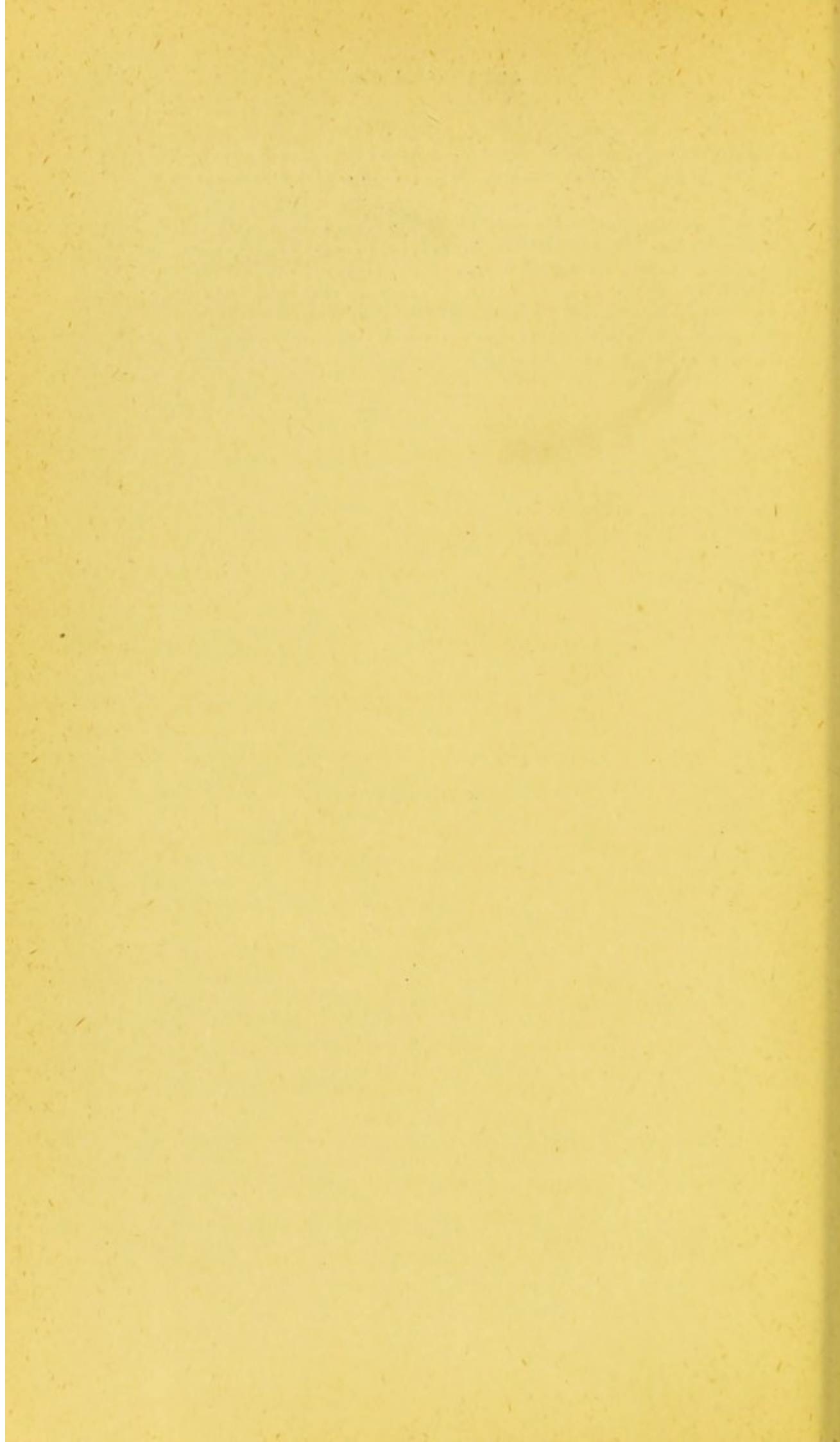
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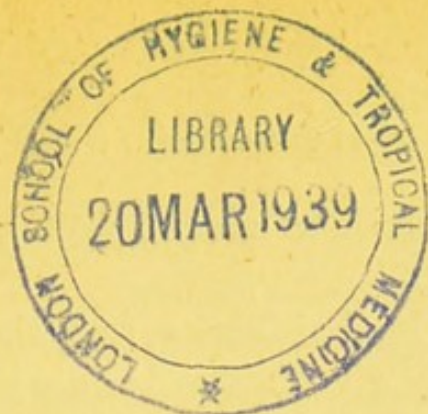
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HOUSING OF THE WORKING CLASSES

INTRODUCTION.

THE Housing of the Working Classes Act, 1890, is an Act to consolidate and amend the Acts relating to artizans' and labourers' dwellings and the housing of the working classes. All previous legislation upon the subject is repealed [s. 102, Sched. VII.], with the exception of the following enactments [see App. B.]

- 45 & 46 Vict. c. 50, s. 111. Municipal Corporations Act, 1882 (Sites for Working Men's Dwellings).
- 46 & 47 Vict. c. 60. Labourers (Ireland) Act, 1883.
- 48 & 49 Vict. c. 72, ss. 3, 7—9, and 10 (part). The Housing of the Working Classes Act, 1885.
- 48 & 49 Vict. c. 77. Labourers (Ireland) Act, 1885.
- 49 & 50 Vict. c. 59. Labourers (Ireland) Act, 1886.
- 53 & 54 Vict. c. 16. Working Classes Dwellings Act, 1890.

The Act is divided into seven parts :

- Part I. Unhealthy Areas.
- Part II. Unhealthy Dwelling-houses.
- Part III. Working Class Lodging-houses.
- Part IV. Supplemental.
- Part V. Application of Act to Scotland.
- Part VI. Application of Act to Ireland.
- Part VII. Repeal and Temporary Provisions.

There are also seven schedules, setting out respectively :—

- I. Who are the local authority, and what is the local rate in any given district under the Act.
- II. Provisions with respect to the compulsory purchase of lands, &c.
- III. Proceedings for closing premises.
- IV. Certain forms under section 32.
- V. Certain forms under sections 36 and 37.
- VI. Provisions as to bye-laws under section 62.
- VII. Enactments repealed under section 102.

PART I.

Unhealthy Areas.

Objects of Part I.—Part I. has for its object the elimination of unhealthy areas in any of the under-mentioned districts through the execution of improvement schemes by the local authority. Its provisions are for the most part taken from the Artizans' and Labourers' Dwellings Improvement Acts, 1875 to 1885, commonly known as Cross's Acts.

Application.—Local Authority.—This part of the Act, including any confirming Act [ss. 2, 8 (6)], *has no application to rural sanitary districts* [s. 3]. It applies to—

The County of London (local authority, the London County Council);

The City of London (local authority, the Commissioners of Sewers for the City of London); and

Urban sanitary districts (local authority, the urban sanitary authority)

[ss. 92, 93, Sched. I.].

Official Representation by Medical Officer.—A duty is imposed upon the medical officer of health, whenever he sees proper cause, or whenever 2 or more justices of the peace, or 12 or more ratepayers in his district, complain to him about any area therein, to make to the local authority of such district an official representation [s. 5] *in writing* [s. 79 (2)] concerning such area. Special provision is made in case of the illness or absence of a medical officer [ss. 26, 79 (1)], and with regard to such officers for London [ss. 5 (1), 76]. Where in any district 12 or more ratepayers have complained about an area in their district, and the medical officer has made default or officially represented the area as not unhealthy, such ratepayers may appeal to the confirming authority (for the county or city of London, a Secretary of State; for an urban sanitary district, the Local Government Board [s. 8 (1), (2)]), who, upon security for costs being given, must appoint a legally qualified medical practitioner to inspect such area, and to make a representation to them on the subject. The confirming authority must then transmit such representation to the local authority, who must act thereon as if it were an official representation made to them under section 5 [s. 16].

Scheme by the Local Authority.—The local authority, on being satisfied, by an official representation, of the unhealthiness of any area or areas within their district, *and of the sufficiency of their resources*, shall pass a resolution and forthwith proceed to make a scheme for the improvement of such area or areas, any number of which may be included in one improvement scheme [s. 4]. The London County Council cannot proceed under this part of the Act if the official repre-

sentation as to an unhealthy area in London does not relate to more than ten houses [s. 72]. And with regard to unhealthy areas and houses in London generally, special provisions are made as to the part of the Act under which the local authority should proceed [s. 73].

Refusal of Local Authority to make an Improvement Scheme.—Local Inquiry.—If, except under sections 72 and 73, the local authority refuse to make an improvement scheme, they must send a copy of the official representation, with their reasons for not acting upon it, to the confirming authority, who *may direct* a local inquiry to be held [s. 10] in manner provided by the Act [s. 17], and after due notice of such inquiry has been publicly given [s. 18]. The officer conducting such inquiry shall have power to administer an oath; he must report the result of the inquiry to the confirming authority, who can deal with such report as they think best [s. 19]. The costs of such inquiry are in the discretion of the confirming authority [s. 85 (1)]. Where the confirming authority are the *Local Government Board*, they have the same powers as to local inquiries as under the Public Health Act, 1875, ss. 293—296, and s. 298 [s. 85 (2)].

Requisites of Improvement Scheme.—The improvement scheme of a local authority must be accompanied by maps, particulars, and estimates; it need not necessarily be confined to the exact limits of the unhealthy area; it must provide such dwelling accommodation, if any, for the working classes displaced by the scheme as is required by the Act; it must provide for proper sanitary arrangements; and it must distinguish the

lands proposed to be taken compulsorily [s. 6 (1), (2)]. Provision may be made in the scheme for its being carried out by the person entitled to the first estate of freehold in any property comprised in the scheme under certain conditions [s. 6 (3)].

Accommodation for Working Classes.—Every scheme comprising an area *in London* must provide for the suitable and convenient accommodation of at least as many persons of the working class as may be displaced in such area; considerable powers, however, are given to the confirming authority to dispense with or modify these requirements under certain circumstances and to a limited extent [s. 11 (1)]. In urban sanitary districts it is not obligatory on the local authority to provide this accommodation, *unless the confirming authority so require* [s. 11 (2)]. A local authority may, for accommodation purposes, appropriate any suitable lands for the time being belonging to them, or purchase by agreement any further lands that may be convenient [s. 23].

Advertisement of Scheme, Notices, &c.—Upon the completion of an improvement scheme the local authority must publish an advertisement to a specified effect during 3 consecutive weeks in any one of the months of September, October, or November [s. 7 (a)]; and serve proper notices during the month next following that in which the advertisement was published, in the manner and on the persons required [ss. 7 (b), (c), (d), 86 (2)]. The form of such advertisements and notices may be prescribed by order of the confirming authority [s. 27], who may, however, dispense with them altogether in certain cases [s. 28].

Petition.—Local Inquiry.—Upon compliance with the provisions as to advertisement and notices, the local authority must present to the confirming authority a petition, accompanied by a copy of the scheme and other details, for an order confirming the scheme [s. 8 (1), (2)]. If the confirming authority think fit to proceed with the case, they must direct a local inquiry to take place in or near the area comprised in the scheme for the purposes and in the manner provided [ss. 8 (3), 17—19, 85].

Provisional Order and Confirming Act.—After receiving the report made upon such inquiry, the confirming authority may make a provisional order declaring the limits of the area comprised in the scheme, and authorising such scheme to be carried into execution [s. 8 (4)]. But such provisional order shall not be of any validity until it has been confirmed by Act of Parliament, which the confirming authority should obtain as soon as possible [s. 8 (6)]. The local authority must serve in the manner specified a copy of such order upon certain persons affected thereby [s. 8 (5), and s. 7 (b), (c), (d)].

Costs, &c.—Provision is made in certain cases for the allowance of expenses to persons opposing the scheme, and for the incidence of charges, &c., in relation to the provisional order [s. 8 (7), (8), (9)]; as also for the awarding of costs in connection with the Bill in Parliament for confirming the provisional order [s. 9].

Execution of Scheme by Local Authority.—When the improvement scheme has been confirmed by Parliament, the local authority must proceed with it as soon as practicable [s. 12 (1)]. For this purpose they have

considerable powers of placing the work, but must not themselves undertake the execution of any part of the scheme without the express approval of the confirming authority; *except* that they may pull down the buildings, clear out the area, and do what they think necessary in connection with the making, &c., of streets upon the lands purchased by them [s. 12 (2)—(6)]. At least 13 weeks before taking any 15 houses or more, the local authority must make known their intention by suitable placards; they must also obtain the certificate of a justice of the peace that such notice has been properly given [s. 14]. The confirming authority, upon the application of the local authority, have a limited power to modify a scheme authorized by Act of Parliament [s. 15]. If within 5 years after the clearing of the unhealthy area, the local authority have failed to proceed with the improvement scheme, the confirming authority may take measures to complete the same [s. 13].

Acquisition of Land.—Compensation.—For the purposes of this part of the Act, the local authority are authorized to take *compulsorily* such lands as are proposed by the scheme in the confirming Act to be so taken, and *by agreement* any lands which they may require for carrying out the said scheme [ss. 20, 74, Sched. II.]; whereupon all rights of way and other easements in any such lands are extinguished [s. 22].

Special provision is made for the assessment of compensation payable on account of compulsory purchase, whether in respect of lands taken compulsorily [s. 21 (1)], or of any house or premises situate within an unhealthy area [s. 21 (2)]; while, for the purposes of valuation,

the local authority are empowered to enter any dwelling-house, &c., authorised to be taken compulsorily, on giving 24 hours' notice in writing to the occupier [s. 77]. In certain cases the local authority may make a reasonable allowance to tenants for expenses of removal [s. 78].

Expenses and Borrowing.—A “Dwelling-house Improvement Fund” is to be established, out of which the expenditure of a local authority must be defrayed [s. 24], and extensive borrowing powers are given to such authority for the purposes of this part of the Act [ss. 25, 83].

Penalty for obstructing Execution of Act.—A penalty, not exceeding 20*l.*, may, on summary conviction, be imposed upon any person obstructing any officer of any authority in the execution of this part of the Act [s. 89].

PART II.

Unhealthy Dwelling-Houses.

Objects of Part II.—This part of the Act has for its object the demolition of unhealthy or obstructive buildings, where the fewness of the buildings, or the smallness of the area, renders it inexpedient to proceed under Part I. [ss. 72, 73].

Application.—Local Authority.—Part II. applies to—
The City of London (local authority, the Commissioners of Sewers for the City of London);
Parishes, other than Woolwich, mentioned in Schedule A to the Metropolis Management Act, 1885, as amended (local authority, the Vestry elected under that Act);

Districts mentioned in Schedule B to the Metropolis Management Act, 1855, as amended (local authority, the district Board of Works elected under that Act) ;

The parish of Woolwich (local authority, the Local Board of Health) ;

[*The above form the administrative county of London (see n. (t), post, p. 115).*]

Urban sanitary districts (local authority, the urban sanitary authority) ; and

Rural sanitary districts (local authority, the rural sanitary authority)

[ss. 92, 93, Sched. I.].

Special provisions are made, however, as to the application of this part to the administrative county of London, chiefly in relation to the expenses incurred by a local authority [s. 46].

Unhealthy Dwellings.

Inspection of Districts.—Representation.—A duty is imposed upon the local authority to cause to be made from time to time inspection of their district, in order to ascertain whether any “dwelling-house” [s. 29] therein is unfit for human habitation [s. 32 (1)]. A duty is imposed upon the medical officer, whenever he sees proper cause, or whenever 4 or more householders make complaint, to inspect any dwelling-house in his district [s. 31 (1)], and, if such dwelling-house appears to him unfit for human habitation, to make to the local authority of his district a representation to that effect [s. 30] *in writing* [s. 79 (2)]. Special provision is made for the temporary absence of a medical officer

[s. 79 (1)], and with regard to such officers for London [s. 76].

Householders' Complaint.—Where 4 or more householders have made a complaint, the medical officer must, in any case, transmit to the local authority such complaint, together with his opinion thereon [s. 31 (1)]. In *urban sanitary districts*, if within 3 months after receiving a householders' complaint and the opinion or representation of the medical officer, the local authority decline or neglect to take the proper steps to put this part of the Act in force, the householders who signed such complaint may by petition obtain from the Local Government Board an order, binding upon the local authority, to proceed under this part [s. 31 (2)].

Report to County Council.—The local authority *in any district contained in the administrative county of London* [s. 93 and note], or *in any rural sanitary district*, must at once forward to the county council of the county in which a dwelling-house is situate, a copy of any representation, complaint, or information relating thereto, and keep the council informed of all matters connected therewith [s. 45 (1)].

Closing Order.—If on the representation of the medical officer, in some cases the county medical officer [s. 52], or information given, the local authority consider any dwelling-house unfit for human habitation, they must, after serving [s. 49] the proper notice [s. 86 (2)] on the owner [ss. 29, 50] or occupier, take steps to obtain a "closing order" [s. 29] against such dwelling, whether occupied or not [s. 32 (1), (2), Sched. III., England, Sched. IV.]. Where a closing order has been made, the local authority must serve 7 days' notice of the order

upon every occupying tenant of the dwelling-house, who is liable on default to a fine of 20s. a day ; a reasonable allowance may be made, at the ultimate cost of the owner, to tenants for their removal expenses [s. 32 (3)]. The local authority, *except in the case of an urban sanitary authority*, must forward a copy of such closing order to the county council [s. 45 (1)].

Demolition Order.—If a closing order remains undetermined, the local authority must, if the circumstances of the case require it, pass a resolution that it is expedient to order the demolition of the building [s. 33 (1)] ; notice of such resolution specifying a time and place for the further consideration thereof must be served upon the owner of the dwelling-house, who may attend to state his objections to the demolition [s. 33 (2)]. If upon such further consideration the local authority think the building should come down, they must order the demolition of the dwelling-house, unless the owner undertakes forthwith to execute the necessary works, and does so [s. 33 (3), (4)]. Any person aggrieved may appeal against an order of the local authority to a Court of Quarter Sessions [s. 35].

Demolition by Owner.—Where a demolition order has issued [s. 86 (1)], the owner must within 3 months of service proceed to demolish the building ; and if he makes default a like duty is imposed upon the local authority [s. 34]. Provision is made for the grant of a charge by way of annuity to an owner on completion of the works necessary in respect of any dwelling-house [s. 36, Sched. V.], and for the incidence of such charge [s. 37].

Obstructive Buildings.

Power is given to the local authority to purchase houses, though not in themselves unhealthy, for the purpose of opening up alleys, &c., and for purposes of ventilation generally.

Representation. — Order by Local Authority.—The medical officer must make to the local authority a representation about any building he may think obstructive, stating that in his opinion it should be pulled down [s. 38 (1)]. The local authority, on receiving a representation—which may be made by 4 or more inhabitant householders [s. 38 (2)], or by the county medical officer [s. 52], and a copy of which must be sent, *except in the case of an urban sanitary district*, to the county council [s. 45 (1)]—must cause a report to be made. If, on receiving the report, they decide to proceed, a copy of the representation and of the report must be sent to the owner of the building, with notice of time and place for the consideration thereof, when such owner may attend. After this, the local authority must make an order, which is subject to appeal in like manner as a demolition order [s. 38 (3)]. Provision is made for acquiring the land on which the building stands, either compulsorily or by agreement [s. 38 (4)], or for the retention of the site by the owner under certain conditions [s. 38 (5)]; and provisions are made as to the assessment of compensation, the severance of the building, the betterment of neighbouring houses, appeal from arbitration, the erection of new buildings, open spaces and dedication of the land as a highway, or other public place [s. 38 (6)—(12)].

Scheme for Reconstruction.

Scheme.—Notice.—Where a demolition order has been made, or where, without any official representations and advertisements, the local authority have decided to pull down or reconstruct any obstructive or unhealthy buildings, a resolution must be passed, and the local authority must direct a scheme to be prepared for the improvement of the area [s. 39 (1)]. All these proceedings must be reported, *except in the case of urban sanitary districts*, to the county council from time to time [s. 45 (1)]. Notice of such scheme must be served as in Part I. provided [s. 39 (2), and *ante*, s. 7].

Petition.—Order by Local Government Board.—After notice, the local authority must present a petition for an order sanctioning the scheme to the Local Government Board, who may make such order after a local inquiry [s. 85] has been held [s. 39 (3)]. Any order sanctioning a scheme shall require the insertion in the scheme of such provisions (if any) for the accommodation of persons of the working class as may seem to the Board necessary [s. 40]. If the local authority can obtain by agreement the whole area comprised in the scheme, such order shall take effect without confirmation. If, however, they do not so agree, a notice must be published in the London Gazette, and served upon the owners of every part of the area [s. 39 (4)].

Provisional Order and Confirming Act.—Within 2 months, any owner may petition the Local Government Board against such order, which shall in that case be provisional, unless confirmed by Act of Parliament [s. 39 (5)]; but if the petition is not presented, or if

presented is withdrawn, shall be confirmed by the Local Government Board itself [s. 39 (6)].

Acquisition of Land.—Execution of Scheme.—Powers are given for the acquisition of land [ss. 39 (7), 74], and in certain cases for the allowance to tenants of their removal expenses [s. 78]; while the provisions of Part I. relating to costs in certain cases [*ante*, s. 9], to the duty of a local authority to carry out a scheme when confirmed [*ante*, s. 12], to the completion of a scheme on failure by the local authority [*ante*, s. 13], and to the extinction of easements [*ante*, s. 22], are made to apply for the purpose of a reconstruction scheme under this part [s. 39 (8)]. The Local Government Board may, with certain limitations, allow the local authority to modify an improvement scheme [s. 39 (9)].

Compensation.—Expenses.—Borrowing.—Ample provision is made for the settlement of compensation [ss. 41, 77], for the expenses of a local authority [s. 42], for borrowing powers [ss. 43, 83], and for the annual presentation of accounts by such authority [s. 44].

Powers of County Councils.—Large powers of supervision are given to county councils under this part, enabling them, if they think that a local authority (*except in an urban district*, for which see *ante*, s. 32 (2)) have failed to perform their duties in relation to the closing or demolition of any dwelling-house, or the pulling down of any obstructive building, to take the necessary proceedings for this purpose; and in the event of such proceedings being successful, and not being disallowed on appeal, to recover the expenses incurred by them from the local

authority. They may not, however, exercise these powers until at least one month's notice in writing has been given by the council to the local authority [s. 45 (2), (3), and (4)]. Further powers in relation hereto are conferred upon the London County Council [s. 46 (5)].

Supplemental.—There are supplemental provisions as to superior landlords not in receipt of rents and profits, and as to applications by any owner who thinks himself prejudiced by the default of any other owner under this part [s. 47]. There is also a clause saving the remedies of an owner for breach of covenant, &c. [s. 48]. A penalty of 20*l.* may be imposed for preventing the execution of this part of the Act [ss. 51, 89].

PART III.

Working Class Lodging Houses.

Objects of Part III.—The object of this part, which consolidates with certain amendments the Labouring Classes Lodging Houses Acts, 1851 to 1885, commonly known as Shaftesbury's Acts, is the provision of suitable houses and cottages for the working classes [s. 53], whether by acquiring land [ss. 56, 57, 60], and erecting new dwellings [s. 59], or by the purchase of existing lodging-houses [s. 58].

Application.—**Adoption by Local Authority.**—Any local authority under this Act [Sched. I.] may adopt this part [s. 54], provided that in the *case of any rural sanitary district in England*, such adoption shall only take place after the due publication of a certificate

to be obtained by application to the county council of the county in which the district is situated [s. 55].

Management of Lodging-Houses.—Bye-laws.—The management of the lodging-houses established or acquired under this part is to be vested in the local authority [s. 61], who are to make proper bye-laws for the regulation of such dwellings [ss. 62, 84, Sched. VI.]. Persons receiving parochial relief, except on account of accident or temporary illness, may not remain tenants of any such lodging-house [s. 63]. Any lodging-houses which are considered too expensive may be sold [s. 64].

Expenses.—Borrowing.—Provisions are made as to the payment of expenses [ss. 65 and 24, *ante*] and borrowing [ss. 66, 83, and 25 (1)—(3), and (5), *ante*]. As to loans, special powers are given to the Public Works Loan Commissioners, and to certain companies, societies, and individuals specified [s. 67].

Powers to Companies, &c.—Powers are given to companies to erect dwellings for the accommodation of their workpeople [s. 68], and to water and gas companies to supply water and gas to lodging-houses under this part either without charge or on such favourable terms as they think fit [s. 69].

Miscellaneous.—Provisions are made for the inspection of lodging-houses [s. 70], and for the application of penalties incurred for the breach of bye-laws [s. 71].

PART IV.

Supplemental.

In addition to those sections which have already been mentioned, there are several of a general character referring to various matters.

They relate to the—

Letting of houses to the working classes [s. 75].

Keeping and auditing of accounts [s. 80].

Appointing of committees [s. 81].

Application of money received by the local authority for the sale of land previously acquired under this Act [s. 82].

Service of notices, &c., upon a local authority [s. 87].

Voting of members of the local authority personally interested [s. 88].

Punishment of offences and recovery of fines [s. 90].

The powers of the Act are to be cumulative [s. 91].

PARTS V. and VI. do not require any detailed treatment, as they merely relate to the application of the Act to Scotland and Ireland respectively.

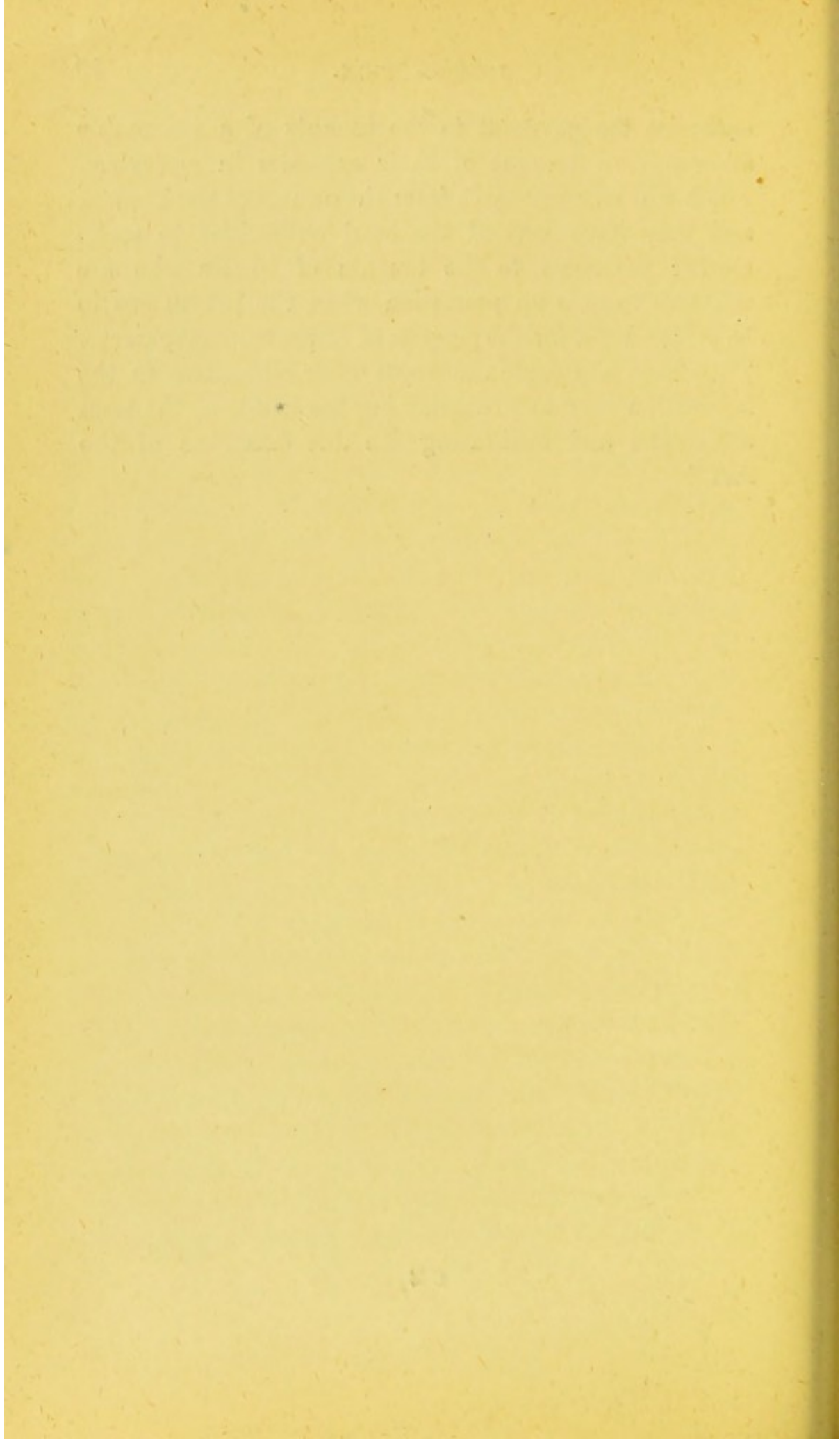
PART VII. repeals the whole of the Artizans' and Labourers' Dwellings Improvement Acts, 1875 to 1885, the Artizans' Dwellings Acts, 1868 to 1885, and the Labouring Classes Lodging Houses Acts, 1851 to 1885, with the necessary savings and temporary provisions.

