On the jurisprudence of chargeability for sanitary works and for poor rates, police rates, and other branches of local administration.

THE JURISPRUDENCE

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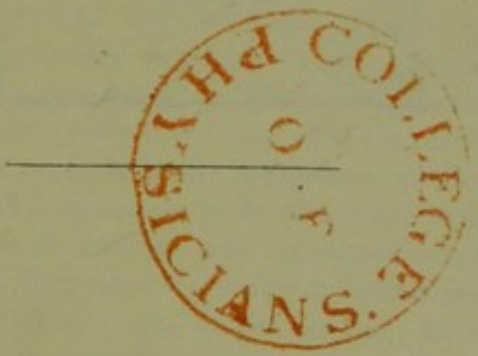
OF

LOCAL ADMINISTRATION.

BY

EDWIN CHADWICK, C.B.,

BARRISTER-AT-LAW, LATE COMMISSIONER OF POOR-LAW INQUIRY, SANITARY INQUIRY, POLICE INQUIRY, ETC., ETC., ETC.



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EXPLANATORY NOTE BY THE AUTHOR.

The term jurisprudence, in the work submitted, is used for the extension of an old principle of equity law or jurisprudence, to new conditions for the advancement of state medicine, as it has lately been termed, or sanitary science. The term once denoted the dicta of persons in official position, or who, in professorial positions, had given special study to subjects, and were thence recognised as competent to advise what was prudent or provident to be done in given conditions. Professor Long states in his Political Dictionary, that "The Latin word prudentia (contracted from providentia) came by a natural transition to mean knowledge or understanding." "*Habebat*" (says Nepos, "Life of Cimon," c. 2), *magnam prudentiam tum juris civilis tum rei militaris :*" hence persons skilled in the Roman law were called *juris prudentes*, or simply *prudentes ;* in the same manner that they were called *consulti*, as well as *juris consulti*. (Haubold's "Lineamenta Instit: Juris Romani," lib. iv. cap. 5; Hugo, "Geschichte des Römischen Rechts," p. 548, ed. xi.) A large part of the Roman law was gradually adopted by the legislature and the judices from the writings of the jurists; the Emperors moreover sometimes appointed persons whose opinions (or *responsa*) the *judex* was bound to follow, (Dig. lib. i. tit. 2., No. 2, § 5-7, 35-47 ; Inst. lib., i. tit. 2. § 8.) According to the acceptation of the term *prudens*, or *juris prudens* in the Roman law, *juris prudentia* is sometimes limited to the dexterity of a practical lawyer in applying rules of law to individual cases, whence the technical use of the term jurisprudence in the French legal language for law founded on judicial decisions or on the writings of jurists.

In recent times, the term jurisprudence has been extended to medicine, curative or preventive, which was probably in the view of the founder of the prize. In this sense the term would comprehend the instructional notifications issued upon the consultation of medical authorities by the first general Board of Health. In England, the conclusions so obtained were sometimes embodied as legal orders. On the Continent, they were frequently translated and issued for voluntary adoption, as of authority on the subject matters. So also the rules and orders of that body for the regulation of the duties of Medical Officers of Health, on the dissolution of that Board, ceased to be of legal authority, but have been recognised, and reprinted, by the British Medical Association as of authority for voluntary adoption ;—as prudentia for guidance.

It is submitted for observation, that whilst there has been very clear writing

on what ought to be done in state medicine, the work herewith presented sets forth, from practical experience and observation, how it may be done. The "prudentia" as to chargeability for a compulsory system of poor-law relief involve medical service and relief to the destitute; and those as to chargeability for a police, comprehend the service of a police, as an agency for giving assistance to individuals on the occurrence of calamity, and also for preventing them by the enforcement of sanitary law and preventive regulations. But the development of these special functions would be beside the immediate practical object of the work.

The conclusions set forth in the work are based upon the facts stated, or indicated rather, than upon authoritative dicta. If however any inadvertent expression should convey an opposite impression, some warranty may be pleaded from the professional reception given to the author's previous works, one of which might have been submitted on the present occasion, "The General Report on the Sanitary Condition of the Labouring Population of Great Britain," but that it is out of print, and copies of it are very scarce. The professional appreciation of it was manifested in several dedications, of which this may be added, the dedication of the treatise on the "Decrease of Disease as Affected by the Progress of Civilisation," by Dr. C. F. N. Marx, Professor of Medicine in the University of Gottingen, and Dr. B. Willis, then Librarian to the College of Surgeons.

"Dear Sir,—

"There is no man in this great empire whose name can be so appropriately placed at the head of an Essay on the Decrease of Disease by the Progress of Civilisation. Allow us the pleasure of placing it there, and of expressing at the same time the high sense we entertain of your labours, and of associating you, though not of our profession, with its very highest offices, the diminution of the causes of disease, and through this the elevation of mankind in the intellectual and moral scale. Your General Report on the sanitary state of towns is beyond all question one of the most valuable contributions that has lately been made to the noblest department of medical science—the art of preserving the health of the community—and will have an influence upon the human family as long as it exists."

ON THE JURISPRUDENCE OF CHARGEABILITY FOR SANITARY WORKS AND FOR LOCAL ADMINISTRATIVE SERVICE.

THE greatest obstacles to sanitary progress, to the building of cottages, to the drainage of lands in rural districts, and to the introduction of supplies of water, and to the drainage of houses, in urban districts, have arisen from the want of clear principles of jurisprudence, in respect to the equitable chargeability of different classes of owners and occupiers, and from the want of amendments of procedure for the application of those principles to the varying conditions of the country.

The questions of chargeability for these objects are mixed up with questions of the chargeability of different classes of property, real and personal, and of owners and occupiers, for poor relief, for police, and the greater part of an expenditure of a sum of twenty millions annually of local taxation. In aid of the discussion on these questions, and the understanding of the jurisprudential principles for their settlement, I would now state some of the leading conditions that have been presented for their solution, under Royal Sanitary Commissions, the Poor Law Commission of Inquiry, and the Commission of Inquiry for the establishment of a general Police Force.

And first, as to the question of chargeability for the sanitary work of land drainage, raised under sanitary inquiries.

Land heavily surcharged with subsoil water was found to be a source of rheumatic fever, of ague, of disease of the respiratory organs, requiring to be dealt with for relief as a measure of *sanitation*. The same land, encumbered with rushes and inferior vegetation, required to be dealt with as

a measure of *agricultural production.* When properly dealt with for production, the cost of drainage was repaid in eight, and even in four, years. When closely examined for improvement, the conditions of obstruction were such as these:—

A part or the whole of an old landed estate was in a state of swamp, and heavily surcharged with wet. Rheumatic fever and ague were rife amongst the population. The "water table" was so near the surface as to prevent the roots of the cereals and many orders of plants penetrating to their requisite depth for food. Agricultural science prescribed that that water-table should be lowered to a given depth, to enable the roots to explore the subsoil; and liquefied manure, or food, to be sent down and made to penetrate the substratum. The cost of the work is say 8*l.* the acre. The work is proposed to the occupier of the soil, but he rejects it, as he is only a tenant-at-will or an occupier on a short lease. It is proposed to the owner, "the landlord,"—and he rejects it because he has only a life interest in the land, and at his age his life is short. It is assumed that the work will last for thirty years; but the insurable period of his life may be only half that or one-third of that period. Take it at a third,—is he for only one-third of the benefit to subject himself to an excess of two-thirds of the outlay, at the expense perhaps of his younger children, and for the benefit of the heir to the estate, who is deemed to benefit too much already! The project is rejected as unjust; and, there being no available equitable remedy, the land remains in swamp to the detriment of its production and also of the public health.

