

The Public Health Acts, 1848 and 1849; (11 & 12 Vict. c. 63, and 12 & 13 Vict. c. 94,) : together with an analysis, forms, &c.; / By Thomas William Saunders.

Contributors

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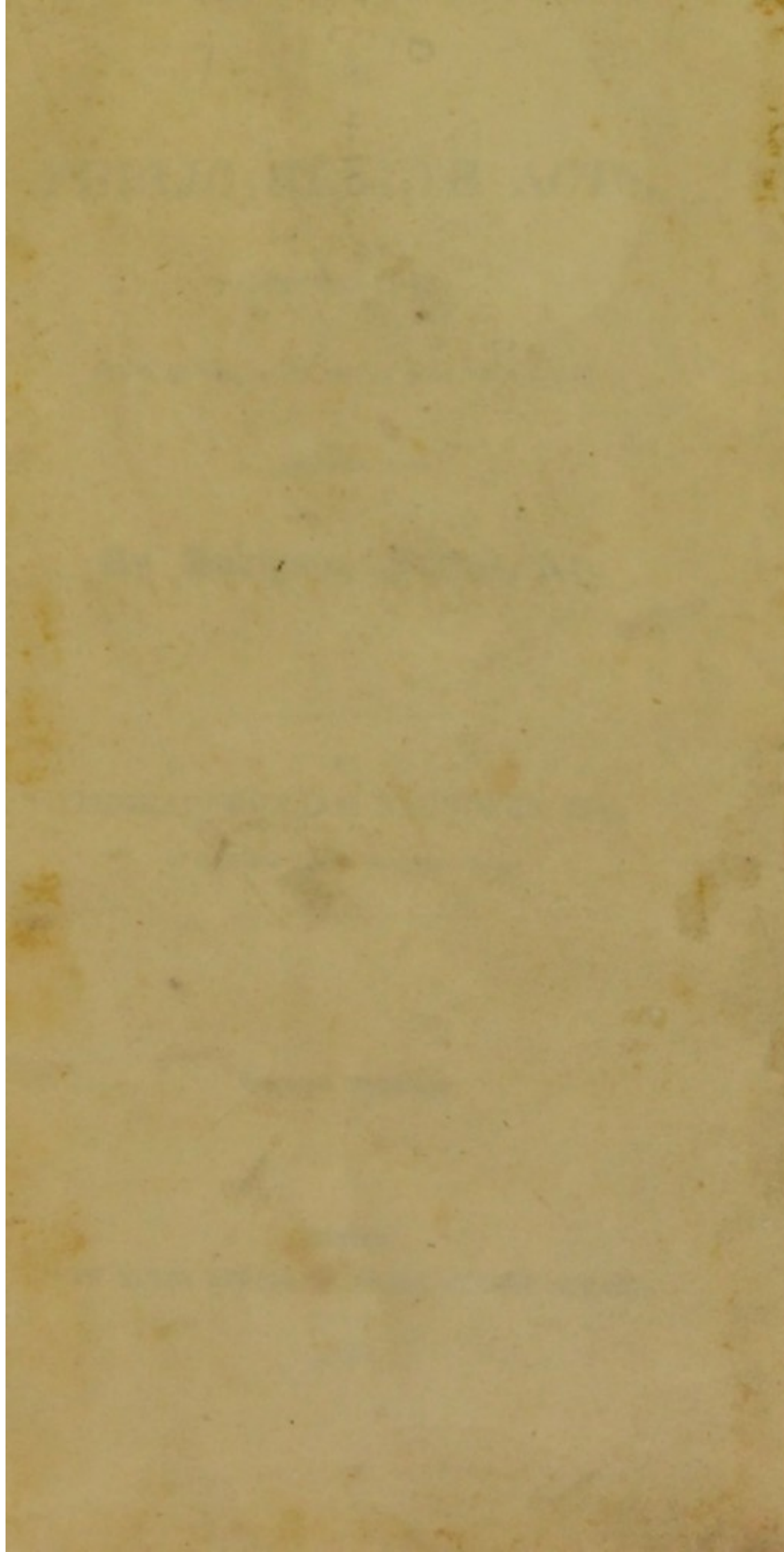
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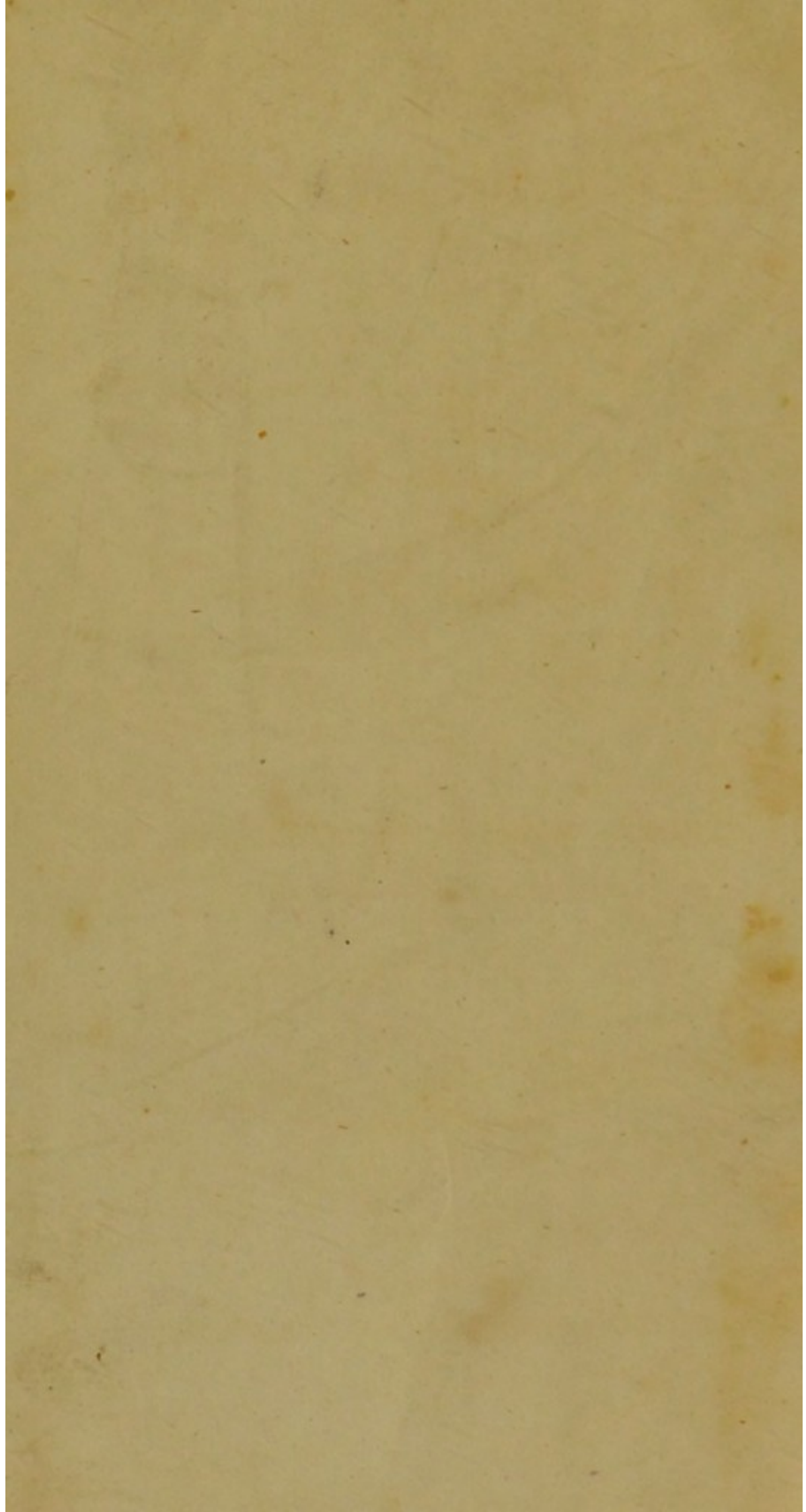
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HISTORICAL







THE
PUBLIC HEALTH ACTS,

1848 and 1849 ;

(11 & 12 VICT. c. 63, and 12 & 13 VICT. c. 94,)

TOGETHER WITH

An Analysis, Forms, &c.

BY

THOMAS WILLIAM SAUNDERS, Esq.,

Of the Middle Temple, Barrister-at-Law.

Second Edition.

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P R E F A C E.

WHETHER we look to the design and objects contemplated by the Public Health Act, or the character and merits of the varied provisions which it embodies, we find equal reason for admiration and praise. Designed, discussed, and enacted, at a period when the Governments of almost all the other countries in Europe were embarrassed by intestine commotions, and unable to bear up against the torrent of popular excitement, it reflects no little credit upon the character of the Government of Great Britain, and the institutions of the empire, that at such a time there should be the disposition, leisure, or energy, equal to the perfection of such a measure of domestic amelioration.

To refer particularly to the peculiar excellencies of this statute would be to carry the reader through the entire enactment, nearly every portion of it being deserving of praise, either from the wisdom of its design or the completeness of its provisions. But whilst we thus commend the almost uniform excellence of this act of the Legislature, it must not be supposed that we deem it to be entirely free from some of those blemishes which will ever attach to the most perfect of human creations :

slight defects undoubtedly there are, but whilst they are of such a nature as in no way to interfere seriously with the operation of the statute, they are such as almost inevitably must have arisen, when it is remembered how vast are the objects contemplated, how multitudinous the provisions enacted, and what innumerable amendments and suggestions were given effect to in the progress of the statute through the two Houses of Parliament. As a whole, however, the Public Health Act of 1848, will stand prominently out as amongst the noblest and proudest creations of a paternal, a liberal, and an enlightened Government.

In reference to the peculiarities of the present edition, it may be observed, that an endeavour has been made, by a copious analysis, to present a popular and untechnical view of the entire act, to the general and unprofessional reader; and, the better to promote the utility of the act, such forms have been supplied, and such practical directions suggested, as, it has been deemed, will recommend themselves for the adoption and consideration of those whom they may concern. Much care has been bestowed upon the Index, wherein, it is hoped, will be readily found a reference to every matter contained in the statute, to which it can at any time be found desirable to refer.

T. W. S.

1, CLOISTERS, TEMPLE,
Nov. 1848.

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ERRATA.