The policy and general scope of the Act is well summarized in the following extract from a memorandum

drawn up by the Local Government Board in October, 1890 :—

“ It will be seen that, besides consolidating the very numerous statutes in which the law relating to artizans’ and labourers’ dwellings and the housing of the working classes has hitherto been contained, and the complexity of which has necessarily to some extent diminished their utility, the present Act has made a large number of important amendments in that law. These amendments have very materially simplified the procedure to be taken by local authorities with a view to the closing and demolition of dwelling-houses unfit for human habitation; and have given facilities for the making and carrying out of schemes for the reconstruction and re-arrangement of insanitary buildings on a smaller scale than those contemplated by the Artizans’ and Labourers’ Dwellings Improvement Acts, and by a less elaborate machinery than was contained in those Acts. They have provided safeguards against the payment of excessive compensation in respect of dwellings which have been allowed to get into a state of defective sanitation or into bad repair, or the rentals of which have been enhanced by over-crowding, or by the houses being used for illegal purposes. They have enabled the expenses of arbitrations to be diminished in certain cases; and have exempted the local authorities from the payment of the expenses of owners in respect of arbitrations in cases where such particulars of claims have not been delivered prior to the appointment of the arbitrator as would have enabled the local authority to make proper offers of compensation. They have empowered courts of summary jurisdiction, when making orders for the closing of houses unfit for human habitation, to

authorise the payment to the tenants of a reasonable allowance on account of their expenses in removing, which will be recoverable from the owners of the houses; and they have enabled the local authorities to make similar payments to the tenants of houses who are required to give up possession when the houses are to be pulled down for the purpose of improvement schemes. They have also made numerous other alterations in the law with a view to strengthening the hands of the local authorities and facilitating the due execution of the Act."



HOUSING OF THE WORKING CLASSES ACT, 1890.

(53 & 54 VICT. c. 70.)

An Act to consolidate and amend the Acts relating to Artizans and Labourers Dwellings and the Housing of the Working Classes.

[18th August, 1890.]

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

1. This Act may be cited as the Housing of the Working Classes Act, 1890. Short title
of Act.

PART I.

UNHEALTHY AREAS.

2. In this part of this Act—

The expression "this part of this Act" includes any confirming Act (*a*), and

The expression "the Acts relating to nuisances" means—

as respects the county (*b*) of London and

Defini-
tions.

city of London, the Nuisances Removal Acts as defined by the Sanitary Act, 1866 (*c*), and any Act amending these Acts; and

as respects any urban sanitary district (*d*) in England, the Public Health Acts; and in the case of any of the above-mentioned areas, includes any local Act which contains any provisions with respect to nuisances in that area.

29 & 30
Vict. c. 90,
s. 14.

(*a*) *I.e.*, any Act confirming a provisional order; *vide post*, sect. 8 (6).

(*b*) For definition, *vide post*, sect. 93, and note (*t*) *ad loc.*

(*c*) The Nuisances Removal Acts are defined by the Sanitary Act, 1866 (29 & 30 Vict. c. 90), s. 14, as the 18 & 19 Vict. c. 121, and 23 & 24 Vict. c. 77, as amended by Part II. of the Sanitary Act itself. These Acts, however, except so far as relates to the Metropolis, are repealed by the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 343.

(*d*) *Vide* Public Health Act, 1875, ss. 5, 6, from which the following table is taken:—

Urban District.	Urban Authority.
Borough, constituted such either before or after the passing of this Act.	The Mayor, Aldermen, and Burgesses acting by the Council.
Improvement district, constituted such before the passing of this Act, and having no part of its area situated within a borough or local government district.	The Improvement Commissioners.
Local government district, constituted such either before or after the passing of this Act, and having no part of its area situated within a borough, and not coincident in area with a borough or Improvement Act district.	The Local Board.

3. This part of this Act shall not apply to rural sanitary districts.

Applica-
tion of
Part I. of
Act.

Scheme by Local Authority.

4. Where an official representation (*e*) as here-
after mentioned is made to the local authority (*f*)
that within a certain area in the district of such
authority either—

Local
authority
on being
satisfied
by official
representa-
tion of
the un-
healthi-
ness of
district to
make
scheme
for its
improve-
ment.

(a) any houses, courts, or alleys are unfit for
human habitation, or

(b) the narrowness, closeness, and bad arrange-
ment, or the bad condition of the streets
and houses or groups of houses within such
area, or the want of light, air, ventilation,
or proper conveniences, or any other sanitary
defects, or one or more of such causes, are
dangerous or injurious to the health of the
inhabitants either of the buildings in the
said area or of the neighbouring buildings;

and that the evils connected with such houses,
courts, or alleys, and the sanitary defects in such
area cannot be effectually remedied otherwise than
by an improvement scheme for the re-arrangement
and reconstruction of the streets and houses within
such area, or of some of such streets or houses, the
local authority shall take such representation into
their consideration (*g*), and if satisfied of the truth
thereof, and of the sufficiency of their resources,
shall pass a resolution to the effect that such area
is an unhealthy area (*h*), and that an improvement
scheme ought to be made in respect of such area,
and after passing such resolution they shall forth-

with proceed to make a scheme for the improvement of such area.

Provided always, that any number of such areas may be included in one improvement scheme.

(e) See the next section.

(f) *Vide* Sched. I., *post*, p. 128.

(g) Unless such representation be made to the London County Council and relate to not more than 10 houses: *vide post*, sect. 72.

(h) Or, in the case of the London County Council, may pass a resolution that the case is not of general importance to the County of London and should be dealt with under Part II.: *vide post*, sect. 73 (1) (b).

Official
representa-
tion, by
whom to
be made.

5.—(1.) An official representation for the purposes of this part of this Act shall mean a representation made to the local authority by the medical officer of health of that authority, and in London made either by such officer or by any (i) medical officer of health in London.

(2.) A medical officer of health shall make such representation whenever he sees cause to make the same; and if two or more justices of the peace acting within the district for which he acts as medical officer of health, or twelve or more persons liable to be rated to the local rate complain to him of the unhealthiness of any area within such district, it shall be the duty of the medical officer of health forthwith to inspect (k) such area, and to make an official representation stating the facts (l) of the case, and whether in his opinion the said area or any part thereof is an unhealthy area or is not an unhealthy area.

(i) "Any"—no doubt because the London County Council is the local authority for the whole county, and it would be obviously impossible for their medical officer

to ascertain what areas were unhealthy throughout London.

(k) For penalty on any person obstructing him, *vide* sect. 89, *post*, p. 113.

(l) "The facts"—presumably those upon which he bases his opinion, and not merely such general statements as are required by the preceding section.

6.—(1.) The improvement scheme of a local authority shall be accompanied by maps, particulars, and estimates, and

Requisites
of im-
provement
scheme of
local
authority.

(a) may exclude any part of the area in respect of which an official representation is made, or include any neighbouring lands, if the local authority are of opinion that such exclusion is expedient or inclusion is necessary (*m*) for making their scheme efficient for sanitary purposes; and

(b) may provide for widening any existing approaches to the unhealthy area or otherwise for opening out the same for the purposes of ventilation or health; and

(c) shall provide such dwelling accommodation, if any, for the working classes displaced by the scheme as is required to comply with this Act; and

(d) shall provide for proper sanitary arrangements.

(2.) The scheme shall distinguish the lands proposed to be taken compulsorily.

(3.) The scheme may also provide for the scheme or any part thereof being carried out and effected by the person entitled to the first estate of freehold in any property comprised in the scheme or with the concurrence of such person,

under the superintendence and control (*n*) of the local authority, and upon such terms and conditions to be embodied in the scheme as may be agreed upon between the local authority and such person.

(*m*) This gives the local authority power to include, and therefore, if the inclusion be confirmed by Parliament, to take compulsorily (*vide* sect. 20, *post*, p. 43), lands in respect of which no official representation has been made.

(*n*) This applies to both alternatives.

Confirmation of Scheme.

Publica-
tion of
notices.

7. Upon the completion of an improvement scheme the local authority shall (*o*)—

(a) publish, during three consecutive weeks in the month of September, or October, or November, in some one and the same newspaper circulating within the district of the local authority, an advertisement stating the fact of a scheme having been made, the limits of the area comprised therein, and naming a place within such area or in the vicinity thereof where a copy of the scheme may be seen at all reasonable hours; and

Service of
notices.

(b) during the month next following the month in which such advertisement is published serve a notice on every owner (*p*) or reputed owner, lessee or reputed lessee, and occupier of any lands proposed to be taken compulsorily, so far as such persons can reasonably be ascertained, stating that such lands are proposed to be taken compulsorily

for the purpose of an improvement scheme, and in the case of any owner or reputed owner, lessee or reputed lessee, requiring an answer (*r*) stating whether the person so served dissents or not in respect of taking such lands;

- (c) Such notice shall be served—
- (i) by delivery of the same personally to the person required to be served, or if such person is absent abroad, or cannot be found, to his agent, or if no agent can be found, then by leaving the same on the premises; or,
 - (ii) by leaving the same at the usual or last known place of abode of such person as aforesaid; or,
 - (iii) by post (*s*) addressed to the usual or last known place of abode of such person.
- (d) One notice addressed to the occupier or occupiers without naming him or them, and left at any house, shall be deemed to be a notice served on the occupier or on all the occupiers of any such house.

(*o*) *Vide post*, sect. 28, as to power of confirming authority to dispense with advertisements and notices.

By sect. 27, *post*, p. 53, the confirming authority have power to prescribe the forms of these advertisements and notices; and in Appendix A., *post*, p. 163, will be found the forms which have been issued by the Local Government Board and the Home Office respectively.

(*p*) No definition of "owner" is given in this part of the Act, that in sect. 29 applying to Part II. only; but the Lands Clauses Act, 1845 (8 & 9 Vict. c. 18), s. 3, defines it for certain purposes of that or a special Act as "any person or corporation who, under the provisions of

this or the special Act, would be enabled to sell and convey lands to the promoters of the undertaking." For this definition, as set out in full, *vide post*, sect. 29, note (b), p. 55. As this part of this Act is, in construing the Lands Clauses Acts, to be deemed to be the special Act (*vide* sect. 20, *post*, p. 43), it is thought that the above definition applies in the section under discussion.

(r) No time need be specified within which the answer is to be sent; but in view of sect. 8 (2), it is difficult to see how the local authority can proceed with their petition until answers have been received.

(s) By the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 26, service by post "shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post."

Making
and con-
firmation
of pro-
visional
order.

8.—(1.) Upon compliance with the foregoing provisions with respect to the publication of an advertisement and the service of notices, the local authority shall present a petition, if it relates to any part of the county or city of London, to a Secretary of State, and if it relates to any other place, to the Local Government Board (*t*), praying that an order may be made confirming such scheme.

(2.) The petition shall be accompanied by a copy of the scheme, and shall state the names of the owners or reputed owners, lessees or reputed lessees, who have dissented in respect of the taking their lands, and shall be supported by such evidence as the Secretary of State or Local Government Board, according to the circumstances of the case (in this part of this Act referred to as the confirming authority), may from time to time require.

(3.) If, on consideration of the petition and on

proof of the publication of the proper advertisements and the service of the proper notices, the confirming authority think fit to proceed with the case, they shall direct a local inquiry (*u*) to be held in, or in the vicinity of, the area comprised in the scheme, for the purpose of ascertaining the correctness of the official representation made as to the area and the sufficiency of the scheme provided for its improvement, and any local objections to be made to such scheme.

(4.) After receiving the report made upon such inquiry, the confirming authority may make a provisional order declaring the limits of the area comprised in the scheme and authorising such scheme to be carried into execution.

(5.) Such provisional order may be made either absolutely or with such conditions and modifications of the scheme as the confirming authority may think fit, so that no addition be made to the lands proposed in the scheme to be taken compulsorily, and it shall be the duty of the local authority to serve a copy of any provisional order so made in the manner and upon the persons in which and upon whom notices in respect of lands proposed to be taken compulsorily are required by this part of this Act to be served (*v*), except tenants for a month or a less period than a month.

(6.) A provisional order made in pursuance of this section shall not be of any validity unless and until it has been confirmed by Act of Parliament; and it shall be lawful (*w*) for the confirming authority, as soon as conveniently may be, to obtain such confirmation, and any Act confirming

any provisional order made in pursuance of this part of this Act, with such modifications as may seem fit to Parliament, shall be a public General Act of Parliament, and is in this part of this Act referred to as the confirming Act.

(7.) The confirming authority may make such order as they think fit in favour of any person whose lands were proposed by the scheme to be taken compulsorily for the allowance of the reasonable costs, charges, and expenses properly incurred by him in opposing such scheme (*x*).

(8.) All costs, charges, and expenses incurred by the confirming authority in relation to any provisional order (*y*) under this part of this Act shall, to such amount as the confirming authority think proper to direct, and all costs, charges, and expenses of any person to such amount as may be allowed to him by the confirming authority in pursuance of the aforesaid power, shall be deemed to be an expense incurred by the local authority under this part of this Act, and shall be paid to the confirming authority and to such person respectively, in such manner and at such times and either in one sum or by instalments as the confirming authority may order, with power for the confirming authority to direct interest to be paid at such rate not exceeding five pounds in the hundred by the year as the confirming authority may determine, upon any sum for the time being due in respect of such costs, charges, and expenses as aforesaid.

(9.) Any order made by the confirming authority in pursuance of this section may be made a

rule of a superior court (z), and be enforced accordingly.

(t) For the constitution of the Board, see the Local Government Board Act, 1871 (34 & 35 Vict. c. 70), s. 3.

(u) For the power of the confirming authority to dispense with notices, *vide* sect. 28, *post*, p. 53; and for provisions as to the conduct of such inquiry and notice thereof, *vide* sects. 17—19, *post*, p. 42.

(v) *Ante*, sect. 7 (b).

(w) These words are not in themselves imperative, but probably it would be held that, having regard to all the circumstances, a duty was cast upon the confirming authority to promote the necessary Bill unless they had good reason for not doing so. *Morisse v. Royal British Bank*, 1 C. B. (N. S.) 67; *Reg. v. Tithe Commissioners*, L. R. 14 Q. B. 459; *Julius v. Lord Bishop of Oxford*, 5 App. Ca. 214. In the last-mentioned case the principles of construction applicable to phrases of this sort are examined and enunciated.

(x) *I.e.*, up to the granting of the provisional order. The greater part of such costs would be incurred in respect of the local inquiry. Costs in Parliament are provided for in sub-sects. (2) and (3) of the following section.

(y) Presumably the costs of a local inquiry under sub-sect. (3) of this section, or under sect. 10, would be held to have been "incurred in relation to a provisional order," even though no such order were made in consequence of the inquiry. If, however, such costs are not within these words, it would seem that they must be borne by the confirming authority, except so far as they are covered by sect. 85 (*vide post*, p. 111, and note (q) to p. 112), sect. 16 (2) only applying to the costs of inquiries under that section. These remarks, of course, do not apply to costs, &c., allowed "in pursuance of the aforesaid power."

(z) This can be done by a side bar rule or, if there is any probability of opposition, by motion, according to the old practice with regard to submissions. "Superior court" = Supreme court, *vide* sect. 93, *post*, p. 115.

9.—(1.) Where any Bill for confirming a provisional order authorizing an improvement scheme is referred to a Committee of either House of Parliament upon the petition of any person opposing such Bill, the Committee shall take into con-

Costs to be awarded in certain cases.

sideration the circumstances under which such opposition is made to the Bill, and whether such opposition was or was not justified by such circumstances, and shall award costs accordingly to be paid by the promoters or the opponents of the Bill as the Committee may think just.

(2.) Any costs under this section may be taxed and recovered in the manner in which costs may be taxed and recovered under the Act of the session of the twenty-eighth and twenty-ninth years of the reign of Her present Majesty, chapter twenty-seven.

(3.) The decision of the majority of the members of the Committee for the time being present and voting on any question under this section shall be deemed to be the decision of the Committee.

Inquiry
on refusal
of local
authority
to make
an im-
provement
scheme.

10. Where an official representation is made to the local authority with a view to their passing a resolution in favour of an improvement scheme, and they fail to pass any resolution in relation to such representation, or pass a resolution to the effect that they will not proceed with such scheme, the local authority shall, as soon as possible, send a copy of the official representation, accompanied by their reasons for not acting upon it, to the confirming authority, and, upon the receipt thereof, the confirming authority may direct a local inquiry to be held, and a report to be made to them with respect to the correctness of the official representation made to the local authority, and any matters connected therewith on which the confirming authority may desire to be informed (*a*).

(a) This section empowers the confirming authority to direct a local inquiry, but not to take any further steps, though it is impossible to suppose that the Legislature intended such a lame and impotent conclusion. It is difficult to see how they can proceed to make a provisional order under sect. 8 (4), as that sub-section only applies where a scheme has already been made and petition presented. Nor does sect. 19 (*post*, p. 43) appear to mend matters, since it only gives the confirming authority power to "deal with the *report*." As to costs, *vide* sect. 85, *post*, p. 111.

Provision of Dwelling Accommodation for Working Classes displaced by Scheme.

11.—(1.) Subject as hereinafter mentioned, every scheme comprising an area in the county or city of London shall provide for the accommodation of at the least as many persons of the working class as may be displaced in the area comprised therein, in suitable dwellings, which, unless there are any special reasons to the contrary, shall be situate within the limits of the same area, or in the vicinity thereof (*b*).

Requisites of improvement scheme as to accommodation of working classes.

Provided that—

(a.) Where it is proved to the satisfaction of the confirming authority on an application to authorise a scheme that equally convenient accommodation can be provided for any persons of the working classes displaced by the scheme at some place other than within the area or the immediate vicinity of the area comprised in the scheme, and that the required accommodation has been or is about to be forthwith provided, either by the local authority or by any other person or body of persons,

w.

D

the confirming authority may authorise such scheme, and the requirements of this section with respect to providing accommodation for persons of the working class shall be deemed to have been complied with to the extent to which accommodation is so provided; and

- (b.) Where the local authority apply (*c*) for a dispensation under this section, and the officer conducting the local inquiry directed by the confirming authority reports that it is expedient, having regard to the special circumstances of the locality and to the number of artisans and others belonging to the working class dwelling within the area, and being employed within a mile thereof, that a modification should be made, the confirming authority, without prejudice to any other powers conferred on it by this part of this Act, may, in the Provisional Order authorising the scheme, dispense altogether with the obligation of the local authority to provide for the accommodation of the persons of the working class who may be displaced by the scheme to such extent as the confirming authority may think expedient, having regard to such special circumstances as aforesaid, but not exceeding one-half of the persons so displaced (*d*).

- (2.) Where a scheme comprises an area situate elsewhere than in the county or city of London (*e*), it shall, if the confirming authority (*f*) so require

(but it shall not otherwise be obligatory on the local authority so to frame their scheme), provide for the accommodation of such number of those persons of the working classes displaced in the area with respect to which the scheme is proposed in suitable dwellings to be erected in such place or places either within or without the limits of the same area as the said authority (*g*) on a report made by the officer conducting the local inquiry may require.

(*b*) Presumably such accommodation ought to be ready for the displaced working men by the date at which they are required to leave their original homes. There is nothing to restrict the effect of the section to accommodation to be forthcoming on the completion of the works; and the use of the word "forthwith" in paragraph (*a*) is against such restricted interpretation.

Where provision is made for such accommodation by the scheme, it is thought that the local authority can take *compulsorily* the lands required to carry out the provision, though not part of the unhealthy area; sect. 12 (1) (*post*, p. 36) making it their duty to purchase the lands required for the scheme, and sect. 20 (*post*, p. 43) applying the compulsory powers of the Lands Clauses Acts, as set out in Sched. II., to the purchase and taking of lands in pursuance of this part of the Act. But if they need lands not mentioned in the scheme, they can purchase only by agreement under the power given by sect. 23 (*post*, p. 49).

(*c*) This application should be made with the petition for confirmation of the scheme: sect. 8 (1), *ante*, p. 28.

(*d*) Paragraph (*a*) contemplates the omission from the scheme of any provision for accommodation; paragraph (*b*) contemplates the insertion of such provision, but enables the confirming authority, under given conditions, to dispense to a limited extent with the requirements of sub-sect. (1). It must not be forgotten, however, that this dispensation, being by Provisional Order, has no effect until a confirming Act has been passed. This being so, and such dispensation being limited in extent, it would seem to be more advantageous for the local authority to proceed, if possible, under paragraph (*a*).

(*e*) *Sc.*, in an urban sanitary district (Sched. I., *post*, p. 128; and sect. 8 (1), *ante*, p. 28).

(*f*) Here the Local Government Board (sect. 8 (1), *ante*, p. 28).

(*g*) Sc., the confirming authority.

Execution of Scheme by Local Authority.

Duty of local authority to carry scheme when confirmed into execution.

12.—(1.) When the confirming Act authorizing any improvement scheme of a local authority under this part of this Act has been passed by Parliament, it shall be the duty of that authority to take steps for purchasing the lands required for the scheme, and otherwise for carrying the scheme into execution as soon as practicable.

(2.) They may sell or let all or any part of the area comprised in the scheme to any purchasers or lessees for the purpose and under the condition that such purchasers or lessees will, as respects the land so purchased by or leased to them, carry the scheme into execution; and in particular they may insert in any grant or lease of any part of the area provisions binding the grantee or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the buildings, and prohibiting the division of buildings, and any addition to or alteration of the character of buildings without the consent of the local authority, and for the re-vesting of the land in the local authority, or their re-entry thereon, on breach of any provision in the grant or lease (*h*).

(3.) The local authority may also engage with any body of trustees, society, or person, to carry the whole or any part of such scheme into effect upon such terms as the local authority may think

expedient, but the local authority shall not themselves, without the express approval of the confirming authority, undertake the rebuilding of the houses or the execution of any part of the scheme, except that they may take down any or all of the buildings upon the area, and clear the whole or any part thereof, and may lay out, form, pave, sewer, and complete all such streets upon the land purchased by them as they may think fit, and all streets so laid out and completed shall thenceforth be public streets, repairable by the same authority as other streets in the district.

(4.) Provided that in any grant or lease of any part of the area which may be appropriated by the scheme for the erection of dwellings for the working classes the local authority shall impose suitable conditions and restrictions as to the elevation, size, and design of the houses, and the extent of the accommodation to be afforded thereby, and shall make due provision for the maintenance of proper sanitary arrangements.

(5.) If the local authority erect any dwellings out of funds to be provided under this part of this Act, they shall, unless the confirming authority otherwise determine, sell and dispose of all such dwellings within ten years from the time of the completion thereof (*i*).

(6.) The local authority may, where they think it expedient so to do, without themselves acquiring the land, or after or subject to their acquiring any part thereof, contract with the person entitled to the first estate of freehold in any land comprised in an improvement scheme for the carrying of the

scheme into effect by him in respect of such land (*k*).

(*h*) The effect of this seems to be that the local authority ought to insert the conditions mentioned, or, at least, the general one, in any sale or lease made by them, *before the execution of the scheme*, of any lands comprised therein; but that after the scheme has been executed they may sell or let such lands under or free from such conditions: *e.g.*, in the case of lands which have re-vested in them under this section, or of which the first lease has expired, or on which they have themselves, not ten years before the date of the sale or lease, executed the scheme with the express approval of the confirming authority. But no doubt it would be advisable in all cases to insert the conditions as to repair, division, and alteration.

(*i*) This is the only case in which sale is necessary.

(*k*) This sub-section modifies the duty cast upon the local authority under sub-sect. (1), by enabling them to dispense with the purchase of the land in certain cases. The power conferred by it is more extended than that given by sect. 6 (3) (*ante*, p. 25), inasmuch as it enables the local authority to make such a contract even though no proviso was contained in the scheme to that effect. The expression "*such land*" appears at first sight to refer only to the land in which the contractor has the first estate of freehold, but from sect. 6 (3) it seems clear that it may extend to the whole or any part of the land comprised in the scheme.

Comple-
tion of
scheme on
failure by
local
authority.

13. If within five years after the removal (*l*) of any buildings on the land set aside by any scheme authorized by a confirming Act as sites for working men's dwellings, the local authority have failed to sell or let such land for the purposes prescribed by the scheme, or have failed to make arrangements for the erection of the said dwellings, the confirming authority may order the said land to be sold by public auction or public tender, with full power to fix a reserve price, subject to the conditions imposed by the scheme, and to any modifications thereof which may be made in pursuance of

this part of this Act, and to a special condition on the part of the purchaser to erect upon the said land dwellings for the working classes, in accordance with plans to be approved by the local authority, and subject to such other reservations and regulations as the confirming authority may deem necessary.

(l) This sub-section is intended to prevent unfair delay on the part of the local authority, but only applies after the removal of the buildings. For delay in removal the remedy would seem to be by mandamus, requiring the local authority to fulfil the duty imposed upon them by sect. 12 (1).

14. The local authority shall, not less than thirteen weeks before taking (m) any fifteen houses or more, make known their intention to take the same by placards, handbills, or other general notices placed in public view upon or within a reasonable distance of such houses, and the local authority shall not take any such houses until they have obtained a certificate of a justice of the peace that it has been proved to his satisfaction that the local authority have made known, in manner required by this section, their intention to take such houses.

Notice to occupiers by placards.

(m) As there are no words to restrict the requirements of this section to a compulsory taking, it would be advisable to comply with them in all cases, though it is difficult to see any utility in the notices when the taking is by agreement.

Seemle, that negotiations previous to the conveyance do not constitute "taking," but the conveyance itself does: *Spencer v. Metropolitan Board of Works*, 22 Ch. D. 142 (C. A.).

15.—(1.) The confirming authority, on applica- Power of confirm-

ing autho-
rity to
modify
authorised
scheme.

tion from the local authority, and on its being proved to their satisfaction that an improvement can be made in the details of any scheme authorized by a confirming Act, may permit the local authority to modify any part of their improvement scheme which it may appear inexpedient to carry into execution, but any part of the scheme respecting the provision of dwelling accommodation for persons of the working class, when so modified, shall be such as might have been inserted in the original scheme.

(2.) A statement of any modifications permitted to be made in any part of an improvement scheme in pursuance of this section shall be laid by the confirming authority before both Houses of Parliament as soon as practicable after the permission is given, if Parliament be then sitting, and if not, within one month after the next meeting of Parliament (*n*).

Provided always, that if such modification requires a larger public expenditure than that sanctioned by the former scheme, or the taking of any property otherwise than by agreement, or affects injuriously other property in a manner different to that proposed in the former scheme without the consent of the owner and occupier of any such property, the modification must be made by a provisional order to be confirmed by Act of Parliament in the manner provided by this part of this Act on the completion of an improvement scheme (*o*).

(*n*) Except in cases falling within the proviso, the local authority may, apparently, make any modifications for

which they have obtained the permission of the confirming authority, and may act upon such modifications when made, without waiting until the statement required by this sub-section has been laid before Parliament.

(o) *Vide* sect. 8, *ante*, p. 28.

Inquiries with respect to Unhealthy Areas.

16.—(1.) Where in any district twelve or more ratepayers have complained to a medical officer of health of the unhealthiness of any area within that district, and the medical officer of health has failed to inspect such area, or to make an official representation with respect thereto, or has made an official representation to the effect that in his opinion the area is not an unhealthy area, such ratepayers may appeal to the confirming authority, and upon their giving security to the satisfaction of that authority for costs, the confirming authority shall appoint a legally qualified medical practitioner to inspect such area, and to make representation to the confirming authority, stating the facts of the case, and whether, in his opinion, the area or any part thereof is or is not an unhealthy area. The representation so made shall be transmitted by the confirming authority to the local authority, and if it states that the area is an unhealthy area the local authority shall proceed therein in the same manner (*p*) as if it were an official representation made to that authority.