The conditions of the estate are matched by the conditions of the cottages, and it is acknowledged that they are deplorable. But their renewal would be very expensive, and the tenant, with his short life, cannot undertake the undistributed charge, so that they pass unamended with the estate; and the reversioner comes too frequently so burthened as to be unable to bear the heavy charge himself.

Next, take the conditions of town improvement works. The town is encumbered with filth within and without the houses,

from want of means of cleansing. Sanitary science proposes that water shall be conveyed by pipes into the houses; that a soil-pan or water-closet shall be placed there, and also a sink for the removal of the waste water out of the house and into a drain, and thence into a sewer. But who is to pay for these works, which are a permanent addition and benefit to the property? Not wholly the occupiers for the time being, who, in the great majority of cases in our towns, have only a short occupation—in the poorest districts only weekly; it is a middle class that pays rents quarterly, and the owners of long leases in beneficial occupation of house property are very few indeed. In old urban districts in England the average occupation of all the house property is often less than a year. In the City of London the alterations of registration, changes of firms and of occupations are 24 per cent. annually.

On such conditions the question arises who is to pay, since the passing occupier cannot or will not pay the whole charge for new works? Who but the owner? was immediately the cry of the great majority of the occupiers! you must charge the costs upon the owners—of course you must!

But who *is* the owner? It is illustrative of the state of our jurisprudential and legislative terminology that the English law itself did not know or could not attach any clear meaning to this organic term. Here is a note of some legal dicta, on the point on which it was advised, that an administrative officer could not safely proceed in search of the owner, for "it was the opinion of Sir Frederick Thessiger" (one eminent judge) "and the late Sir William Bovill, Lord Chief Justice of the Common Pleas, that the word 'owner' would have reference to all sorts of persons interested in the property;—he might be a leaseholder, he might be a freeholder, he might be a mortgagee in possession, he might be a mortgagee out of possession, he might have a rent charge; and it is quite impossible to know what the word 'owner' means." "There is no list of owners: there is no means of ascertaining what the owners are; and the commissioners are completely in the dark as to their numbers."

The demand of some legal authorities was for a "simple" definition of owner, as being the person in receipt of the rents or profits from the occupier. But this definition wanted the element of permanency in those receipts—of permanency in the interest in them. On examination, the interests of ownership, especially in large towns, were as diverse, and as fragmentary, and as transient as the interests of occupancy. In the suburbs of London such complex conditions as these were common. A builder, for example, takes a lease of a piece of land for seventy years at a ground-rent of 50*l.* Then he builds and lets for the whole term at 100*l.* a year, and can therefore sell an improved rent of 50*l.* for that term. Thus we have (1) the owner of the fee and reversion, (2) the owner of the ground-rent (generally supposed to be the same person), (3) then the owner of the 50*l.* improved rent, (4) then the owner of the lease of the 100*l.* rent, and (5) perhaps, several under lessees. I found that gross injustice was done in local Acts for provincial towns, by acting upon the popular logic of this definition which was blindly adopted, of the "owner" as being the person in receipt of the rents. In Liverpool, widows had their property confiscated by levying upon them the whole charges of permanent works of street pavement before houses for which they had only short terms of leases, some only of four years, for which term the net charges absorbed their entire rents. Similar injustices were committed elsewhere. The following illustrative instance of the local legislation in sanitary works is given by Dr. Lyon Playfair, in his report as a Health of Towns Commissioner in Lancashire.

"In many cases the cost of improvement amounts to more than the yearly rental of the property. Mr. Holland describes an instance of property about to be improved, over which he holds a mortgage; the cost of improvement in this case amounts to the rental of the property for two years; so that during that time he is deprived of interest on the mortgage, making it, therefore, a forced loan on his part for which he receives no advantage. He instances, also, a distressing case of a widow lady in Chorlton, whose entire income,

derived from rents of houses, was absorbed for three years in reimbursing the cost of this compulsory improvement.

"Mr. Smith, of Preston, mentions a similar case, which occurred to a widow lady of his acquaintance:—'The sewering and paving swallowed up the rent for nearly two years, and as she had only the life-interest of the property, she often complained to me how severely this sudden call distressed her; she died at the end of two years.'

"Mr. Corbett, of Manchester, states that instances have occurred in his own case, in which from three to four years' rental has been absorbed in reimbursing the cost of improvement. This evil is strongly alluded to by Mr. Wroe, the late Secretary to the Paving and Soughing Committee:—

"'In what period, when you sewer a street in Manchester, do you levy the expense back again?—Usually in about fifteen months.

"'Must not such a mode of levying, and within so short a time, be very severely oppressive?—Very frequently dreadfully so, especially on poor persons and widows, who have just sufficient to keep them. It is extremely distressing to see poor widows, who have only a life-interest in the property, and are perhaps not able to mortgage it, come and plead to get time.

"'Has the demand for improvement, in many cases, absorbed the whole rent?—We very frequently find that the expense of paving and soughing comes to more than the yearly rental.'

"The local committee have, on this account, felt reluctant to recover the costs by the prompt means which the law enables them to exercise. Hence practical difficulties have occurred, which are explained in the following extract from the evidence of Mr. Alderman Hopkins, the chairman of the committee, relative to the difficulties encountered in the prosecution of its labours:—

"'The committee have, for some considerable time past, had a fund of 10,000*l.* placed at their disposal, to enable them to proceed with the sewering and paving of those streets within the township of Manchester, which are not repairable by the public.

"'By the local Acts of Parliament under which the business of the township is conducted, when one-half of any of the streets is built upon or inclosed, they may be sewered and paved by the committee, and when completed, the money expended may be recovered from the owners, in order that it may be used in a similar way in other

streets coming under the provisions of the Acts. But practical difficulties have been experienced in recovering the money thus expended, resulting principally from equivocal ownership of property. And the committee soon discovered that the sum of money, entrusted to them for sewering and paving the whole township, was sunk in a small number of the streets; and the recovery of it from the owners has been so slow, that the committee have been unable to do more work in a year than, say, twenty or thirty streets, requiring an outlay of, say, from 12,000*l.* to 15,000*l.*, although more than 500 streets, but many of them small ones, are in a condition to be proceeded with under the provisions of the Act.'"

Another illustration, on a large scale, of the consequences of a state of ignorance of principles, and the obstructions it creates to improvement, has been recently presented by the proceedings in relation to the supply of water to the metropolis. On the dissolution of the first General Board of Health, its functions, as relating to the protection of the public interest in the supply of water to the metropolis, were handed over to the Board of Trade, a board destitute of any sanitary staff or sanitary attributions. Commission after commission had urged that the supply of water in the metropolis should be put on a public footing, as in other large cities, and should be changed from the intermittent to the constant system of supply. In the difficulty of getting it taken up by a general local administrative authority, it was determined recently to allow it to remain on the trading footing, and it was left to the trading companies to make the required change. In consequence of the danger to which the metropolis is exposed from conflagrations, a committee of the Society of Arts has recently examined the "mechanical, engineering, structural and administrative means of prevention," the chief of which was found to be putting the entire water-supply on a new and public footing of a constant high service. But it appears to have been declared by the companies, that for the purpose, an entire change of the "house