Page 23, line 7 from the top—for "The Health of Towns Act," read "*The Public Health Act.*"


Page 105, line 2 from the bottom—for "officers" read "*offices.*"

Page 78, line 19 from the bottom—for "officers" read "*officer.*"

Page 86, line 5 from the bottom—for "especially" read "*specially.*"

Page 110, line 4 from the top—add the article "*a*" after the word "or."

Page 125, line 15 from the top—for "common public lodging-house," read "*common lodging-house.*"

 *It is right to mention that all the above errors, excepting the two first, are those of the Queen's Printers, and are to be found in all but the most recent copies of the act issued by those functionaries; with these corrections the present edition will, in every particular, be correct with the parliamentary ingrossment.*

AN
ANALYSIS
OF
THE PUBLIC HEALTH ACT,
1848.

[11 & 12 VICT. c. 63, passed 31st August, 1848.]

THIS enactment, after reciting that "further and more effective provision ought to be made for improving the sanitary condition of towns and populous places in England and Wales, and that it is expedient that the supply of water to such towns and places, and the sewerage, drainage, cleansing, and paving thereof should, as far as practicable, be placed under one and the same local management and control," enacts that the act may, from time to time, be applied in manner thereafter provided to any part of England and Wales, except the city of London, and to certain metropolitan districts. (a)

11 & 12 VICT.
c. 63.

Interpretation of words and terms.—The 2nd section provides for the construction and interpretation of certain words and expressions. (b)

Mode of citing the act.—The 3rd section enacts that, in citing the act in other acts of Parliament and in legal instruments and other proceedings; it shall be sufficient to use the words "The Public Health Act, 1848." (c)

(a) Section 1.

(b) Section 2.

(c) Section 3.

THE GENERAL BOARD OF HEALTH.

11 & 12 VICT.
c. 63.

How the board is to be constituted.—The General Board of Health under this act is to consist of three commissioners, of whom the chief commissioner for the time being of Her Majesty's Woods and Forests is to be one (and who is to be the president of the said board), the other two members of the board, being persons to be appointed by the Queen—subject to removal at pleasure—the board itself to be denominated and called “The General Board of Health,” the members of which are to have the execution of all the duties imposed upon the board by this act, which duties, however, may be executed by any two of them, or during any vacancy in the board, by the remaining members or member; the board itself being constituted for five years only. (a)

Appointment of officers, &c. to the board.—Power is given to the board to appoint, from time to time, a secretary, and such clerks and servants as, subject to the approval of the Commissioners of the Treasury, they may deem necessary for the purposes of the act, who, however, may be removed at the pleasure of the said board; (b) and, from time to time, may appoint, subject to the like approval, so many proper persons as they may deem necessary to be superintending inspectors for the purposes of the act, who are to have all the powers, duties, and liabilities vested in, or imposed upon, any superintending inspector by the act, and who are to assist in the superintendence and execution of the act when and where, and in such manner as the board shall direct, and are to be removable at pleasure. (c)

Salaries of commissioners and officers.—One of the members of the general board (not being the president) as the Queen shall direct, and the secretary, clerks, and servants are to be paid such salaries or wages, and the superintending inspectors such allowances, as shall, from time to time, be appointed by the Treasury out of the money to be provided for the purpose by Parliament; but the allowance to a superintending inspector is not to exceed three guineas for every day he shall be actually employed or travelling in the performance of the duties of his office, and the Treasury

may, in addition, allow any superintending inspector such reasonable travelling and other expenses as may be incurred by him in the performance of the duties of his office. (a)

11 & 12 Vict.
c. 63.

Seal of the board.—A seal is to be made by the board for their use in the execution of the act; and documents, or copies of documents, purporting to proceed from them are to be signed by any two or more of them, and to be sealed or stamped with such seal, and are to be received as *prima facie* evidence in all courts and places whatsoever. (b)

PRELIMINARY INQUIRY.

Petition of inhabitants and proceedings thereupon.—Before the act can be brought into operation in any district a certain proportion of the rated inhabitants must petition the General Board of Health upon the subject, (except in a certain reserved case hereafter-mentioned, in which the board can, without such preliminary, enforce the act.) If, therefore, it is thought advisable to bring the act into operation in any particular locality, the steps must be taken which are pointed out in section 8, which enacts, that from time to time, upon the petition of not less than one-tenth of the inhabitants rated to the relief of the poor of any city, town, borough, parish, or place, having a known or defined boundary, not being less than thirty in the whole, or where it shall appear or can be ascertained from the last return of the registrar of births, marriages and deaths, from the deaths registered for a period of not less than seven years, that the number of deaths annually in such place during such period shall, on an average have exceeded the proportion of twenty-three to a thousand of the population of such place, the General Board of Health may direct a superintending inspector to visit such place, and to make public inquiry and examine witnesses as to the sewerage, drainage, and supply of water, and the state of the burial grounds, the number and sanitary condition of the inhabitants, and as to any local acts of Parliament in force within such place, for paving, lighting, cleansing, watching, regulating, supplying with water,

11 & 12 VICT.
c. 123.

or improving the same, or having relation to the purposes of the act; and also as to the natural drainage, areas, and the existing municipal, parochial, or other local boundaries, and the boundaries which may be most advantageously adopted for the purposes of the act; and as to any other matters in respect whereof the board may desire to be informed for the purpose of enabling them to judge of the propriety of reporting to Her Majesty, or making a provisional order as after mentioned (a).

This section, which originates the process by which the act is to be brought into operation in any locality, is highly important, and suggests many subjects for consideration. It will be seen that the preliminary inquiry to be made before the act can be brought into operation in any particular district, can take place only in the event of a certain proportion of the inhabitant rate-payers petitioning, or the average of deaths exceeding twenty-three in the thousand, in which latter case the initiatory steps may be taken by the General Board of Health, independently of any application from the inhabitants, a provision highly necessary when it is remembered that the health of any particular locality is of essential importance to the community at large, who may suffer by the neglect of a small body, who from various causes, may not be sufficiently alive to the importance and benefits of sanitary regulations.

The petition referred to, although not so expressed, is intended doubtless to be presented to the General Board of Health, who are the parties to act upon it.

The petitioning inhabitants are to be those who are rated to the relief of the poor, no amount or length of rating being necessary, nor is it requisite that the rates should be paid.

From the enumeration of the localities "city, town, borough, parish, or place, having a known or defined boundary," it would seem that the petition must emanate from each one of these places as a whole, and that it will not be competent for a particular parish or ward, in a city or borough, to petition in behalf of such parish or ward alone, but that where such parish or ward, or other limited district, happens to be in a city, town, or borough, the petition must be in behalf

of the larger locality, and have the requisite signatures of one-tenth of the whole rated inhabitants, though there is nothing which prohibits the petition from being signed exclusively by the rated inhabitants of such smaller locality, and therefore a petition, though signed by the inhabitants of one alone of many parishes or wards, constituting a city or borough, &c. if bearing the proper proportion of one-tenth to the inhabitants of the whole city, borough, &c. will be perfectly good.

11 & 12 VICT.
c. 63.

FORM OF PETITION OF INHABITANTS TO THE GENERAL
BOARD OF HEALTH.

To the General Board of Health.

WE the undersigned, being one-tenth of the inhabitants rated to the relief of the poor, for the *city, town, borough, parish, or place, having a definite boundary [as the case may be]*, do hereby, in pursuance to the provisions contained in "The Public Health Act, 1848," petition your honourable board to direct a superintending inspector to visit the said [*city, town, &c.*] and to make public inquiry, and report thereon, as in and by the said act is provided, to the end that the said act may be put in force within the said [*city, town, &c.*]

Dated, this day of 184 .

John Thompson High Street Gentleman.

George Smith Park Place Grocer.

William Evans Ivy Cottage Esquire.

[*The number must be not less than thirty.*]

Notice of inquiry to be given by the inspector, and proceedings thereupon.—If the General Board determine upon causing the preliminary inquiry to be made, an inspector is to proceed to the locality for the purpose ; (a) but before entering upon his inquiry he must give fourteen days' notice of his intention to make the same, and of the time and place at which he will be prepared to hear all persons desirous of being heard before him upon the subject, by advertisement in some one or more of the public newspapers usually circulated in the parts to which the inquiry will relate, and by causing such notice to be affixed on the doors of the principal churches, chapels, public buildings, and places where such public notices are usually affixed, within such parts, and in such other manner

11 & 12 VICT.
c. 63.

as he may think necessary; and as soon as can be after the completion of the inquiry, he is to report in writing to the General Board of Health in such manner as they may direct upon the several matters with respect to which he has been directed to inquire, and upon any other matters with respect to which he may deem it expedient to report for the purposes of the act. (a)

No particular form of proceeding upon this inquiry is prescribed by the act; the inspector therefore, is left to the exercise of his own discretion upon the subject.

The scope of the inspector's inquiries will be regulated by the authority he receives from the General Board, as provided for by section 8, "and upon any other matter, with respect to which he may deem it expedient to report for the purposes of this act."