Inquiry on default of medical officer in certain cases.

(2.) The confirming authority shall make such order as to the costs of the inquiry as they think just, with power to require the whole or any part of such costs to be paid by the appellants where the medical practitioner appointed is of opinion

that the area is not an unhealthy area, and to declare the whole or any part of such costs to be payable by the local authority where he is of opinion that the area or any part thereof is an unhealthy area.

(3.) Any order made by the confirming authority in pursuance of this section may be made a rule (*q*) of a superior court, and be enforced accordingly.

(*p*) “In the same manner, &c.”—the effect of these words is to make it the duty of the local authority to take the representation into consideration just as though it were an official representation made by a medical officer of health (sect. 4, *ante*, p. 23). If they are satisfied of its truth and of the sufficiency of their resources, they must pass a resolution accordingly, and proceed to make a scheme and to present a petition under sect. 8 (1). The confirming authority will then direct a local inquiry under sect. 8 (2), and matters will proceed in the ordinary course.

If, on the other hand, the local authority support, as they not improbably will, the opinion of their own medical officer as against that of the practitioner appointed by the confirming authority, and fail to pass a resolution that the area is an unhealthy one, the confirming authority will be thrown upon sect. 10 (*ante*, p. 32), under which they may direct a local inquiry; but it is, to say the least, doubtful whether they can do any more: sect. 10, note (*a*), *ante*, p. 33.

(*q*) By side bar rule or motion: *vide* note (*z*) on sect. 8 (9), *ante*, p. 31.

Proceed-
ings on
local
inquiry.

17. Where a local inquiry (*r*) is directed, an officer shall be sent by the confirming authority to the area to which such inquiry relates for the purpose of making an inquiry into the correctness of the official representation made to the local authority as to such area being an unhealthy area, and into the sufficiency of the scheme provided

for its improvement, and into any local objections to be made to such scheme, and to any other matter into which he is directed by this Act or the confirming authority to inquire for the purposes of this Act.

(r) "Local inquiry"—this clearly does not include an inquiry under the preceding section, inasmuch as it presupposes an official representation. Local inquiries may be directed under sects. 8 or 10, or by the Local Government Board under sect. 85, *post*, p. 111.

18. Before commencing such inquiry the officer appointed to conduct the same shall make public by advertisement or otherwise in such manner as he thinks best calculated to give information to the persons residing in the area his intention to make such inquiry, and a statement of a time and place at which he will be prepared to hear all persons desirous of being heard before him upon the subject of the inquiry.

Notice of inquiry to be publicly given.

19. The officer conducting such inquiry shall have power to administer an oath; he shall report the result of the inquiry to the confirming authority, who shall deal with such report in such manner as they think expedient.

Power to administer oath.

Acquisition of Land.

20. The clauses of the Lands Clauses Acts (s), with respect to the purchase and taking of lands otherwise than by agreement shall not, except to the extent set forth in the Second Schedule to this Act, apply to any lands taken in pursuance of this part of this Act, but save as aforesaid the

Acquisition of land.

said Lands Clauses Acts, as amended by the provisions contained in the said schedule, shall regulate and apply to the purchase and taking of lands, and shall for that purpose be deemed to form part of this part of this Act in the same manner as if they were enacted in the body thereof (*t*); subject to the provisions of this part of this Act and to the provisions following; that is to say,

- (i.) This part of this Act shall authorise the taking by agreement of any lands which the local authority may require for the purpose of carrying into effect the scheme authorised by any confirming Act, but it shall authorise the taking by the exercise of any compulsory powers of such lands only as are proposed by the scheme in the confirming Act to be taken compulsorily:
- (ii.) In the construction of the Lands Clauses Acts, and the provisions in the Second Schedule to this Act, this part of this Act shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking; and the period after which the powers for the compulsory purchase or taking of lands shall not be exercised shall be three years after the passing of the confirming Act.

(*s*) By the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 23, the Lands Clauses Acts are defined as the Lands Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 18), the Lands Clauses Consolidation Acts Amendment Act, 1860 (23 & 24 Vict. c. 106), the Lands Clauses Consolidation

Act, 1869 (32 & 33 Vict. c. 18), and the Lands Clauses Umpire Act, 1883 (46 & 47 Vict. c. 15).

(t) The effect of this section is to incorporate the whole of the Lands Clauses Acts (as amended by Sched. II., and by the provisions of Part I., particularly those next following), with the exception of sects. 16—68 of the Lands Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 18), which are headed “with respect to the purchase and taking of lands otherwise than by agreement.” In the case of lands taken compulsorily, Sched. II. is substituted for these sections.

It will be observed that the incorporated sections are to “regulate and apply to the purchase and taking of lands.” These words should, doubtless, be taken in their natural wide sense so as to cover all the provisions of the Lands Clauses Acts not expressly excluded (see the judgment of Mathew, J., in *Wilkins v. Mayor of Birmingham*, 25 Ch. D. at p. 81), and should not be cut down by reference to the headings of the groups of clauses in the Act of 1845. This view is further borne out by the consideration that, though the draftsman has *exactly* followed the heading of one of these groups when dealing with the excepted clauses, he has not done so here. The case of *The Queen v. Lord Mayor of London*, L. R. 2 Q. B. 292, seems to be distinguishable. The question there was as to the effect of an exception of “so much of the Lands Clauses Consolidation Act as relates to the purchase of lands otherwise than by agreement.” It was held that the words were to be read as referring, though inaccurately, to the heading of sects. 16—68 of the Act of 1845. Here, however, the question appears to be rather what clauses are applicable than what clauses are referred to; and, moreover, the incorporation is not, as in the reported case, of the one Act in which the headings occur, but of all four Lands Clauses Acts.

As to the value of the headings in the Act of 1845, see the dicta in *Hammersmith Ry. Co. v. Brand*, L. R. 4 H. L. 171; *Union Steamship Co. of New Zealand v. Melbourne Harbour Commissioners*, 9 App. Ca. at p. 369; citing and explaining *Eastern Counties and London and Blackwall Rys. v. Marriage*, 9 H. L. C. 32.

21.—(1.) Whenever the compensation payable in respect of any lands or of any interests in any lands proposed to be taken compulsorily in pur- Special provision as to compensation.

suance of this part of this Act requires to be assessed—

- (a) the estimate of the value of such lands or interests shall be based upon the fair market value, as estimated at the time of the valuation being made of such lands, and of the several interests in such lands, due regard being had to the nature and then condition of the property, and the probable duration of the buildings in their existing state, and to the state of repair thereof, without any additional allowance in respect of the compulsory purchase of an area or of any part of an area in respect of which an official representation has been made, or of any lands included in a scheme which, in the opinion of the arbitrator, have been so included as falling under the description of property which may be constituted an unhealthy area under this part of this Act (*u*) ; and
- (b) in such estimate any addition to or improvement of the property made after the date of the publication in pursuance of this part of this Act of an advertisement stating the fact of the improvement scheme having been made shall not (unless such addition or improvement was necessary for the maintenance of the property in a proper state of repair) be included, nor in the case of any interest acquired after the said date shall any separate estimate of the value

thereof be made so as to increase the amount of compensation to be paid for the lands; and

(2.) On the occasion of assessing the compensation payable under any improvement scheme in respect of any house or premises situate within an unhealthy area evidence shall be receivable by the arbitrator to prove—

(1st) that the rental of the house or premises was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates; or

(2ndly) that the house or premises are in such a condition as to be a nuisance within the meaning of the Acts relating to nuisances (*v*), or are in a state of defective sanitation, or are not in reasonably good repair; or

(3rdly) that the house or premises are unfit, and not reasonably capable of being made fit, for human habitation;

and, if the arbitrator is satisfied by such evidence, then the compensation—

(a) shall in the first case so far as it is based on rental be based on the rental which would have been obtainable if the house or premises were occupied for legal purposes and only by the number of persons whom the house or premises were under all the circumstances of the case fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates; and

(b) shall in the second case be the amount estimated as the value of the house or premises if the nuisance had been abated, or if they had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of abating the nuisance, or putting them into such condition or repair, as the case may be; and

(c) shall in the third case be the value of the land, and of the materials of the buildings thereon (*w*).

(*u*) Lands may be included in a scheme though not falling under this description, and though no official representation has been made in respect of them, in any of the following ways:—Under sect. 6 (1) (a), when the local authority consider it necessary to the efficiency of their scheme to include neighbouring lands; under sects. 11 (1), 12 (1), and 20, when they are required by the scheme for the purpose of providing accommodation for displaced members of the working classes; or, lastly, under sect. 15, when modifications have been made in the scheme and confirmed as required by that section.

In the above cases it is presumed that the customary 10 per cent. for compulsory sale will be allowed.

(*v*) 18 & 19 Vict. c. 121, and 23 & 24 Vict. c. 77, as amended by Part II. of the Sanitary Act, 1866: *vide* sect. 2, *ante*, p. 22, note (*c*).

(*w*) That is, the value of the materials *in situ*. In many cases this would be *nil*, the value of the materials scarcely exceeding the cost of breaking and carting.

Extinction of rights of way and other easements.

22. Upon the purchase by the local authority of any lands required for the purpose of carrying into effect any scheme, all rights of way, rights of laying down or of continuing any pipes, sewers, or drains on, through, or under such lands, or part thereof, and all other rights or easements in or relating to such lands, or any part thereof, shall

be extinguished, and all the soil of such ways, and the property in the pipes, sewers, or drains, shall vest in the local authority, subject to this provision, that compensation shall be paid by the local authority to any persons or bodies of persons proved to have sustained loss by this section, and such compensation shall be determined in the manner in which compensation for lands is determinable under this part of this Act, or as near thereto as circumstances admit (*x*).

(*x*) This section includes the easement of ancient lights, even though in process of acquisition and before it exists as an easement. But *semble*, that an owner would be entitled to compensation for such inchoate right. *Barlow v. Ross*, 24 Q. B. D. 381 (C. A.); see also *Wigram v. Fryer*, 36 Ch. D. 87.

23. A local authority may, for the purpose of providing accommodation for persons of the working classes displaced by any improvement scheme, appropriate any lands for the time being belonging to them which are suitable for the purpose, or may purchase by agreement any such further lands as may be convenient.

Application of lands for accommodation of working classes.

Expenses.

24.—(1.) The receipts of a local authority under this part of this Act shall form a fund (in this Act referred to as “the Dwelling-house Improvement Fund”), and their expenditure shall be defrayed out of such fund.

Formation of improvement fund for purposes of Act.

(2.) The moneys required in the first instance to establish such fund, and any deficiency for the purposes of this part of this Act from time to time

appearing in such fund by reason of the excess of expenditure over receipts, shall be supplied out of the local rates or out of moneys borrowed in pursuance of this Act.

(3.) In settling any accounts of the local authority in respect of any transactions under this part of this Act, care shall be taken that as far as may be practicable all expenditure shall ultimately be defrayed out of the property dealt with under this part of this Act; and any balances of profit (*x*) made by the local authority under this part of this Act shall be applicable to any purposes to which the local rate is for the time being applicable.

(4.) Any limit imposed on or in respect of local rates by any other Act of Parliament shall not apply to any rate required to be levied for the purpose of defraying any expenses under this part of this Act.

(5.) The local authority may carry to the account of the Dwelling-house Improvement Fund any such money or produce of any property, as is legally applicable to purposes similar to the purposes of this part of this Act; and in case of doubt as to whether, in any particular case, the purposes are so similar the confirming authority may decide such doubt, and such decision shall be conclusive.

(*x*) The effect of this section seems to be that a general account ought to be kept of all transactions of the local authority under this part of the Act. "Balances of profit" will then mean balances to the credit of the local authority upon the whole of such account. Balances of profit on the transactions of any one year are clearly to be set off against balances of loss on previous years; and

in the same way, probably, profits on the transactions in respect of one area must be set off against losses in respect of another.

25.—(1.) A local authority may, in manner in this section mentioned, borrow such money as is required for the purposes of this part of this Act on the security of the local rate.

Power of borrowing money for the purposes of Part I. of Act.

(2.) For the purpose of such borrowing, the London County Council may, with the assent of the Treasury, create consolidated stock under the Metropolitan Board of Works Loans Acts, 1869 to 1871 (*y*), but all moneys required for the payment of the dividends on and the redemption of the consolidated stock created for the purposes of this part of this Act shall be charged to the special county account (*z*) to which the expenditure for the purposes of this part of this Act is chargeable.

(3.) For the purpose of such borrowing, the Commissioners of Sewers for the City of London may borrow and take up at interest such money on the credit of the local rates, or any of them, as they may require for the purposes of this part of this Act, and may mortgage any such rate or rates to the persons by or on behalf of whom such money is advanced for securing the repayment to them of the sums borrowed, with interest thereon, and for the purposes of any mortgages so made by the Commissioners of Sewers, the clauses of the Commissioners Clauses Act, 1847 (*a*), with respect to the mortgages to be executed by the commissioners shall be incorporated with this part of this Act; and in the construction of that Act "the special Act" shall mean this part of this Act;

“the commissioners” shall mean the Commissioners of Sewers; “the clerk of the commissioners” shall include any officer appointed for the purpose by the Commissioners of Sewers by this part of this Act; and the mortgagees or assignees of any mortgage made as last aforesaid may enforce payment of the arrears of principal and interest due to them by the appointment of a receiver.

(4.) For the purpose of such borrowing, the urban sanitary authority shall have the same power of borrowing as they have under the Public Health Acts (*b*) for the purpose of defraying any expenses incurred by them in the execution of those Acts.

(5.) The Public Works Loan Commissioners may, on the recommendation of the confirming authority, lend to any local authority any money required by them for purposes of this part of this Act, on the security of the local rate. Such loan shall be repaid within such period, not exceeding fifty years, as may be recommended by the confirming authority (*c*).

(*y*) 32 & 33 Vict. c. 102; 33 & 34 Vict. c. 24; 34 & 35 Vict. c. 47.

(*z*) *Sc.*, the Dwelling House Improvement Fund of the administrative County of London.

(*a*) 10 & 11 Vict. c. 16, ss. 75—88.

(*b*) 38 & 39 Vict. c. 55, ss. 233—241.

(*c*) This sub-section replaces sects. 242, 243 of the Public Health Act, 1875. A local authority wishing to borrow from the Commissioners should refer to the following enactments:—The Local Authority Loans Act, 1875 (38 & 39 Vict. c. 83); the Public Health Loans Acts, 1875 to 1883, viz., 38 & 39 Vict. c. 31; 41 Vict. c. 18, Pt. I.; 42 & 43 Vict. c. 77, ss. 1—10; 44 & 45 Vict. c. 38, ss. 7—9; 45 & 46 Vict. c. 62, Pt. IV.; 46 & 47 Vict. c. 42, Pt. I.

General Provisions.

26. In case of the illness or unavoidable absence of a medical officer of health, the authority, board, or vestry who appointed him may (subject to the approval of the confirming authority) appoint a duly qualified medical practitioner (*d*), for the period of six months, or any less period to be named in the appointment.

Provision in case of absence of medical officer of health.

(*d*) A practitioner so appointed has the same powers and liabilities for the time being as a medical officer of health: *vide* sect. 79 (1), *post*, p. 109.

27. The confirming authority may by order prescribe the forms (*e*) of advertisements and notices under this part of this Act; it shall not be obligatory on any persons to adopt such forms, but the same, when adopted, shall be deemed sufficient for all the purposes of this part of this Act.

Power of confirming authority as to advertisements and notices.

(*e*) See Appendix A., *post*, p. 163.

28. The confirming authority may, on the consideration of any petition of a local authority for an order confirming a scheme, dispense with the publication of any advertisement, or the service of any notice, proof of which publication or service is not given to them as required by this part of this Act, where reasonable cause is shown to their satisfaction why such publication or service should be dispensed with, and such dispensation may be made by the confirming authority, either unconditionally or upon such condition as to the publi-

Power of confirming authority to dispense with notices in certain cases.

cation of other advertisements and the service of other notices or otherwise as the confirming authority may think fit, due care being taken by the confirming authority to prevent the interest of any person being prejudiced by the fact of the publication of any advertisement or the service of any notice being dispensed with in pursuance of this section.

PART II.

UNHEALTHY DWELLING-HOUSES.

Preliminary.

Defini-
tions :

29. In this part of this Act, unless the context otherwise requires—

“Street.” The expression “street” includes any court, alley, street (*a*), square, or row of houses :

“Dwel-
ling
house.” The expression “dwelling-house” means any inhabited building, and includes any yard, garden, outhouses, and appurtenances belonging thereto or usually enjoyed therewith, and includes the site of the dwelling-house as so defined :

“Owner.” The expression “owner,” in addition to the definition given by the Lands Clauses Acts, includes all lessees or mortgagees of any premises required to be dealt with under this part of this Act, except persons holding or entitled to the rents and profits of such premises for a term of years, of which

twenty-one years do not remain unexpired (b) :

The expression "closing order" means an order prohibiting the use of premises for human habitation made under the enactments set out in the Third Schedule in this Act. "Closing order."

(a) *I.e.*, in the ordinary sense of the term, as apart from an Act of Parliament; *sc.*, a road with houses on either side. See *Maude and others v. The Baildon Local Board*, 10 Q. B. D. 394 (C. A.); *Corporation of Portsmouth v. Smith and others*, 13 Q. B. D. 184, and 10 App. Cas. 364.

(b) By the Lands Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 18, s. 3), "owner" is defined as follows:—

"Where under the provisions of this or the Special Act, or any Act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the Special Act, would be enabled to sell and convey lands to the promoters of the undertaking."

The definition above cited is, as it stands in the Lands Clauses Consolidation Act, only applicable to certain cases therein specified; but it is presumed that, as extended under this section, it is applicable wherever the word "owner" occurs in this part of this Act.

Where three months of a lease remained unexpired, and the lessee was the assignee of a new lease for twenty-one years dating from the expiry of the existing lease, although such lessee had merely an *interesse termini* in the new lease, he was nevertheless held to be an "owner" within the meaning of the definition here, as being a person "entitled to the rents and profits of such premises" for twenty-one years: *Reg. v. Vestry of St. Marylebone*, 20 Q. B. D. 415 (Div. Ct.).

Buildings unfit for Human Habitation.

30. It shall be the duty of the medical officer of health of every district to represent to the local authority (c) of that district any dwelling-house Representation by medical officer of health.

which appears to him to be in a state so dangerous or injurious to health as to be unfit for human habitation.

(c) *Vide* Sched. I., *infra*, p. 128. Apart from this section it has long been the duty of the medical officer, under the orders of the Local Government Board, to keep himself informed of the sanitary conditions of his district.

Representa-
tion on
house-
holders'
complaint.

31.—(1.) If in any district any four or more householders living in or near to any street complain in writing to the medical officer of health of that district that any dwelling-house in or near that street is in a condition so dangerous or injurious to health as to be unfit for human habitation, he shall forthwith inspect the same, and transmit to the local authority the said complaint, together with his opinion thereon, and if he is of opinion that the dwelling-house is in the condition aforesaid, shall represent the same to the local authority, but the absence of any such complaint shall not excuse him from inspecting any dwelling-house and making a representation thereon to the local authority.

(2.) If within three months after receiving the said complaint and opinion or representation of the medical officer, the local authority, not being in the administrative county of London, or not being a rural sanitary authority in any other county (*d*), declines or neglects to take any proceedings to put this part of this Act in force, the householders who signed such complaint may petition the Local Government Board for an inquiry, and the said Board after causing an inquiry to be held may order the local authority to pro-

ceed under this part of this Act, and such order shall be binding on the local authority.

(*d*) With regard to the administrative county of London and rural sanitary districts in any other county, see sects. 45 and 46, *infra*, pp. 80 and 83.

Closing Order and Demolition.

32.—(1.) It shall be the duty of every local authority to cause to be made from time to time inspection of their district, with a view to ascertain whether any dwelling-house therein is in a state so dangerous or injurious to health as to be unfit for human habitation, and, if on the representation of the medical officer, or of any officer of such authority, or information given (*e*), any dwelling-house appears to them to be in such state, to forthwith take proceedings (*f*) against the owner (*g*) or occupier for closing the dwelling-house under the enactments set out in the Third Schedule to this Act.

Duty of local authority as to closing of dwelling-house unfit for human habitation.

(2.) Any such proceedings may be taken for the express purpose of causing the dwelling-house to be closed whether the same be occupied or not, and upon such proceedings the court of summary jurisdiction (*h*) may impose a penalty (*i*) not exceeding twenty pounds, and make a closing order, and the forms for the purposes of this section may be those in the Fourth Schedule to this Act, or to the like effect, and the enactments respecting an appeal from a closing order shall apply to the imposition of such penalty as well as to a closing order.

(3.) Where a closing order has been made as

respects any dwelling-house, the local authority shall serve notice of the order on every occupying tenant of the dwelling-house, and within such period as is specified in the notice, not being less than seven days after the service of the notice, the order shall be obeyed by him, and he and his family shall cease to inhabit the dwelling-house, and in default he shall be liable to a penalty not exceeding twenty shillings a day during his disobedience to the order. Provided that the local authority may make to every such tenant such reasonable allowance on account of his expenses in removing, as may have been authorized by the court making the closing order, which authority the court is hereby authorized to give, and the amount of the said allowance shall be a civil debt due from the owner of the dwelling-house to the local authority, and shall be recoverable summarily (*k*).

(*e*) The provision in sub-sect. 2 of the preceding section, whereby *in urban sanitary districts* an order may be obtained from the Local Government Board, which shall be binding on the local authority, relates only to information coming through the medical officer of the district.

(*f*) Notice, however, to put the dwelling-house in proper order must first be served on the owner or occupier: see Sched. III., *post*, p. 151.

(*g*) This word, as used in the enactments scheduled, should, perhaps, be taken in the sense defined in sect. 29, *ante*, excluding leaseholders of whose lease less than twenty-one years remains unexpired. However, by the interpretation clause of the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), s. 2, under sect. 12 of which the proceedings here referred to are to be taken, the word "owner" includes *all* lessees. It might be arguable that the section in which the word occurs is not incorporated, but merely referred to in the present Act, and that "owner" therefore retains the meaning given to it by the

earlier Act. Moreover, the words of the Court in *Mayor, &c. of Portsmouth v. Smith*, 10 App. Cas. at p. 371, would seem to make it probable that, though incorporated, words in the section must be construed with reference to the original Act, regard being had to the interpretation clause of that Act. The question was recently raised before Mr. De Rutzen at Westminster, but decided in favour of the definition of "owner" laid down in sect. 29, *ante*.

The point of time to be looked at in determining who is an owner, is the date of the service of notices that the premises are unhealthy, and not the date of the demolition order: see *Reg. v. Vestry of Marylebone*, 20 Q. B. D. 415 (Div. Ct.). See also note (b) to sect. 29, *ante*, p. 55.

(h) *I. e.*, the Court of Petty Sessions referred to in Sched. III., *post*, p. 151.

(i) These words are very vague; they appear to give the court of summary jurisdiction an absolute discretion as to the imposition of the penalty. It is presumed, however, that such penalty would only be inflicted where the owner or occupier had failed to comply with the notice served under the Sanitary Act, 1866 (29 & 30 Vict. c. 90, s. 21), and the corresponding enactments in Sched. III., *post*, p. 151.

(k) *Vide* 42 & 43 Vict. c. 49 (Summary Jurisdiction Act, 1879), ss. 35, 51 (2).

33.—(1.) Where a closing order has been made in respect of any dwelling-house, and not been determined by a subsequent order (l), then the local authority, if of opinion that the dwelling-house has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit, and that the continuance of any building being or being part of the dwelling-house is dangerous or injurious to the health of the public or of the inhabitants of the neighbouring dwelling-houses, shall pass a resolution that it is expedient to order the demolition of the building.

Order for demolition of house unfit for habitation.

(2.) The local authority shall cause notice of such resolution to be served on the owner of the

dwelling-house, and such notice shall specify the time and place appointed by the local authority for the further consideration of the resolution, not being less than one month after the service of the notice, and any owner of the dwelling-house shall be at liberty to attend and state his objections to the demolition.

(3.) If upon the consideration of the resolution and the objections the local authority decide that it is expedient so to do, then, unless an owner undertakes to execute forthwith the works necessary (*m*) to render the dwelling-house fit for human habitation, the local authority shall order the demolition of the building.

(4.) If an owner undertakes as aforesaid to execute the said works, the local authority may order the execution of the works, within such reasonable time as is specified in the order, and if the works are not completed within that time or any extended time allowed by the local authority or a court of summary jurisdiction (*n*), the local authority shall order the demolition of the building.

(*l*) *Vide* the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121, s. 13), and the corresponding enactments set out in Sched. III., *infra*, p. 151.

(*m*) It should be observed that the execution of these works will not enable the dwelling to be used for human habitation until the justices have issued an order "declaring such house habitable." *Vide* Sched. III., *post*, p. 151.

(*n*) *Vide post*, sect. 47 (3).

Execution
of an order
for demo-
lition, and
provision
as to site.

34.—(1.) Where an order for the demolition of a building has been made, the owner thereof shall within three months after service of the order proceed to take down and remove the build-

ing, and if the owner fails therein the local authority shall proceed to take down and remove the building and shall sell the materials, and after deducting the expenses incident to such taking down and removal, pay over the balance of money (*o*) (if any) to the owner.

(2.) Where a building has been so taken down and removed, no house or other building or erection which will be dangerous or injurious to health shall be erected on all or any part of the site of such building; and if any house, building, or erection is erected contrary to the provisions of this section, the local authority may at any time order the owner thereof to abate the same, and in the event of non-compliance with the order, may at the expense of the owner abate or alter the same (*p*).

(*o*) No provision is made here or elsewhere for the recovery of the money spent by the local authority in case such demolition and sale of materials should result in a loss.

(*p*) This sub-section establishes a different procedure for the abatement of nuisances in dwellings erected on the site of those removed under a demolition order. In these cases the local authority may dispense with the necessity of proceeding against the owner or occupier before a justice of the peace, and at once set about executing their own order.

As to the expenses of an "owner in default" who has ceased to be owner at the time of the completion of the works by the local authority, see *The Queen v. The Swindon Local Board*, 4 Q. B. D. 305 (C. A.).

35.—(1.) Any person aggrieved (*q*) by an order of the local authority under this part of this Act, may appeal against the same to a court of quarter sessions, and no work shall be done nor proceed-
 Appeal
 against
 order of
 local
 authority.

42 & 43
Vict. c. 49.

ings taken under any order until after the appeal is determined or ceases to be prosecuted; and section thirty-one of the Summary Jurisdiction Act, 1879, respecting appeals from courts of summary jurisdiction to courts of quarter sessions shall apply with the necessary modifications as if the order of the local authority were an order of a court of summary jurisdiction.

(2.) Provided that—

- (a) Notice of appeal may be given within one month after notice of the order of the local authority has been served on such person;
- (b) The court shall, at the request of either party, state the facts specially for the determination of a superior court, in which case the proceedings may be removed into that court.

(g) This is very comprehensive, and may include persons who were not, and could not have been, parties to the original order. See *Ex parte Learoyd*, 10 Ch. D. 3 (C. A.); and *Taylor v. Mostyn*, 26 Ch. D. (C. A.) at p. 54, per Lord Selborne, L.C.

“Person” includes a body corporate or unincorporate. *Vide* Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 19.

This section has, of course, no reference to closing orders, which are made by the court of summary jurisdiction. As the sections of the Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121, ss. 15, 16), allowing an appeal from the order of the justices, are not incorporated in Sched. III. of this Act, it would seem that no appeal lies from a closing order except by way of special case under the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 33.

Grant of
charges by
way of
annuity to
owner on
comple-

36.—(1.) Where any owner has completed in respect of any dwelling-house any works required to be executed by an order of a local authority under this part of this Act, he may apply to the

local authority for a charging order, and shall produce to the local authority the certificate of their surveyor or engineer that the works have been executed to his satisfaction, and also the accounts of and vouchers for the costs, charges, and expenses of the works, and the local authority, when satisfied that the owner has duly executed such works and of the amount of such costs, charges, and expenses, and of the costs of obtaining the charging order which have been properly incurred, shall make an order accordingly, charging on the dwelling-house an annuity to repay the amount.

(2.) The annuity charged shall be a sum of six pounds for every one hundred pounds of the said amount and so in proportion for any less sum, and shall commence from the date of the order, and be payable for a term of thirty years to the owner named in such order, his executors, administrators, or assigns.