services" was required to be made at once, by the present owners or occupiers, each of whom was to get the work done at once by his own plumber, and of course, paying for the work immediately—an inconvenience it was admitted—but the work must be done. It had not, however, been taken into account what the aggregate cost of it, executed in the way proposed, would be. The lowest of the companies' estimates for the new "house services" required, amounted, it was found, to upwards of three millions, and according to other estimates it might amount, in the aggregate, to eight and nine millions. Such charges, it is now declared, would fall upon masses of poor owners, in the same condition as those described as suffering under the local legislation, exemplified by Dr. Playfair, in great part consisting of poor widows, and persons living on the collection of weekly rents, on whom the heavy immediate exactions for works of permanent benefit in which they had only short interests, would operate as confiscations of their property. A medical officer of health of the metropolis, Mr. Liddle, in giving evidence before a recent committee on the improved water-supply of the metropolis, having described the sad condition of the tenements occupied by the poorer classes, was asked, "What is the class of owners of that kind of property of which you have been speaking?" "They vary a great deal, and, unfortunately, owing to the various sanitary requirements, persons who were formerly possessed of many of these houses, are now disposing of them; persons who are incompetent to fulfil the duties of landlords, which is very often the case, now appeal, *ad misericordiam*, not to take proceedings against them." The officers, having to make or to levy the charges, speak in terms of compassion of the oppressive immediate undistributed levies upon these classes of owners; and evidence was given before another committee that they amount almost to entire confiscations. But no heed appears to have been given in this particular instance to the amounts of the requisitions sanctioned, or to their distribution; and the effect of this

very recent piece of legislation of only the last session has been, when it came to the point of execution, to produce general and determined resistance, which, if the measure be rigidly pressed in its present shape, would amount almost to rebellion against the important improvement required.

The existing local chargeability by local taxes, for uncontrolled, or ill-controlled and excessive expenditure on local works, is enormous. In England the taxation for the repayment of the loans for union houses built by the guardians, is double the amount it might have been at the cost of the like constructions under better regulations in Ireland. The cost for a considerable proportion of the county lunatic asylums has been double what it would have been, had the recommendations of the commissioners been followed. The cost of most of the county prisons, as displayed by contracts, have been more than double what would have sufficed under a correct administration. All such excessive local burthens, bad in themselves—including others, for objects unobjectionable in themselves, but bad as being mistimed—are worse in their results, in the blind opposition and obstruction they create to expenditure, such as the appointment of proper officers, needed for the reduction of great expensive evil. In the city of Manchester, for example, more than three-quarters of a million of money is to be spent in the construction of a grand new Town Hall, more than would suffice for the removal of cesspools, for putting proper self-cleansing drains in a hundred thousand houses, works necessary for the reduction of preventible sickness, and the excessive sickness denoted by the heavy death-rate there, and also for the reduction of a money burthen attendant upon it. Similar examples of mistimed local expenditure on a large scale may be adduced from the metropolis.

Besides the losses in local administration arising from the want of securities for economical expenditure, there are others, generally overlooked, of interests in unequal and corrupt collections of rates. But any administration which has not a clear perception of the master jurisprudential principle of keeping the interests of executive officers in close connection

with their duties, which freely sanctions the connection of private practice with the public service, which allows private traders to serve as collectors of large amounts of public money, with free opportunities of using it, as circulating capital, in their trades, and of influencing a profuse expenditure, will, of necessity, be a feeble and wasteful administration. Such, as to collections, has been and is now the condition of the levies of the greater part of twenty millions of expenditure.

As a rule, it will be found that the real local "burthens" of most branches of local taxes are imputable to the action of a sham responsibility, to ignorance, heedlessness, inattention, and consequent waste. In a real responsibility and in the exercise of the opposite qualities will be found economy, freedom from burthens and a return of benefits; or paying, in the place of non-paying taxes. Fortunately, examples may be adduced in proof of the latter averment. Whilst in some certain districts property, that which stands in the most pressing need of improvement—the property in the lower-class tenements, is being depressed in some instances, as described, almost to the extent of abandonment, by crushing and confiscating levies; in others, under better principles of jurisprudence to ensure real responsibility and economy, the very same subject matters of charge—sanitary works of water supply and drainage have been so carried out as to improve such property to the extent, it is stated in some instances, of 25 per cent., and boards have been put up to invite occupancy, stating that "These houses are under the Local Board of Health."

The immediate example of the metropolitan water supply is pregnant with further illustrations of the conversions of benefits into burthens, by erroneous administration.

Setting aside the repugnant principle of making the supply of water a monopoly for trading profits on the necessities of the population,—a principle now generally abandoned in large cities—assuming that the whole were on a public footing, it appeared manifest that it was impossible to carry out the work with economy and efficiency in eight independent districts

of separate supplies. Several millions of admitted waste have been incurred already in the attempt to do so; several more millions of waste are impending upon the consumers, and to some extent probably upon the shareholders, from a continuance in the same course. The present waste of water is admitted by the companies to be between thirty and forty millions of gallons daily, equivalent to the supply of two millions of additional population, whilst there is often a want of water for the prevention of loss of life, and continuous loss of property from fire, and exposure to extensive conflagration from want of power to bring the entire force of the supply to bear upon any one district, in case of need, during a hurricane wind. The waste of expenditure on multiplied separate establishments and collections, is proved to be upwards of 100,000*l.* per annum. By heedlessly leaving the owners to employ their own plumbers, to do the work of the specified changes of the house services, they will be subjected to the burden of double charges. But, on reference to actual standards, obtained by correct administration elsewhere, the real charges necessary have dwindled down from eight or nine millions—positively to less than half a million. An estimate for hydrants requisite for two thousand miles of street and road was for an outlay of a million, but on independent examination is reduced to a third of that amount. It turns out that about half the amount annually wasted in multiplied establishments,—of which no account had been taken,—would, if capitalised, suffice under unity of management on a public footing, to effect all the works immediately required, and relieve the ratepayers from existing as well as impending burthens, and in part, so far convert burthens into benefits. In other words, the great local burthen is ignorance and maladministration, superior as well as inferior.

Other branches of local administration will be found to have been similarly burthened. Thus about a million and a-half would, on the scale of sanitary works carried out on correct principles, have sufficed to redrain the whole of the metropolis on the self-cleansing sewers. Between four and five millions have been allowed to be spent on intercept-

ing sewers with the view of purifying the Thames, which it is now found they do not purify, or only incompletely; whilst some thousand miles of sewers, of deposit,—extended cesspools,—remain untouched, giving off noxious emanations in streets and houses, and incurring an expense for intermittent flushing and cleansing that would, to a great extent, suffice for the substitution of channels that would be self-cleansing. The inefficiency of the work is proved by the decisive tests of results: viz., of increasing death-rates, which an efficient expenditure would have reduced. Besides the heavy burthens from ineffective works, the estimated direct burthen of preventible sickness and excessive mortality in the metropolis is upwards of a million and three-quarters annually. Similar results of increasing local taxes for works, with increasing death-rates, which an efficient expenditure would have prevented, are displayed in Manchester, Liverpool, and other large centres. In London, according to the Registrar-General's return, the death rate was, for the decade 1851 to 1860, 23 6 per 1000 of population. In the decade from 1861 to 1870, it was 24·3. In Manchester, the death-rate from 1851 to 1860 was 31·2. In the decade from 1861 to 1870 it was 32·8. In Liverpool, during the first of these decades, it was 33·3; during the last it was 38·6. In West Derby it was, during the first decade, 22·7; in the second it was 26·3. To those who understand the proportion of preventible disease, which is included in these statistics, the results are deplorable. Towns where the works under the first Board of Health were tolerably complete, present examples of reductions of death-rates by one-third. In the metropolis itself the death-rates in the model dwellings are only 17 in a thousand. Surely, in the administration of expenditure by trustees for private works, failures in an enquiry would be made upon such results before any more money was entrusted to the same hands. On such an enquiry, the party at whose instance the expenditure had been incurred would not merely be permitted but required to take part in it and account for it, how it was that the results promised to

Parliament and to the ratepayers had not been obtained. I apprehend, from some work that has come under my observation, that it will be found that the main cause of the disastrous waste will have been in the dereliction of duty under the cardinal jurisprudential principle, which I shall cite, and in not taking effectual security; that the work upon which the expenditure has been incurred was of a quality to be of benefit—equivalent to the charge for it upon the ratepayers and upon reversioners.