It is worthy of remark, that, although the act makes express provision for every application on the part of the inhabitants, being at the instance of at least one-tenth of their number, no powers are given to any dissenting inhabitants to question the sufficiency or genuineness of the petition, or to the general board or to the inspector to inquire into the subject. It may, and doubtless will, often be a grave matter of contention, whether or not the requisite number of rated inhabitants have signed the petition; and inasmuch as such petition is to be the ground-work of all the subsequent proceedings, it certainly ought to be open to the dissenting inhabitants to scrutinize the signatures and show that the requisite number have not been obtained, otherwise the provisions of the statute in this particular will be constantly evaded. Does the act, therefore, provide any means of questioning the sufficiency of the petition? We are afraid that it does not. There are certainly no express provisions for the purpose, nor can we see that the machinery of the act can very well be used for the purpose. Let us suppose an instance of a town possessing 10,000 rated inhabitants, the tenth of whom will be 1000; a petition goes up to the Board of Health with only 500 signatures, or even with 1000, only one-half of whom are rated inhabitants; the Board of Health know nothing of the actual number of rated inhabitants in the town, but believing the signatures to be genuine and sufficient, they

send down their inspector. If, before the Board of Health have decided upon sending down an inspector they have reason for suspecting that the petition is insufficient, they will probably instruct the inspector to inquire into the fact, as we think they may do, under the concluding provisions of section 8; but supposing the inspector is not armed with any special authority, is it competent to any of the dissenting inhabitants to give evidence to show the insufficiency of the petition, and can the inspector receive and report upon it? We apprehend not. He will not be in possession of the petition; there is, indeed, no single sentence in any one of the clauses even inferentially leading to the belief that this inquiry can be gone into. The provision, therefore, requiring the petition to have the assent of one-tenth of the rated inhabitants is open to the objection of wanting means by which it can be effectually enforced. The powers of the superintending inspector upon such an inquiry are further provided for by section 121, which will be found treated of under the head "*General Superintendence.*"

The Inspector's report and proceedings thereupon.—If, upon the report being made by the inspector, it appears to the General Board that the boundaries which may be most advantageously adopted for the purposes of the act are not the same as those of the city, town, borough, parish, or place, with respect to which inquiry has been made, they are to cause the same or some other superintending inspector, to visit the parts within the boundaries proposed to be adopted for the purposes of the act, and after having given notice as before, to hear all parties upon the subject of the report, to make such further inquiry and report to the board as they may direct. And upon the presentation of such report or further report the board is to cause copies of it to be published in the parts to which it relates, in such manner as they may direct, and to cause copies to be deposited with the town clerk and others, accompanied with a notice that within a certain time, not being less than one month from the time of such publication and deposit, written statements may be forwarded to the board with respect to any matter contained or omitted from the said report or further report, or any amendment proposed to be made therein; and all such statements are to be deposited with the town-clerk, clerk to the

11 & 12 VICT.
c. 63.

11 & 12 VICT. justices, &c. in like manner as the said copies, and
c. 63. with such copies are to be open to public inspection during the time specified in the notice, and after the expiration of the notice, the general board may, if they think fit, direct a further inquiry and report. (a)

APPLICATION OF THE ACT.

Order in Council for application of act.—There are two methods for bringing the act into operation after the report has been presented by the inspector to the Board of Health: one, applicable to the case of localities, from which a petition from the inhabitants has emanated, and in which there is no local act for certain purposes; and the other, in which no petition has emanated, or the locality is not the same, or in which there is a local act for such purposes.

Cases in which the act can at once be brought into operation.—The 10th section enacts, that if, after the foregoing inquiries, it shall appear to the General Board of Health to be expedient that the act, or any part of it, should be applied to the city, town, &c. with respect to which inquiry has been made upon the petition of the inhabitants as aforesaid, and within the same boundaries as those of such city, town, &c. and within which there is no local act for paving, lighting (otherwise than for the profit of proprietors or shareholders), cleansing, watching, regulating, supplying with water, or improving such city, town, &c. or any part thereof, or in any wise relating to the purposes of this act, they (the General Board) are to report to the Queen accordingly, and at any time after the presentation of such report it is to be lawful for her, by her Privy Council, to order that this act, or any part of it, shall be applied to, and be put in full force and operation within such city, town, &c. (b)

Cases in which a provisional order alone can be made.—The same section proceeds to provide for all the other cases in which it is desirable that the act should be brought into operation; and it will be seen that in all of them a *provisional order* alone can be made, which is to be the foundation, and to be followed by an act of Parliament giving such order full effect, and bringing it and this enactment into operation.

It is, therefore enacted, that if, after the inquiries before provided for, it shall appear to the General Board to be expedient that this act, or any part of it, should be put in force, 1st, within boundaries not being the same as those of the city, town, &c. from which the said petition proceeded; or, 2nd, within boundaries where no petition has been presented from such inhabitants as aforesaid; or, 3rd, within any city, town, &c. in which any such local act as aforesaid is in force, they are to make a provisional order, with such provisions, regulations, conditions, and restrictions with respect to the application and execution of this act, or any part of it, and with respect to any such local act, and the repeal, alteration, extension, or future execution of it, and in all respects whatsoever as they may think necessary under all the circumstances of the case. (a)

11 & 12 Vict.
c. 63.

This provisional order is then to be published in the manner pointed out by the section.

Subsequent act of Parliament required to give effect to the provisional order.—The section then goes on to provide that in case it shall be enacted by any act of Parliament hereafter to be passed, that the whole, or part of any provisional order or orders of the General Board, shall be confirmed and be absolute, the whole or part of such provisional order or orders which shall be so confirmed shall be as binding, and of like force and effect, as if the same had been expressly enacted by Parliament; but that no such provisional order shall have any force or effect, nor shall this act, or any part thereof, be applied in either of the cases last-aforesaid, except for the purposes of such preliminary inquiry, report, or provisional order, without the previous authority of Parliament. (a)

By section 141 (see head "*Miscellaneous Provisions*") powers are given for the amending, &c. of orders in council and provisional orders; and by section 142, provision is made for laying before Parliament all provisional orders, &c.

Consent of waterworks companies in certain cases.—Provision is made in this section for preserving the rights of certain water-works companies, by the enactment that no such provisional order, or any altered or amended order shall be made with respect to any local

(a) Section 10.

11 & 12 VICT.
c. 63.

act of Parliament under which any water-works company is empowered to construct waterworks or supply water for their own profit, without the consent of the waterworks company empowered by such local act first had and obtained. (a)

Consent of Town Councils in certain cases.—The same section (a) provides that except for the purposes of main sewerage, no corporate borough or any part thereof, shall be included in any district not exclusively consisting of the whole or part of one such borough, without the consent of the council; but the consent of the council is not to be required to the constitution of a district exclusively consisting of the whole or part of such borough for all or any of the purposes of the act; nor is the want of such consent to prevent the application of all or any of the provisions of this act to parts exclusively consisting of the whole or part of one such borough, although the same parts may already have been included within a district for the purposes of main sewerage. It is also provided that, except for the purposes of main sewerage, no parts beyond the boundaries of a corporate borough shall be included in any district comprising the whole or part of any such borough, except upon the petition of a majority of the owners of property and rate payers, who would be qualified to vote in the election of members of a local board of health for the parts proposed to be so included.

This very important clause, providing as it does for the bringing of the act into operation in all the various cases to which it is applicable, demands the gravest attention and consideration. It will be seen that it is only in the case of a city, town, borough, parish, or place, from which a petition has been presented, and in which there is no such local act as those specified, that the General Board of Health can make an absolute order for the application of this act. In all other cases they can only make a provisional order which is to be rendered effectual by an act of Parliament to be subsequently passed.

It is apprehended that the instances in which this act can at once and without another act be brought into operation, are exceedingly rare, almost every

town of any consequence having some local act which will take it out of the first branch of the section and render a provisional order alone applicable, independently of the numerous cases in which it will be thought advisable to alter the limits from those from which the petition has proceeded, and which also will render a provisional order the proper course.

11 & 12 Vict.
c. 63.

It is difficult to understand why a distinction should be made between the case of a locality in which the inquiry has been founded upon a petition, and one in which it has originated alone in the excessive mortality, as provided for by section 8. And yet such distinction exists, and whilst, in the first case, an absolute order in council is to be made for bringing the act into effect at once: in the second, though the circumstance of the locality may be precisely the same, except that there is greater need for prompt interference, the General Board can only make a provisional order to be afterwards followed by an act of Parliament. The Crown can only make an order for putting this act in force in cases where the inquiry has been made "upon the petition of such inhabitants as aforesaid;" but in cases "where no petition has been presented from such inhabitants as aforesaid," there can only be a provisional order, &c.

In cases in which there are local acts of Parliament, the provisions of this section may be rendered exceedingly useful. Numerous towns have each several local acts operating over only small divisions, which acts are often conflicting in their provisions, ununiform in their enactments, and from their partial character, and the cumbrous nature of their machinery, a source of great perplexity and inconvenience. If, therefore, by the provisions of the present act, these local acts can be repealed, altered, extended, or otherwise dealt with, a vast amount of good may be effected. It is, however, to be feared, that this 10th section deals with the subject of local acts in a somewhat inexperienced manner, and that when it is brought to bear fully upon the question, it will be found hardly to be adequate to the carrying out of its purposes. Let us take an instance (not an uncommon one) of a town in which, for four distinct parts, there are four local acts for regulating the paving, lighting, scavenging, cleansing, &c., each having its board of directors, and staff of officers, and the

11 & 12 VICT.
c. 63.

powers and provisions of each act being at variance with the others. If the present act is to be put in force in such a locality, it will be indispensably necessary that these local acts should be dealt with in some way or other. It will be thought perhaps advisable to incorporate into one of them all the useful provisions of the other three, and to extend the operation of that one, and repeal the others, or to repeal the whole, and re-enact them in the provisional order. But in any case, how are the old officials to be disposed of? Are they to be deprived of their offices without compensation? By whom are the new act and provisional order to be drawn, or upon whom is to be cast the burthen of the nice and difficult investigation and arrangement to which the existence of these local acts will give rise? These are difficulties certainly to be gotten over, but we much fear that the machinery of the present bill is hardly sufficient for the purpose. The investigation necessary in many cases where there are local acts of Parliament to be dealt with prior to the provisional order being carried into effect, will be of the most difficult and embarrassing nature. It must be remembered, that it is the provisional order which is to deal with these local acts, and if it is to deal with them effectually, it will in many cases be a most elaborate production, having all the qualities and provisions of an act of Parliament itself. When such a provisional order deals with vested interests, as in the case of salaried functionaries, how are these parties to be protected? how, in fact, are they to protect themselves? or how, indeed, and by whom, is such provisional order to be prepared? The government inspector will be quite inadequate to the duty, and there appears to be no other functionary upon whom the duty can be saddled. The subject is a most important one, and we fear it is surrounded by difficulties of no ordinary magnitude.

Some doubt will probably exist as to whether or not the term "corporate borough" includes *alone* such corporate boroughs as are within the provisions of the *Municipal Corporation Act* (5 & 6 Will. 4, c. 76), there being a great many corporate boroughs in England not within the provisions of that act. Upon reference to the interpretation clause, (a) it is enacted

that, "the expression 'corporate borough' shall mean any corporate borough mentioned in the schedules annexed to an act passed in the sixth year of the reign of King William the Fourth, intituled *An Act for the Regulation of Municipal Corporations in England and Wales*, and any borough incorporated by charter granted, or to be granted, in pursuance of that or any subsequent act." It will still be open to contention that other corporate boroughs, though not mentioned in the schedules of the above act, are not excluded from the operation of the present act; the words "corporate borough" having a legal and a defined meaning, and there being in the present act no express words of exclusion. From the term "council" being often used in connexion with "corporate borough," and from the principle of election, which is applicable to town councils, there can be no doubt that *only* those corporate boroughs named in the 5 & 6 Will. 4, c. 76, were meant by the present act.