(3.) Every such annuity may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a rent-charge granted by deed out of the dwelling-house by the owner thereof.

(4.) Charging orders made under this section shall be made according to the Form (r) marked A. in the Fifth Schedule to this Act, or as near thereto as the circumstances of the case will admit.

(r) These words are, presumably, not so rigorous as "in the form." See cases on the Bills of Sale Act, 1882 (45 & 46 Vict. c. 43, s. 9); and especially *Thomas v.*

Kelly, 13 App. Cas. 506, where the Court distinguished between "in accordance with the form" and "in the form"; see also *Carpenter v. Deen*, 23 Q. B. D. 566; and *Cochrane v. Entwhistle*, 25 Q. B. D. 116.

Incidence
of charge.

37.—(1.) Every charge created by a charging order under this part of this Act shall be a charge on the dwelling-house specified in the order, having priority over all existing and future estates, interests, and incumbrances, with the exception of quit-rents and other charges incident to tenure, tithe commutation rentcharge, and any charge created under any Act authorising advances of public money; and where more charges than one are charged under this part of this Act on any dwelling-house such charges shall, as between themselves, take order according to their respective dates.

(2.) A charging order shall be conclusive evidence that all notices, acts, and proceedings by this part of this Act directed with reference to or consequent on the obtaining of such order, or the making of such charge, have been duly served, done, and taken, and that such charge has been duly created, and that it is a valid charge on the dwelling-house declared to be subject thereto.

(3.) Every such charging order, if it relates to a dwelling-house in the area (*s*) to which the enactments relating to the registration of land in Middlesex apply or to a dwelling-house in Yorkshire, shall be registered in like manner as if the charge were made by deed by the absolute owner of the dwelling-house.

(4.) Copies of the charging order and of the

certificate of the surveyor or engineer, and of the accounts as passed by the local authority, certified to be true copies by the clerk of the local authority, shall within six months after the date of the order be deposited with the clerk of the peace of the county in which the dwelling-house is situate, and be by him filed and recorded.

(5.) The benefit of any such charge may be from time to time transferred in like manner as a mortgage or rentcharge may be transferred. Any transfer may be in the Form marked B. in the Fifth Schedule to this Act, or in any other convenient form.

(s) *I. e.*, Middlesex (7 Ann. c. 20, s. 1) and Yorkshire, being the three ridings, and the town of Kingston-upon-Hull (47 & 48 Vict. c. 54, s. 4).

Obstructive Buildings.

38.—(1.) If a medical officer of health finds that any building within his district, although not in itself unfit for human habitation, is so situate that by reason of its proximity to or contact with any other buildings it causes one of the following effects, that is to say,—

Power to local authority to purchase houses for opening alleys, &c.

- (a) It stops ventilation, or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health; or
- (b) It prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings;

in any such case, the medical officer of health shall represent to the local authority the particulars relating to such first-mentioned building (in this Act referred to as "an obstructive building") stating that in his opinion it is expedient that the obstructive building (*t*) should be pulled down.

(2.) Any four or more inhabitant householders of a district may make to the local authority of the district a representation as respects any building to the like effect as that of the medical officer under this section.

(3.) The local authority on receiving any such representation as above in this section mentioned shall cause a report to be made to them respecting the circumstances of the building and the cost of pulling down the building and acquiring the land, and on receiving such report shall take into consideration the representation and report, and if they decide to proceed, shall cause a copy of both the representation and report to be given to the owner of the lands on which the obstructive building stands, with notice of the time and place appointed by the local authority for the consideration thereof; and such owner shall be at liberty to attend and state his objections, and after hearing such objections the local authority shall make an order either allowing the objection or directing that such obstructive building shall be pulled down, and such order shall be subject to appeal in like manner as an order of demolition of the local authority under the foregoing provisions (*u*) of this part of this Act.

(4.) Where an order of the local authority for pulling down an obstructive building is made under this section, and either no appeal is made against the order, or an appeal is made and either fails or is abandoned, the local authority shall be authorised to purchase the lands on which the obstructive building is erected in like manner as if they had been authorised by a special Act to purchase the same; and for the purpose of such purchase the provisions (*v*) of the Lands Clauses Acts, with respect to the purchase and taking of lands otherwise than [by agreement shall be deemed to be incorporated in this part of this Act (subject nevertheless to the provisions of this part of this Act), and for the purpose of the provisions of the Lands Clauses Acts this part of this Act shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking, and such lands may be purchased at any time within one year after the date of the order, or if it was appealed against after the date of the confirmation.

(5.) The owner of the lands may within one month after notice to purchase the same is served upon him declare that he desires to retain the site of the obstructive building and undertake either to pull down or to permit the local authority to pull down the obstructive building, and in such case the owner shall retain the site and shall receive compensation from the local authority for the pulling down of the obstructive building.

(6.) The amount of such compensation, and also the amount of any compensation to be paid

on the purchase of any lands under this section, shall in case of difference be settled by arbitration in manner provided in this part of this Act.

(7.) Where the local authority is empowered to purchase land compulsorily, it shall not be competent for the owner of a house or manufactory to insist on his entire holding being taken, where part only is proposed to be taken as obstructive, and where such part proposed to be taken can, in the opinion of the arbitrator to whom the question of disputed compensation is submitted, be severed from the remainder of the house or manufactory without material detriment thereto, provided that compensation may be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part.

(8.) Where in the opinion of the arbitrator the demolition of an obstructive building adds to the value of such other buildings as are in that behalf mentioned in this section, the arbitrator shall apportion so much of the compensation to be paid for the demolition of the obstructive building as may be equal to the increase in value of the other buildings amongst such other buildings respectively, and the amount apportioned to each such other building in respect of its increase in value by reason of the demolition of such obstructive building shall be deemed to be private improvement expenses incurred by the local authority in respect of such building, and such local authority may, for the purpose of defraying such expenses, make and levy improvement rates on the occupier of such premises accordingly; and the provi-

sions (*w*) of the Public Health Acts relating to private improvement expenses and to private improvement rates, shall so far as circumstances admit, apply accordingly in the same manner as if such provisions were incorporated in this Act.

(9.) If any dispute arises between the owner or occupier of any building (to which any amount may be apportioned in respect of private improvement expenses) and the arbitrator by whom such apportionment is made, such dispute shall be settled by two justices (*x*) in manner provided by the Lands Clauses Acts, in cases where the compensation claimed in respect of lands does not exceed fifty pounds.

(10.) Where the owner retains the site or any part thereof, no house or other building or erection which will be dangerous or injurious to health, or which will be an obstructive building within the meaning of this section, shall be erected upon such site or any part thereof; and if any house, building, or erection is erected on the site contrary to the provisions of this section the local authority may at any time order the owner to abate or alter the said house, building, or erection; and in the event of non-compliance with such order may, at the expense of the owner thereof, abate or alter the same.

(11.) Where the lands are purchased by the local authority the local authority shall pull down the obstructive building, or such part thereof as may be obstructive within the meaning of this section, and keep as an open space the whole site, or such part thereof as may be required to be kept

open for the purpose of remedying the nuisance or other evils caused by such obstructive building, and may, with the assent of the Local Government Board, and upon such terms as that Board think expedient, sell such portion of the site as is not required for the purpose of carrying this section into effect.

(12.) A local authority may, where they so think fit, dedicate any land acquired by them under the authority of this section as a highway or other public place.

(*t*) Or part thereof, *vide post*, sub-sect. (7).

(*u*) *Vide* sect. 35, *ante*.

(*v*) Sects. 16—68 of the Lands Clauses Consolidation Act (8 & 9 Vict. c. 18).

(*w*) *Vide* the Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 23, 36, 41, 42, 62, 150, 160, 213—215, 222, 232, 234, 240, 257, 268.

(*x*) *Vide* sects. 3 and 22 of the Lands Clauses Consolidation Act, 1845.

Scheme for Reconstruction.

Scheme
for area
compris-
ing houses
closed by
closing
order.

39.—(1.) In any of the following cases, that is to say—

(a) where an order for the demolition of a building has been made in pursuance of this part of this Act, and it appears to the local authority that it would be beneficial to the health of the inhabitants of the neighbouring dwelling-houses if the area of the dwelling-house of which such building forms part were used for all or any of the following purposes, that is to say, either—

(i) dedicated as a highway or open space, or

(ii) appropriated, sold, or let for the erection of dwellings for the working classes, or

(iii) exchanged with other neighbouring land which is more suitable for the erection of such dwellings, and on exchange will be appropriated, sold, or let for such erection ; or

- (b) where it appears to the local authority that the closeness, narrowness, and bad arrangement or bad condition of any buildings, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defect in any buildings is dangerous or prejudicial to the health of the inhabitants either of the said buildings or of the neighbouring buildings, and that the demolition or the reconstruction and re-arrangement of the said buildings or of some of them is necessary to remedy the said evils, and that the area comprising those buildings and the yards, outhouses, and appurtenances thereof, and the site thereof, is too small to be dealt with as an unhealthy area under Part I. of this Act,

the local authority shall pass a resolution to the above effect, and direct a scheme to be prepared for the improvement of the said area (*y*).

(2.) Notice of the scheme may at any time after the preparation thereof be served in manner provided (*z*) in Part I. of this Act with respect to notices of lands proposed to be taken compulsorily under a scheme made in pursuance of that part

of this Act, on every owner or reputed owner, lessee or reputed lessee, and occupier of any part of the area comprised in the scheme, so far as those persons can reasonably be ascertained.

(3.) The local authority shall, after service of such notice, petition the Local Government Board for an order sanctioning the scheme, and the Board may cause a local inquiry to be held, and, if satisfied on the report of such local inquiry that the carrying into effect of the scheme either absolutely or subject to conditions or modifications would be beneficial to the health of the inhabitants of the said buildings or of the neighbouring dwelling-houses, may by order sanction the scheme with or without such conditions or modifications.

(4.) Upon such order being made, the local authority may purchase by agreement the area comprised in the scheme as so sanctioned, and if they agree for the purchase of the whole area, the order, save so far as it provides for the taking of land otherwise than by agreement, shall take effect without confirmation. If they do not so agree, the order shall be published by the local authority by inserting a notice thereof in the London Gazette, and by serving notice thereof on the owners of every part of the area.

(5.) Any owner may, within two months after such publication, petition the Local Government Board against the order, and if such petition is presented and is not withdrawn, the order shall be provisional unless it is confirmed by Act of Parliament.

(6.) If the Local Government Board are satis-

fied that the order has been duly published, and that two months after such publication have expired, and that either a petition has not been presented, or if presented has been withdrawn, they shall confirm the order, and thereupon such order shall come into operation, and have effect as if it were enacted by this Act.

(7.) The order may incorporate the provisions of the Lands Clauses Acts, and for the purpose of those provisions this Act shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking, and the area shall be acquired within three years after the date of the confirmation of the order: Provided that the amount of compensation shall, in case of difference, be settled by arbitration in manner provided by this part of this Act.

(8.) The provisions of Part I. of this Act relating to costs to be awarded in certain cases by a committee of either House of Parliament (*a*), to the duty of a local authority to carry a scheme when confirmed into execution (*b*), to the completion of a scheme on failure by a local authority (*c*), and to the extinction of rights of way and other easements (*d*), shall, with the necessary modifications, apply for the purpose of any scheme under this section in like manner as if it were a scheme under Part I. of this Act.

(9.) The Local Government Board, on being satisfied by the local authority that an improvement can be made in the details of any scheme under this section, may by order permit the local authority to modify any part of the scheme which

it may appear inexpedient to carry into execution:
Provided that—

- (a) if the order sanctioning the scheme was confirmed by Parliament, a statement of such modification shall be laid by the Local Government Board before both Houses of Parliament as soon as practicable; and
- (b) In any case, if the modification requires a larger expenditure than that sanctioned by the original scheme, or authorises the taking of any property otherwise than by agreement, or injuriously affects any property in a manner different from that proposed in the original scheme, without the consent of the owner or occupier of such property, notice of the order authorising the modification shall be published, and the order may be petitioned against and shall be subject to confirmation in like manner as if it were an order sanctioning an original scheme under this section.

(y) This sub-section empowers the local authority to set about making a scheme for reconstruction, which is the counterpart of an improvement scheme under Part I. Paragraph (a) pre-supposes that orders for closing and for demolition have been issued against the offending buildings; and that the local authority have determined to deal with the area for any of the purposes (i), (ii), and (iii) therein specified. Under paragraph (b) the local authority may proceed on their own initiative without any preliminary official representations and advertisements; but only in the case where the insanitary condition of the buildings does not amount to a nuisance. There is nothing in this section overriding the provisions of sect. 32 (1), *ante*; and where a building is so unhealthy as to be *unfit for human habitation*, the local authority may not take the

more deliberate course here indicated, but must at once perform their duties under that section.

(z) See *ante*, sect. 7.

(a) *Ante*, sect. 9.

(b) *Ante*, sect. 12.

(c) *Ante*, sect. 13.

(d) *Ante*, sect. 22.

40. The Local Government Board shall in any order sanctioning a scheme under this part of this Act require the insertion in the scheme of such provisions (if any) for the dwelling accommodation of persons of the working classes displaced by the scheme as seem to the Board required by the circumstances.

Provisions
for accom-
modation
of persons
of the
working
classes.

Settlement of Compensation.

41. In all cases in which the amount of any compensation is, in pursuance of this part of this Act, to be settled by arbitration, the following provisions shall have effect; (namely,)

Provisions
as to arbi-
tration.

(1.) The amount of compensation shall be settled by an arbitrator to be appointed and removable by the Local Government Board.

(2.) In settling the amount of any compensation—

(a) The estimate of the value of the dwelling-house shall be based on the fair market value as estimated at the time of the valuation being made of such dwelling-house, and of the several interests in such dwelling-house, due regard being had to the nature and then condition of the property and the probable duration of the buildings in their existing state, and to

the state of repair thereof, and without any additional allowance in respect of compulsory purchase; and

(b) The arbitrator shall have regard to and make an allowance in respect of any increased value which, in his opinion, will be given to other dwelling-houses of the same owner by the alteration or demolition by the local authority of any buildings.

(3.) Evidence shall be receivable by the arbitrator to prove—

(1st) that the rental of the dwelling-house was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates; or

(2ndly) that the dwelling-house is in a state of defective sanitation, or is not in reasonably good repair; or

(3rdly) that the dwelling-house is unfit, and not reasonably capable of being made fit, for human habitation;

and, if the arbitrator is satisfied by such evidence, then the compensation—

(a) shall in the first case so far as it is based on rental be based on the rental which would have been obtainable if the dwelling-house was occupied for legal purposes and only by the number of persons whom the dwelling-house was under all the circumstances of the case fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates; and

(b) shall in the second case be the amount estimated as the value of the dwelling-house if it had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of putting it into such condition or repair; and

(c) shall in the third case be the value of the land, and of the materials of the buildings thereon.

- (4.) On payment or tender to the person entitled to receive the same of the amount of compensation agreed or awarded to be paid in respect of the dwelling-house, or on payment thereof in manner prescribed by the Lands Clauses Acts, the owner shall, when required by the local authority, convey his interest in such dwelling-house to them, or as they may direct; and in default thereof, or if the owner fails to adduce a good title to such dwelling-house to the satisfaction of the local authority, it shall be lawful for the local authority, if they think fit, to execute a deed poll in such manner and with such consequences as are mentioned in the Lands Clauses Acts (*e*).
- (5.) Sections thirty-two, thirty-three, thirty-five, thirty-six, and thirty-seven of the Lands Clauses Consolidation Act, 1845, shall apply, with any necessary modifications, to an arbitration and to an arbitrator appointed under this part of this Act. 8 & 9 Vict.
c. 18.
- (6.) The arbitrator may, by one award, settle

the amount or amounts of compensation payable in respect of all or any of the dwelling-houses included in one or more order or orders made by the local authority; but he may, and, if the local authority request him so to do, shall, from time to time make an award respecting a portion only of the disputed cases brought before him (*f*).

- (7.) In the event of the death, removal, resignation, or incapacity, refusal, or neglect to act of any arbitrator before he shall have made his award, the Local Government Board may appoint another arbitrator, to whom all documents relating to the matter of the arbitration which were in the possession of the former arbitrator shall be delivered.
- (8.) The arbitrator may, where he thinks fit, on the request of any party by whom any claim has been made before him, certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority.
- (9.) The arbitrator shall not give such certificate where the arbitrator has awarded the same or a less sum than has been offered by the local authority in respect of such claim before the appointment of the arbitrator, and need not give such certificate to any party where he considers that such party neglected, after due notice from the local authority, to deliver to that autho-

rity a statement in writing within such time, and containing such particulars respecting the compensation claimed, as would have enabled the local authority to make a proper offer of compensation to such party before the appointment of the arbitrator.

- (10.) If within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from the local authority with interest at the rate of five per cent. per annum for any time during which the same remains unpaid after such seven days as aforesaid.
- (11.) The award of the arbitrator shall be final and binding on all parties.

(e) The Lands Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 18), ss. 69—80.

(f) This sub-section enables the local authority, if they think fit, to obtain an award on one or more test cases.

Expenses and Borrowing.

42.—(1.) All expenses incurred by a local authority in the execution of this part of this Act shall be defrayed by them out of the local rate; and that authority, notwithstanding any limit contained in any Act of Parliament respecting a local rate, may levy such local rate, or any increase thereof, for the purposes of this part of this Act.

Expenses
of local
authority.

(2.) Any expenses incurred by a rural sanitary authority under this part of this Act, other than the expenses incurred in and incidental to proceed-

ings for obtaining a closing order, shall be charged as special expenses on the contributory place (*g*) in respect of which they are incurred.

(*g*) *Vide* sect. 93, *post*, and sect. 229 of the Public Health Act, 1875 (38 & 39 Vict. c. 55).

Provision
as to bor-
rowing.

43:—(1.) A local authority may borrow for the purpose of raising sums required for purchase money or compensation payable under this part of this Act in like manner, and subject to the like conditions, as for the purpose of defraying the expenses of the execution by such authority of the Public Health Acts (*h*).

(2.) The Public Works Loan Commissioners may, if they think fit, lend to any local authority the sums borrowed in pursuance of this part of this Act (*i*).

(*h*) *Vide* sects. 233—241 of the Public Health Act, 1875 (38 & 39 Vict. c. 55).

(*i*) *Vide ante*, sect. 25 (*5*), note (*c*).

Annual
account to
be pre-
sented by
the local
authority.

44. Every local authority shall every year present to the Local Government Board, in such form as they may direct, an account of what has been done, and of all moneys received and paid by them during the previous year, with a view to carrying into effect the purposes of this part of this Act.

Powers of County Councils.

Powers of
county
councils.

45.—(1.) Where the medical officer of health or any (*k*) inhabitant householders make a representation or complaint, or give information to any vestry or district board (*l*) in the administrative

county of London or to the local board of Woolwich, or to any rural sanitary authority elsewhere (which vestry, board, or authority is in this Act referred to as the district authority (*m*)), or to the medical officer of such authority either respecting any dwelling-house being in a state so dangerous or injurious to health as to be unfit for human habitation, or respecting an obstructive building, and also where a closing order has been made as respects any dwelling-house, the district authority shall forthwith forward to the county council of the county in which the dwelling-house or building is situate, a copy of such representation, complaint, information, or closing order, and shall from time to time report to the council such particulars as the council require respecting any proceedings taken by the authority with reference to such representation, complaint, information, or dwelling-house.

(2.) Where the county council—

- (a) are of opinion that proceedings for a closing order as respects any dwelling-house ought to be instituted, or that an order ought to be made for the demolition of any buildings forming or forming part of any dwelling-house as to which a closing order has been made, or that an order ought to be made for pulling down an obstructive building specified in any representation under this part of this Act; and
- (b) after reasonable notice, not being less than one month, of such opinion has been given in writing to the district authority, con-

sider that such authority have failed to institute or properly prosecute proceedings, or to make the order for demolition, or to take steps for pulling down an obstructive building ;

the council may pass a resolution to that effect, and thereupon the powers of the district authority as respects the said dwelling-house and building under this part of this Act (otherwise than in respect of a scheme), shall be vested in the county council (*n*), and if a closing order or an order for demolition or for pulling down an obstructive building is made, and not disallowed on appeal, the expenses of the council incurred as respects the said dwelling-house and building, including any compensation paid, shall be a simple contract debt to the council from the district authority.

(3.) Any debt to the council under this section shall be defrayed by the district authority as part of their expenses in the execution of this part of this Act (*o*).

(4.) The county council and any of their officers shall, for the purposes of this section, have the same right of admission to any premises as any district authority or their officers have for the purpose of the execution of their duties under the enactments (*p*) relating to public health, and a justice may make the like order for enforcing such admission.

(*k*) This section must not be taken as overriding the provisions in sect. 31 (1), *ante* ; if, therefore, it is required to set the medical officer in motion, the written representation of *four or more* householders will be necessary. For the effect of information coming direct to the local

authority, and not through a medical officer of health, see sect. 32 (1), *ante*, and note (e), *ad loc.*

(l) See Sched. I. (2), *post*, p. 128.

(m) *Sc.*, the local authority under this part of this Act; presumably here so called to distinguish it from the county council, which, under this section, is constituted a kind of *over-local* authority.

(n) For further powers of the London County Council, *vide post*, sect. 46 (5).

(o) *Vide ante*, sect. 42.

(p) *Vide* the Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 102 and 305; also ss. 16, 41, 48, 105, 106, 118, 119, and 137; the Public Health (Water) Act, 1878 (41 & 42 Vict. c. 25), s. 7; the Factory and Workshop Act, 1883 (46 & 47 Vict. c. 53), s. 17.

Special Provisions as to London.

46. This part of this Act shall apply to the administrative county of London with the following modifications:—

Applica-
tion of
part of
Act to
London.

(1.) The provisions of the Public Health Acts relating to private improvement expenses and to private improvement rates (*q*) shall, for the purpose of this part of this Act, extend to the county and to the city of London, and in the construction of the said provisions, as respects the county of London, any local authority in that county, and as respects the city of London the Commissioners of Sewers, shall be deemed to be the urban authority.

(2.) The raising of sums required for purchase-money or compensation payable under this part of this Act shall be a purpose for which the London County Council or the Commissioners of Sewers of the city of London, may borrow under Part One of

18 & 19
Vict.
c. 120.

this Act, and a purpose for which a vestry or district board may borrow under the Metropolis Management Act, 1855, and the provisions (*r*) of Part One of this Act with respect to borrowing, and sections one hundred and eighty-three to one hundred and ninety-one of the Metropolis Management Act, 1855, shall apply and have effect accordingly.

- (3.) The London County Council may, if they think fit, lend to a local authority in the administrative county of London the sums borrowed in pursuance of this part of this Act.
- (4.) For the purpose of the assent (*s*) required for the sale of any portion of the site of an obstructive building by a local authority, and of the account (*t*) to be presented by a local authority of what has been done by them and of moneys received and paid by them during the previous year a Secretary of State shall be substituted for the Local Government Board.
- (5.) Where it appears to the county council, whether in the exercise of the powers of a vestry or district board or on the representation of a vestry or district board or otherwise, that a scheme under this part of this Act ought to be made, the council may take proceedings for preparing and obtaining the confirmation of a scheme, and the provisions of this Act respecting the scheme shall apply in like manner as if they were the vestry or district board, and all ex-

penses of and incidental to the scheme and carrying the same into effect shall, save as hereinafter mentioned, be borne by the county fund (*u*).

- (6.) Where the council consider that such expenses, or a contribution in respect of them, ought to be paid or made by a vestry or district board, they may apply to a Secretary of State, and the Secretary of State, if satisfied that, having regard to the size of the area, to the number, position, structure, sanitary condition, and neighbourhood of the buildings to be dealt with, the vestry or district board ought to pay, or make a contribution in respect of, the said expenses, the Secretary of State may order such payment or contribution to be made, and the amount thereof shall be a simple contract debt from the vestry or district board to the council.
- (7.) The county council may, if they think fit, pay or contribute to the payment of the expenses of carrying into effect a scheme under this part of this Act by a vestry or district board, and if a vestry or district board consider that the expenses of carrying into effect any scheme under this part of this Act, or a contribution in respect of those expenses, ought to be paid or made by the county council, and the county council decline or fail to agree to pay or make the same, the vestry or district board may apply to a Secretary of State, and if

the Secretary of State is satisfied that, having regard to the size of the area, to the number, position, structure, sanitary condition, and neighbourhood of the buildings to be dealt with, the council ought to pay or make a contribution in respect of the said expenses, he may order such payment or contribution to be made, and the amount thereof shall be a simple contract debt from the council to the vestry or district board.

- (8.) In the application of this section to Woolwich, the local board of health shall be deemed to be a district board, but the raising of any sums required for purchase-money or compensation payable under this part of this Act shall be a purpose for which they may borrow under the Public Health Acts, and the Public Health Acts shall apply accordingly (*v*).

(*q*) *Vide ante*, sect. 38 (8), note (*w*).

(*r*) *Vide ante*, sect. 25 (1), (2) and (3).

(*s*) *Vide ante*, sect. 38 (11).

(*t*) *Vide ante*, sect. 44.

(*u*) The powers of the local authority in respect of a scheme, which were excepted from the operation of sect. 45 (2), are hereby expressly conferred upon the London County Council.

(*v*) *Vide* sects. 233—241 of the Public Health Act, 1875 (38 & 39 Vict. c. 55).

Supplemental.

Provision
as to
superior
landlord.

47.—(1.) Where an owner of any dwelling-house is not the person in receipt of the rents and profits thereof, he may give notice of such ownership to the local authority, and thereupon the local

authority shall give such owner notice of any proceedings taken by them in pursuance of this part of this Act in relation to such dwelling-house.

(2.) If it appears to a court of summary jurisdiction on the application of any owner of the dwelling-house that default is being made in the execution of any works required to be executed on any dwelling-house in respect of which a closing order has been made (*w*), or in the demolition of any building or any dwelling-house (*x*) or in claiming to retain any site (*y*), in pursuance of this part of this Act, and that the interests of the applicant will be prejudiced by such default, and that it is just to make the order, the court may make an order empowering the applicant forthwith to enter on the dwelling-house, and within the time fixed by the order to execute the said works, or to demolish the building or to claim to retain the site, as the case may be, and where it seems to the court just so to do, the court may make a like order in favour of any other owner.

(3.) A court of summary jurisdiction may in any case by order enlarge the time allowed under any order for the execution of any works or the demolition of a building, or the time within which a claim may be made to retain the site of a building.

(4.) Before an order is made under this section notice of the application shall be given to the local authority.

(*w*) See *ante*, sect. 32.

(*x*) See *ante*, sect. 33.

(*y*) See *ante*, sect. 38 (5).

Remedies
of owner
for breach
of cove-
nant, &c.
not to be
preju-
diced.

48. Nothing in this part of this Act shall prejudice or interfere with the right or remedies of any owner for the breach, non-observance, or non-performance of any covenant or contract entered into by a tenant or lessee in reference to any dwelling-house in respect of which an order is made by a local authority under this part of this Act; and if any owner is obliged to take possession of any dwelling-house in order to comply with any such order, the taking possession shall not affect his right to avail himself of any such breach, non-observance, or non-performance that may have occurred prior to his so taking possession.

Service of
notices.

49.—(1.) Where the owner of any dwelling-house and his residence or place of business are known to the local authority, it shall be the duty of the clerk of the local authority, if the residence or place of business is within the district of such local authority, to serve any notice by this part of this Act required to be served on the owner, by giving it to him, or for him, to some inmate of his residence or place of business within the district; and in any other case it shall be the duty of the clerk of the local authority to serve the notice by post (*z*) in a registered letter addressed to the owner at his residence or place of business.

(2.) Where the owner of the dwelling-house or his residence or place of business is not known to, and after diligent inquiry cannot be found by the local authority, then the clerk of the local authority may serve the notice by leaving it, addressed to the owner, with some occupier of the dwelling-

house, or if there be not an occupier, then by causing it to be put up on some conspicuous part of the dwelling-house.

(3.) Notice served upon the agent of the owner shall be deemed notice to the owner.

(z) *Vide* note (s), *ante*, p. 28.

50. Where in any proceedings under this part of this Act it is necessary to refer to the owner of any dwelling-house, it shall be sufficient to designate him as the "owner" thereof without name or further description.

Description of owner in proceedings.