The creation of local burthens by a retrograde administration is displayed in the instance of the metropolitan and suburban roads. These were once under the care of a number of small turnpike trusts and parish vestries. Their condition was so bad that it became absolutely necessary to take steps for their amendment. They were placed under a special commission or trust, which put the whole under the charge of Sir James McAdam, a man of science, the best special road engineer of the time, with a fitting staff of officers. By them, the roads were brought into a first-rate condition, and witnesses declared that they could almost tell, in the dark, by the jolting they experienced, when they left the jurisdiction of the commission and got into the jurisdiction of the vestries or of the smaller trusts. The roads of the commission were maintained by tolls; but an agitation was got up against the toll-gates, the commission was dissolved, and the administration of the roads was sent back with conditions which, if there had been any proper consideration, it would have been seen, must exclude science, efficiency and economy, and must augment the local burthens. One part of the roads under the commission, about sixty miles, fell to the charge of twenty-two parishes, through which it passed, creating twenty-two inferior surveyorships, reducing efficiency, and creating burthens. The roads are declared to be, many of them, falling back, and outcries are being raised at the increase of local burthens. Similar results have attended similar proceedings in respect to the roads in the interior of the metropolis.

Now, it is to the burden of local taxes so created, including

those augmented by a retrograde poor law administration,—that there is agitation for relief, by contributions from personal property, or by State subventions.

To revert to the main question in dispute: By which class should the local rates for local works be borne? By whomsoever they may be borne, the first point to be considered, is the means of reducing the factitious burthens. But the answer to that question is:—By the class who are benefited; and who are they but the class of occupiers? It is the occupying farmer, and not the landlord, who derives immediate benefit from the new land-drains; it is the occupying tenant, and not the owner, in towns, who derives benefit from the new supply of water, the new house-drains, and means of removing waste water and excreta from the premises. Every such new work connected with house or land, after the first letting and occupancy, is as much an addition to the tenement, as a new room, or a new stable, for which the user alone ought to pay the requisite additional charge, the proportionate rent-rate for the period of his occupancy, for the benefit of which he cannot have been charged in his rent. If the improvement has been made before the letting, it has been taken into account in his rent.

Being practically driven from the consideration of the class of owners, for chargeability for new work, it was necessary to fall back upon the class of occupiers,—those classes of owners excepted who collect their rents weekly. From the impracticability of collecting rates weekly—the cost of the weekly collection being usually greater than the amount collected—it became necessary to consider that class of owners as standing in the place of occupiers, or as collectors of the rates with their own rents.

This course of abandoning the classes and conditions of owners (which indeed are practically very difficult to be got at in towns) and of looking exclusively to the classes of occupiers, various as they are, involves, for their protection against oppressive overcharges—the careful and responsible exercise of new and special functions, to which the local authorities, from want of skill, and from common sinister

interests, as well as from want of responsibility, are proved to be simply incompetent. It devolved upon myself, with my colleagues, to elaborate rules for the correct adjustment of charges, and the protection of the occupiers from much injustice, as was committed upon owners in such proceedings as those described in the report cited of Dr. Lyon Playfair; and, in performing this task, we assumed—in relation to the chief works in question—that they would last, say for a generation, or thirty years. We also assumed that the given work would be consumed or used up in stages, proportional to the time of the duration of the work—the year's proportion, the quarter of the year's proportion, and the week's proportion. I got tables prepared for the equal annual distribution of charges of equal proportions of the *principal*, and equal proportions of the *interest*, so that the occupier for the year would pay his proportion of principal and his proportion of interest for that one year and no more. The occupier for two, four, eight or more years paid his proportion and no more, until the work itself or its value must be held to have been consumed.

The cost of the sanitary works in question were thereafter charged upon the *occupiers* of houses, by what was called a "private improvement rate." And where this method has been adopted, it has worked perfectly satisfactorily.

But, in some towns, a new element of latent, but strong opposition sprung up against it.

The provision of a "private improvement rate" led to the execution of such works by a common contract, under the local public authority, with some exceptions for the whole of the works of that class in a town. This common contract was necessary for the economy as well as for the efficiency of the works, which were then under execution at half or one-third of the plumbers' or other tradesmen's charges for the separate work. In some instances tradesmen of this class openly demanded that the execution of the work (which was new work) should be left to them, to be executed as it might, as their "privilege." More frequently they either got themselves

or their friends elected on town councils, on political grounds, and in that position obstructed the imposition of private improvement rates, or by one means or another, opposed them successfully. One ground was opposition to "centralization," as being detrimental to what was praised as "local self-government," namely, their own sectional government, of which the inhabitants at large usually could know very little.

But, unless there be that interposition of an independent and impartial authority, complete towns improvement works will make but little progress in economy or in voluntary adoption.

It is essential then, to the great object—the equitable distribution of charges over periods of time, that it should be supervised and regulated by an independent and competent and impartial authority, to determine the quality and sufficiency of the work, as well as the equitable duration of the charges in respect to it.

In respect to the duration of the charges, strong control is requisite to prevent fraud and the unjust shifting of burthens. I have contended, as a rule, as respects large works, that we are not justified in extending the charges or imposing them beyond a generation (if possible our own generation). We are bound in justice to avoid casting burthens upon others, who may not, and possibly will not, benefit by them. We have no right to arrogate to ourselves the power of foreseeing that no future improvement can ever be made to reduce their value below the charge, or that they will be eternal. At the beginning of the century it would have been pronounced that canals must ever be the cheapest and most expedient method of goods transit. In 1844 I got the first glazed earthenware pipe made that has been used for house and town drainage. Vast quantities have been used since then; and on the whole they have done their work and paid well for their cost, and their duration is indefinite. Nevertheless, I would now take up a great portion of them, and use other forms and materials, which I have no doubt will serve better and be cheaper. Moreover, if the burthens of the present be much lightened.

the effect will be to reduce the responsibilities of the present for economical expenditure, and will lead to great waste, at the expense of the future and the absent.

On the other hand, there is injustice done by a misinterpretation of the word "permanent improvement," as a ground of restricting the application of the principle of the distribution of the charges to matters that are of a nature to last for very long periods of years. There is injustice and impolicy in levying upon an occupier for a year, the whole charge of a work that will last for two or for four. In its degree this is as unjust as levying upon him the charges for the longer period of thirty years.

The leading principle of jurisprudence applicable to these cases appeared to me to be established by the practice of the Court of Chancery for the protection of reversioners and absentees from injustice, and the preservation of settled estates from waste. It is a settled principle of equity jurisprudence that a tenant for life may not of his own motion charge an estate with debt, in respect to any works that might, if ill done or unnecessary, reduce the value of the estate to the reversioner. The tenant for life might not, on his own motion, charge the estate for money to erect new dwellings, which might not be wanted; or with new subsoil drainage works, which might, from simple ignorance, be of an ineffectual character and of no benefit to the reversioner. He must apply to the Court for permission to incur for works charges on the estate. The Court would then direct one of its responsible officers to examine the plans, to ensure that the money was not of a greater amount than was required, and to take care that the work was of a quality to last, and to be of benefit equivalent to the charge upon the reversioners.