11 & 12 Vict.
c. 63.

Costs of preliminary inquiry.—The expense of the preliminary inquiry is provided for by the 11th section, which enacts, that after the making of an order in council (putting the act in force), or the passing of any act of Parliament confirming any provisional order, the costs and expenses incurred under the direction of the General Board, or of any superintending inspector in relation to the inquiry, shall, to such extent and amount as the Commissioners of the Treasury, by an order under their hands, shall think proper, become a charge upon the general district rates, levied in such district under the authority of this act, and be repaid to the said commissioners by annual instalments not exceeding five, together with interest. (a) It will be thus seen that it is only in the event of the inquiry being followed by an order in council or an act of Parliament, that the costs can be obtained from the district, and that if, after such inquiry, no order in council is made, or act of Parliament passed enforcing this act, the locality will not be liable to the payment of any costs whatever.

LOCAL BOARDS OF HEALTH.

Who are to be the Local Board in corporate boroughs.—If the district consist of the whole or

(a) Section 11.

11 & 12 VICT.
c. 63.

part of one corporate borough, the town council are to be the Local Board of Health, and they are to exercise and execute all the powers and duties of such local board, according to the laws for the time being in force with respect to municipal corporations. If, however, the district consist of two or more of such boroughs, or of one or more of such boroughs, and also of part of any other borough or boroughs, or exclusively of part of two or more of such boroughs, the mayor for the time being of such boroughs, and such number of other persons as shall be fixed by the provisional order, to be selected by each of the councils out of their own body, or from persons qualified to be councillors of the borough in respect of which the selection is made and selected by the councils accordingly, are to be the Local Board of Health. But where the district comprises the whole or part of any borough or boroughs, and also parts not within the boundaries of any such borough, the mayor or mayors of such borough or boroughs, and such number of other persons as shall be fixed by such provisional order, to be selected by such council or councils as in the last-mentioned case, together with such number of other persons as shall be elected according as is after directed in respect of such non-corporate parts, are to be the Local Board of Health. (a)

The first selection by town councils is to be made on a day to be appointed by Parliament, and each person selected by the council out of their own number is to be a member of the Local Board so long as he continues, without re-election, to be a member of the town council. And each person selected by the council, not from their own number, is to be a member of the Local Board for one year from the date of his selection, and in the case of any vacancy in the number selected, some other person is to be elected by the council within one month. (a)

Some little doubt exists upon reading this section, as to whether or not, in the event of a vacancy occurring in a party selected by a town council *not* from their own number, the person selected to supply his place (should such party also not be a member of the town council) will retain his office for an entire year

from the date of his selection, or only for the residue of the year of office of the party whose vacancy he supplies. It will, no doubt, be exceedingly inconvenient to have constant selections to be made in consequence (in the course of time) of the periods of office expiring at different periods of the year, as will be the case if the year is in all cases to commence running from the actual day of the individual's selection. And yet the words are express, that a person selected by the council, not out of their own body, shall be a member of the Local Board for one year from the date of his selection. (a)

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c. 63.

Local Boards not in corporate boroughs.—If a district comprise the whole or part of a corporate borough, and also any part or parts not within the boundaries of such borough, there are to be elected for such noncorporate parts a certain number of qualified persons to be fixed by the provisional order, who, together with the persons elected or selected by the town council, are to be the Local Board of Health. If, however, the district does not comprise the whole or part of any corporate borough, and is a district in which this act may be applied by an order in council, such number of properly qualified persons as shall be fixed by such order in council are to be elected, and are to be the Local Board. But if in such a district as last-mentioned, this act cannot be brought into operation without the authority of Parliament, the Local Board are to consist of such number of duly qualified elected persons as shall be fixed by the provisional order. (b)

When to be elected, and re-election.—The first election for any non-corporate district is to take place on a day to be appointed by the order in council, or by Parliament (as the case may require), and one-third of the whole number is to go out of office annually on such day as shall be fixed by the order in council, or provisional order; but the order in which the persons first elected shall go out of office, is to be regulated by the Local Board. If, however, the number of persons to be elected be not divisible by three, the proportion to go out of office in each year is to be regulated by the order in council, or provisional

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order, so that as nearly as may be, one-third shall go out in each year; but if the number of persons to be elected for any part of a district be less than three, the persons elected are to go out of office on such day in each year, or at such other period, not being less than a year, as such order in council or provisional order shall direct; but no person elected is to remain continuously in office for more than three years, and on the days appointed for going out of office a number of persons are to be elected equal to the number of those going out, and so many others as may be necessary to complete the full number of the Local Board in respect of which the election is made. (a)

Regulation as to the number of the Local Board, vacancies, &c.—By the 14th section (b) it is provided, that the number of persons to be selected or elected for the whole or any part of a district, shall from time to time be regulated by such order in council, or provisional order (as the case may require), due regard being had to the size and circumstances of each district as may appear to be just and proper.

Some doubt will naturally arise as to whether or not this is intended to give the General Board of Health power from time to time to regulate the number of members of the Local Board, or whether or not it merely enables the General Board, by the original order, to provide for the alteration from time to time of such number. Upon a reference, however, to section 141, whereby powers are given for the amending, &c., of orders in council and provisional orders, it would seem that the powers referred to in this section are to be exercised from time to time.

The same section (c) provides that, in the event of any vacancy by death, resignation, or otherwise, between the times appointed for election, or if at any time the Local Board be without its full number of members, the remaining members are to be as competent to act until the time appointed for election, or until the full number is selected or elected (as the case may require), as if no vacancy had occurred.

No provision is made for filling up extraordinary vacancies in non-corporate districts as the vacancies occur. In corporate districts, if an extraordinary vacancy occurs in a member selected, the vacancy is to be filled up within one month after the occurrence of the vacancy, (a) but as there is no provision of this kind applicable to non-corporate districts, the vacancy cannot be filled up until the arrival of the general period of election.

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The remainder of the same section (b) provides for the contingency of the same person being both selected and elected to the Local Board; and the next section (c) renders persons elected for part of sewerage district members of the Local Board for that district.

Qualification of members of Local Boards.—To qualify a party to be elected to a local board, he must be resident within the district for which, or for part of which, he is elected, or within seven miles thereof, and be seised or possessed of real or personal estate, or both, to such value or amount as shall be fixed by the order in council, or provisional order, such order not fixing it beyond one thousand pounds; or he must be so resident, and rated to the relief of the poor of some parish, township, or place, of which some part is within such district, or part of a district, upon such annual value as shall likewise be fixed by such order in council, or provisional order, such order not fixing the rating as upon more than thirty pounds a year. (d)

From the foregoing, it will be seen that, where the party elected qualifies by property only, it is not necessary that he should be a ratepayer, nor is it necessary if he qualifies only by rating, that he should be a ratepayer in respect of any particular kind of property: any description of rated property being sufficient, if the rating be on the required annual value; nor is it necessary that he should be rated for any particular length of time, or even have paid his rates; and in either case the party need not be a householder, it being merely requisite that he should *reside* within the district, or within seven miles of it. From this, and on reference to section 20, it will be seen

(a) Section 12.

(c) Section 15.

(b) Section 14.

(d) Section 16.

11 & 12 VICT. that parties may be eligible to be elected, although
c. 63. they may not be qualified to vote.

The same section (a) provides for the case of two or more persons being jointly seised of property, or being rated to an amount sufficient to qualify both, and also declares that the same property shall not at the same time qualify both the owner and the occupier: as in the case (it is conceived) of a house which, by its value, would qualify the owner, and by its rating the occupier; but there is no provision for the case of both owner and occupier being actually elected and qualifying for the same property. Supposing that such a contingency should actually arise as the owner and tenant both being elected, how is the objection that they are qualified in respect of the same property to be made available? Each person is *prima facie* eligible. What means, then, are there, supposing both are elected, of raising the objection? and how, in fact, can it be ascertained that both parties are, in fact, qualified only by virtue of the same property, since the declaration of qualification does not specify the property?

Declaration of qualification.—Before a party elected or selected (except he is already a member of the town council) can act, he is required to make a declaration of being qualified according to the form prescribed, or to the like effect, (b) and the making of a knowingly false or corrupt declaration, is to be deemed a misdemeanor. (c) A neglect, however, for three months to make the declaration, or absence for three months from all meetings and committees of the Local Board, is to be deemed a refusal to act, and the party is to cease to be a member of the Board, and his office is thereupon to become vacant. (d)

Disqualifications.—No bankrupt, insolvent, or other person not qualified, as before mentioned, is capable of being elected, and if after election or selection the party shall lose or discontinue to hold his qualification, or shall be declared bankrupt, or shall apply to take the benefit of any act for the relief of or protection of insolvent debtors, or shall compound with his creditors, or if any such member shall accept or hold any office or place of profit under the Local Board, or

(a) Section 16.
(c) Section 17.

(b) Section 17.
(d) Section 18.

shall in any manner be concerned in any bargain or contract entered into by such board, or participate in the profit thereof, or of any work done under the authority of this act, in or for the district for which he is member, then and in every such case his office is to become vacant; and any person not being duly qualified, or who has not made the declaration, or who after being disqualified shall so act, is to be liable for every offence to the penalty of fifty pounds. But no person, by reason of being a proprietor, shareholder, or member of any company or concern established for the supply of water, or for the carrying on of any other works of a like public nature, is to be disabled from being, continuing, or acting as a member of the said Local Board, by reason of any contract entered into between such company or concern and the Local Board; but no such person is to vote as a member of the board upon any question in which the company or concern is interested. (a)

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c. 63.

ELECTION OF LOCAL BOARDS.

Qualification of electors and scale of voting.—The persons who are entitled to vote for members of the Local Board are the *rate-payers* in respect of property in the district for which the election is held, and also the *owners* of such property, and the voter is to be entitled to one or more votes according to the following scale of rating, viz.: if rated at

less than £50 per annum,	one vote.
„ 100	„ two votes.
„ 150	„ three votes.
„ 200	„ four votes.
„ 250	„ five votes.
amounting to } or exceeding }	250 „ six votes.