51.—(1.) If any person being the occupier of any dwelling-house prevents the owner thereof, or being the owner or occupier of any dwelling-house prevents the medical officer of health, or the officers, agents, servants, or workmen of such owner or officer from carrying into effect with respect to the dwelling-house any of the provisions of this part of this Act, after notice of the intention so to do has been given to such person, any court of summary jurisdiction on proof thereof may order such person to permit to be done on such premises all things requisite for carrying into effect, with respect to such dwelling-house, the provisions of this part of this Act.

Penalty for preventing execution of Act.

(2.) If at the expiration of ten days after the service of such order such person fails to comply therewith, he shall for every day during which the failure continues be liable on summary conviction to a fine not exceeding twenty pounds: Provided that if any such failure is by the occu-

pier, the owner, unless assenting thereto, shall not be liable to such fine.

Report to
local
authority
by county
medical
officer.

45 & 46
Vict. c. 50.

52. A representation from the medical officer of health of any county submitted to the county council and forwarded by that council to the local authority of any district in the county, not being a borough as defined by the Municipal Corporations Act, 1882, shall, for the purposes of this part of this Act, have the like effect as a representation from the medical officer of health of the district.

PART III.

WORKING CLASS LODGING-HOUSES.

Adoption of Part III.

Definition
of pur-
poses of
Labouring
Classes
Lodging
Houses
Acts.

53.—(1.) The expression “lodging-houses for the working classes” when used in this part of this Act shall include separate houses or cottages for the working classes, whether containing one or several tenements, and the purposes of this part of this Act shall include the provision of such houses and cottages (*a*).

(2.) The expression “cottage” in this part of this Act may include a garden of not more than half an acre, provided that the estimated annual value of such garden shall not exceed three pounds.

(*a*) For the peculiar powers of a municipal corporation,

see sect. 111 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), set out in Appendix B., *post*, p. 172.

The marginal note is obviously wrong, but the matter is of little importance since the observation of Jessel, M. R., in *Sutton v. Sutton*, 22 Ch. D. at p. 513, correcting the dicta in *In re Venour's Settled Estates*, 2 Ch. D. 522, 525. The mistake doubtless arose from the fact that this part consolidates and amends the Labouring Classes Lodging Houses Acts, 1851 to 1885, commonly known as Shaftesbury's Acts.

54. This part of this Act may be adopted in the several districts mentioned in the First Schedule to this Act by the local authorities in that behalf in that schedule mentioned: Provided that in the case of any rural sanitary district in England, the adoption shall be only after such certificate and such delay as hereinafter mentioned.

Adoption
of this
part of
Act.

55.—(1.) A rural sanitary authority in any district desiring to adopt this part of this Act may apply to the county council of the county in which (b) the area hereinafter mentioned is wholly or as to the larger part thereof in extent situate for the certificate required for such adoption, and shall specify in such application the area in which they consider that accommodation is necessary for the housing of the working classes, and thereupon the county council shall direct a local inquiry to be held by a member of the council or any officer or person appointed by the council for the purpose, and if after such local inquiry the person holding the inquiry certifies that accommodation is necessary in such area for the housing of the working classes, and that there is no probability

Provisions
in case of
adoption
by rural
sanitary
authority.

that such accommodation will be provided without the execution of this part of this Act, and that having regard to the liability which will be incurred by the rates, it is under all the circumstances prudent for the said authority to undertake the provision of the said accommodation under the powers of this part of this Act, the county council may if they think fit publish that certificate in one or more local newspapers circulating in the district, and thereupon the sanitary authority may adopt this part of this Act: Provided that—

- (a) unless the county council state in publishing such certificate that, by reason of the date of the next ordinary election (c) of members of such authority or otherwise, an emergency renders it necessary to adopt this part of this Act immediately, such adoption in pursuance of the certificate shall not take place before the ordinary election of members of such authority which is held next after the date of the local inquiry; and
 - (b) after the end of twelve months from the date of the certificate, this part of this Act shall not be adopted without a fresh certificate; and
 - (c) no land shall be acquired, nor buildings erected under this part of this Act outside of the area mentioned in the certificate except after a fresh application, inquiry, and certificate.
- (2.) Where the rural sanitary authority think it just that the burden of the expenses of the

execution of this part of this Act should be borne by some contributory place or places (*d*) only in their district, instead of by the whole of their district, the authority may in their application to the county council request permission to limit the burden of such expenses to such contributory place or places, and thereupon the justice of such limitation shall be inquired into at the local inquiry, and the county council, if satisfied after the local inquiry that the circumstances of the contributory place or places and of the rest of the district render such limitation just, may make an order to that effect, and thereupon the expenses of the execution of this part of this Act in the area mentioned in the order shall be borne by the contributory place or places named in the order instead of by the whole district. The provisions of this enactment with respect to the burden of the expenses shall apply upon every application for a fresh certificate.

(3.) Any expenses incurred by a county council in holding a local inquiry under this part of this Act shall be a simple contract debt to the council from the rural sanitary authority, and shall be defrayed as part of the expenses of such authority (*e*) in the execution of this part of this Act.

(*b*) "In which"—*i. e.*, within which. The area need not be such as would be entirely covered by the houses required.

(*c*) Guardians of the poor (who constitute the rural authority) come into office on the 15th April in each year (14 & 15 Vict. c. 105, s. 2).

(*d*) Sect. 93, *post*, p. 115: Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 229.

(*e*) *Vide* sect. 65 (iii), *post*, p. 98, as to the mode of defraying such expenses.

Execution of Part III. by Local Authority.

Powers
of local
authority.

18 & 19
Vict.
c. 120.
38 & 39
Vict.
c. 55.

56. Where this part of this Act has been adopted in any district, the local authority shall have power to carry it into execution (subject to the provisions of this part of this Act with respect to rural sanitary authorities), and for that purpose may exercise the same powers whether of contract or otherwise as in the execution of their duties in the case of the London County Council under the Metropolis Management Act, 1855 (*f*), and the Acts amending the same, or in the case of sanitary authorities under the Public Health Acts (*g*), or in the case of the Commissioners of Sewers under the Acts conferring powers on such Commissioners (*h*).

(*f*) The powers, duties and liabilities of the Metropolitan Board of Works under the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), were transferred to the London County Council by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 40 (8). For some of the most important of such powers, *vide* sects. 149—154 of the former Act, more especially sect. 150, which incorporates the Lands Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 18), and therefore also the amending Acts of 1860 and 1869 (23 & 24 Vict. c. 106; 32 & 33 Vict. c. 18), which are to be construed as one with the Act of 1845; for the effect of which see *Dudley Gas Co. v. Warmington*, 50 L. J. M. C. 69; 44 L. T. 475; 29 W. R. 680. It is true that the clauses relating to the purchase and taking of lands otherwise than by agreement are incorporated for *some* only of the purposes of the Act of 1855; but it is thought that the section under discussion applies to powers which the council may exercise in the execution of *any* of their duties under that Act, and therefore to the powers given by these clauses.

It should be noted that this section enables the London County Council to forthwith exercise compulsory powers of purchase—a far simpler method than that required by

the next section, which involves a petition to the Secretary of State and a local inquiry.

(g) 38 & 39 Vict. c. 55; 40 & 41 Vict. c. 25; 46 & 47 Vict. c. 37.

(h) 11 & 12 Vict. c. clxiii. Sect. 2 incorporates the Lands Clauses Consolidation Act, 1845, and therefore the amending Acts: see note (f), *supra*. For powers of contract, *vide* sects. 33 and 34 of the first-mentioned Act.

57.—(1.) Land for the purposes of this part of this Act may be acquired by a local authority in like manner as if those purposes were purposes of the Public Health Act, 1875, and sections one hundred and seventy-five to one hundred and seventy-eight, both inclusive, of that Act (relating to the purchase of lands), shall apply accordingly, and shall for the purposes of this part of this Act extend to London in like manner as if the Commissioners of Sewers and London County Council respectively were a local authority in the said sections mentioned, and a Secretary of State were substituted for the Local Government Board.

Acquisition of land.

38 & 39 Vict. c. 55.

(2.) The local authority may, if they think fit, contract for the purchase or lease of any lodging-houses for the working classes already, or hereafter to be built and provided.

(3.) The local authority may, if not a rural sanitary authority, with the consent of the Local Government Board, and if a rural sanitary authority with the consent of the county council of the county in which the land is situate, appropriate, for the purposes of this part of this Act, any lodging-houses so purchased or taken on lease, and any other land which may be for the time being vested in them, or at their disposal.

Local authority may purchase existing lodging-houses.

58. The trustees of any lodging-houses for the working classes for the time being provided in any district by private subscriptions or otherwise, may, with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the lodging-houses to the local authority of the district, or make over to them the management thereof.

Erection of lodging-houses.

59. The local authority may, on any land acquired or appropriated by them, erect any buildings suitable for lodging-houses for the working classes, and convert any buildings into lodging-houses for the working classes, and may alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences.

Sale and exchange of lands.

60. A local authority may, if not a rural sanitary authority, with the consent of the Local Government Board, and if a rural sanitary authority with the consent of the county council of the county in which the land is situate, sell any land vested in them for the purposes of this part of this Act, and apply the proceeds in or towards the purchase of other land (*i*) better adapted for those purposes, and may in like manner and with the like consent exchange any land so vested in them for land better adapted to the purposes of this part of this Act, either with or without paying or receiving any money for equality of exchange.

(*i*) But *semble*, if such land be outside the original

area it cannot be purchased by a rural sanitary authority without a fresh application, inquiry, and certificate. (Sect. 55 (1) (c).)

Management of Lodging Houses.

61.—(1.) The general management, regulation, and control of the lodging houses established or acquired by a local authority under this part of this Act shall be vested in and exercised by the local authority. Management to be vested in local authority.

(2.) The local authority may make such reasonable charges for the tenancy or occupation of the lodging houses provided under this part of this Act as they may determine by regulations.

62.—(1.) The local authority may make byelaws (*k*) for the management, use, and regulation of the lodging houses, and it shall be obligatory on the local authority, except in the case of a lodging house which is occupied as a separate dwelling, by such byelaws to make sufficient provision for the several purposes expressed in the Sixth Schedule to this Act. Byelaws for regulation of lodging houses.

(2.) A printed copy or sufficient abstract of the byelaws relating to the management, use, and regulation of the lodging houses shall be put up and at all times kept in every room therein.

(*k*) *Vide* sect. 84, *post*, p. 111.

63. Any person who, or whose wife or husband, at any time while such person is a tenant or occupier of any such lodging house, or any part of such a lodging house, receives any relief under the Acts relating to the relief of the poor other Disqualification of tenants of lodging houses on receiving parochial relief.

than relief granted on account only of accident or temporary illness, shall thereupon be disqualified for continuing to be such a tenant or occupier.

When lodging houses are considered too expensive they may be sold.

64. Whenever any lodging houses established for seven years or upwards under the authority of this part of this Act are determined by the local authority to be unnecessary or too expensive to be kept up, the local authority may, if not a rural sanitary authority with the consent of the Local Government Board, and if a rural sanitary authority with the consent of the County Council of the county in which the lodging houses are situate, sell the same for the best price that can reasonably be obtained for the same, and the local authority shall convey the same accordingly.

Expenses and Borrowing of Local Authorities.

Payment of expenses.

65. All expenses incurred by a local authority in the execution of this part of this Act shall be defrayed—

- (i.) in the case of an authority in the administrative county of London, out of the Dwelling House Improvement Fund (*l*) under Part I. of this Act;
- (ii.) in the case of an urban sanitary authority, as part of the general expenses of their execution of the Public Health Acts (*m*); and
- (iii.) in the case of a rural sanitary authority, as special expenses incurred in the execution of the Public Health Acts, and, save

where the burden of such expenses is by order of the County Council who published the certificate to be borne by one contributory place only, shall be deemed to be incurred for the common benefit of all the contributory places liable to bear such expenses (*m*).

Provided that if on the application of the rural sanitary authority it is so declared at the time of the publication of the certificate by the County Council who published the same, then the said expenses of the rural sanitary authority shall be defrayed as general expenses of the said authority in the execution of the Public Health Acts, and if such expenses are not to be borne by the whole of the district, shall be paid out of a common fund to be raised in manner provided by the Public Health Act, 1875 (*n*), but as if the contributory places which are to bear those expenses constituted the whole of the district.

(*l*) Sect. 24 (1), *ante*, p. 49.

(*m*) Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 229; and in the case of an urban sanitary authority, see also the note at the end of Schedule I., *post*, p. 130.

(*n*) Public Health Act, 1875, ss. 229, 230.

66. The London County Council and the Commissioners of Sewers may borrow for the purpose of the execution of this part of this Act, in like manner and subject to the like conditions as they may borrow for the purposes of Part I. of this Act (*o*), and a sanitary authority may borrow for the purpose of the execution of this part of this Act in like manner and subject to the like conditions

Borrow-
ing for
purposes
of Part
III.

as for the purpose of defraying the above-mentioned general or special expenses (*p*).

(*o*) *Vide* sect. 25 (1—3), (5), *ante*, pp. 51, 52.

(*p*) Public Health Act, 1875, ss. 233—239.

*Loans to and Powers of Companies, Societies, and
Individuals.*

Loans by
Public
Works
Commis-
sioners.

67.—(1.) In addition to the powers conferred upon them by any other enactment, the Public Works Loan Commissioners may, out of the funds at their disposal, advance on loan to any such body or proprietor as hereinafter mentioned; namely,—

(a) any railway company or dock or harbour company, or any other company, society, or association established for the purpose of constructing or improving, or of facilitating or encouraging the construction or improvement of dwellings for the working classes, or for trading or manufacturing purposes (in the course of whose business, or in the discharge of whose duties persons of the working classes are employed);

(b) any private person entitled to any land for an estate in fee simple, or for any term of years absolute, whereof not less than fifty years shall for the time being remain unexpired;

and any such body or proprietor may borrow from the Public Works Loan Commissioners such money as may be required for the purpose of constructing or improving, or of facilitating or encouraging the

construction or improvement of dwellings for the working classes (*q*).

(2.) Such loans shall be made in manner provided by the Public Works Loans Act, 1875, subject to the following provisions:—

38 & 39
Vict.
c. 89.

- (a) Any such advance may be made whether the body or proprietor receiving the same has or has not power to borrow on mortgage or otherwise, independently of this Act; but nothing in this Act shall repeal or alter any regulation, statutory (*r*) or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken, or paid up.
- (b) The period for the repayment of the sums advanced shall not exceed forty years.
- (c) No money shall be advanced on mortgage of any land or dwellings solely, unless the estate therein proposed to be mortgaged shall be either an estate in fee simple, or an estate for a term of years absolute, whereof not less than fifty years shall be unexpired at the date of the advance.
- (d) The money advanced on the security of a mortgage of any land or dwellings solely shall not exceed one moiety of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in such land or dwellings proposed to be mortgaged; but advances may be made by instalments from time to time as the building of the dwellings on the land mortgaged progresses, so that the

total advance do not at any time exceed the amount aforesaid; and a mortgage may be accordingly made to secure such advances so to be made from time to time.

(3.) For the purpose of constructing or improving or facilitating or encouraging the construction or improvement of dwellings for the working classes, every such body as aforesaid is hereby authorized to purchase, take, and hold land, and if not already a body corporate shall, for the purpose of holding such land under this part of this Act, and of suing and being sued in respect thereof, be nevertheless deemed a body corporate with perpetual succession (s).

(q) *Quære*, whether this enables such body or proprietor to borrow money with which to purchase land for the purposes specified.

(r) *E.g.*, the Railway Companies Powers Act, 1864 (27 & 28 Vict. c. 120), s. 23 (1), or the Railways Construction Facilities Act, 1864 (27 & 28 Vict. c. 121), s. 29 (1).

(s) In the case of a society or association established for constructing or improving dwellings for the working classes, probably the assurance ought to be by deed enrolled or under the provisions of the Land Transfer Act, 1875; *vide* Mortmain Act (51 & 52 Vict. c. 42), s. 4 (6), (9); but not, it is thought, in the case of a company established for gain. See the case of *In re Tunno, Raikes v. Raikes*, W. N. (1886) 154. See, however, the Working Classes Dwellings Act, 1890 (52 & 53 Vict. c. 16), by which assurances made for the purpose of providing workmen's dwellings in any *populous place* (defined by the Act as "the administrative County of London, any municipal borough, any urban sanitary district, and any other place having a dense population of an urban character"), are exempted under certain conditions from Parts I. and II. of the Mortmain Act, 1888 (51 & 52 Vict. c. 42), and 7 & 8 Vict. c. 97, s. 16.

Powers
to com-
panies.

68. Any railway company, or dock or* harbour company, or any other company, society, or asso-

ciation, established for trading or manufacturing purposes in the course of whose business or in the discharge of whose duties persons of the working class are employed, may and are hereby (notwithstanding any Act of Parliament, or charter, or any rule of law or equity to the contrary) authorised at any time to erect, either on their own land or on any other land (which they are hereby authorised to purchase and hold for the purpose, and to pay for out of any funds at their disposal), dwellings for the accommodation of all or any of the persons of the working class employed by them.

69. Any commissioners of waterworks, trustees of waterworks, water companies, gas companies, and other corporations, bodies, and persons having the management of any waterworks, reservoirs, wells, springs, or streams of water, and gasworks respectively, may, in their discretion, grant and furnish supplies of water or gas for lodging-houses provided under this part of this Act, either without charge or on such other favourable terms as they think fit.

Power to water and gas companies to supply water and gas to lodging houses.

70. A lodging house established in any district under this part of this Act, shall be at all times open to the inspection of the local authority of that district or of any officer from time to time authorised by such authority.

Inspection of lodging houses.

71. Any fine for the breach of any byelaw under this part of this Act shall be paid to the credit of the funds out of which the expenses of this part of this Act are defrayed (*t*).

Application of penalties.

(*t*) Sect. 65, *ante*, p. 99, and notes (*l*), (*m*), (*n*), *ad loc.*

PART IV.

SUPPLEMENTAL.

Limit of area to be dealt with on official representation.

72. Where an official representation made to the London County Council in pursuance of Part I. of this Act relates to not more than ten houses, the London County Council shall not take any proceedings on such representation (*a*), but shall direct the medical officer of health making the same to represent the case to the local authority under Part II. of this Act, and it shall be the duty of the local authority to deal with such case in manner provided by that part of this Act (*b*).

(*a*) This modifies sect. 4, *ante*, p. 23, and see note (*g*), *ad loc.*

(*b*) Sects. 32 *sqq.*, *ante*, p. 57.

Provisions as to parts of Act under which reports are to be dealt with in county of London.

73.—(1.) In either of the following cases :

- (*a*) Where a medical officer of health has represented to any local authority in the county of London under Part II. of this Act that any dwelling-houses are in a condition so dangerous or injurious to health, as to be unfit for human habitation, or that the pulling down of any obstructive buildings would be expedient, and such authority resolve that the case of such dwelling-houses or buildings is of such general importance to the county of London that it should be dealt with by a scheme under Part I. of this Act (*c*) ; or
- (*b*) Where an official representation as mentioned in Part I. of this Act has been made to the London County Council in

relation to any houses, courts, or alleys within a certain area, and that council resolve that the case of such houses, courts, or alleys is not of general importance to the county of London and should be dealt with under Part II. of this Act (*d*);

such local authority or council may submit such resolution to a Secretary of State, and thereupon the Secretary of State may appoint an arbitrator, and direct him to hold a local inquiry, and such arbitrator shall hold such inquiry, and report to the Secretary of State as to whether, having regard to the size of the area, to the number of houses to be dealt with, to the position, structure, and sanitary condition of such houses, and of the neighbourhood thereof, and to the provisions of Part I. of this Act, the case is either wholly or partially of any and what importance to the county of London, with power to such arbitrator to report that in the event of the case being dealt with under Part II. of this Act, the London County Council ought to make a contribution in respect of the expense of dealing with the case.

(2.) The Secretary of State, after considering the report of the arbitrator, may, according as to him seems just, decide that the case shall be dealt with either under Part II. of this Act, or under Part I. of this Act, and the medical officer of health or other proper officer shall forthwith make the representation necessary for proceedings in accordance with such decision (*e*).

(*c*) This modifies sect. 32 (1), *ante*, p. 57.

(*d*) This modifies s. 4, *ante*, p. 23. See note (*g*), *ad loc.*

(e) The importance of this section lies in the fact that expenses under Part I. are defrayed out of the Dwelling House Improvement Fund of the London County Council and therefore fall upon the county fund as special expenses; whereas expenses under Part II. are defrayed out of the local rate: Sched. I. (1), (2), *post*, p. 128.

Amendment of
45 & 46
Vict. c. 38,
as regards
erection of
buildings
for work-
ing classes.

74.—(1.) The Settled Land Act, 1882, shall be amended as follows:—

(a) Any sale, exchange, or lease of land in pursuance of the said Act, when made for the purpose of the erection on such land of dwellings for the working classes (*f*), may be made at such price, or for such consideration, or for such rent, as having regard to the said purpose, and to all the circumstances of the case, is the best that can be reasonably obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose.

(b) The improvements on which capital money may be expended, enumerated in section twenty-five of the said Act, and referred to in section thirty of the said Act, shall, in addition to cottages for labourers, farm servants, and artizans whether employed on the settled land or not, include any dwellings available for the working classes, the building of which in the opinion of the Court is not injurious to the estate (*g*).

(2.) Any body corporate holding land may sell, exchange, or lease the land for the purpose of the erection of dwellings for the working classes at such price, or for such consideration, or for such

rent as having regard to the said purpose and to all the circumstances of the case is the best that can reasonably be obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose.

(*f*) Working classes here includes "all persons earning their livelihood by wages or salaries," but the section is to extend only to buildings of a rateable value not exceeding £100 per annum: see Settled Land Act, 1890 (53 & 54 Vict. c. 69), s. 18. The section under discussion is a re-enactment of sect. 11 of the Housing of the Working Classes Act, 1885.

(*g*) This seems to imply that the opinion of the Court must be obtained before the expenditure is incurred: at any rate, this would be the only safe course for trustees to pursue.

75. In any contract made after the fourteenth day of August one thousand eight hundred and eighty-five for letting for habitation by persons of the working classes a house or part of a house, there shall be implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation (*h*). In this section the expression "letting for habitation by persons of the working classes" means the letting for habitation of a house or part of a house at a rent not exceeding in England the sum named as the limit for the composition of rates by section three of the Poor Rate Assessment and Collection Act, 1869 (*i*), and in Scotland or Ireland four pounds.

Condition to be implied on letting houses for the working classes.

32 & 33
Vict. c. 41.

(*h*) Apart from statute a condition of this kind is implied in letting a furnished house (*Smith v. Marrable*, 11 M. & W. 5); but not an unfurnished one (*Hart v. Windsor*, 12 M. & W. 68). As to the extent of the condi-

tion where it exists, see *Campbell v. Lord Wenlock*, 4 F. & F. 717; *Wilson v. Finch Hatton*, 2 Ex. D. 336, 41 J. P. 583; *Bird v. Greville*, 1 Cab. & Ellis, N. P. Rep. 317; *Maclean v. Currie*, *ib.* 361.

(i) The sums named in the section referred to are for London, 20*l.*; Liverpool, 13*l.*; Manchester and Birmingham, 10*l.*; and elsewhere, 8*l.*

Medical officer of health in county of London.

76.—(1.) The London County Council may, with the consent of a Secretary of State, at any time appoint one or more legally qualified practitioner or practitioners, with such remuneration as they think fit, for the purpose of carrying into effect any part of this Act.

(2.) Any medical officer of health appointed by the London County Council, and any officer appointed under this section by the London County Council, shall be deemed to be a medical officer of health of a local authority within the meaning of this Act.

Power to local authority to enter and value premises.

77. Any person authorised by the local authority may at all reasonable times of the day, on giving twenty-four hours notice in writing (*j*) to the occupier of his intention so to do, enter any dwelling-house, premises, or building which the local authority are authorised to purchase compulsorily under Part I. or Part II. of this Act for the purpose of surveying and valuing such dwelling-house, premises, or building.

(*j*) "Writing" includes "printing, lithography, photography, or other modes of representing or reproducing words in a visible form": Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 20.

Compensation to tenants for

78. Where a building or any part of a building purchased by the local authority in pursuance of

a scheme under Part I. or Part II. of this Act is not closed by a closing order, and is occupied by any tenant whose contract of tenancy is for less than a year, the local authority, if they require him to give up possession of such building or part for the purpose of pulling down the building, may make to the said tenant a reasonable allowance on account of his expenses in removing.

79.—(1.) Anything which under Part I. or Part II. of this Act is authorised or required to be done by or to a medical officer of health may be done by or to any person authorised to act temporarily as such medical officer of health.

(2.) Every representation made by a medical officer of health in pursuance of this Act shall be in writing (*k*).

(*k*) *Vide ante*, s. 77, note (*j*).

80.—(1.) Separate accounts shall be kept by the local authority and their officers of their receipts and expenditure under each part of this Act.

(2.) Such accounts shall be audited in the like manner and with the like power to the officer auditing the same, and with the like incidents and consequences, as the accounts of the local authority are for the time being required to be audited by law (*l*).

(*l*) In the case of an urban authority who are also the council of a borough, see the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 246, and Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), ss. 25—27, and 62; in the case of an urban authority who are *not* also the council of a borough, see Public Health Act, 1875, s. 247; and in

that of a *rural* authority, see s. 248 of the same Act and Glen's Poor Law Orders at p. 577.

Power of local authority to appoint committees.

81. For the purposes of this Act, a local authority acting under this Act may appoint out of their own number so many persons as they may think fit, for any purposes of this Act which in the opinion of such authority would be better regulated and managed by means of a committee: Provided that a committee so appointed shall in no case be authorised to borrow any money, to make any rate, or to enter into any contract, and shall be subject to any regulations and restrictions which may be imposed by the authority that formed it.

Application of purchase-money.

82. Where a local authority sell any land acquired by them for any of the purposes of this Act, the proceeds of the sale shall be applied for any purpose, including repayment of borrowed money, for which capital money may be applied, and which is approved by the Local Government Board.

Rates of loans by Public Works Loan Commissioners.
38 & 39 Vict. c. 89.

83. Any loan advanced by the Public Works Loan Commissioners in pursuance of this Act or for labourers dwellings in pursuance of the Public Works Loans Act, 1875 (*m*), or any Act amending the same, shall bear such rate of interest not less than three pounds two shillings and sixpence per cent. per annum, as the Treasury may from time to time authorise as being in their opinion sufficient to enable such loans to be made without loss to the Exchequer.

(*m*) 38 & 39 Vict. c. 89, s. 9, and Sched. I.

- 84.** With respect to bye-laws authorised by this Act to be made (*n*)—
- (*a*) sections two hundred and two and two hundred and three of the Metropolis Management Act, 1855, where such bye-laws are made by the London County Council, or any nuisance authority (*o*) in the administrative county of London; and
- (*b*) the provisions of the Public Health Act, 1875, relating to bye-laws (*p*), where such bye-laws are made by a sanitary authority, shall apply to such bye-laws, and a fine or penalty under any such bye-law may be recovered on summary conviction.

(*n*) Sect. 62, *ante*, p. 97.

(*o*) This includes the Commissioners of Sewers: *vide* Sanitary Act, 1866 (29 & 30 Vict. c. 90), s. 15, and Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), s. 3.

(*p*) Sanitary authorities may make bye-laws under sects. 44, 80, 90, 141, 157, 164, 167, 169, 171, 172, 314 of the Public Health Act, 1875, and such bye-laws are regulated by ss. 182—188, of the same Act.

85.—(1.) For the purposes of the execution of their duties under this Act the Local Government Board may cause such local inquiries to be held as the Board see fit, and the costs incurred in relation to any such local inquiry, and to any local inquiry which any other confirming authority holds or causes to be held, including the salary or remuneration of any inspector or officer of or person employed by the Board or confirming authority engaged in the inquiry not exceeding three guineas a day, shall be paid by the local authorities and persons concerned in the inquiry, or by such of

them and in such proportions as the Board or confirming authority may direct, and that Board or authority may certify the amount of the costs incurred, and any sum so certified and directed by that Board or authority to be paid by any local authority or person shall be a debt to the Crown from such local authority or person.

(2.) Sections two hundred and ninety-three to two hundred and ninety-six and section two hundred and ninety-eight of the Public Health Act, 1875 (*q*), shall apply for the purpose of any order to be made by the Local Government Board or any local inquiry which that Board cause to be held in pursuance of any part of this Act.