But in a paper I wrote for Sir Robert Peel's Government, I objected to the Court's exercise of its jurisdiction, in respect to charges for land-drainage improvements, that the cost of obtaining its sanction was frequently as great as the estimated cost of the works themselves; and that the officers of the Court had no competent knowledge whereby to decide

upon such works. The application of the jurisprudential principle, as above stated, as respects the great work of land drainage, for which loans of public money were granted, was subsequently charged upon a special authority, viz., the Commons Enclosure Commissioners, who discharged it — so far as I know it has been discharged—with satisfaction to the parties. The leading member of the Commission, who gives his undivided attention to the service, is an eminent agricultural economist, and he is assisted by officers of special experience in land-drainage works. The administration of this Commission has been so far satisfactory, that proprietors who did not want loans, have applied for and obtained them, in order to obtain the securities for the requisite quality of the work, attendant on the grant of the loans and the supervision of the application of them.

The same jurisprudential principle in respect to the application of loans for towns improvements, of examining plans and sanctioning them under the Public Health Act, devolved upon the General Board of Health, of which I was chief executive officer. Under it, works to the amount of several millions, chargeable upon the local rates, were examined and sanctioned. The Board's sanction stood in the place of examinations by committees of the House of Commons, and of sanctions by local Acts. The Board's procedure will be found to be superior to that of committees of Parliament, in taking evidence on the spot, in printing and circulating locally the report for the examination, and hearing objections on the spot; and in being a responsible, in place of an irresponsible sanction, and that at one-twentieth the average cost of the local Acts. On the scale of works required, three houses and three towns might be drained well, at the cost heretofore incurred for draining one ill. The service of the office was rendered at a far lower cost to the localities than private professional service, whether legal or engineering; hence a great opposition to it arose from the parliamentary bar and the parliamentary agents.

Nevertheless, I consider the procedure then instituted incomplete and seriously defective in the very important point, —of the security intended for the protection of minorities, reversioners and absentees against undue charges.

It will be manifest from the continued excessive death-rates that, notwithstanding large local expenditure there has been an extensive failure, chiefly under local Acts, in insuring the protection of reversioners, by providing that the works should be of benefit equivalent to the charge. To the superficial objection, that may be apt to be raised, that it is no use now to cry over spilt milk, it may be answered, that a very loud cry *ought* to be raised over it, in order that larger impending waste may be prevented.

The personal responsibilities of the public officers, for the due examination of the plans, and for any lax approvals of works, for which reversioners or absentees are to be made chargeable, ought to be considerably strengthened, so as to enable them to withstand parliamentary or other influence, brought to bear upon them for the sanction of outlays in which they may not have confidence.

Provision is required for the strict examination *after execution* of the works sanctioned, and responsible certificates that they are duly conformable to the plans and estimates. In my view it ought not to be allowed that plans of works should be dismissed out of an office with sanctions, and no care taken afterwards to prevent waste from their defective execution. In my own interest, in some of the works we sanctioned, I have taken occasion to visit them, when I have found serious ground to have withdrawn confidence in the engineer who examined the locality and the plans for its improvement, and obtained our sanction for them, or in the engineer who superintended their execution. Beside the mere audit of the expenditure, there is needed for the protection of the ratepayers an audit of the results of the expenditure, to ascertain how far it conforms to the conditional promise on which it was sanctioned.

Beyond, however, any matter of default, it is submitted that steps should be taken to collect the past experience upon the

latest works or principles of administration for future guidance. I was myself at great pains to collect all available information on the subject of subsoil land-drainage up to 1850, which was put together and issued as a manual for the use of the local officers. It has been declared by a competent authority on the subject, Mr. Bailey Denton, that for every acre of land subsoil-drained in England, twelve would yet be benefited by drainage. The millions loaned by the Government, by commercial companies, and by private individuals, have hitherto been spent upon diverse methods of applying the same principle as expounded in the manual to which I refer: the close and shallow system of Mr. Smith of Deanston, and the wide and deep system of Mr. Josiah Parkes. Mr. Bailey Denton concurs in the great importance of a careful scientific examination of the results of the different methods adopted; and a revision, upon such an examination, of the manual of information to which I have referred, would be a work on which such a sum as even a hundred thousand pounds, were it needed, would be a means of great economy, especially to the landed interest. And so in respect to town-drainage works on the new tubular system. In my interest on the subject I have availed myself of opportunities to visit towns where that system, which fell to me to develope, has been brought into action. I have put questions to this effect to the officers in charge:— "This system has now been for some time in action. Supposing the town were now required to be redrained, what alterations or modifications does your experience here suggest?" Questions to this effect elicit suggestions of valuable improvements in the details. There were at the outset of the system outcries on the part of the old engineers that the tubular drains were too small. As a rule, almost without exception, experience shows that they were too large, and that future improvement must be not in augmentation, but in reduction of scales of sizes, and that, concurrently with the reduction of the expense, there may be, on the later experience, further augmentation of efficiency.

I will now give my view of the other chief branches of

local administration, and of the incidence of the local burthens arising from them.

As respects *old* local rates and taxes, it may be stated, as an economical principle, that houses or lands have been inherited, or purchased, or rented subject to them, and that the purchaser has paid a lower price, or that the occupier has paid a less rent, on account of them. All estate agents will attest that this is a settled practice and condition. Hence the interest of these parties is limited to the variations of the rates in the way of increase and of diminution, since the time of inheritance, purchase or occupation of the lands or houses. They have been purchased or taken—subject to these variations. If the administration, in respect to which these taxes are paid, be efficient, it will be found that the term "burthen" is not justly applicable to them. As well might the rent itself of the land and houses, into the integral value of which the local rate enters, be treated as a "burthen." If real property be insecure, from bad police; if the population, as a stock to work the soil, be inferior in *physique* and *morale;* if it be pauperized, mendicant, unintelligent, and inapt to labour; if the roads be bad and the requirements of horse-power on them be excessive; if the occupiers of the land be subjected to worry; or property and life hazardous from depredations; if the land be undrained or marshy, and of poor yield; if, from insanitary conditions, the occupiers are subject to excessive miasmatic disease, to premature disability, and are made short-lived,—then the letable value of the land will be reduced. If, by a good administration, it be made the opposite of all this, then the value of the land is augmented. A good administration is a relief from "burthens," and is a paying administration. Simple as these economical principles may appear to be, they are overlooked or disregarded on political platforms.