And if the voter be both owner and occupier, he may vote in respect of both ownership and occupation.

To entitle a party to vote by virtue of being a rate-payer, he must have been rated to the relief of the poor in the district for the space of one year immediately preceding the day of tendering his vote,

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c. 63.

and must also have paid all poor-rates for the district for the period of one year, and also have paid all such rates, and all rates due from him under this act before that day in such district, except rates which shall have been made or become due within the six months immediately preceding. (a)

Provision is made for voting by proxy by corporations aggregate, joint-stock companies, and bodies of proprietors or undertakers.

This section (2) also directs that no owner shall be entitled to vote unless fourteen days at least previously to the tendering of his vote he shall have delivered (as therein directed) a statement in writing of his name and address, and containing a description of the nature of his interest or estate in the property, giving the qualification, and a statement of the amount of all rent-service which he may receive or pay in respect of it, and of the persons from whom he may receive or pay the same.

As the clause speaks of "rate-payers" and "owners of property" generally, and as there are no words confining the right of voting, females will be equally entitled with men to vote in the elections if qualified by rating or property.

F O R M.

APPOINTMENT OF A PROXY BY A CORPORATION OR COMPANY.

WE [the town council of the borough of _____ or the undersigned being three of the directors of the company] do hereby, pursuant to "The Public Health Act, 1848," appoint *A. B.* of _____ in the parish of _____ in the _____ esquire, to be the proxy to vote [on our behalf or on behalf of the said company] in the election of persons to be members of the Local Board of Health for the district of _____.

Dated the _____

*To the clerk [or other person appointed by the order in council]
for the district of _____*

WE [the town council of the borough of _____ or the undersigned, being three of the directors of the company] do

hereby, pursuant to "The Public Health Act, 1848," give you 11 & 12 Vict.
 notice that the nature of our interest and estate in the property c. 63.
 in respect of which we are qualified to vote by proxy in the elec-
 tion of persons to be members of the Local Board of Health for
 the district of is a freehold house and premises, known
 and called as No. [12, High street,] in the parish of
 and in the said district [stating the description,
tenure, and locality of the property according to the facts], and
 that the amount of rent-service which we receive in respect of
 the same is £ per annum, which we receive from C. D.
 who is tenant of the said premises, and who resides thereupon
 [or as the case may be]: and the proxy appointed by us in
 that behalf is A. B. of in the parish of in the
 esquire: a copy of whose appointment is hereunto added as
 follows [*here write a copy of the appointment of proxy*].

Dated this day of 184 . [To be under
 the common seal in the case of a corporation, or, in any other
 case, under the hands of three directors, &c.]

STATEMENT OF QUALIFICATION OF OWNER.

To the clerk [or other person appointed by the order in council]
 for the district of .

I, the undersigned, E. F., of do hereby give you
 notice that I claim to be entitled to vote for persons to be
 members of the Local Board of Health for the district of
 in respect of property of which I am owner within the said
 district, and that the said property, in respect of which I am
 qualified to vote as aforesaid, is a freehold house situate and
 being [No. 1, Park-street,] in the parish of within the
 district of [stating the description, tenure, and situa-
tion of the property according to the facts], and that the rent-
 service which I receive for the same is £ per annum,
 paid to me by G. H., who is tenant thereof, and who resides
 thereupon.

Dated this day of 184

E. F.

Who is to preside at the election.—The chairman of
 the Local Board is to preside at the elections, and to
 perform all the duties which may be requisite for him to
 perform in conducting and completing the same; but
 in the case of the first election under the act such
 duties are to be performed by some person to be
 nominated by the order in council or provisional
 order. Power is given for the appointment of a com-

11 & 12 Vict.
c. 63.

petent number of persons to assist and attend upon the chairman, or the person so appointed in conducting and completing the election. (a)

Production of parish books and publication of list of voters.—The chairman has power to require the clerk of the board of guardians and the parish officers of any union or parish within the district to allow him to inspect and take copies of the books and papers relating to the election of guardians of the poor or the poor-rates, and he may also cause an alphabetical list to be made of the persons entitled to vote at the election. (b)

Publication of notices previously to the election.—Before any election takes place the chairman is to prepare, sign, and publish a notice containing the following particulars:—The number and qualification of the persons to be elected; the persons by whom and the places where the nomination papers are to be received, and the last day on which they are to be sent; the mode of voting in case of a contest; the days on which the voting papers will be delivered and collected, and the time and place for the examination and casting up of the votes. This notice he is to cause to be affixed upon the usual places for notices of parochial business. (c)

F O R M

NOTICE TO BE PUBLISHED BY THE CHAIRMAN OF THE LOCAL BOARD PRIOR TO EACH ELECTION.

I, the undersigned, *A. B.*, being the chairman of the Local Board of Health for the district of _____ do hereby give notice that on _____ three [*or as the case may be*] persons are to be elected members of the said Local Board of Health, and that each of such persons must, at the time of his election, be resident within the district for which, or for part of which, he is elected, or within seven miles thereof, and be seised or possessed of real or personal estate or both to the amount of [*the amount fixed by order in council or provisional order*], or be so resident and rated to the relief of the poor of some parish, township, or place of which some part is within such district upon the annual value of not less than _____ [*the rating fixed by the order in council or provisional order*].

And I further give notice that the nomination papers are to be sent, by the persons entitled to nominate members, to me at
 on or before the day of
 which is the last day on which such papers can be sent.

11 & 12 VICT.
 c. 63.

And I further give notice, that in case of a contest the mode of voting will be according to the provisions of section 25 of "The Health of Towns Act, 1848," and schedule (A.) thereto annexed, that is to say, "each voter shall write his initials in the voting paper delivered to him against the name or names of the person or persons (not exceeding the number of persons to be elected) for whom he intends to vote, and shall sign such voting paper, and when any person votes as proxy he shall in like manner write his own initials and sign his own name, and state also in writing the name of the corporation, company, or body of proprietors or undertakers for whom he is proxy: provided always, that if any voter cannot write he shall affix his mark at the foot of the voting paper in the presence of a witness who shall attest and write the name of the voter against the same, as well as the initials of such voter against the name of every candidate for whom the voter intends to vote."

Public He

And I further give notice that the voting papers will be delivered to each voter on the day of
 and will be collected on the day of
 by a person duly appointed for the purpose.

And I further give notice that the votes given at the said election will be examined and cast up on the
 day of at o'clock in the forenoon [or at noon],
 at the office of the Local Board of Health situate and being
 in

Given under my hand this day of
 184 A. B.
*Chairman of the Local Board of Health
 for the District.*

The nomination and election of candidates.—Any person who is entitled to vote in the election may nominate any number of persons (including himself if he thinks fit) not exceeding the whole number to be elected, which nomination is to be in writing, and to state the names, residence, calling, or quality of the persons nominated, and to be signed by his name, and be sent in due time to the chairman; and if all the persons nominated shall be the exact number or less than the number to be elected, they are to be deemed (if duly qualified) to be elected, and the chairman is to certify the fact accordingly under his hand. But if the number nominated should exceed the number to be elected, the chairman is to cause voting papers in the form contained in schedule (A.)

11 & 12 VICT.
c. 63.

to be prepared and filled up, and he is to insert therein the names of all the persons nominated in the order in which the nomination papers were received, and three days before the day of election he is to cause one of such voting papers to be delivered as directed in the act. It is, however, provided, that if any person put in nomination shall tender to the officer conducting the election his refusal in writing to serve as a member of the Local Board, and if in consequence of such refusal the number of persons nominated shall be the same as, or less than, the number of persons to be elected, all or so many of the remaining candidates are to be deemed to be elected, and so certified by the chairman. (a)

F O R M.

NOMINATION OF MEMBERS FOR THE LOCAL BOARD.

To the Chairman of the Local Board of Health for the district of

I. A. B., of being entitled to vote for members of the Local Board of Health for the district of do hereby nominate the following persons to be members of the said Local Board, that is to say—

John Williams...	12, Union-street, in the parish of in the said district.	Attorney-at-law.
Edward Smith...	15, Park-house, in the parish of in the said district.	Esquire.
Thomas Simpson	Myrtle-cottage, in the parish of in the said district.	Builder.

[*The number must not exceed the total number to be elected.*]

Dated this day of 184

A. B.

It is competent to any person who is qualified to vote to nominate any number of candidates, but he has no functions to nominate more than the actual number to be elected, and a nomination paper sent in containing an excess in the number will be altogether bad, and will be properly rejected in toto by the

chairman as being altogether void, even for the requisite number, as the chairman would have no discretion to select and expunge the excess. If, however, the total number proposed by all the nominators exceed the number to be elected, the whole of the parties proposed are to be the subject of the election. No voting, however, as it has been seen, is to take place, if the total number proposed be either the exact number or less than the number to be elected; but in such case the chairman is to certify the fact of such parties being elected. The act makes no provision for filling up the deficiency in the number, in the event of a sufficient number not being nominated. In the event, therefore, of such a state of things occurring, the number will remain incomplete until the next annual election, unless recourse be had to the Court of Queen's Bench for a *mandamus* to proceed to an election to fill up the deficiency.

11 & 12 VICT.
c. 63.

The mode of voting and collecting the voting papers.
—The voting papers having been delivered as provided for by section 24, the voter is to write his initials in the paper against the name or names for whom he votes, and he is to sign such paper. Provision is made for the filling up of the papers in cases where the voting is by proxy (as in the case of corporations, &c.), and where the voter is unable to write. (a)

On the day of election the chairman is to cause the voting papers to be collected by a person to be appointed for that purpose. But no voting paper is to be received unless it has been duly delivered, or duly received by the collector. However, if any person qualified to vote shall not have received a voting paper he may apply before the day of election to the chairman and shall receive one; but in that case he is to fill it up in his presence, and then to deliver it to him, the chairman; and in case any voting paper duly delivered shall not have been collected through the default of the chairman, or the person appointed to receive the same, the voter in person may deliver the same to the chairman before twelve o'clock at noon on the day, or the first day, appointed for the examination and casting up of the votes. (b)

(a) Section 25.

(b) Section 26.

11 & 12 VICT.
c. 63.