(*q*) Sect. 293 enables the Local Government Board to institute inquiries. Sects. 294 and 295 enable them to make orders as to the costs of inquiries or proceedings directed by them. Sect. 296 gives the Board's inspectors powers as to the examination of witnesses, production of documents, inspection of places, &c., for the purposes of such inquiries, similar to the powers of poor law inspectors under the 4 & 5 Will. 4, c. 76, s. 12, and 10 & 11 Vict. c. 109, ss. 20, 21. Sect. 298 deals with the costs of a local authority in respect of provisional order or inquiries preliminary thereto.

Orders,
notices,
&c.

86.—(1.) An order in writing made by a local authority under this Act shall be under their seal and authenticated by the signature of their clerk or his lawful deputy.

(2.) A notice, demand, or other written document proceeding from the local authority under this Act shall be signed by their clerk or his lawful deputy.

Service of
notice, &c.
on the

87. Any notice, summons, writ or other proceeding at law or otherwise required to be served

on a local authority in relation to carrying into effect the objects or purposes of this Act, or any of them, may be served upon that authority by delivering the same to their clerk, or leaving the same at his office with some person employed there.

88.—(1.) A person shall not vote as member of a local authority or county council or any committee thereof upon any resolution or question which is proposed or arises in pursuance of Part I. or Part II. of this Act, if it relates to any dwelling-house, building, or land in which he is beneficially interested.

local authority.

Prohibition on persons interested voting as members of local authority.

(2.) If any person votes in contravention of this section he shall, on summary conviction, be liable for each offence to a fine not exceeding fifty pounds; but the fact of his giving the vote shall not invalidate any resolution or proceeding of the local authority or county council.

89. Where any person obstructs the medical officer of health, or any officer of the local authority, or of the confirming authority mentioned in Part I. of this Act, in the performance of anything which such officer or authority is by this Act required or authorised to do, such person shall, on summary conviction, be liable to a fine not exceeding twenty pounds.

Penalty for obstructing the execution of Act.

90. Offences under this Act punishable on summary conviction may be prosecuted and fines

Punishment of offences

and re-
covery of
fines.

recovered in manner provided by the Summary Jurisdiction Acts (*r*).

(*r*) Defined by the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13 (7) to (10), as, for England, the 11 & 12 Vict. c. 43, and 42 & 43 Vict. c. 49; for Scotland, the 27 & 28 Vict. c. 53, and 44 & 45 Vict. c. 33; and, for Ireland, as respects the Dublin Metropolitan Police District, the Acts regulating the powers and duties of justices or police of that district, and, as respects the rest of Ireland, the 14 & 15 Vict. c. 93.

Powers of
Act to be
cumula-
tive.

91. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred 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, and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not passed.

Provided that a local authority shall not, by reason of any local Act relating to a place within its jurisdiction, be exempted from the performance of any duty or obligation to which such authority are subject under any part of this Act.

Definition
of local
authority,
districts,
local rate.

92. In this Act, unless the context otherwise requires, "district," "local authority," and "local rate," mean respectively the areas, bodies of persons, and rates specified in the table contained in the First Schedule to this Act, but in Part III. of this Act and in reference to any power given by that part, or any act to be done in pursuance thereof shall mean such area, bodies of persons, and rate only in cases where that part of this Act is adopted or being adopted.

- 93.** In this Act, unless the context otherwise requires—
- The expression “land” includes any right over land: Definitions:
“Land.”
- The expression “sanitary district” means the district of a sanitary authority: “Sanitary district.”
- The expression “sanitary authority” means an urban sanitary authority or a rural sanitary authority: “Sanitary authority.”
- The expressions “urban sanitary authority” and “rural sanitary authority” and “contributory place” have respectively the same meanings as in the Public Health Act, 1875 (*s*): “Urban and rural sanitary authority”;
“contributory place.”
- The expression “superior court” means the Supreme Court: “Superior court.”
- The expression “county of London,” except where specified to be the administrative county of London (*t*), means the county of London exclusive of the city of London. “County of London.”

(*s*) 38 & 39 Vict. c. 55, ss. 4 (rural authority), 6 (urban authority), and 229 (contributory place).

(*t*) *Vide* Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 40 (1)—(3); and Introduction, p. 9.

PART V.

APPLICATION OF ACT TO SCOTLAND.

In the application of this Act to Scotland the following provisions shall have effect,—

- 94.**—(1.) A reference to any sections of the Lands Clauses Consolidation Act, 1845, shall be construed to mean a reference to the corresponding
- Modification as respects reference

to Scotch sections of the Lands Clauses Consolidation (Scotland) Act, 1845.
Acts.

(2.) Where a dispute under this Act is to be settled by two justices in manner provided by the Lands Clauses Acts in cases where the compensation claimed in respect of lands does not exceed fifty pounds such dispute shall be settled in Scotland by the sheriff in manner provided by the

8 & 9 Vict. Lands Clauses Consolidation (Scotland) Act, 1845,
c. 19. in similar cases.

30 & 31 (3.) The Public Health (Scotland) Act, 1867,
Vict. and the Acts amending the same shall be substituted
c. 101. for the Public Health Acts and in particular—

(a.) With respect to the purchase of land a reference to section ninety of the said Public Health (Scotland) Act, 1867, shall be substituted for a reference to sections one hundred and seventy-five to one hundred and seventy-eight of the Public Health Act, 1875 :

(b.) Local inquiries by the Board of Supervision shall be held under sections ten to thirteen of the Public Health (Scotland) Act, 1867, and local inquiries by the Secretary for Scotland under the Local Government (Scotland) Act, 1889, and the provisions of sub-section one of section eighty-five of this Act shall apply to such inquiries by the Board of Supervision :

52 & 53
Vict. c. 50.

(c.) The provisions as to private improvement expenses and the defraying thereof shall not apply to Scotland; and the local

authority shall be entitled to recover in a summary manner the amount apportioned to any building in respect of its increase in value by reason of the demolition of any obstructive building, from the owner or occupier thereof, according to their respective interests in such increase of value.

(4.) The Acts relating to nuisances mean, as respects any place in Scotland, the Public Health (Scotland) Act, 1867, and any Act amending the same, and the Local Government (Scotland) Act, 1889, and any local Act which contains any provisions with respect to nuisances in that place.

95.—(1.) A charging order under Part II. of this Act, shall be recorded in the appropriate register of sasines. Modifications as regards legal proceedings in Scotland.

(2.) Superior court means in Scotland the Court of Session, and where any order, certificate, or other act under this Act may be made a rule of a superior court, the Court of Session in Scotland may, on the application of the Lord Advocate, on behalf of the confirming authority, or on the application of any person interested, interpose their authority to any such order, certificate, or act, and grant decree conform thereto upon which execution and diligence may proceed in common form.

(3.) An appeal from an order of a local authority under Part II. of this Act, shall, in Scotland, be to the sheriff, and the same procedure shall apply as on an appeal from the sheriff substitute to the sheriff, but with the same provisoes as apply

to the appeal in England from the order of the local authority to a court of quarter sessions.

(4.) Offences under this Act punishable on summary conviction may be prosecuted and fines recovered before the sheriff or two justices or in burghs before the magistrates in manner provided by the Summary Jurisdiction (Scotland) Acts, and all necessary jurisdiction is hereby conferred on such sheriff or two justices, or any two magistrates of a burgh.

Miscellaneous
modifications.

96.—(1.) This Act shall be read and construed as if for the expression “the Local Government Board,” wherever it occurs therein, the expression “the Secretary for Scotland” were substituted, except that the provisions of this Act with respect to the adoption and execution of Part III. of this Act by a rural sanitary authority shall apply to the adoption and execution thereof by a local authority, being a district committee, and the Board of Supervision for the Relief of the Poor in Scotland shall be substituted in the said Part for the county council.

(2.) The expenses incurred by a local authority under this Act may be defrayed in the same manner as general expenses under section ninety-four, sub-section two, of the Public Health (Scotland) Act, 1867, and money may be borrowed for the purposes of this Act in the same manner and subject to the same conditions as nearly as may be as money may be borrowed for the erection of hospitals under the Public Health (Scotland) Amendment Act, 1871; provided that the assess-

ment therefor shall be levied only within the parish or parishes in respect of which such expenses are incurred.

(3.) The Edinburgh Gazette shall be substituted for the London Gazette.

(4.) The expression "medical officer of health" means medical officer.

(5.) The expression "person entitled to the first estate of freehold in" means owner of.

(6.) The expression "court of quarter sessions" means the sheriff.

(7.) The expression "urban sanitary authority" means the local authority under the Public Health (Scotland) Act, 1867, being a town council or police commissioners or trustees exercising the functions of police commissioners.

(8.) The expression "rural sanitary authority" means a district committee, or where a county has not been divided into districts under the Local Government (Scotland) Act, 1889, the county council.

(9.) The expression "contributory place" means a parish.

(10.) The expression "court of summary jurisdiction" means the sheriff or any two justices of the peace sitting in open court, or any magistrate or magistrates within the meaning of the Summary Jurisdiction Acts.

(11.) The expression "executors, administrators, or assigns" means heirs, executors, or assignees.

(12.) The expression "mortgage" means bond and disposition in security.

(13.) The reference to quitrents and other

charges incident to tenure, and to tithe commutation rentcharge shall be read as applicable to feu duties, casualties, and teinds.

(14.) With respect to byelaws authorized by this Act to be made, the provisions of the Public Health (Scotland) Act, 1867, relating to rules and regulations for common lodging houses shall apply to such byelaws with the necessary variations, and a fine or penalty under any such byelaw may be recovered on summary conviction.

(15.) An order in writing made by a local authority under this Act, where such local authority have not a seal, shall be authenticated by the signature of any two or more members of the local authority and of their clerk or his lawful deputy.

(16.) The provisions of Part II. of this Act with respect to the powers of county councils shall not apply to Scotland.

Provision
as to superior
of
lands for
purpose of
Part II.

97.—(1.) The superior of any lands and heritages may give notice of his right of superiority to the local authority, and thereupon the local authority shall give such superior notice of any proceedings taken by them in pursuance of Part II. of this Act in relation to such land and heritages.

(2.) If it appears to the sheriff, on the application of such superior, that default is being made in the execution of any works required to be executed on such lands and heritages in respect of which a closing order has been made, or in the demolition of a building on such lands and heritages, or in claiming to retain any site, in pursuance of Part II. of this Act, and that the

interests of the applicant will be prejudiced by such default, and that it is just to make the order, the sheriff may make an order empowering the applicant forthwith to enter on the lands and heritages, and within the time fixed by the order to execute the said works, or to demolish the building, or to claim to retain the site, as the case may be.

(3.) The sheriff may in any case, by order, enlarge the time allowed under any order for the execution of any works or the demolition of a building, or the time within which a claim may be made to retain the site of a building.

(4.) Before an order is made under this section notice of the application shall be given to the local authority.

PART VI.

APPLICATION OF ACT TO IRELAND.

98. In the application of this Act to Ireland the following provisions shall have effect—

- (1.) The Public Health (Ireland) Act, 1878, shall be substituted for the Public Health Act, 1875, and in particular the references in this Act to sections one hundred and seventy-five, one hundred and seventy-six and one hundred and seventy-seven of the Public Health Act, 1875, shall be respectively taken to be references to sections two hundred and two, two hundred and three, and two hundred and four, respectively, of

Modifica-
tion in ap-
plication
of Act to
Ireland.
41 & 42
Vict. c. 52.

the Public Health (Ireland) Act, 1878, and the reference to sections two hundred and ninety three to two hundred and ninety-six, two hundred and ninety-eight of the Public Health Act, 1875, shall be taken to be a reference to sections two hundred and nine, two hundred and ten, two hundred and twelve, two hundred and thirteen, and two hundred and fifteen of the Public Health (Ireland) Act, 1878.

- (2.) The Acts relating to nuisances mean as respects any place in Ireland the Public Health (Ireland) Act, 1878, and any local Act which contains any provisions with respect to nuisances in that place.
- (3.) The expression "quarter sessions" means, in towns and boroughs where there are separate quarter sessions, the quarter sessions of the said towns and boroughs, and in towns and boroughs where there are no separate quarter sessions, the quarter sessions of the division of the counties in which such towns or boroughs are situate.
- (4.) The provisions of section twenty-four of the Petty Sessions (Ireland) Act, 1851, respecting appeals from courts of summary jurisdiction authorised by that section, and any enactment amending the same, shall in Ireland apply in the case of appeals from an order of a local authority to a court of quarter sessions under Part II. of this Act, as if such order was an order of a court of summary jurisdiction, but with the

same provisoes as apply under this Act in the case of such an appeal in England.

- (5.) The Local Government Board for Ireland shall be substituted for the Local Government Board.
- (6.) The Commissioners of Public Works in Ireland acting with the consent of the Treasury shall be substituted for the Public Works Loan Commissioners.
- (7.) The medical officer of health in Ireland shall include the medical superintendent officer of health appointed under the Public Health (Ireland) Act, 1878.
- (8.) The Dublin Gazette shall be substituted for the London Gazette.
- (9.) Every charging order under Part II. of this Act shall be registered in the office for registering deeds, conveyances, and wills in Ireland.
- (10.) An order in writing made by a local authority under this Act, where such local authority have not a seal, shall be authenticated by the signature of any two or more members of the local authority and of their clerk or his lawful deputy.
- (11.) The accounts of the local authority under this Act shall be audited in the like manner and with the like power to the officer auditing the same, and with the like incidents and consequences, as the accounts of that authority as a sanitary authority are for the time being required to be audited by law.

- (12.) The consent of the Treasury shall in Ireland be substituted for the consent of the Local Government Board required under Part III. of this Act to the appropriation of land for lodging houses, to the sale and exchange of land, and to the sale of lodging houses when considered too expensive.

Adoption
of Part
III. of Act
by town
commis-
sioners of
small
towns in
Ireland.

99.—(1.) In a town not being an urban sanitary district Part III. of this Act may be adopted by any town commissioners for the time being existing for the paving, lighting, or cleansing of that town under any public Act of Parliament or any charter, and the Act when adopted shall be carried into execution by such town commissioners, and for that purpose they shall be deemed to be a local authority within the meaning of the said part.

(2.) Such commissioners shall give not less than twenty-eight nor more than forty-two days public notice of their intention to take into consideration the propriety of adopting the said part of this Act, and of the time and place for holding the meeting when they will take it into consideration.

(3.) If at that meeting there is presented to the commissioners a memorial in writing signed by not less than one-tenth in value of the persons liable to be rated to rates made by such commissioners requesting them to postpone the said consideration for a period of one year, then the consideration shall be so postponed, and shall be entered upon as soon after the expiration of the year as the commissioners think fit.

(4.) If the said part of this Act is adopted, the

local rate shall be any rate which the commissioners have power to impose for the purpose of paving, lighting, cleansing, or otherwise improving the town, and such rate may, with the approval of the Treasury, be increased for the purpose.

(5.) The net income arising from any lodging-houses or dwellings provided by the commissioners in pursuance of the said part of this Act, after the payment of all out-goings, including the interest and instalments of principal of any loan, shall be paid to the town commissioners fund, or otherwise in aid of the rates which have been applied to the payment of the expenses.

100. Sections fifty-six to sixty-four, both inclusive, and sections ninety-nine to one hundred and three, both inclusive, of the Commissioners Clauses Act, 1847, shall be incorporated with Part III. of this Act, so far as regards any town commissioners or any dock or harbour company or commissioners; and in the construction of the said sections for the purposes of the part of this Act with which they are so incorporated, the expression "commissioners" shall mean any such commissioners or company as aforesaid, and the expression "special Act" shall mean this Act.

Incorporation of sections of 10 & 11 Vict. c. 16, for purposes of Part III. of Act.

101.—(1.) Any company, society, or association establishing lodging-houses in pursuance of Part III. of this Act shall have the same power of making byelaws for the regulation of such lodging-houses as a local authority have under the said part.

Power of making byelaws for labourers dwellings in Ireland.

(2.) Any byelaw made for the regulation of

lodging-houses in pursuance of Part III. of this Act shall not be valid until approved by the Local Government Board, and a production of a copy of the byelaws purporting to be sealed with the seal of the Local Government Board and signed by the president or by the under secretary to the Lord Lieutenant or by the vice-president, or by two other members of the Board both signing, shall be sufficient evidence of such approval in all courts of justice and elsewhere.

(3.) Where a byelaw has been so approved, any fine imposed by the same may be recovered before a court of summary jurisdiction; and one-half of any fine so recovered shall be paid to the informer and the other half to the authority who made the byelaw, and shall be applied by them in aid of the expenses of the lodging-houses.

PART VII.

REPEAL AND TEMPORARY PROVISIONS.

Repeal of
Acts.

102. The Acts mentioned in the Seventh Schedule to this Act are hereby repealed to the extent in the third column of that schedule specified.

Provided that:—

(1.) Where the Labouring Classes Lodging Houses Acts, 1851 to 1885, have been adopted in any district, that adoption shall be deemed to be an adoption of Part III.

of this Act, and this Act shall apply accordingly;

- (2.) Any officer appointed under any enactment hereby repealed shall continue and be deemed to be appointed under this Act;
- (3.) Any dwelling houses acquired by the local authority under the Artizans Dwellings Acts, 1868 to 1885, and vested in them at the commencement of this Act, shall be held by such local authority as if they had been acquired under the provisions of Part III. of this Act, and any land or premises other than dwelling houses so acquired and held by them at the commencement of this Act shall be held as if the same had been acquired as a site of an obstructive building in pursuance of Part II. of this Act, but may with the consent of the authority authorised by the said part of this Act to consent to the sale of land so acquired be appropriated for the purposes of Part III. of this Act.

103. The provisions of this Act relating to compensation, to the power of the local authority to enter and value premises, to the compensation of tenants for expense of removal, shall be applicable in the case of all improvement schemes which have been confirmed by Act of Parliament during the session in which this Act is passed.

SCHEDULES.

FIRST SCHEDULE. Sections 54, 92.
ENGLAND AND WALES.

District.	Local Authority.	Local Rate.
<i>Throughout Act.</i>		
Urban sanitary district ..	The urban sanitary authority.	The rate out of which the general expenses of the execution of the Public Health Acts are defrayed.
The city of London.....	The Commissioners of Sewers.	The sewer rate and the consolidated rate levied by such Commissioners, or either of such rates.
(1.) <i>For the purpose of Parts I. and III.</i>		
The county of London ..	The County Council of London.	The county fund and the amount payable shall be deemed to be required for special county purposes.
(2.) <i>For the purposes of Part II.</i>		
A parish other than the parish of Woolwich mentioned in Schedule A. to the Metropolis Management Act, 1855, as amended by the Metropolis Management (Amendment) Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887.	The Vestry elected under the Metropolis Management Act, 1855.	The general rate leviable by such vestry or board under the Metropolis Management Act, 1855.
A district mentioned in Schedule B. to the Metropolis Management Act, 1855, as amended by the Metropolis Management (Amendment) Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887.	The Board of Works for the district elected under the Metropolis Management Act, 1855.	
Parish of Woolwich	The local board of health.	The district fund and general district rate.

District.	Local Authority.	Local Rate.
(3.) <i>For the purposes of Parts II. and III.</i> Rural sanitary district ..	The rural sanitary authority.	The rate out of which the "general" or "special" expenses, as the case may be, of the execution of the Public Health Acts are defrayed.

SCOTLAND.

<i>Throughout Act.</i> Districts under the Public Health (Scotland) Act, 1867, exclusive of parishes or parts thereof over which the jurisdiction of a town council or of police commissioners or trustees exercising the functions of police commissioners does not extend.	The local authorities under the Public Health (Scotland) Act, 1867, in those districts.	The public health rate.
<i>Under Parts II. and III.</i> Districts under the Public Health (Scotland) Act, 1867, as amended by the Local Government (Scotland) Act, 1889.	The local authorities under the Public Health (Scotland) Act, 1867, in those districts.	The public health rate.

IRELAND.

<i>Under Parts I. and III.</i> Urban sanitary district ..	The urban sanitary authority.	The rate out of which the general expenses of the execution of the Public Health (Ireland) Act, 1878, are defrayed in these districts.
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District.	Local Authority.	Local Rate.
<i>Under Part II.</i>		
Urban sanitary district ..	The urban sanitary authority.	The rate out of which the general expenses of the execution of the Public Health (Ireland) Act, 1878, are defrayed in the district.
Rural sanitary district ..	The rural sanitary authority.	The rate out of which the special expenses of the execution of the Public Health (Ireland) Act, 1878, are defrayed in the district.

Note.—In any case in the United Kingdom where an urban sanitary authority does not levy a borough rate or any general district rate, but is empowered by a local Act or Acts to borrow money and to levy a rate or rates throughout the whole of their district for purposes similar to those or to some of those for which a general district rate is leviable, it shall be lawful for such sanitary authority to defray the expenses incurred in the execution of Part III. of this Act by means of money to be borrowed, and a rate or rates to be levied, under such local Act or Acts.

SECOND SCHEDULE.

Section 20. PROVISIONS WITH RESPECT TO THE PURCHASE AND TAKING OF LANDS IN ENGLAND OTHERWISE THAN BY AGREEMENT, AND OTHERWISE AMENDING THE LANDS CLAUSES ACTS.

Deposit of Maps and Plans.

1—4. 38 & 39 Vict. c. 36, Sch. (1.) The local authority shall as soon as practicable after the passing of the confirming Act cause to be made out, and to be signed by their clerk or some other principal officer appointed by them, maps and schedules of all lands proposed to be taken compulsorily, (which lands are hereinafter referred to as the

scheduled lands,) together with the names, so far as the same can be reasonably ascertained, of all persons interested in such lands as owners or reputed owners, lessees or reputed lessees, or occupiers.

(2.) The maps made by the local authority shall be upon such scale and be framed in such manner as may be prescribed by the confirming authority.

(3.) The local authority shall deposit such maps and schedules at the office of the confirming authority, and shall deposit and keep copies of such maps and schedules at the office of the local authority.

Appointment of Arbitrator.

(4.) After such deposit at the office of the confirming authority as aforesaid, it shall be lawful for the confirming authority, upon the application of the local authority, to appoint an arbitrator (*a*) between the local authority, and the persons interested in such of the scheduled lands, or lands injuriously affected (*b*) by the execution of such scheme, so far as compensation for the same has not been made the subject of agreement (*c*).

(*a*) For the powers of the confirming authority in the case of the death, refusal, or incapacity of an arbitrator, see clause (31), *post*, p. 148.

(*b*) Compensation for lands "injuriously affected" will only be given in respect of damage, for which an action would have lain but for the powers conferred upon the local authority by this Act; such damage must arise out of the execution of the works necessary to the scheme, and not from the user of the buildings. *Hammersmith Rail. Co. v. Brand*, L. R. 4 H. L. 171; *Reg. v. Metropolitan Board of Works*, L. R. 4 Q. B. 358; *Metropolitan Board of Works v. McCarthy*, L. R. 7 H. L. 243; *Buckleuch, Duke of v. Metropolitan Board of Works*, L. R. 5 H. L. 418.

(*c*) By sect. 1 of the Arbitration Act, 1889 (52 & 53 Vict. c. 49), a submission to arbitration is to have the same effect as if it had been made an order of Court; and by sect. 24, the Act is made to apply to statutory arbitrations as if they had been made pursuant to a submission.

Proceedings on Arbitration.

45 & 46
Vict. c. 54,
Sch.
(1.) a-f. (5.) Before any arbitrator enters upon any inquiry he shall, in the presence of a justice of the peace (*d*), make and subscribe the following declaration; that is to say,

“I *A.B.* do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Housing of the Working Classes Act, 1890.

A.B.

“Made and subscribed in the presence of . . .”
And such declaration (*e*) shall be annexed to the award when made; and if any arbitrator, having made such declaration wilfully act contrary thereto, he shall be guilty of a misdemeanor.

(*d*) *Sc.*, any justice, and not necessarily one in the same county. *Davis v. S. Staffordshire Ry. Co.*, 21 L. J. M. C. 52.

(*e*) Delay in making the declaration does not invalidate the award, provided that such declaration be made before the consideration of the matters in dispute. *In re Bradshaw's Arbitration*, 12 Q. B. 562; 17 L. J. Q. B. 362. The parties may dispense with this declaration by consent. *Falmer v. Metropolitan Rail. Co.*, 21 L. J. Q. B. 259.

(6.) As soon as an arbitrator has been appointed as aforesaid, the confirming authority shall deliver to him the maps and schedules deposited at their office, and the local authority shall publish once in each of three successive weeks the following particulars:—

- (1.) The appointment of the arbitrator; and
- (2.) The deposit at the office of the local authority of the copies of such maps and schedules as aforesaid, with a description of the situation of such office, and a statement of the time at which

such copies may be inspected by any person desirous of inspecting the same.

Such publication shall be made not only by advertisement, but also by placards and handbills affixed in conspicuous places on or near the lands to be taken, and also by leaving a notice thereof at each house proposed to be taken, and also by sending a notice thereof by post (*f*) to the persons interested in such lands as owners or reputed owners, lessees or reputed lessees, so far as they can be reasonably ascertained.

42 & 43
Vict. c. 63,
Sch.
Art. 1.

(*f*) *Vide n. (s), ante, p. 28.*

Quære, whether such notice amounts to a notice to treat. In the case of *Wilkins v. Mayor of Birmingham*, 25 Ch. D. 78, which was decided upon the Artizans' and Labourers' Dwellings Improvement Act, 1875 (38 & 39 Vict. c. 36), s. 19, Sched. s. (6), it was held that a requisition published by the local authority directing owners to deliver to the arbitrator a short statement in writing of the nature of their respective claims, did constitute a notice to treat. No such requisition, however, is required by the present Act.

(7.) In every case in which compensation is payable under Part I. of this Act, by the local authority to any claimant, and which compensation has not been made the subject of agreement (in this Act referred to as "a disputed case"), the arbitrator shall ascertain in such manner as he thinks most convenient the amount of compensation demanded by the claimant, and the amount which the local authority may be willing to pay; and after hearing all such parties interested (*g*) in each disputed case as may appear before him at a time and place of which notice has been given as in Part I. of this Act mentioned (*h*), he shall proceed to decide on the amount of compensation to which he may consider the claimant to be entitled in each case.

(g) See *Carr v. Metropolitan Board of Works*, 14 Ch. D. at p. 815.

(h) See the next clause. As this schedule is incorporated with Part I. by sect. 20, it is evidently regarded as an integral portion of that part.

(8.) The arbitrator shall give notice to the claimants in disputed cases by causing such notice to be published or otherwise in such manner as he thinks advisable, of a time and place at which the difference between the claimants and the local authority in disputed cases as to the amount of compensation to be paid will be decided by the arbitrator.

(9.) After the arbitrator has arrived at a decision on all the disputed cases brought before him he shall make an award under his hand and seal, and such award shall be final, and be binding and conclusive (subject to the provisions concerning an appeal hereinafter contained) upon all persons whomsoever, and no such award shall be set aside for irregularity in matter of form, but the arbitrator may and, if the local authority request him so to do, shall from time to time make an award respecting a portion only (*i*) of the disputed cases brought before him.

(*i*) This enables a local authority to obtain a decision on one or more test cases. See the corresponding provision for Part II. s. 41 (6), *ante*, p. 77.

(10.) Such award as aforesaid shall be deposited at the office of the confirming authority, and a copy thereof shall be deposited at the office of the local authority, and the local authority shall thereupon publish once in each of three successive weeks notice of the deposit having been made at the office of the local authority of a copy of the award, and a further notice requiring all persons claiming to have any right to or interest in the lands (the compensation to

be paid in respect of which is ascertained by such award) to deliver to the local authority on or before a day to be named in such notice (such day not being earlier than twenty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short abstract of the title on which the same is founded; and such statement and abstract shall be paid for by the local authority. Such abstract of title, in the case of a person claiming a fee simple interest in the land, shall commence twenty years previous to the date of the claim, except there has been an absolute conveyance on sale within twenty years, and more than ten years previous to the claim when the abstract shall commence with such conveyance.

Special Powers of Arbitration.

(11.) The arbitrator shall have the same power of apportioning any rent-service rentcharge, chief or other rent, payment, or incumbrance, or any rent payable in respect of lands comprised in a lease, as two justices have under the Lands Clauses Consolidation Act, 1845 (*k*).

Power of arbitrator as to apportionment.
42 & 43
Vict. c. 63,
Sch. (2).