To take a practical example, by way of illustration, of a paying administration in the reduction of burthens on land, by means of a police force. In 1833 horse-stealing and sheep-stealing were rife in the county of Essex, and the farmers'

stocks were insecure, and they were pestered by excessive vagrancy and mendicancy. A new county police force was organised there by Admiral McHardy, as high constable. By this force the prevalent evils were reduced, and a new state of security was imparted to the rural districts. Farmers within and on the borders of the county folded their flocks for additional security within the new police jurisdiction. The farmers within the jurisdiction acknowledged that the new police, by reason of its various services, was "a paying thing." It was proved before a committee of the House of Commons, that, by various services and economies, the total expense of the new force was not greater than that of the old and mostly unpaid parish constabulary. Here was a gain in efficiency and a common gain in the general rateable or letable value of real property. The immediate gain was to the tenants for the period of their occupation, and beyond that period to the owner. Land, or fixed property "cannot run away;" and it is therefore said, in the way of plaint, it is unduly taxed and burthened, and that personal or moveable property ought to be made to contribute to the local taxes. But, though land may not run away, tenants may, and good rents may be reduced. The moveable property in the Banks and other places no doubt derives protection from the police force;—but do not the operations of the farmer benefit by that moveable property—the capital which sustains them—and would not he be damaged, if it were driven away or augmented in price by insecurity? The correct statement of the fact would be, that the taxpayer in Essex, instead of being *burthened* is *unburthened,* and that real property is augmented in value by means of the tax, and it may be asked what peculiar claim of merit has the Essex landowner, to set the State to the difficult task of hunting for contribution from moveable property, for the augmentation of his profit, or to save him from the consequences of his supineness and his own maladministration. The services of a police may be said to be, to a limited extent, imperial; but if he were well informed, and reasoned on the subject, he would see that if he abated his greed of local dominion and

consented to the consolidation and imperial action of the force, its efficiency would be largely augmented to the benefit of his own property. It is a proved literal fact, that the greed of dominion, in the maintenance of a separate force, by the rate *spenders* in the City of London, is at the expense of more than 20,000*l.* per annum to the ratepayers, for an inferior protection.

If the whole of Essex could be treated as one property, it would now, by reason of the new county police, fetch a higher price than that at which it was previously inherited, purchased, or rented. As stated, even farmers admitted a gain in the value of their holdings from the operation of the force. If the borough forces were amalgamated with the county forces, as was intended, there would be a gain in their efficiency of action in reduction of the "burthens" against which it is directed—a gain in economy and the consequent value of occupation and of real property. It is not, however, to real property alone that the rate required to maintain even efficient police is remunerative; it is remunerative to the lowest classes, for the conservation of their productive force, and the produce of their own labour. The cost of the metropolitan police force is less than one penny per head of the population per week. Let any one compare the condition of those classes in some of the outlying districts, before the establishment of a police—when it was dangerous to a workman to have a silver watch or any personal property or store of clothes, and when his tools were never safe—with what it is now! Or compare the state of things as exist now in unpoliced districts, as in California, where every labourer has to carry arms for his protection, where, for security, he must sleep with his revolver under his pillow! Compare too, the state of brigandage as in Greece, where it is unsafe for peasant women to go unarmed into the fields! and then let any one judge of the elementary knowledge of administration, which holds forth the police rate—which to a family is less than 5d. per week, or a quarter per cent. on their ordinary common earnings, and the means of security to their pro-

duction and enjoyment—as an unremunerative tax! It were possible, by an advanced expenditure, to obtain a yet higher order of efficiency here, and an increased remunerative return.

To pass to another branch of local taxation and administration. At the time of the passing of the Poor-law Amendment Act, the poor-rates, as returned, amounted in round numbers to seven millions; but there were labour rates and other imposts, levied parochially, that amounted in many districts to one-third, and in some places to one-half, the amount that were not taken into account, and the real amount levied parochially could not fairly be estimated at less than nine millions. To whatsoever extent this impost was in excess of a correct remunerative administrative standard, the impost was also certainly taken in account in the sales and lettings of real property at that period. In the same proportion to the population, the impost would now be about eleven millions in England and Wales.

By the partial adoption of the measure which I prepared, and which was adopted by my colleagues, of reducing the outlets of expenditure from 16,000 parishes to about 650 unions;—by the services of staffs of paid local officers, and a central supervision of inferior officers, enforcing attention to their duties, the impost was reduced in the first year of clear action to about one-half, or little more than four millions; in other words, the administration was made to approximate to a remunerative condition. During the time of the partial operation of the principles of amendment, that is to say for about fourteen years, there was a clear gain to the occupiers or the owners of real property of upwards of fifty millions in the aggregate.

But by attacks on the correct administrative principle,—by changing the administration from officers of special aptitude, giving undivided attention to the subject—to officers of no special aptitude or interest in the service; by giving out-door relief as a rule, by an extensive return to allowances in aid of wages, and by a general dereliction of administrative principle, the

charges have been brought back to nearly eight millions, or (measured by standards of remaining correct administration in urban and rural districts) to an annual excess of, at least, four millions beyond a proper paying "expenditure."

On the jurisprudential rule stated—that the interest of the ratepayers is confined to the variation in the way of excess and diminution, beyond the rate at the time of the purchase, or the rental of the real property,—all of those who purchased or rented it under the reformed administration, now lose to the extent of this four millions excess occasioned by maladministration. And this (to them) unremunerative impost certainly presses with great severity on the smaller class of ratepayers, whilst it brings them in contact with much demoralisation,—worse than the waste—amongst the wage classes.

The difference between an economical and a wasteful administration, is displayed on a large scale by that of Ireland and that of Scotland for the relief of the destitute. The measure of a compulsory system of relief to the destitute was introduced into Ireland, and administered in close conformity to the principles established by our commission of enquiry, namely, on one fundamental principle of making out-door relief the exception and not the rule. Any one who is conversant with the condition of Ireland throughout the potato famine, may imagine what would have been the state of things without that poor organisation. Mr. Nicholls, when a member of the Poor Law Board, wrote a paper expressing serious doubts as to the expediency of the introduction of such a system; and he was sent over to examine and report on the subject. I had advised that the workhouse might be freely offered to able-bodied labourers there, and may claim to have influenced and sustained his ultimate convictions on that point. No intelligent landlord there now speaks of the poor rate as a burthen. There are yet, as I conceive, some weak points in the dealing with mendicancy in Ireland; but nevertheless the tax is a "paying" tax, which adds to the value of property; and if the administration and the tax were withdrawn, and if the police force were withdrawn with it, certainly the value of

real property in Ireland would fall,—and the extent of the fall that would take place in the value of real property denotes the paying value of the measures which now sustain it. Those who talk of the abolition of the poor law may be informed that conditions are arising in Australia which show the necessity of instituting one there, as has been done in the New States in North America. On the other hand, in Scotland, the principle of a compulsory system of relief to the destitute able-bodied, and the workhouse principle were rejected, and the condemned principle of general out-door relief adopted. And how stands the economical contrast with the poorest county in 1872?

	Rate per head on the population.	Per-centage of paupers to population.
	s. d.	
England -	6 11½ -	4·7
Scotland -	5 4 -	3·9
Ireland -	2 9 -	1·2

In Ireland, a free system of in-door relief to the destitute able-bodied is so administered as not to relax, but to foster and sustain habits of providence. In Scotland, of all places, the system of out-door relief fosters reckless improvidence. Despite the most desperate efforts it is a cancer eating into the productive power of the country. In Ireland, the tax is a "paying thing." In Scotland, the greater part—all certainly above the rate in Ireland, is a "non-paying thing" a burthen—worse than waste in its operation, creating more misery than it relieves, and not relieving all it creates. Yet, in Ireland, the relief under a correct system is much more effectual and larger in amount in individual cases, for there it was 8*l.* 18*s.* 6*d.* per case relieved, whilst in Scotland it was only 5*l.*, and in England less than 7*l.* In this branch of administration a round system of compulsory relief, well administered, besides being conducive to the value of real property, is remunerative to the poorest classes. To them it is a systematised insurance charge against perishing in destitution from famine, and also against being prematurely disabled, or perishing in destitution by

sickness from the want of medical relief. It is, moreover, a contribution, as to a mendicity society, for relief against the demoralising plague of mendicancy. In Ireland, this remuneration is given, as we have seen, at a rate of less than three farthings per week, per head of the population. This will be found to be a much lower rate of insurance charge, with a more certain return, than the charges of most sick clubs for *curative* relief. But a properly apportioned charge for *preventive* relief by well-combined sanitary works, such as have reduced general sickness and death-rates by one-third, is even less. In respect to such works, it is usual to present a greatly aggravated undistributed charge of a year as against the service of a week. An apportioned charge per *house* per week has been a penny-halfpenny for a constant water supply; a penny per week for a water-closet, sink, self-cleansing house drains; another penny per week for a system of self-cleansing sewers: total, threepence-halfpenny per house; or, at the usual proportion of inhabitants, a little more than a halfpenny per head of the population per week.