How the votes are to be cast up and the election declared, &c.—On the day immediately following the election, and on as many days as may be necessary, the chairman is to attend, at the office of the Local Board of Health, and ascertain the validity of the votes by an examination of the rate-books, and such other books and documents as he may think necessary, and by examining such persons as he may think fit, and upon this, he is to cast up such of the votes as he shall find to be valid, and to have been duly given, collected, or received, and ascertain the number of such votes for each candidate; and the candidates, to the number to be elected, who, being duly qualified, shall have obtained the greatest number of votes, shall be deemed to be elected, and are to be certified as such by the chairman under his hand; and the chairman is to send or deliver, to each person so elected, a notice of such his election, and he is also to cause a list to be made containing the names of the candidates, together (if there were a contest) with the number of votes given for each, and the names of the persons elected, which he is to sign and certify, and to deliver, together with the nomination and voting papers, to the Local Board, at their first or next meeting, which papers are to be deposited in their office for public inspection; but the chairman is to cause the list to be printed, and copies of it to be affixed at the usual places for affixing notices of parochial business. (a)

The duty cast upon the chairman, of ascertaining the validity of the votes, requires some consideration. It is apprehended that this investigation need not be public, nor that the chairman need take any notice of objections coming from third parties; it appears to be quite in his own discretion when and to what extent he will examine either documents or parties; it will be his duty, however, to satisfy himself with reasonable certainty that each vote is good, and as the qualification for voting is very simple, no great difficulties need present themselves. The Legislature, however, evidently contemplated that something more than a mere enumeration should take place, and that an investigation should be resorted to by the intro-

duction in reference to the scrutiny of the words, "and on as many days immediately succeeding as may be necessary." 11 & 12 Vict.
c. 63.

A penalty not exceeding fifty pounds is imposed upon the chairman or other person charged with taking, collecting, or returning the votes, for neglect or refusal to comply with any of the provisions of the act in that behalf; and for any neglect or refusal of any person employed for the purpose of the election, by or under the chairman, a penalty not exceeding five pounds is imposed. (a)

Defects in the elections, and the expenses of same.—No defect in the selection or election of the Local Board, or of any member of it, is to invalidate the proceedings of the board; (b) and it is provided that the necessary expenses attendant upon the election, and such reasonable remuneration to returning officers and other persons for services performed or expenses incurred as shall from time to time be allowed by the Local Board, shall be paid out of the general district rate. (c)

Special provisions for Oxford and Cambridge.—The 31st section contains a special enactment with reference to the Local Boards of Health for Oxford and Cambridge. (d)

When Local Commissioners to be the Local Board of Health.—By section 32 it is enacted, that whenever by any provisional order as aforesaid, the commissioners or trustees acting under any local act are constituted the Local Board of Health under this act, such commissioners or trustees shall, within and for the district to which such provisional order applies, exercise and execute the powers, authorities, and duties vested in or imposed upon the Local Board of Health; and that so much of this act as relates to the appointment, election, or selection of Local Boards of Health, shall not apply to such district. (e)

Provision is made for the case of a district to which this act is applied afterwards becoming a corporate borough. (f)

(a) Section 28. (b) Section 29. (c) Section 30.
(d) Section 31. (e) Section 32. (f) Section 33.

11 & 12 VICT.
c. 63.

MEETINGS, ETC. OF THE LOCAL BOARD.

Meetings of the Local Board of noncorporate districts—Bye-laws, management of business—Voting, &c.—The Local Board of Health of every noncorporate district are to hold an annual meeting, and monthly meetings, and oftener if necessary, for the transaction of business, under this act; and they are to make bye-laws with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business. But no business is to be transacted at any such meeting unless at least one-third of the full number of members be present (except in Oxford and Cambridge), and all questions are to be decided by a majority of votes, and the names of the members present, as well as those voting upon each question, are to be recorded. And at the first meeting of the Local Board, and annually afterwards, they are to appoint one of their members to be chairman, for one year, at all meetings at which he is present, and in his absence from any meeting the members present are to appoint one of their number to act; and in case also of the chairman dying, resigning, or becoming incapable of acting, another member is to be appointed for the residue of the year. The chairman is to have a second or casting vote in case of an equality of votes, and these latter provisions are not to extend to Oxford and Cambridge. (a)

Some little doubt will doubtlessly at some time or other arise upon the proper construction to be put upon this section, in case the year of office of the chairman, as a member of the Local Board, should expire before the expiration of his year of office as chairman. Suppose the Local Board should elect as their chairman a member who is in the last year of his office as a member of the board, such year of office will expire on the day of the next general election of members, which will be some days at least before his year as chairman expires. Will he cease to be chairman on his year of office as a member of the

board expiring? If so, who will have to officiate as chairman at the election, and perform all the important duties of that functionary in relation thereto? A similar difficulty existed in the Municipal Corporation Act (5 & 6 Will. 4, c. 76), with reference to the mayor, whose office as such expires on the 9th of November, whilst the election of councillors takes place on the 1st of that month, and to remedy this difficulty amongst others the 6 & 7 Will. 4, c. 105, was passed, which, by section 4, enacts, "that the mayor of such borough shall continue in office for one whole year, and *until his successor shall have accepted the office of mayor and shall have made and subscribed the declaration required in that behalf.*" A similar provision should have been inserted in the present act to have avoided all difficulty upon the subject. The difficulty here pointed out will possibly to a certain extent be met (though not entirely) by the provision in section 21, which enables the Local Board to appoint some other person to perform the before-mentioned duties in the event of the chairman being unable to exercise or discharge such duties.

Offices and a seal of office to be provided—Documents to be signed and sealed.—The Local Board are to provide and maintain such offices as may be necessary for the transaction of their business, and that of their officers, and in a noncorporate district they are to cause to be made a seal for the use of the board in the execution of the act, and documents or copies of documents purporting to proceed from the Local Board, and to be signed by five or more members thereof, and to be sealed or stamped with such seal, or in the case of a corporate district to be sealed with the common seal, are to be received as *prima facie* evidence in all courts and places whatsoever. (a)

Appointment of committees.—The Local Board are empowered from time to time to appoint out of their own number so many persons as they may think proper for any purposes which, in the opinion of such board, will be better regulated and managed by means of a committee; but the acts of every such committee are to be submitted to the Local Board for their approval. (b)

11 & 12 VICT.
c. 63.

LOCAL OFFICERS.

Appointment, &c. of local officers.—The appointment of all local officers is in the power of the Local Board, who are authorized to appoint fit and proper persons to be surveyor, inspector of nuisances, clerk, and treasurer, and to appoint or employ such collectors and other officers and servants as may be necessary; and they may make bye-laws for the regulation of the duties and conduct of these several parties, and the parties so appointed or employed are to be paid out of the general district rates such reasonable salaries, wages, or allowances as the Local Board may think proper. The officers and servants, however, may be removed by the Local Board at their pleasure, but in the case of the surveyor his removal is subject to the approval of the General Board of Health. (a)

Disqualifications of officers, and penalties.—Whilst, however, it is provided that the same person may be both surveyor and inspector of nuisances, it is enacted that neither the person holding the office of treasurer, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or shall in any manner assist or officiate in the office of clerk, and that neither the person holding the office of clerk, nor his partner, nor any person in the service or employ of them, shall hold, be eligible to, or shall in any manner assist or officiate in the office of treasurer, under a penalty of one hundred pounds. (b) It is also provided that no such officer or servant shall in anywise be concerned or interested in any bargain or contract made with the Local Board, and that if he shall under colour of his office or employment exact, take, or accept any fee or reward other than his proper salary, wages, or allowance, he is to be incapable of holding or continuing in any office or employment under the act, and is to forfeit and pay the sum of fifty pounds. (c)

Security from officers entrusted with money.—Proceedings upon failing to account.—Before any officer or servant enters upon his employment, by virtue of

which he will be entrusted with the control or custody of any money, the Local Board are to require from him sufficient security for the faithful execution of his office or employment, and for duly accounting for all moneys.

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c. 63.

Provisions are made for compelling a due accounting by the various officers, and for summary legal proceedings before justices upon failure. (a)

Officer of health, appointment of.—Power is given to the Local Board to appoint from time to time, if they think fit, a person being a legally qualified medical practitioner or member of the medical profession, to be and be called the officer of health, who shall be removable by the Local Board, and who is to perform such duties as the *General Board* shall direct. The same person, however, may be the officer of health for two or more districts, and he is to be paid out of the district rates such remuneration by way of annual salary or otherwise as the Local Board or Boards may determine, and in case of a *joint* appointment of one officer of health for several districts in such proportions as the *General Board* may order. The appointment and removal, however, of this officer is to be subject to the approval of the *General Board*. (b)

DISTRICT MAPS.

District maps may be provided.—The Local Board may, if they think fit, cause to be prepared or procure a map exhibiting a system of sewerage for effectually draining their district, for the purposes of the act, upon a scale to be prescribed by the *General Board*, and every such map is to be kept at the office of the Local Board, and is to be open to the inspection of the rate-payers of the district at all reasonable times. (c)

The expense of the surveys, maps, or plans made, prepared, or procured by the Local Board for the purposes of the act is to be defrayed out of the general district rates. (d)

(a) Section 39.

(b) Section 40.

(c) Section 41.

(d) Section 42.

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c. 63.

SEWERS.

Rights and powers of Local Boards with respect to sewers.—All sewers of a public nature (with certain exceptions) whether existing in the district at the time of the application of the act or afterwards made, and all the buildings, works, &c. are to vest in, belong to, and be entirely under the management and control of the Local Board. (a)

The Local Board also have power to purchase the rights vested in any persons for making sewers, or to contract for the use of any sewers, &c. (b) They have also the power, not only to repair such sewers as are vested in them, but they may cause such sewers to be made as may be necessary for the effectually draining their district for the purposes of the act, and they may carry any such sewers through, across, or under any turnpike road, or any street or place laid out as or intended for a street, or under any cellar or vault which may be under the pavement or carriage-way of any street, and after reasonable notice in writing (if, upon the report of the surveyor, it should appear to be necessary), into, through, or under any lands whatsoever; and they may from time to time, enlarge, lessen, alter, arch over, or otherwise improve all or any of the sewers vested in them by this act, and discontinue, close up, or destroy such of them as they may deem to have become unnecessary, &c. (c)

The Local Board, also, are to cause the sewers vested in them to be constructed, covered, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for this purpose they may construct and place, either above or under ground, such reservoirs, sluices, engines, and other works, as may be necessary; and may cause all or any of such sewers to communicate with, and be emptied into, such places as may be fit and necessary, or to cause the sewage and refuse therefrom to be collected for sale for any purpose whatsoever, but so as not to create a nuisance. (d)

Penalty for making unauthorized sewers, and building over sewers, and under streets.—It is provided that it shall not be lawful to cause any sewer or drain to

(a) Section 43.