(*k*) 8 & 9 Vict. c. 18, s. 119.

(12.) Notwithstanding anything in section ninety-two of the Lands Clauses Consolidation Act, 1845, the arbitrator may determine that such part of any house, building, or manufactory as is proposed to be taken by the local authority can be taken without material damage to such house, building, or manufactory, and if he so determine may award compensation in respect of the severance of the part so proposed to be taken, in addition to the value of that

Amendment respecting severance of properties.
8 & 9 Vict.
c. 18.
42 & 43
Vict. c. 63,
Sch. (3).

part, and thereupon the party interested shall be required to sell and convey to the local authority such part, without the local authority being obliged to purchase the greater part or the whole of such house, building, or manufactory.

The local authority, or any person interested, if dissatisfied with a determination under this enactment may, in manner provided with respect to appeals to a jury (*l*) in respect of compensation for land by this schedule, submit the question of whether the said part can be taken without material damage, as well as the question of the proper amount of compensation, to a jury; and the notice of intention to appeal shall be given within the same time as notice of intention to appeal against the amount of compensation awarded is required to be given.

(*l*) *Vide* clauses (26) and (27), *post*, p. 143.

Omitted
interests.

42 & 43
Vict. c. 63,
Sch. (4).

(13.) The amount of purchase-money or compensation to be paid in pursuance of section one hundred and twenty-four of the Lands Clauses Consolidation Act, 1845, in respect of any estate, right, or interest in or charge affecting any of the scheduled lands which the local authority have through mistake or inadvertence failed or omitted duly to purchase or make compensation for, shall be awarded by the arbitrator and be paid, in like manner, as near as may be, as the same would have been awarded and paid if the claim of such estate, right, interest, or charge had been delivered to the arbitrator before the day fixed for the delivery of statements of claims.

If the arbitrator is satisfied that the failure or omission to purchase the said estate, right, interest, or charge, arose from any default on the part either of the claimant or of the local authority, he may direct the costs to be paid by the party so in default.

Payment of Purchase-Money.

(14.) Within thirty days from the delivery of such statement and abstract as aforesaid to the local authority, the local authority shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate, or interest claimed by him, deliver to such person, on demand, a certificate stating the amount of the compensation to which he is entitled under the said award.

Arts.
14—24.
See 38 &
39 Vict.
c. 36, Sch.

(15.) Every such certificate shall be prepared by and at the cost of the local authority; and where any agreement has been entered into as to the compensation payable in respect of the interest of any person in any lands, the local authority may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

(16.) The local authority shall, thirty days after demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases hereinafter mentioned, the amount of moneys specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators, or assigns.

(17.) If the local authority wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the local authority in the High Court, for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by warrant of attorney from the local authority, authorised to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases; and all moneys payable under such certificates, or to be recovered by such judgments as

aforesaid, shall at law and in equity be taken as personal estate as from the time of the local authority entering on any such lands as aforesaid.

(18.) When and so soon as the local authority have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein provided, in the cases hereinafter mentioned (*m*), the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators, or assigns, it shall be lawful for the local authority, upon obtaining such receipt as hereinafter mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable (*n*).

(*m*) *Post*, clauses (20) and (21).

(*n*) If the local authority wish to enter upon the lands sooner than is allowed by this clause, they must proceed under clause (24), *post*.

(19.) In every case in which any moneys are paid by any local authority under this Act for such compensation as aforesaid, the party receiving such moneys shall give to the local authority a receipt for the same, and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such moneys are paid, provided such receipt has an ad valorem stamp of the same amount impressed thereon in respect of the purchase-moneys mentioned in such certificate as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the cost of the local authority.

(20.) If it appear to the local authority, from any such statement and abstract as aforesaid, or otherwise, that the person making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the local authority, then and in every such case the amount to be paid by the local authority in respect of such lands, estate, or interest as aforesaid shall be paid and applied as provided by the clauses of the Lands Clauses Consolidation Act, 1845, as amended by the Court of Chancery Funds Act, 1872 (*o*), "with respect to the purchase-money or compensation coming to parties having limited interests, or prevented from treating, or not making title."

(*o*) 8 & 9 Vict. c. 18, ss. 69—80; 35 & 36 Vict. c. 44.

(21.) Where any person claiming any right or interest in any lands refuses to produce his title to the same, or where the local authority have under the provisions of Part I. of this Act taken possession of any lands in respect of the compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the local authority taking possession, or if any party to whom any such certificate has been given or tendered refuses to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the local authority in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into the Bank of England, in manner provided by the last-mentioned clauses of the Lands Clauses Consoli-

dition Act, 1845, as amended by the Court of Chancery Funds Act, 1872 (*p*), and the amount so paid into the said bank shall be accordingly dealt with as by the said Act provided.

(*p*) 8 & 9 Vict. c. 18, ss. 69—80; 35 & 36 Vict. c. 44.

(22.) Nothing herein contained shall prevent the local authority from requiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement hereinbefore mentioned, if they think fit, so as the same be obtained at the cost of the local authority.

(23.) If from any reason whatever the local authority does not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the local authority as aforesaid, then the right to have a certificate according to the provisions of this Act may, at the cost and charge of the local authority, be enforced by any party or parties, by application to the High Court, in a summary way by petition (*q*), and all other rights and interests of any party or parties arising under the provisions of this Act may be in like manner enforced against the local authority by such application as aforesaid.

(*q*) See the Judicature Act, 1884 (47 & 48 Vict. c. 61), s. 13, 18 & 19 Vict. c. 134, s. 16, and R. S. C., O. 55, r. 2.

Entry on Lands on making Deposit.

(24.) Where the local authority are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions hereinbefore contained (*r*), it shall be lawful for the local authority, at any time

after the arbitrator has framed his award, upon depositing in the Bank of England such sum as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorised to be purchased or taken by the local authority, and mentioned in such award, to enter upon and use such lands for the purposes of the improvement scheme of the local authority: and the arbitrator shall, upon the request of the local authority at any time after he has framed such award, certify under his hand the sum which, in his opinion, should be so deposited by the local authority in respect of any lands mentioned in such award before they enter upon and use the same as aforesaid, and the sum to be so certified shall be the sum or the amount of the several sums set forth in such award as the sum or sums to be paid by the local authority in respect of such lands, or such greater amount as to the arbitrator, under the circumstances of the case, may seem proper; and, notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the award, the delivery of certificates, and other proceedings under Part I. of this Act, shall be had, and payments made, as if such entry and deposit had not been made;

Provided that the local authority shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the compensation money payable by them in respect of any lands so entered upon, from the time of their entry until the time of the payment of such money and interest to the party entitled thereto, or where, under the provisions of Part I. of this Act (*s*), such compensation is required to be paid into the Bank of England, then until the

same, with such interest, is paid into such bank accordingly; and where under this provision interest is payable on any compensation money the certificate to be delivered by the local authority in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

(*r*) *Ante*, clause (18).

(*s*) *Ante*, clauses (20) and (21), and see n. (*h*) at p. 134.

(25.) The money so deposited as last aforesaid shall be paid into the Bank of England to such account as may from time to time be directed by any regulation or Act for the time being in force in relation to moneys deposited in the bank in similar cases, or to such account as may be directed by any order of the High Court, and remain in the bank by way of security to the parties interested in the lands which have been so entered upon for the payment of the money to become payable by the local authority in respect thereof under the award of the arbitrator; and the money so deposited may, on the application by petition of the local authority, be ordered to be invested in Bank Annuities or Government securities, and accumulated: and upon such payment as aforesaid by the local authority it shall be lawful for the High Court, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the local authority, or, in default of such payment as aforesaid by the local authority, it shall be lawful for the said court to order the same to be applied in such manner as it thinks fit for the benefit of the parties for whose security the same shall so have been deposited.

Appeal.

(26.) In the following cases, namely,—

- (a.) Where the party named in any certificate issued under the provisions hereinbefore contained (*t*) of the amount of the compensation ascertained by any award under Part I. of this Act (or any party claiming under the party so named) is dissatisfied with the amount in such certificate certified to be payable, and such amount exceeds one thousand pounds, and
- (b.) Where any party claiming any interest in any moneys so paid into court as aforesaid (*u*), is dissatisfied with the amount of the price or compensation in respect of which such moneys are paid into court, and such amount exceeds one thousand pounds; also
- (c.) Where the local authority is dissatisfied with the amount of compensation which the arbitrator appointed under the provisions of Part I. of this Act has awarded to be paid by the local authority to any person in respect of any estate or interest in lands, and such amount exceed the sum of one thousand pounds :

See 45 &
46 Vict.
c. 54,
Sch. (G).

the party dissatisfied may, upon obtaining the leave of the High Court, which leave may be granted by such court or any judge thereof at chambers in a summary manner, and upon being satisfied that a failure of justice will take place if the leave is not granted, submit the question of the proper amount of compensation to a jury (*v*), provided that such party give notice in writing to the other party of their intention to appeal within ten days after the cause of appeal has arisen.

The cause of appeal shall be deemed to have arisen,—

- (1.) Where a certificate has been issued as aforesaid, at the date of the issue of the certificate;
- (2.) Where moneys have been paid into court, at the date of the payment into court;
- (3.) Where the local authority appeals, at the date of the making of the award.

(*t*) *Ante*, clause (14).

(*u*) *I. e.*, by payment into the Bank of England, *ante*, clauses (20) and (21).

(*v*) Where under the corresponding provisions of the Artizans' and Labourers' Dwellings Improvement Act, 1875 (38 & 39 Vict. c. 36), Sched. cl. 26, a sum awarded for compensation was increased by the jury on appeal, interest at 4 per cent. was given on the difference between the two sums from the date of payment of the sum originally awarded to the date of payment of such difference. *In re Shaw and the Corp. of Birmingham*, 27 Ch. D. 614.

(27.) Where a notice has been given under Part I. of this Act of an appeal to a jury in respect of compensation for land, or any interest in land, a question of disputed compensation required to be determined by the verdict of a jury shall be deemed to have arisen within the meaning of the Lands Clauses Consolidation Act, 1845, and all the provisions of that Act contained in sections thirty-eight to fifty-seven, both inclusive, shall be deemed to apply, except sections forty-seven and fifty-one: Provided also, that—

8 & 9 Vict.
c. 18.

- (1.) Where the local authority appeals that authority shall be deemed to be the plaintiff and the party entitled to compensation to be the defendant; and
- (2.) Where the party claiming compensation appeals, then, in case the verdict of the jury is for a sum exceeding the award of the arbitrator, the local authority shall pay to such party the costs of the trial, such costs to be taxed and

ascertained in the same manner as costs are by law ascertained on the trial of issues tried in the High Court; but in case the verdict of the jury is for a sum not exceeding the award of the arbitrator, the party appealing shall pay to the local authority the costs of the trial to be taxed and ascertained in manner aforesaid.

- (3.) Where the local authority is the appellant,—
- (a.) Notwithstanding the verdict of the jury may be for a sum less than that awarded by the arbitrator, the local authority shall pay to the other party such sum not exceeding twenty pounds for the costs of the trial as the sheriff or other officer before whom the same is tried shall direct; and
- (b.) In case the verdict of the jury is for a sum equal to or exceeding the award of the arbitrator, the local authority shall pay to the other party the costs of the trial, such costs to be taxed and ascertained in manner aforesaid.
- (c.) The amount of compensation awarded by the arbitrator shall not be communicated to the jury, but they shall be required to make an independent assessment of the amount of compensation to which the party claiming compensation is entitled.

Costs of Arbitration.

(28.) The salary or remuneration, travelling, and other expenses of the arbitrator, and all costs, charges, and expenses (if any) which may be incurred by the confirming authority in carrying the provisions of Part I. of this Act into execution (*w*), shall, after the amount thereof shall have been certified under this article, be paid by the local authority; and the amount

See 45 &
46 Vict.
c. 54,
Sch. (H).

of such costs, charges, and expenses shall from time to time be certified by the confirming authority after first hearing any objections that may be made to the reasonableness of any such costs, charges and expenses by or on behalf of the local authority; and every certificate of the said confirming authority certifying the amount of such costs, charges, and expenses shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges, and expenses, and the amount so certified shall be a debt due from the local authority to the Crown, and shall be recoverable accordingly.

Further, any such certificate may be made a rule of a superior court (*x*), on the application of any party named therein, and may be enforced accordingly.

(*w*) Costs incurred by the confirming authority, *in relation to a provisional order sanctioning a scheme under Part I.* require no certificate, but must be paid as the confirming authority order; *vide* s. 8 (8), *ante*. p. 30.

(*x*) By side-bar rule or motion.

(29.)—(1.) It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority;

See 45 &
46 Vict.
c. 54,
Sch. (I).

Provided that—

- (*a*) The arbitrator shall not be required to certify the amount of costs in any case where he considers such costs are not properly payable by the local authority;
- (*b*) The arbitrator shall not be required to certify the amount of costs incurred by any party in relation to the arbitration, in any case where

he considers that such party neglected, after due notice from the local authority, to deliver to that authority a statement in writing within such time, and containing such particulars respecting the compensation claimed, as would have enabled the local authority to make a proper offer of compensation to such party before the appointment of the arbitrator ;

- (c) No certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the local authority in respect of the claim before the appointment of the arbitrator.

(2.) If within seven days after demand the amount certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from the local authority with interest at the rate of five per cent. per annum for any time during which the same remains unpaid after such seven days as aforesaid.

Miscellaneous.

(30.) The arbitrator may call for the production of any documents in the possession or power of the local authority, or of any party making any claim under the provisions of Part I. of this Act, which such arbitrator may think necessary for determining any question or matter to be determined by him under Part I. of this Act, and may examine any such party and his witnesses, and the witnesses for the local authority, on oath, and administer the oaths necessary for that purpose (y).

(y) Before the Arbitration Act, 1889 (52 & 53 Vict. c. 49), the parties might dispense with the oath by consent (*Wakefield v. Llanelly Railway and Dock Co.*, 34 Beav. 245; *Bottomley v. Ambler*, W. N. 1877, 245); but

sect. 2 and Sched. I. f, g, of that Act place the matter in the discretion of the arbitrator. As to the application of the Arbitration Act, see note (c) to clause 4, *ante*, p. 131.

(31.) If any arbitrator appointed in pursuance of Part I. of this Act die, or refuse, decline, or become incapable to act, the confirming authority may appoint an arbitrator in his place, who shall have the same powers and authorities as the arbitrator first appointed; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the local authority shall publish notice of such appointment in the London Gazette.

(32.) All notices required by this schedule to be published shall be published in some one and the same newspaper circulating within the jurisdiction of the local authority, and where no other form of service is prescribed all notices required to be served or given by the local authority under this schedule or otherwise upon any persons interested in or entitled to sell lands, shall be served in manner in which notices of lands proposed to be taken compulsorily for the purpose of an improvement scheme are directed by Part I. of this Act (z) to be served upon owners or reputed owners, lessees or reputed lessees, and occupiers.

(z) *Ante*, s. 7 (b), p. 26.

Application of Schedule to Scotland.

Applica- The provisions of this schedule shall apply to
tion of
schedule to Scotland, with the following modifications:—
Scotland. (33.)—(a) In any reference in this schedule to “an

abstract of title" there shall be substituted "a legal progress of the title deeds":

(b) In articles sixteen and eighteen of this schedule the words heirs, executors, or assignees shall be substituted for the words "executors, administrators, or assigns":

(c) In articles twenty and twenty-one the words "as amended by the Court of Chancery Funds Act, 1872," shall be omitted:

(d) Any reference to payment of money into the Bank of England shall be construed to be payment into any one of the incorporated or chartered banks of Scotland:

(e) Any reference to the High Court shall be construed as a reference to the Court of Session:

(f) Any money ordered to be invested under article twenty-five of this schedule shall be invested only in Government securities:

(g) Any reference to payment of money into court shall be construed as payment into bank:

(h) A reference to plaintiff and defendant shall be construed as a reference to pursuer and defender:

(i) The Edinburgh Gazette shall be substituted for the London Gazette.

(34.) In lieu of articles 11, 17, and 19 of this schedule the following provisions shall be substituted:—

(i.) The arbitrator shall have the same power of apportioning any feu duty, ground annual, casualty or superiority, or any rent or other annual or recurring payment or incumbrance, or any rent payable in respect of lands comprised in a lease, as the sheriff has under the Lands Clauses Consolidation (Scotland) Act, 1845.

(ii.) If the local authority wilfully make default

in such payment as aforesaid, then the party named in such certificate shall be entitled to record the same in the books of council and session, or other judge's books competent, and to have a decree interponed thereto, and to be extracted with a view to execution, in the like manner as if a formal clause of registration had been contained therein; and all diligence and execution shall be competent thereon in the like manner and to all effects as upon any bond containing such formal clause of registration; and all moneys payable under such certificates, or to be recovered by such execution and diligence as aforesaid, shall be taken as personal estate as from the time of the local authority entering on any such lands as aforesaid.

- (iii.) In every case in which any moneys are paid by any local authority under this Act for such compensation as aforesaid, the party receiving such moneys shall give to the local authority a conveyance of the lands in respect of which such moneys are paid, or of all the estate and interest of such party, and of all parties claiming under or through him, in such lands, and every such conveyance shall be prepared by and at the costs of the local authority.

Application of Schedule to Ireland.

(35.) The provisions of this schedule shall apply to Ireland, with the following modifications:—

- (a) In articles twenty and twenty-one the words and figures "the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter fifty-one,

intituled 'An Act for the transfer of the equitable jurisdiction of the Court of Exchequer to the Court of Chancery in Ireland, and any subsequent enactment'" shall be substituted for the words and figures "the Court of Chancery Funds Act, 1872;"

- (b) The Bank of Ireland shall be substituted for the Bank of England;
- (c) The Dublin Gazette shall be substituted for the London Gazette.

THIRD SCHEDULE.

ENACTMENTS APPLIED for the purpose of PROCEED- Sections
INGS for CLOSING PREMISES in ENGLAND, 29, 32.
SCOTLAND, and IRELAND respectively.

ENGLAND.

Administrative County of London.

SANITARY ACT, 1866 (Section 21).	29 & 30 Vict. c. 90.
NUISANCES REMOVAL ACT, 1855 (Sections 8, 12, and 13).	18 & 19 Vict. c. 121.

S. 21. The nuisance authority * * * shall, As to pro-
previous to taking proceedings before a justice under ceedings of
the twelfth section of the Nuisances Removal Act, nuisance
1855, serve a notice * * * on the owner authority
or occupier of the premises on which the nuisance under s. 12
arises, to abate the same, and for that purpose to of 18 & 19
execute such works, and to do all such things as Vict.
c. 121.

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 (*a*):

* * * * *

(*a*) For cases under this section, see Woolrych's *Metropolis Local Management Acts* (3rd ed.), pp. 469, 470.

NUISANCES REMOVAL ACT, 1855 (Sections 8, 12, and 13).

S. 8. The word nuisances under this Act shall include—

Any premises in such a state as to be a nuisance or injurious to health (*b*) * * *

Proceedings by local authority before justices in case of nuisances likely to recur, &c.

S. 12. In any case where a nuisance is so ascertained by the local authority to exist, or where the nuisance in their opinion did exist at the time when the notice was given, and, although the same may have been since removed or discontinued is, in their opinion, likely to recur or to be repeated on the same premises or any part thereof, they shall cause complaint thereof to be made before a justice of the peace, and such justice shall thereupon issue a summons (*c*) requiring * * * the owner or occupier of the premises on which the nuisance arises, to appear before any two justices, in petty sessions assembled, at their usual place of meeting, who shall proceed to inquire into the said complaint (*b*);

* * *

S. 13. * * * and if the nuisance proved to exist be such as to render a house or building, in the judgment of the justices, unfit for human habitation, they may prohibit the using thereof for that

purpose until it is rendered fit for that purpose in the judgment of the justices, and on their being satisfied that it has been rendered fit for such purpose, they may determine their previous order by another declaring such house habitable, from the date of which other order such house may be let or inhabited.

(b) For cases under these sections, see Woolrych's *Metropolis Local Management Acts* (3rd ed.), pp. 433—437.

(c) By sect. 31 of the Nuisances Removal Act, 1855, such summons may be served, among other methods, by delivery to any person upon the premises, or by affixing it thereto. In a very recent case at Worship Street, in which a summons under the Housing of the Working Classes Act had been served "upon the premises," the learned magistrate (Mr. Mead) held that the above-mentioned section not being incorporated, the fact of the summons must be brought to the notice of the owner. (*The Times*, May 29th, 1891.) But see the *dicta* of Lord Blackburn in *Mayor of Portsmouth v. Smith*, 10 App. Ca. at p. 371, where, however, the case seems to be distinguishable.

Elsewhere than London.

PUBLIC HEALTH ACT, 1875 (Sections 91, 94, 95,
and 97).

38 & 39
Vict. c. 55.

S. 91. For the purposes of this Act—

(1.) Any premises in such a state as to be a nuisance or injurious to health * * * shall be deemed to be nuisances liable to be dealt with summarily in manner provided by this Act (*d*).

(*d*) For cases under this section, see Lumley's *Public Health* (3rd ed.), p. 106, notes (*b*) and (*c*), and p. 109, note (*l*).

S. 94. * * * the local authority shall Local
* * * serve a notice * * * on authority
the owner or occupier of the premises on which the notice to serve

requiring abatement of nuisance. nuisance arises, requiring him to abate the same within a time to be specified in the notice, and to execute such works and do such things as may be necessary for that purpose: 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 (*d*):

* * * * *

(*d*) For cases under this section, see Lumley's Public Health (3rd ed.), pp. 112—114.

On non-compliance with notice complaint to be made to justice.

S. 95. If the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the notice, is, in the opinion of the local authority, likely to recur on the same premises, the local authority shall cause a complaint relating to such nuisance to be made before a justice, and such justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before a court of summary jurisdiction (*e*).

(*e*) See Lumley's Public Health (3rd ed.), p. 115.

Order of prohibition in case of house unfit for human habitation.

S. 97. Where the nuisance proved to exist is such as to render a house or building, in the judgment of the court unfit for human habitation, the court may prohibit the using thereof for that purpose until, in its judgment, the house or building is rendered fit for that purpose; and on the court being satisfied that it has been rendered fit for that purpose, the court may determine its previous order by another, declaring the house or building habitable, and from

the date thereof such house or building may be let or inhabited (*f*).

(*f*) See Lumley's Public Health (3rd ed.), p. 117.

SCOTLAND.

PUBLIC HEALTH (SCOTLAND) ACT, 1867 (Sections 16, 18, and 19). 30 & 31
Vict.
c. 101.

S. 16. The word "nuisance" under this Act shall include—

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

* * * *

S. 18. In any case where the existence of a nuisance is ascertained to their satisfaction by the local authority * * * and, although the same may have been since removed or discontinued, is in their opinion likely to recur or to be repeated, they may apply to the sheriff or to any magistrate or justice, by summary petition in manner hereinafter directed, and if it appear to his satisfaction that the nuisance exists, or, if removed or discontinued since the demand of admission was made or the certificate was given, that it is likely to recur or to be repeated, he shall decern for the removal or remedy or discontinuance or interdict of the nuisance. * * *

Proceedings by local authority when nuisances are ascertained to exist.

S. 19. * * * and if the nuisance proved to exist be such as to render a house or building unfit for human habitation, he† may prohibit the using

† *i. e.*, the sheriff, magistrate, or justice.

thereof for that purpose until it is rendered fit for that purpose, or do otherwise as the case may in his judgment require.

IRELAND.

41 & 42
Vict. c. 52. PUBLIC HEALTH (IRELAND) ACT, 1878 (Sections 107,
110, 111, and 113).

S. 107. For the purposes of this Act—

(1.) Any premises in such a state as to be a nuisance or injurious to health * * * shall be deemed to be nuisances liable to be dealt with summarily in manner provided by this Act.

Sanitary
authority
to serve
notice
requiring
abatement
of nuis-
ance.

S. 110. * * * the sanitary authority shall * * * serve a notice * * * on the owner or occupier of the premises on which the nuisance arises, requiring him to abate the same within a time to be specified in the notice, and to execute such works and do such things as may be necessary for that purpose: 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:

* * * * *

On non-
compli-
ance with
notice,
complaint
to be made
to justice.

S. 111. If the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the notice, is, in the opinion of the sanitary authority, likely to recur on the same premises, the sanitary authority shall cause a complaint relating to such nuisance to be made before a justice, and such justice shall thereupon issue a summons

requiring the person on whom the notice was served to appear before a court of summary jurisdiction.

S. 113. Where the nuisance proved to exist is such as to render a house or building, in the judgment of the court, unfit for human habitation, the court may prohibit the using thereof for that purpose until, in its judgment, the house or building is rendered fit for that purpose; and on the court being satisfied that it has been rendered fit for that purpose the court may determine its previous order by another, declaring the house or building habitable and from the date thereof such house or building may be let or inhabited.

Order of prohibition in case of house unfit for human habitation.

FOURTH SCHEDULE.

FORMS.

Section 32.

FORM A.

Form of Notice requiring Premises to be made fit for Habitation.

To [person causing the premises to be unfit for habitation, or owner or occupier of the premises, as the case may be].

Take notice that under the provisions of the Public Health Act, 1875, and the Housing of the Working Classes Act, 1890, the [describe the local authority], being satisfied that the following premises, that is to say [describe premises or place where the nuisance exists], are in a state so dangerous or injurious to

health as to be unfit for human habitation, do hereby require you within _____ from the service of this notice to make the said premises fit for human habitation.

If you make default in complying with the requisitions of this notice proceedings will be taken before a court of summary jurisdiction for prohibiting the use of the premises for human habitation.

Dated this _____ day of _____, 18 ____ .

Signature of officer }
of local authority }

FORM B.

Form of Summons for Closing Order.

To the owner or occupier of [*describe premises,*] situate at [*insert such a description as may be sufficient to identify the premises*].

County of _____ [*or*] _____ You are required to appear
borough of _____, before [*describe the court of sum-*
or district of _____, [*mary jurisdiction*] at the petty
or as the case may be] } sessions [*or court*] holden at
to wit. _____ on the _____ day of _____ next,
at the hour of _____ in the _____ noon, to answer the
complaint this day made to me by _____ that the
premises above mentioned are used as a dwelling-
house and are in a state so dangerous or injurious to
health as to be unfit for human habitation.

Given under my hand and seal this _____ day of

18 ____ .

FORM C.

Form of Closing Order.

To the owner [*or occupier*] of [*describe the premises*]
situated [*give such description as may be sufficient*
to identify the premises].

County of	[<i>or</i>]	} WHEREAS on the day of	
borough, &c. of	,		complaint was made before
<i>or</i> district of	,		Esquire, one of Her
<i>or as the case may be</i>].	.		Majesty's justices of the peace

acting in and for the county [*or other jurisdiction*] stated in the margin [*or as the case may be,*] by that certain premises situated at
in the district under the Public Health Act, 1875, of [*describe the local authority*], were in a state so dangerous or injurious to health as to be unfit for human habitation :

And whereas the owner [*or occupier*] within the meaning of the said Public Health Act, 1875, hath this day appeared before us [(*or me*) *describing the court*], to answer the matter of the said complaint [*or in case the party charged do not appear, say,*] and whereas it hath been this day proved to our (*or my*) satisfaction that a true copy of a summons requiring the owner [*or occupier*] of the said premises [*or the said A.B.*] to appear this day before us [*or me*] hath been duly served according to the said Act and the Housing of the Working Classes Act, 1890 :

Now on proof here had before us [*or me*] that the said premises are in a state so dangerous or injurious to health as to be unfit for human habitation, we [*or I*], in pursuance of the said Acts, do prohibit the using of the premises for the purpose of human

HOUSING OF THE WORKING CLASSES ACT, 1890.

habitation until in our [*or my*] judgment they are rendered fit for that purpose.

Given under the hands and seals of us [*or the hand and seal of me, describing the court*].

This day of 18 .

J.S. (L.S.)

J.P. (L.S.)

FIFTH SCHEDULE.

Section 36.

FORM MARKED A.

The Housing of the Working Classes Act, 1890.

County of

Parish of

No.

Charging Order.

Insert description of local authority. The being the local authority under the above-mentioned Act, do, by this Order under their hands and seal, charge the inheritance or fee of the premises mentioned in the schedule hereto with the payment to of the sum of pounds payable yearly on the day of for the term of years, and being in consideration of an expenditure of pounds incurred by him in respect of the said premises.