It was shown throughout our inquiry that it required great experience and knowledge, skill and firmness, to administer relief, or to dispense charity without creating mischief. It was therefore proposed, that the executive duties should be exclusively confided to paid officers who might be made responsible for adherence to settled principle, whilst the demand for the services of the unpaid, changing, and practically irresponsible representatives, should be restricted to supervisory duties, like those of the county visiting justices. But the opposite course has been taken;—poor law inspectors are seen publicly trying to make guardians understand, that their notion of economy—giving half-a-crown a week as out-door relief because the pauper would cost five shillings if he went into the workhouse—was erroneous, inasmuch as since not one in ten would accept the in-door relief, eight half-crowns out of the ten would be saved to the rate-payer. Such admonitions, which would not be needed by the responsible paid officers, are seen to be disregarded, in some instances apparently,

from mere ignorance. In other instances it is well known by the rate expenders that they are dispensing such out-door relief, which goes in payment of the rents of their own wretched tenements, or to be spent in their own shops, or as aid to the wages of their own dependents, or of their connexions.

At a recent meeting of the London clergy, held at Sion College, statements of evils produced by this maladministration, entering into the very fibre of the population, were made, that were almost the reflex of the evidence given before the Commission of Enquiry, vindicating in the strongest manner the principles of administration, and the remedial measures then proposed, as, indeed, has been done by the Charity Organization Society, and voluntary associations in all the pauperised districts. The *Times* newspaper, in an article, on the 21st of November, 1872, having reference to a conference of chairmen and vice-chairmen of Boards of Guardians, said :—

"From the short discussion on out-door relief it would seem that the main principles on which our present poor law is founded, are gradually recommending themselves to its administrators. The change, indeed, introduced five and thirty years ago was so radical that it was not to be expected it should at once be successfully applied or adequately appreciated. But experience has more and more justified the results of that enquiry," [and condemned its detractors], "and even now the facts thus collected afford the most practical instruction available to poor law administrators. Means are being found of being just without harshness, and firm without cruelty; and as confidence in the law increases, its administration cannot fail to be improved."

Reserving the observations due upon this statement, so remarkable, when the antecedent course of that journal upon the question is remembered, we will keep in view the economic question: upon whom do the burthen of the taxes fall? On the standard of the instances of remaining administration, on correct principle, it is clear that upwards of three millions of excessive, and non-paying expenditure falls upon the owners and occupiers who rented or purchased

houses and lands, before the burthen of the augmentation was imposed by remiss or maladministration.

To whom is this default attributable but to the owners of real property in Parliament, who sanctioned the dereliction of administrative principle, in the first place, in the central organization, in superseding the rule of special aptitudes and undivided attention, by positive inaptitudes and distracted attention? In the minds of those who are conversant with the subject, there would be no doubt whatsoever that the like course with the Irish poor-law administration would be attended with the like consequences; the conversion of a paying tax into a largely non-paying burthen on real property,—of a benefit into an incalculable amount of mischief, even greater than that which the ignorance of economic and of administrative science has perpetrated in Scotland.

Real property being now thus burthened with a non-paying excess of expenditure in England, those of the so-called landed interest are grievously mistaken in their course who seek to relieve it, by shifting—by bringing other property in aid—and who talk of justice in doing so—by subventions from the imperial funds.

The examination of the practices of shifting from land to manufactures and trading, under the old law, and the shiftings of burthens from class to class and from place to place, by false valuations under the new law—as also the operation of the later subventions, will show how little good is to be obtained by the eventual operation of such measures. On the other hand, if estate agents were to visit urban and rural districts which have by accidental circumstances been preserved as standards of administration, and examine the state of real property there, they would agree that the special interest in question will be the best consulted by a return to correct administration. But this course nowhere appears to enter into the perception of any one on the political platforms—that the real burthen, and the only one—the non-paying portion of the taxation—may be reduced or got rid of, by improvement in the local administration.

At Liverpool, and in London parishes, and other places, such cases as these are put, as justificatory of the policy of shifting the burthen. Here is a person who occupies only an office in the city, and does a great deal of business there, and accumulates personal property there during the day, and then goes to his suburban residence, and lives and sleeps there, in a comparatively less burthened district, and thus escapes what is asserted to be his due share of the town burthens and civic duties.

The case of the personal property owner, in answer to the demand for contribution in aid of the real property owner, may be thus stated :—

In the first place it may be averred that, by reason of the business done at the City counting-house, an additional value is given directly to real property in largely augmenting rents there, and indirectly to the real property throughout the district, by the demand created for houses for the wage as well as the salaried classes. What would be the value of real property throughout the district if commerce and trade were removed ?

The right of any contribution in mitigation of the consequences of maladministration may be peremptorily challenged by the personal property owner. And if by a good administration the rates be brought to a payable condition, the claim of the real property owner, to have the value of his property augmented at the expense of the personal property owner, must be rejected. In the present conditions, further extraneous contributions only maintain or aggravate the evil. The policy of shifting burthens, and the policy of subventions, will be found to be a policy for the sustentation of maladministration.

At present we have in substance a return to the local conditions displayed under the Poor Law Commission of Enquiry ; when the rates became oppressively heavy and pinching from ignorant, or sinister maladministration, the common effort was to shift the burthen. All the pauperised districts presented scenes of shifting by driving paupers from one parish

on to another; shifting rates within the parish by false valuations from one class of property to another, or from one class of persons to another. Where the agriculturalists were uppermost, they shifted undue shares upon manufacturers, or upon townspeople; where manufacturers or townspeople were uppermost, they shifted the burthen upon the land. By labour rates especially, manufacturers or shopkeepers were made in slack times to keep agricultural labourers, and farmers were made to keep weavers. It might be stated, almost as a general rule, that given a power of shifting to a majority, or a dominant class, on the shoulders of the weakest, and most defenceless, an undue share of the land had been shifted; but it was found that the money got by these shiftings only sustained a pernicious maladministration, and rendered it less intolerable than it would otherwise have been. On view of these conditions and their results, all my colleagues were unanimous in the conclusion that it was inexpedient to bring any new property under contribution to the rate, or to have any subventions made to it, and were equally unanimous against the proposals to shift the charge upon a national rate. The results of the existing subventions, when examined, will be found to justify our conclusion.