(b) Section 44.

(c) Section 45.

(d) Section 46.

communicate with, or to be emptied into, any sewer of the Local Board, nor to cause any building to be newly erected over any such last-mentioned sewer, nor to cause any vault, arch, or cellar to be newly built under the carriage way of any street, without the written consent of the said Local Board, under a penalty of five pounds, and a further penalty of forty shillings for every day during which the offence is continued, after notice in writing, and any such sewer, building, &c. may be pulled down, or otherwise dealt with by the Local Board, as they may deem fit, at the expense of the offender. (a)

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c. 63.

Use of sewers by persons beyond the district.—Any owner or occupier of premises adjoining or near to, but beyond, the limits of any district may cause any sewer or drain of or from such premises to communicate with any sewer of the Local Board, upon terms and conditions to be agreed upon. (b)

It should be here mentioned that full compensation is provided for subsequently by this act in respect of any damage, &c., by Local Boards.

DRAINS, PRIVIES, ETC.

The provisions relative to privies and drains, are highly important, and if strictly and properly carried out, will result in the most beneficial consequences. They are applicable to houses of two classes. Those about to be built or rebuilt, and those already built.

Drains of houses about to be built or rebuilt.—No house is to be built, nor is any to be rebuilt (if it shall have been pulled down to the ground floor), nor is any such house so built or rebuilt to be occupied, unless and until a covered drain is constructed of such size and materials, and at such level and with such fall, as, upon the report of the surveyor, shall appear to be necessary and sufficient for the proper and effectual drainage of the same and its appurtenances.

The surveyor here mentioned is undoubtedly intended to be the surveyor of the Local Board; but there is no statement as to when, to whom, or how he is to make his report. Some provision should have been made requiring him to report within a limited period, otherwise the building of the house may be

(a) Section 47.

(b) Section 48.

11 & 12 VICT. c. 63. greatly delayed for the want of this report. It is somewhat singular that the very convenient course prescribed with respect to privies, cesspools, &c. in the 53rd section, of giving notice of an intention to build, with the particulars required by that section, had not been incorporated in the present section with respect to drains.

Where such drains are to run.—If the sea or a sewer of the Local Board of Health, or a sewer which they are entitled to use, be within one hundred feet of any part of the site of the house to be built or rebuilt, the drain so to be constructed is to lead from and communicate with such one of those means of drainage as the Local Board shall direct; or if no such means of drainage be within that distance, then the last-mentioned drain is to communicate with, and be emptied into such covered cesspool or other place, not being under any house, and not being within such distance from any house, as the said Local Board shall direct. A penalty of fifty pounds is imposed for the violation of these provisions. (a)

Drains of houses already built.—If, upon the report of the surveyor, it appears to the Local Board that any house is without any drain, or without such a drain or drains communicating with the sea or a sewer, as is or are sufficient for the proper and effectual drainage of the same and its appurtenances, and if the sea or a sewer of the said Local Board be within one hundred feet of any part of such house, they are to cause notice in writing to be given to the owner or occupier of such house, requiring him forthwith, or within a reasonable time, to construct and lay down, in connexion with such house, and one of those means of drainage, one or more covered drain or drains, of such materials, size, at such level, and with such fall as upon the last-mentioned report shall appear to be necessary; and if such notice is not complied with, the Local Board may themselves do the works, and the expenses incurred by them in so doing shall be recovered by them from the owner in a summary way, or by order of the said Local Board shall be declared to be private improvement expenses, and recoverable as such. (a)

From the provisions of the section now under consideration, it appears that no house can be built or rebuilt without having a sufficient drain communicating with the sea, or sewer of the Local Board, if within one hundred feet, or with some covered cess-pool, at a certain distance from a house. And if it appears to the Local Board that any house already or afterwards built, and which has no drain, or no sufficient drain, if the sea or one of their sewers is within one hundred feet, they can compel a drain to be made communicating therewith, but not otherwise; so that if in the latter case there is no sea or local board drain within the hundred feet, the board have no power to interfere upon the subject.

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c. 63.

It will be seen by the interpretation clause, (a) that the word "house" includes schools, factories, and other buildings in which more than twenty persons are employed at one time.

Privies, waterclosets, and ashpits.—This act declares it to be unlawful newly to erect any house, or to rebuild any house pulled down to the ground-floor, without a sufficient watercloset or privy, and an ash-pit, furnished with proper doors and coverings, and imposes a penalty of not exceeding 20*l.* for a breach of the enactment; and it also provides, that if at any time, upon the report of the surveyor, it appears to the Local Board that any house actually built is without a sufficient watercloset or privy, and an ash-pit furnished with proper doors and coverings, they are to give notice in writing to the owner or occupier of such house, requiring him to provide a sufficient watercloset or privy, and an ashpit, or either of them, as the case may require, and if the notice is not complied with the Local Board may cause the same to be constructed themselves, and recover the expense in the manner pointed out. Where, however, a water-closet or privy has been used in common by the inmates of two or more houses, or if, in the opinion of the board, a watercloset or privy may be so used, they need not require the same to be provided for each house. (b)

Waterclosets or privies for each sex to be constructed in certain buildings.—By section 52, it is

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c. 63.

enacted, that if, upon the report of the surveyor, it shall appear to the Local Board that any house is used or intended to be used as a factory or building, in which persons of both sexes, and above twenty in number, are employed or intended to be employed at one time, in any manufacture, trade, or business, the board may, by notice in writing to the owner or occupier of such house, require them or either of them, within a reasonable time to be specified, to construct a sufficient number of waterclosets or privies, for the separate use of each sex, and a penalty not exceeding 20*l.* is imposed for each default, and a further penalty of forty shillings for every day of the default. (*a*)

It is apprehended that some difficulty will occasionally be experienced in duly enforcing this section, inasmuch as the owner may not be to be met with, and there may be cogent and satisfactory reasons why the occupier should not be compelled to make the alterations, or be fined for not making them. Perhaps the most convenient provision would have been a similar one to those which are inserted in the previous sections, whereby, upon default, the Local Board themselves could cause the works to be effected.

Notice to the Local Board before beginning to build.—The party intending to build or rebuild any house must give fourteen days' notice thereof to the Local Board before beginning to dig or lay out the foundation, and must state the level or intended level of the cellars or lowest floor, and the situation and construction of the privies and cesspools to be built or used in connexion with the house; and the building must not be commenced until these particulars have been approved of by the Local Board, under a penalty of 50*l.*; and the Local Board may cause such house, privy, or cesspool to be altered, pulled down, or otherwise dealt with as the case may require, at the expense of the offender. But it is provided, that if the Local Board fail to signify their approval or disapproval of the particulars, for the space of fourteen days after receiving such notice, the party may proceed according to such notice, if it is otherwise in accordance with the act. (*b*)

Duties of Local Boards with respect to drains, privies, &c., which are out of order, and a nuisance.—11 & 12 VICT.
c. 63.

Very ample and judicious powers are conferred upon the Local Board with respect to drains, privies, &c., which have become offensive and a nuisance; and it is enacted, that upon the written application of any person showing that the drain, watercloset, privy, cesspool, or ashpit, in respect of which application is made, is a nuisance, or injurious to health, the Local Board may give a written authority to the surveyor upon the subject, and after twenty-four hours' notice in writing have been given to the occupier of the premises to which the drain, &c. is attached or belongs, or in case of emergency, without such notice, the surveyor may enter the premises, with or without assistants, and cause the ground to be opened, and examine and lay open such drain, watercloset, privy, cesspool, or ashpit, and if it be found to be in proper order and condition, he is to cause the ground to be closed, and any damage done is to be made good as soon as can be, the expenses to be defrayed by the Local Board. But if upon examination, the drain, privy, &c. shall appear to be in bad order and condition, or to require alteration or amendment, he is to cause the ground to be closed, and the Local Board are to cause notice in writing to be given to the owner or occupier of the premises, requiring him to do the necessary works, and if the notice is not complied with the party is to be liable to a penalty not exceeding ten shillings for every day's default, and the Local Board may themselves execute the works at the expense of the owner. (a)

Sanitary provisions in certain districts not the subject of an order in council or provisional order.—The present act contains a clause of the most convenient and beneficial description, and which should be adopted in every instance in which it is applicable. It is the 50th, and enacts, that if it shall appear to a majority of not less than three-fifths of the rated inhabitants of any parish or place containing less than two thousand inhabitants (in which this act has not been brought into operation by virtue of any order), assembled at a public meeting to be called for

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the purpose, that it would contribute to the health and convenience of the inhabitants that any *pool, place, open ditch, sewer, drain, or place*, containing or used for the collection of any *drainage, filth, water, matter*, or thing of an offensive nature, or likely to be prejudicial to health, should be *drained, cleansed, covered, or filled up*, or that a *sewer should be made or improved, a well dug, or a pump provided for the public use of the inhabitants*, the churchwardens and overseers are to procure a plan and an estimate of the costs of executing the works, and are to lay the same before another public meeting of such rated inhabitants, and if the same shall be approved and sanctioned by a majority of the rated inhabitants assembled, such churchwardens and overseers are to cause the works to be executed, and are to pay the costs out of the poor-rates of the parish or place. The notice of these meetings must be given by the parish officers in the same way as the notices to be given by superintending inspectors, namely, fourteen days before the time, and containing a statement of the time and place of meeting, and by advertisement in some newspaper usually circulated in the place, and by causing such notice to be affixed on the doors of the principal churches, chapels, public buildings, and places where public notices are usually fixed (see sect. 9). The notice also is to contain a statement of the works proposed or intended to be submitted for consideration and approval. (a)

It will be observed, that this exceedingly useful section is made applicable only to localities where the inhabitants are less in number than two thousand, and where this act has not already been brought into operation. It will also be remarked, that it will be necessary that the majority at the first meeting should be three-fifths of the rated inhabitants,—meaning, *of those then present*, and not of the entire parish, though the language is somewhat obscure. At the second meeting, however, a bare majority alone will be sufficient to carry out the objects of the section.