FORM MARKED B.

Form of Assignment of Charge. To be endorsed on Section 37.
Charging Order.

Dated the day of

I, the within-named in pursuance of the Insert
Housing of the Working Classes Act, 1890, and in description
consideration of pounds this day paid to me, of premises
hereby assign to the within-mentioned charge. charged.
(Signed)

SIXTH SCHEDULE.

BYELAWS TO BE MADE IN ALL CASES (EXCEPT WHERE A Section 62.
LODGING-HOUSE IS USED AS A SEPARATE DWELLING).

For securing that the lodging-houses shall be under the management and control of the officers, servants, or others appointed or employed in that behalf by the local authority.

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

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

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

SEVENTH SCHEDULE.

Section 102.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
14 & 15 Vict. c. 34.	The Labouring Classes Lodging Houses Act, 1851.	The whole Act.
18 & 19 Vict. c. 88.	The Dwelling Houses (Scotland) Act, 1855.	The whole Act.
29 & 30 Vict. c. 28.	The Labouring Classes Dwelling Houses Act, 1866.	The whole Act.
29 & 30 Vict. c. 44.	The Labouring Classes Lodging Houses and Dwellings Act (Ireland), 1866.	The whole Act.
30 & 31 Vict. c. 28.	The Labouring Classes Dwelling Houses Act, 1867.	The whole Act.
31 & 32 Vict. c. 130.	The Artizans and Labourers Dwellings Act, 1868.	The whole Act.
38 & 39 Vict. c. 36.	The Artizans and Labourers Dwellings Improvement Act, 1875.	The whole Act.
38 & 39 Vict. c. 49.	The Artizans and Labourers Dwellings Improvement (Scotland) Act, 1875.	The whole Act.
42 & 43 Vict. c. 63.	The Artizans and Labourers Dwellings Improvement Act, 1879.	The whole Act.
42 & 43 Vict. c. 64.	The Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879.	The whole Act.
42 & 43 Vict. c. 77.	The Public Works Loans Act, 1879.	Section six.
43 Vict. c. 2.	The Artizans and Labourers Dwellings Improvement (Scotland) Act, 1880.	The whole Act.
43 Vict. c. 8.	An Act to explain and amend the twenty-second section of the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879.	The whole Act.
45 & 46 Vict. c. 54.	The Artizans Dwellings Act, 1882.	The whole Act.
48 & 49 Vict. c. 72.	The Housing of the Working Classes Act, 1885.	The whole Act except sections three and seven to nine, and except section ten so far as it relates to byelaws authorised by those sections.

APPENDIX A.



I.—FORMS *prescribed by the HOME SECRETARY*
under sect. 27, ante, p. 53.



1.—Form of Advertisement.



COUNTY OF LONDON *or* CITY OF LONDON.



HOUSING OF THE WORKING CLASSES ACT, 1890.
(53 & 54 Vict. c. 70.)

Advertisement of an Improvement Scheme.

NOTICE is hereby given that the London County Council (*or* the Commissioners of Sewers), being the local authority for the county of London (city of London), have, in pursuance of the Housing of the Working Classes Act, 1890, made a scheme for the improvement of the area or areas, the limits of which are stated in the schedule hereunder, and which contains or contain by estimation—

A copy of the said scheme, accompanied by maps distinguishing the lands proposed to be taken compulsorily, and by particulars and estimates, has been deposited at _____ and may be seen at all reasonable hours.*



SCHEDULE.†

The area to which the scheme relates is bounded as follows:—

On the north by _____ ; on the south by _____ ;
on the east by _____ ; on the west by _____ ;

or

The area to which the scheme relates is bounded by a line commencing (set out the entire linear boundary):

or

The area to which the scheme relates consists of the following streets and other places or parts thereof:

(Signed)

Clerk to the London County Council, or Town Clerk (as the case may be).

Dated day of .

* The place of deposit must be within the area or in the vicinity thereof. See sect. 7 (a) of the Act.

† One of these forms should be adopted, and where the scheme includes more than one area, the particulars indicated should be furnished as regards each area.

2.—Form of Notice to Owners and Lessees.

COUNTY OF LONDON or CITY OF LONDON.

HOUSING OF THE WORKING CLASSES ACT, 1890.

(53 & 54 Vict. c. 70.)

Notice to owner or reputed owner, lessee or reputed lessee, of intention to take lands compulsorily under an Improvement Scheme.

To

TAKE NOTICE that a petition is about to be presented by the London County Council (or the Commissioners of Sewers), being the local authority for the county of London (city of London), to the Secretary of State in pursuance of the Housing of the Working Classes Act, 1890, praying that an order may be made confirming an improvement scheme,

whereby it is proposed to take compulsorily the lands described in the schedule hereunder, in which lands you are believed to be interested, as owner or reputed owner, or lessee or reputed lessee.

You are therefore hereby required to return to me on or before the day of next an answer in writing whether you dissent or not in respect of the taking of the lands described in the said schedule.

A copy of the said scheme, accompanied by maps distinguishing the lands proposed to be taken compulsorily, and by particulars and estimates, has been deposited at* and may be seen at all reasonable hours.

SCHEDULE referred to in the foregoing Notice.

Name of Street, Court, Alley, or other Place.	Description of Lands† proposed to be taken.	Owner or reputed Owner.	Lessee or reputed Lessee.	Occupier.

(Signed)

Clerk to the London County Council, *or* Town Clerk (*as the case may be*).

Dated day of .

* The place of deposit must be within the area or in the vicinity thereof. See sect. 7 (a) of the Act.

† Lands includes messuages, tenements, hereditaments, houses, and buildings of any tenure, and any right over land.

3.—Form of Notice to Occupiers.

COUNTY OF LONDON *or* CITY OF LONDON.

HOUSING OF THE WORKING CLASSES ACT, 1890.

(53 & 54 Vict. c. 70.)

Notice to occupier or occupiers (not being owners or reputed owners, or lessees or reputed lessees) of an intention to take lands compulsorily under an Improvement Scheme.

To *A.B.*, the occupier of the

or

[To the occupier or occupiers of the house]*
which in the schedule hereunder is described as the
lands proposed to be taken.

TAKE NOTICE that a petition is about to be presented by the London County Council (*or* the Commissioners of Sewers), being the local authority for the county of London (city of London), to the Secretary of State in pursuance of the Housing of the Working Classes Act, 1890, praying that an order may be made confirming an improvement scheme, whereby it is proposed to take compulsorily the lands described in the schedule hereunder.

A copy of the said scheme, accompanied by maps distinguishing the lands proposed to be taken compulsorily, and by particulars and estimates, has been deposited at† and may be seen at all reasonable hours.

SCHEDULE referred to in the foregoing Notice.

Name of Street, Court, Alley, or other Place.	Description of Lands † proposed to be taken.

(Signed)

Clerk to the London County Council, or Town
Clerk (*as the case may be*).

Dated day of .

* The alternative address within these brackets is available only where the property to be taken is a house.

† The place of deposit must be within the area or in the vicinity thereof. See sect. 7 (*a*) of the Act.

‡ Lands include messuages, tenements, hereditaments, houses, and buildings of any tenure, and any right over land.

II.—FORMS *prescribed by the* LOCAL GOVERNMENT BOARD (*Order 26, 148*) *under sect. 27, ante, p. 53.*

1.—Form of Advertisement.

THE URBAN SANITARY DISTRICT OF .

HOUSING OF THE WORKING CLASSES ACT, 1890.
(53 & 54 Vict. c. 70.)

Advertisement of an Improvement Scheme.

NOTICE is hereby given that , being the sanitary authority for the Urban Sanitary District

of _____, have in pursuance of the Housing of the Working Classes Act, 1890, made a scheme for the improvement of the area or areas the limits of which are stated in the schedule hereunder, and which contains or contain by estimation—

A copy of the said scheme, accompanied by maps distinguishing the lands proposed to be taken compulsorily, and by particulars and estimates, has been deposited at * _____ and may be seen at all reasonable hours.

SCHEDULE.

† The area to which the scheme relates is bounded as follows:—

On the north by _____; on the south by _____;
on the east by _____; on the west by _____:

or

The area to which the scheme relates is bounded by a line commencing _____ (*set out the entire linear boundary*):

or

The area to which the scheme relates consists of the following streets and other places or parts thereof:

(Signed)

Town Clerk, *or* Clerk to the
(*as the case may be*).

Dated _____ day of _____.

* The place of deposit must be within the area or in the vicinity thereof. See sect. 7 (a) of the Act.

† One of these forms should be adopted, and where the scheme includes more than one area, the particulars indicated should be furnished as regards each area.

2.—Form of Notice to Owners and Lessees.

 THE URBAN SANITARY DISTRICT OF

HOUSING OF THE WORKING CLASSES ACT, 1890.

(53 & 54 VICT. c. 70.)

Notice to owner or reputed owner, lessee or reputed lessee, of intention to take lands compulsorily under an Improvement Scheme.

To .

TAKE NOTICE that a petition is about to be presented by the , being the sanitary authority for the Urban Sanitary District of , to the Local Government Board in pursuance of the Housing of the Working Classes Act, 1890, praying that an order may be made confirming an improvement scheme, whereby it is proposed to take compulsorily the lands described in the schedule hereunder, in which lands you are believed to be interested, as owner or reputed owner, or lessee or reputed lessee.

You are therefore hereby required to return to me on or before the day of next an answer in writing whether you dissent or not in respect of the taking of the lands described in the said schedule.

A copy of the said scheme, accompanied by maps distinguishing the lands proposed to be taken compulsorily, and by particulars and estimates, has been deposited at* and may be seen at all reasonable hours.

 [SCHEDULE.]

SCHEDULE referred to in the foregoing Notice.

Name of Street, Court, Alley, or other Place.	Description of Lands+ proposed to be taken.	Owner or reputed Owner.	Lessee or reputed Lessee.	Occupier.

(Signed)

Town Clerk, or Clerk to the
(as the case may be).

Dated day of .

* The place of deposit must be within the area or in the vicinity thereof. See sect. 7 (a) of the Act.

† Lands includes messuages, tenements, hereditaments, houses, and buildings of any tenure, and any right over land.

3.—Form of Notice to Occupiers.

THE URBAN SANITARY DISTRICT OF .

HOUSING OF THE WORKING CLASSES ACT, 1890.

(53 & 54 VICT. c. 70.)

Notice to occupier or occupiers (not being owners or reputed owners, or lessees or reputed lessees) of an intention to take lands compulsorily under an Improvement Scheme.

To *A.B.*, the occupier of the .*or*

*[To the occupier or occupiers of the house] which in the schedule hereunder is described as the lands proposed to be taken.

TAKE NOTICE that a petition is about to be presented by the , being the sanitary authority for

the Urban Sanitary District of _____, to the Local Government Board in pursuance of the Housing of the Working Classes Act, 1890, praying that an order may be made confirming an improvement scheme, whereby it is proposed to take compulsorily the lands described in the schedule hereunder.

A copy of the said scheme, accompanied by maps distinguishing the lands proposed to be taken compulsorily, and by particulars and estimates, has been deposited at † _____ and may be seen at all reasonable hours.

SCHEDULE referred to in the foregoing Notice.

Name of Street, Court, Alley, or other Place.	Description of Lands ‡ proposed to be taken.

(Signed)

Town Clerk, *or* Clerk to the

(*as the case may be*).

Dated _____ day of _____ .

* The alternative address within these brackets is available only where the property to be taken is a house.

† The place of deposit must be within the area or in the vicinity thereof. See sect. 7 (a) of the Act.

‡ Lands includes messuages, tenements, hereditaments, houses, and buildings of any tenure, and any right over land.

APPENDIX B.



THE MUNICIPAL CORPORATIONS ACT, 1882.

(45 & 46 VICT. c. 50.)

S. 111—(1.) If a municipal corporation determines to convert any corporate land into sites for working men's dwellings, and obtains the approval of the Treasury for so doing, the corporation may, for that purpose, make grants or leases for terms of nine hundred and ninety-nine years, or any shorter term, of any parts of the corporate land.

(2.) The corporation may make on the land any roads, drains, walls, fences, or other works requisite for converting the same into building land, at an expense not exceeding such sum as the Treasury approve.

(3.) The corporation may insert in any grant or lease of any part of the land (in this section referred to as the site) provisions binding the grantee or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the building, and prohibiting the division of the site or building, and any addition to or alteration of the character of the building, without the consent of the corporation, and for the re-vesting of the site in the corporation, or its re-entry thereon, on the breach of any provision in the grant or lease.

(4.) Every such provision shall be valid in law to all intents, and binding on the parties.

(5.) All costs and expenses incurred or authorized by a corporation in carrying into execution or otherwise in pursuance of this section, shall be paid out of the borough fund and borough rate, or by money borrowed by the corporation under this Part.

(6.) In this section the term working men's dwellings means buildings suitable for the habitation of persons employed in manual labour and their families; but the use of part of a building for purposes of retail trade or other purposes, approved by the council, shall not prevent the building from being deemed a dwelling.

HOUSING OF THE WORKING CLASSES ACT,
1885.

(48 & 49 VICT. c. 72.)

An Act to amend the Law relating to Dwellings of the Working Classes. [14th August, 1885.]

Whereas it is expedient to amend the law with reference to the provision of suitable dwellings for the working classes :

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

S. 3. In the event of the removal from their present sites of Millbank Penitentiary or Pentonville Penitentiary, it shall be lawful for Her Majesty, on the recommendation of the Commissioners of Her Majesty's Treasury, and subject to such conditions as they may think reasonable, and in the event of the removal from its present site of Coldbath Fields Prison, or House of Detention, Clerkenwell, it shall be lawful for the justices of the peace for the county of Middlesex if the justices think fit so to do, to sell and convey those respective sites or any part or parts thereof to the Metropolitan Board of Works, at a fair market price.

Provision respecting sites of certain metropolitan prisons.

Amendment of General Sanitary Law, &c.

S. 7. It shall be the duty of every local authority entrusted with the execution of laws relating to public health and local government to put in force

General duty of local authority to

enforce
the law.

from time to time as occasion may arise, the powers with which they are invested, so as to secure the proper sanitary condition of all premises within the area under the control of such authority.

Amend-
ment of
38 & 39
Vict. c. 55,
s. 90.

S. 8. Whereas under section ninety of the Public Health Act, 1875, the Local Government Board can declare that section to be in force within the district of a sanitary authority, and after the publication of notice of such declaration such authority is empowered to make bye-laws with respect to lodging-houses, and it is expedient to authorize every such authority to make such bye-laws without any declaration by the Local Government Board: Be it therefore enacted as follows:—

Every sanitary authority shall have power to make bye-laws for the matters specified in section ninety of the Public Health Act, 1875.

Tents and
vans used
for human
habitation.

S. 9.—(1.) A tent, van, shed, or similar structure used for human habitation, which is in such a state as to be a nuisance or injurious to health, or which is so overcrowded as to be injurious to the health of the inmates whether or not members of the same family, shall be deemed to be a nuisance within the meaning of section ninety-one of the Public Health Act, 1875; and the provisions of that Act shall apply accordingly.

(2.) A sanitary authority may make bye-laws for promoting cleanliness in, and the habitable condition of tents, vans, sheds, and similar structures used for human habitation, and for preventing the spread of infectious disease by the persons inhabiting the same, and generally for the prevention of nuisances in connexion with the same.

(3.) Where any person duly authorized by a sanitary authority or by a justice of the peace has reasonable cause to suppose either that there is any contravention of the provisions of this Act or any bye-law made under this Act in any tent, van, shed, or similar structure used for human habitation, or that there is in any such tent, van, shed, or structure any person suffering from a dangerous infectious disorder, he may, on producing (if demanded) either a copy of his authorisation purporting

to be certified by the clerk or a member of the sanitary authority or some other sufficient evidence of his being authorized as aforesaid, enter by day such tent, van, shed, or structure, and examine the same and every part thereof in order to ascertain whether in such tent, van, shed, or structure there is any contravention of any such bye-law or a person suffering from a dangerous infectious disorder.

(4.) For the purposes of this section "day" means the period between six o'clock in the morning and the succeeding nine o'clock in the evening.

(5.) If such person is obstructed in the performance of his duty under this section, the person so obstructing shall be liable, on summary conviction, to a fine not exceeding forty shillings.

(6.) This section shall apply to the metropolis, with the substitution of section nineteen of the Sanitary Act, 1866, for section ninety-one of the Public Health Act, 1875, and of nuisance authority, under the Nuisance Removal Acts, for sanitary authority. 29 & 30
Vict. c. 90.

(7.) Nothing in this section shall apply to any tent, van, shed, or structure erected or used by any portion of Her Majesty's military or naval forces.

S. 10—(1.) With respect to bye-laws authorized by this Act or by the Labouring Classes Lodging Houses Act, 1851, to be made—

(a) sections two hundred and two and two hundred and three of the Metropolis Management Act, 1855, where such bye-laws are made by the Metropolitan Board of Works, or any nuisance authority in the metropolis; and

(b) the provisions of the Public Health Act, 1875, relating to bye-laws, where such bye-laws are made by a sanitary authority,

shall apply to such bye-laws, and a fine or penalty under any such bye-law may be recovered on summary conviction.

Applica-
tion of
certain
provisions
as to bye-
laws and
local
inquiries.

WORKING CLASSES DWELLINGS ACT, 1890.

(53 & 54 VICT. c. 16.)

An Act to facilitate Gifts of Land for Dwellings for the Working Classes in Populous Places.

[25th July, 1890.]

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

Exemption from 51 & 52 Vict. c. 42, Parts I., II., & 7 & 8 Vict. c. 97, s. 16, of gifts for working classes dwellings.

S. 1. Parts I. and II. of the Mortmain and Charitable Uses Act, 1888, and section sixteen of the Act of the session held in the seventh and eighth years of Her present Majesty, chapter ninety-seven, intituled "An Act for the more effectual application of charitable donations and bequests in Ireland," shall not apply to any assurance, by deed or will, of land, or of personal estate to be laid out in land, for the purpose of providing dwellings for the working classes in any populous place.

Provided as follows:—

- (i.) The quantity of land which may be assured by will under this section shall not exceed five acres; and
- (ii.) The deed or will containing the assurance must, within six months, in the case of a deed after the execution thereof, or in the case of a will after the probate thereof, be enrolled in the books of the Charity Commissioners, if the land is situate in England or Wales, and the deed containing the assurance must, within six months after the execution thereof, be registered in the office for registering deeds in the city of Dublin, if the land is situate in Ireland.

For the purposes of this Act, the expression "populous place" means the administrative county of London, any municipal borough, any urban sanitary district, and any other place having a dense population of an urban character.

S. 2. This Act shall extend to any assurance by Application of deed made within twelve months before the passing of this Act by a person alive at that passing as if it had been made after the passing, except that the assurance shall be enrolled or registered as aforesaid within six months after the passing of this Act.

S. 3.—(1.) This Act may be cited as the Working Classes Dwellings Act, 1890.

(2.) Expressions used in this Act shall have the same meaning as in the Mortmain and Charitable Uses Act, 1888.

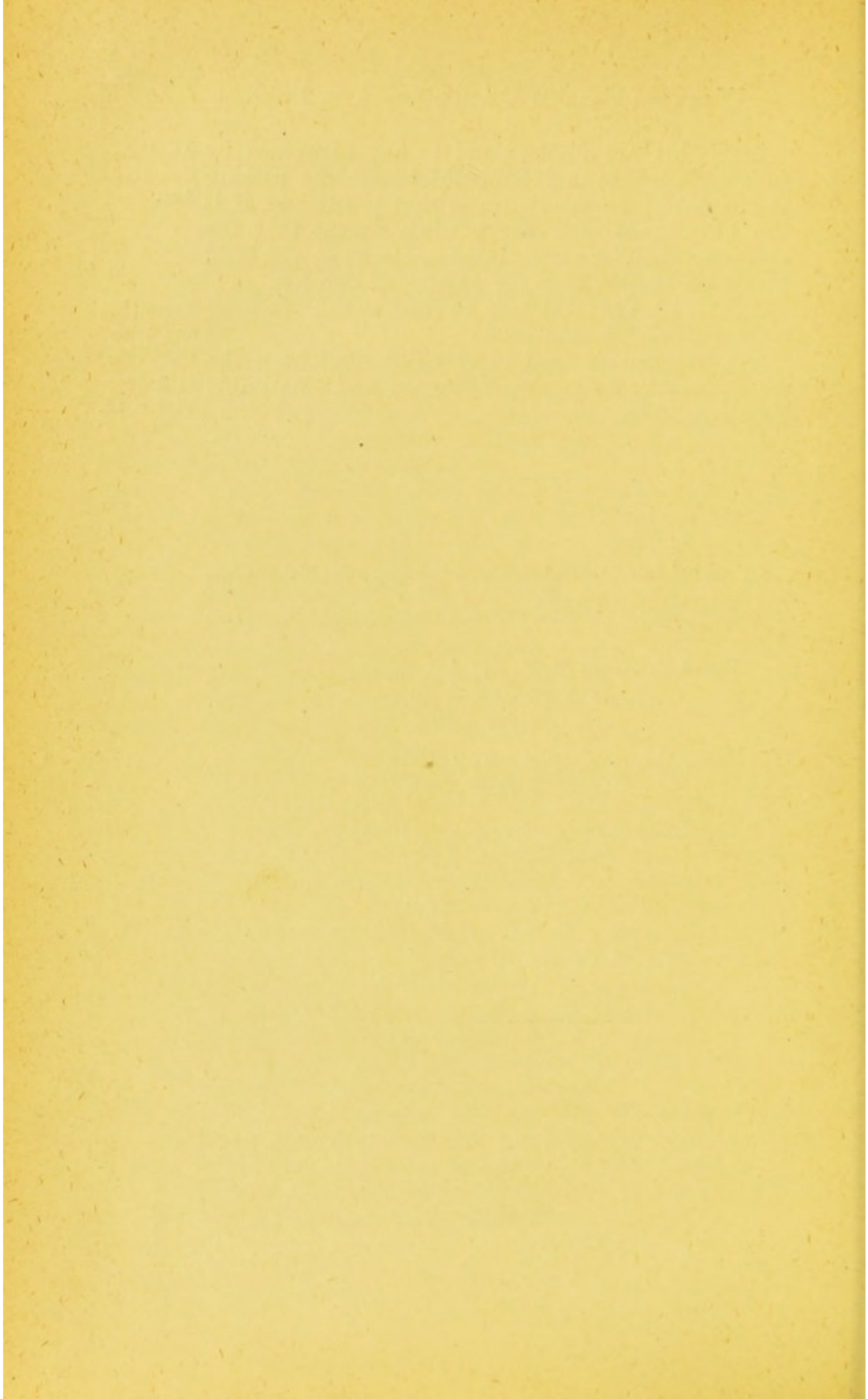
Short title
and con-
struction.
51 & 52
Vict. c. 42.

In addition to the above enactments, the following Acts relating to Ireland remain unrepealed:—

The Labourers (Ireland) Act, 1883,
46 & 47 Vict. c. 60,
(except section 20).

The Labourers (Ireland) Act, 1885,
48 & 49 Vict. c. 77.

The Labourers (Ireland) Act, 1886,
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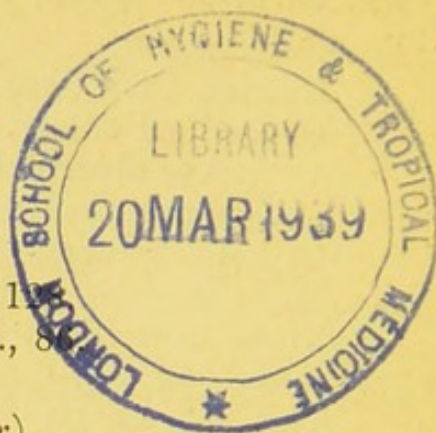
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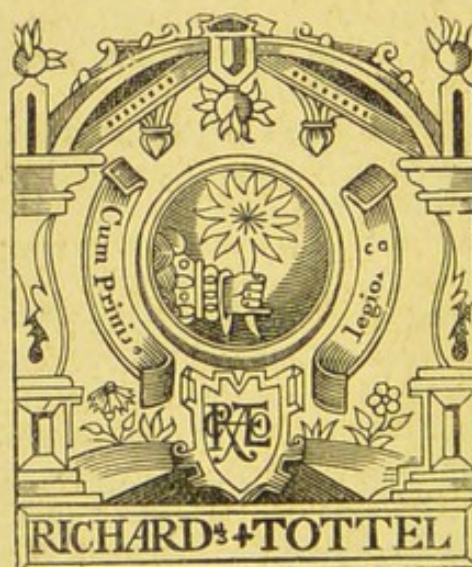
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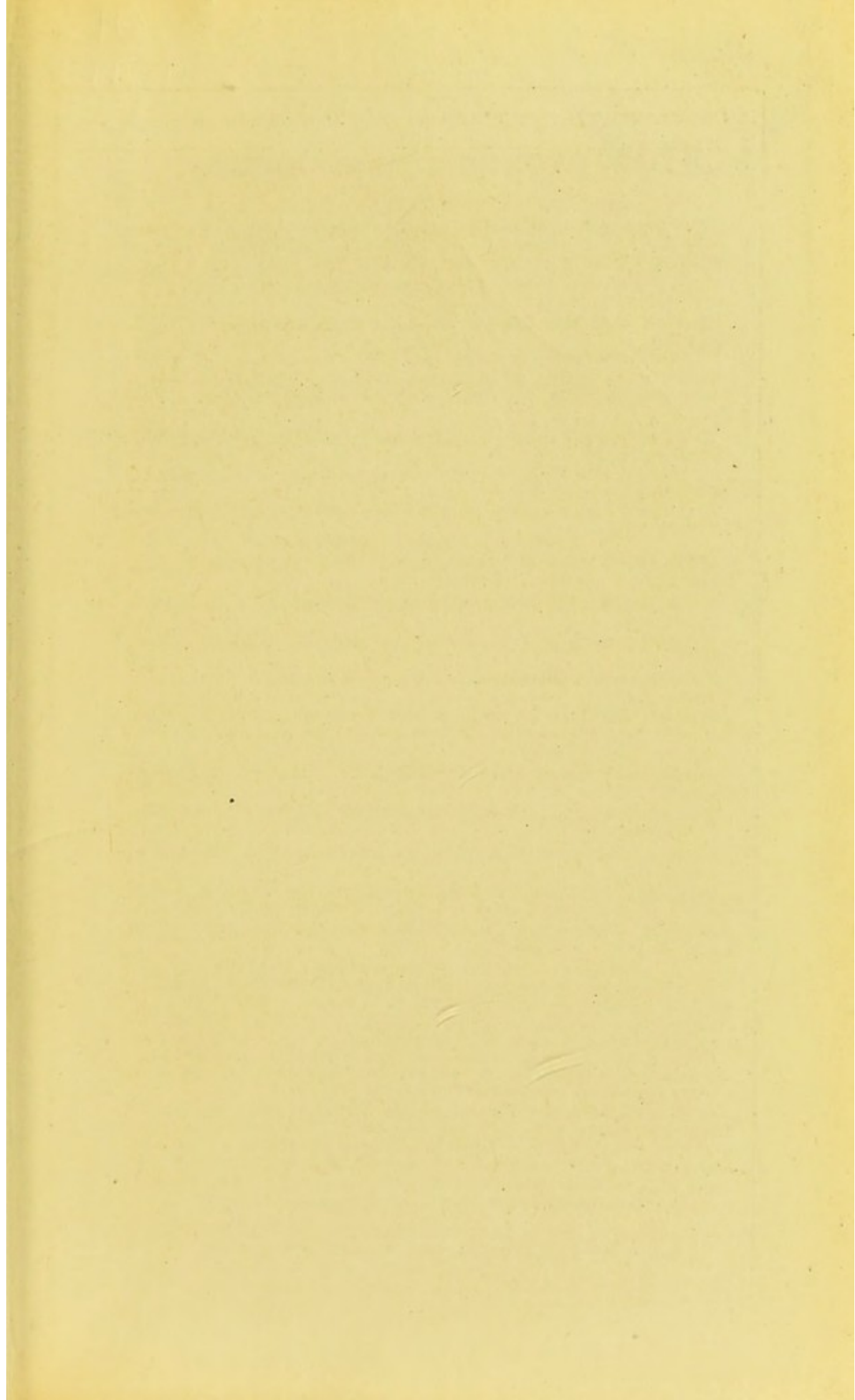
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