In addition to improved securities for the efficient and remunerative application of local expenditure on *works*, considerable additional securities are needed for the efficient and remunerative application of local taxes, for *services*. On political platforms we often hear loud laudation of "responsible" government, but in local administration there is very little of it, at least for the poorer individual ratepayer. The expenditure of two to three millions on out-door relief, in aid of wages, in payment of rents, in forms positively illegal, has been carried on for years, under an expensive machinery of inspection and audit, without any of the mal-administrators being called to account for it. Occasionally some items are disallowed as illegal by the auditors, but I do not remember an instance of any considerable disallowance being levied. The expenditure of some three thousand pounds of the ratepayers'

money by members of the Metropolitan Board of Works for their personal gratification on the occasion of a public festival, was disallowed by the auditor as flagrantly illegal, but it would be an unprecedented and surprising event if the disallowance were really enforced against them. The medical inspectors' reports are replete with examples of graver offences—excessive sickness and deaths occasioned by the defaults of the local officers, sometimes displayed at coroner's inquests. Owners of low and bad tenements have got themselves elected on Local Boards, and have successfully prevented the relief provided by law, and frustrated the action of the local executive machinery. For all civil injuries of this class there are remedies by action at common law, but to the poor the expense is prohibitory. Whole neighbourhoods suffer from the emanations of the foul products of manufactures, carried on for years with impunity. There is the remedy—by indictment at the Quarter Sessions, but it is a remedy which none but the very rich can apply, and it is practically protective of the infliction. The jurisprudence of the old English judges was highly remedial, and, for the time, excellent in sanitary matters. Their classifications of injuries as offences to the sight, to the smell, to the ear by noises, as well as direct injuries to health, were in advance even of recent statutory provisions. The remedies they sanctioned for the public protection were eminently summary. They decided that "every man may abate a common nuisance." They declared "that the nuisance may be abated, that is taken away or removed by the aggrieved thereby, so that he commits no riot in doing it." "And the reason," says Blackstone, "why the law allows this private and summary method of doing one's self justice, is because injuries of this kind which obstruct or annoy, such things as are of daily convenience and use, require an immediate remedy, and cannot wait for the slow progress of the ordinary forms of justice" ("Com. B., iii., 6.") And the annotator adds, "The security of the lives and property may sometimes require so speedy a remedy as not to allow time to call on the person on whose property the mischief has arisen, to remedy it." This text may be commended to

the newly-appointed medical officers of health. The judges declared that—"pardon for a nuisance is void as for the continuance thereof." They were excellent too in their jurisprudence in dealing with the defaulting officers who came within their reach for breach of duty. Their categories of offences by officers were admirable, and just such as meet the necessities of our time. They classed the offences as of "non-feasance," "mis-feasance," and of "mal-feasance;" of non-feasance when things which it was a duty to do were not done at all; of misfeasance when they were unskilfully done, to the injury of the subject; of malfeasance where the ingredient of fraud or malice was found in the injurious act. Summary remedies before magistrates for all offences at common law, under these categories, by fine and imprisonment, are the only remedies required for the great mass of the people to make the local expenditure efficient and remunerative.

It will have been perceived, that the jurisprudential principle of a previous sanction and supervision, for the apportionment of charges and the prevention of waste, first instituted in equity, is now given to large corporations by Parliament, but without collateral security, to the ratepayers;—that it is given to the smaller cities or towns by the Local Government Board, I am apprehensive, with loose security;—that it is given, as to some works, by the Exchequer Loan Commissioners, but with what securities I am unable to state;—that, as relates to loans for private land drainage works, it is applied by the Commons Enclosure Commissioners, efficiently it is believed. They have been recently charged with extended duties for the sanction of loans for sanitary works, including the building of cottages. I am not conversant with this new and important branch of administration; but for the facilities it may afford, it is to be borne in mind that the State can raise its capital for such purposes at lower rates than can private individuals, and can thence make advances on better terms than even the best of trading companies, and can make equitable apportionments of charges on the jurisprudential principle I have stated, which private individuals cannot,—and with a sound adminis-

tration, can enforce the best securities for remunerative results. But the extent of unremunerative local taxation imposed to meet loans, sanctioned under local acts, and the other modes I have mentioned, suggest the expediency of having these several sources of chargeability carefully re-examined, with a view to their efficient action on a common and well-established principle, to prevent the augmentation of such burthens, and ensure remunerative returns from the expenditure.

One great advance in economy and efficiency in poor-law administration was, as already stated, in the reduction of between sixteen and seventeen thousand outlets of expenditure, in the case of the parishes; to between six and seven hundred outlets of expenditure, in that of the unions. A further advance will be in a considerable reduction of the existing outlets; by the extension of common contracts for supplies to extended administrative areas, together with the assignment of houses to special classes of objects for treatment, as originally proposed, in place of the attempts to treat small and unsuitable classes within the same house. As regards local works—especially sanitary works, as well as road works—it will be found that extensions and adaptations of the local administrative areas, according to physical and geographical conditions, irrespective of old boundaries formed for other objects, will be absolutely necessary for efficiency and economy. Another course necessary for economy will be in confiding executive duties on well-qualified, responsible, paid local officers, giving undivided attention to their duties, as originally provided, and confining unpaid service to supervisory functions. Extensions of local administrative areas will be subservient to that end, with economy. This course will be found to be the more necessary from the increasing pressure of professional, manufacturing and commercial pursuits, and from the increasing social demands upon spare time, which, in cities especially, render it more and more difficult to obtain fit unpaid service, as displayed in the increasing difficulty, throughout the country, of obtaining fit service for juries, a difficulty of which it has been

declared from the Bench, will put the institution of the trial by jury in jeopardy.

I would now submit the general conclusions which I have to offer upon such facts as I have adduced. They are—

That, the rates for sanitary works, and the preventive service of officers of health, for drainage, and for roads, and rates for the maintenance of a police, and for the relief of destitution, instead of being burthens, are remunerative benefits to real property, if they are administered on correct principles.

That they are only burthens to the extent to which they are made un-remunerative by default of action on correct jurisprudential and administrative principle.

That the policy of shifting local burthens on new classes of property and persons, or upon the general taxation of the country is unjust and pernicious, as sustaining the maladministration to which the real burthens are owing.

That the only sound policy for effectual relief from excessive local taxation will be by recourse to tried and correct principles for the removal of the real grievance—the burthen of unremunerative administration.

That, on the question between the owners and the occupiers of real property, as to chargeability for local rates, those rates ought, in justice, as also for the convenience of collection (weekly tenements excepted), to be invariably and exclusively charged on the parties directly benefitted,—namely the occupiers; but that special securities are necessary that the charges are just, and duly apportioned to the benefits conferred.

That for such apportionments the intervention of a specially competent, independent and responsible central authority is requisite.

That, as relates to taxes for works of sanitary improvement, where considerable expenditure has been unattended with equivalent results in the reduction of sickness and death-rates, the causes of default, including the works in respect to which it has been incurred, should be carefully, competently, and

independently examined before any new expenditure or additions to local burthens are sanctioned.

That the results of the whole of the expenditure for such work should be revised from time to time for future guidance. That for all offences against the public health, for nuisances or injuries, entitling the party injured to redress at common law, summary remedies are required—for the public protection especially—against acts of nonfeasance, misfeasance, and malfeasance, by public officers.

As the constitution and functions of a central authority as a means of consolidating and aiding local administration, and conducing to its economy and efficiency, are greatly misapprehended; and as it is well that when popular speakers declare that they dislike "centralization," it should be known what it is they do dislike, I will here state the principles of action, as laid down under the Poor Law Commission—

"They are—First, as a responsible agency for the removal of those evils, in the repression of which the public at large have an interest, but for which the people of the locality are helpless or incompetent;"

"Next, as an authority of appeal in disputes between conflicting local interests;"

"Thirdly, as a security for the correct distribution of local charges; and for the protection of minorities and absentees against wasteful works and undue charges;" and,

"Fourthly, as a means of collecting and communicating to each local authority—for its guidance—the principles deduced from the experience of all other places from which information may be obtained."

As this authority is well or ill appointed; as its jurisprudence is sound and its action vigorous, or as it is otherwise, so will be the general local administration correct in principle and remunerative, or wasteful and burthensome.