FORM.

11 & 12 VICT.
c. 63.NOTICE BY PARISH OFFICERS IN PLACES NOT SUBJECT TO
THE GENERAL PROVISIONS OF THE ACT.*To the Rated Inhabitants of the Parish of*

NOTICE is hereby given, that in pursuance of "The Public Health Act, 1848," a Public Meeting of the Rated Inhabitants of the Parish of _____ will be held on _____ the _____ day of _____ at _____ o'clock in the forenoon, at _____ in the said parish, to take into consideration the propriety of [*here state the object for which the meeting is called*], as provided for by the 50th section of the before-mentioned act.

Dated this _____ day of _____ 184

Signatures of the Church- }
wardens and Overseers. }

NOTICE OF THE SECOND MEETING TO SANCTION THE
PLANS, ETC.*To the Rated Inhabitants of the Parish of*

NOTICE is hereby given, that in pursuance of "The Public Health Act, 1848," a Public Meeting of the Rated Inhabitants of the Parish of _____ will be held on _____ the _____ day of _____ at _____ o'clock in the forenoon, at _____ in the said parish, at which said meeting certain plans and estimates will be produced, in accordance with a resolution passed at a public meeting of the said rated inhabitants, held on _____ the _____ day of _____ when it was resolved by a majority of three-fifths of the said rated inhabitants then present, that [*according to the resolution*], in order that the said plans and estimates may be approved of, so that the works in respect of the same may be duly executed.

Dated this _____ day of _____ 184

Signatures of the Parish }
Officers. }

Public necessities.—Another most excellent provision is to be found in the 57th section, which gives the Local Board power to provide and maintain in proper and convenient situations, waterclosets, privies, and other similar conveniences, for public accommodation, and to defray the expenses out of the district rates. (a)

11 & 12 VICT.
c. 63.

SURFACE-CLEANSING, ETC.

Cleansing of streets—Removal of dust, rubbish—Bye-laws for the same, &c.—The Local Board are empowered to provide that all streets within their district, including the foot-pavements, are properly swept, cleansed, and watered, and that all dust, ashes, rubbish, filth, dung, and soil thereon, are collected and removed; and they are authorized to make bye-laws, with respect to the removal by the occupier, or (in case of default) by themselves, of dust, ashes, &c., collected, placed, or found in or about any house, stable, cowhouse, street, or place whatsoever, and for preventing a deposit thereof by the side of any street, or so as to be a nuisance to any person, and also with respect to the times and manner of cleansing and emptying waterclosets, privies, and cesspools. (a)

Places for the collection and deposit of dust, soil, &c.—The Local Board also may provide boxes and other conveniences for the temporary deposit and collection of dust, ashes, and rubbish, and also fit buildings and places for the deposit of the sewage, soil, dung, filth, ashes, dust, and rubbish collected by them, and all such collection is to be vested in them, and be sold and disposed of by them, and the proceeds thereof are to be carried to the district fund account. A penalty is imposed upon any person who, without the consent of the Board, collects or removes any of the foregoing. (b)

NUISANCES.

Offensive drains, ditches, &c., to be cleansed or removed, &c.—The Local Board are directed to drain, cleanse, cover, or fill up (or cause the same to be done,) all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health; and they are to cause written notice to be given to the person causing any such nuisance, or to the owner or occupier of any premises whereon the same exists, requiring him,

within a specified time, to drain, &c., any such pond, &c., or to construct a proper sewer or drain, for the discharge thereof, and on his neglect the Local Board may execute the work, and recover the expenses from him in a summary way, or as private improvement expenses; but the board may nevertheless order that the whole or a portion of the expenses incurred shall be defrayed out of the special or general district rates. (a)

11 & 12 VICT.
c. 63.

Penalties for keeping swine in improper situations, or allowing waste water to remain in cellars—Cesspools to overflow, &c.—And abatement of certain nuisances, &c.—By section 59 it is enacted, that whoever keeps any swine or pigstye in any dwelling-house, or so as to be a nuisance to any person, or suffers any waste or stagnant water to remain in any cellar or place, within any dwelling-house, for twenty-four hours after written notice from the Local Board to remove the same, and whosoever allows the contents of any watercloset, privy, or cesspool to overflow or soak therefrom, is to be liable to a penalty, for each offence, of not exceeding forty shillings, and to a further penalty of five shillings for each day's continuance. The Local Board also may abate every such nuisance at the expense of the occupier of the premises, and if at any time it appears to the inspector that any accumulation of manure, dung, soil, or filth, or other offensive or noxious matter ought to be removed, he is to give notice to the person to whom the same belongs, or to the occupier of the premises to remove it, and if it is not removed within twenty-four hours, the same will be vested in the Local Board, and is to be sold by them. (b)

Purifying and cleansing unwholesome houses.—Power is given to the Local Board, upon the certificate of the officer of health, or two medical practitioners, to cause any house which is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing, cleansing, or purifying thereof would tend to prevent or check infectious or contagious disease, to cause the same to be whitewashed, cleansed, and purified. (c)

11 & 12 VICT.
c. 63.

SLAUGHTER-HOUSES AND OFFENSIVE TRADES.

Slaughter-houses to be registered.—Every building or place used as a slaughter-house is (within three months after the application of this act, or after it is built or used,) to be registered by the owner or occupier, at the office of the Local Board, and a penalty is imposed for a violation of this provision, (a) and by a subsequent section (the 64th,) the consent of the Local Board is required before the business of a slaughterer of cattle, &c., can be newly established.

Local Board may provide slaughter-houses and make bye-laws.—Power is given to the Local Board themselves, to provide premises for the purpose of being used as slaughter-houses, and they may make bye-laws with respect to the management and charges for the use of the premises so provided, and with respect to the inspection of all slaughter-houses, and for keeping the same in a cleanly and proper state. This, however, is not to affect the rights of any persons, incorporated by act of Parliament, for the purpose of making and maintaining slaughter-houses, for the accommodation of any city, town, &c. (b)

Impure provisions—Power of inspector to seize—Penalty.—Very summary and useful powers are created for the seizure and destruction of impure animal food, by section 63, which empowers the inspector of nuisances to enter into and inspect any shop, building, stall, or place kept or used for the sale of butchers' meat, poultry, or fish, or as a slaughter-house, and to examine any animal, carcase, meat, poultry, game, flesh, or fish which may be therein; and in case any animal, &c., appear to him to be intended for the food of man, and to be unfit for such food, to seize the same, and if it should appear to a justice, upon the evidence of a competent person, that such animal, &c., is unfit for the food of man, he is to order the same to be destroyed, or to be so disposed of, as to prevent its being exposed for sale, or used for such food, and the person to whom such animal, &c., belongs, or in whose custody the same is found, is to be liable to a penalty not exceeding 10*l.*, for every animal, &c., so found. (c)

(a) Section 61.

(b) Section 62.

(c) Section 63.

Unless it should be held that the term "poultry" ^{11 & 12 VICT. c. 63.} includes "game," the inspector will have no power to enter into a shop in which *game alone* is sold, the act mentioning only places kept for the sale of butchers' meat, poultry, or fish, and his power to examine and seize is confined to such places. However this may be, it will rarely occur that game is sold anywhere else but at a poulterer's. The difficulty in relation to game will consist in determining what that state possibly can be, in which it is deemed to be *unfit* for the food of man. If the opinion of a modern epicure were taken upon the subject, it would undoubtedly be, that game never can be unfit for human food, unless it is quite fresh!

It does not appear very clearly what the inspector is to do with the impure articles when he has seized them, but inasmuch as it is a justice who is to perform the duty of condemning them, it would appear to be his duty at once to take them before such functionary, and to call in some person competent to give an opinion upon their wholesomeness.

The infliction of the penalty should be the subject of a separate inquiry, and the process and proceedings in relation to which are provided for by sections 129, 130, and 131.

Offensive trades newly established.—No business of a blood-boiler, bone-boiler, fellmonger, slaughterer of cattle, horses, or animals of any description, soap-boiler, tallow-melter, tripe-boiler, or other noxious or offensive business, trade, or manufacture, is to be newly established in any building or place after this act is applied, without the consent of the Local Board, unless the *General* Board shall otherwise direct, under certain penalties; and power is given to the Local Board to make bye-laws with respect to such businesses so newly established, in order to prevent or diminish the noxious or injurious effects thereof. (a) It is, however, declared that nothing in this act is to be so construed as to render lawful any act or thing which, but for this act, would be deemed a nuisance. (b)

(a) Section 64.

(b) Section 65.

11 & 12 VICT.
c. 63.

COMMON LODGING-HOUSES AND THE OCCUPATION
OF CELLARS, ETC.

Common lodging-houses are to be registered, inspected, &c.—All common lodging-houses are to be registered by the Local Board, in a register, in which is to be entered the name of the person applying to register the house kept by him, and the situation of it; and the Board are to make bye-laws for fixing the number of lodgers who may be received into each house, for promoting cleanliness and ventilation, and with respect to inspecting the same. It is also provided that the keeper of such house is to give access to it when required by any person who shall produce the written authority of the Local Board for the purpose of inspecting the same, or for introducing or using therein any disinfecting process, and the expenses of introducing and using any such process are to be recovered from the keeper of the house, and a penalty is imposed for any violation of this enactment. (a)

It need hardly be mentioned that the terms here made use of, of "common lodging-houses," are not to be construed to include merely boarding-houses, which are not within the mischiefs contemplated by the section.

The occupation of cellars, &c.—The 67th section, which regulates the occupation of cellars, vaults, &c., is one of the most important and useful throughout the entire act, and it would perhaps have been a greater boon, if its application had not been made dependant upon the existence of a Local Board and district. Its provisions are as follow:—That it shall not be lawful to let, or occupy, or suffer to be occupied, separately, as a dwelling, any vault, cellar, or underground room, built or rebuilt after the passing of this act, or which shall not have been so let or occupied before the passing of this act. (b) The section then goes on to deal with such premises as were so let *before* the passing of this act, and directs, that it shall not be lawful to let or continue to let, or to occupy or suffer to be occupied, separately, as a dwelling, any vault, cellar, or under-

ground room whatsoever, unless it is constructed of the dimensions, and with the conveniences, specified fully in the section. The clause then enacts, that "whosoever lets, occupies, or continues to let, or knowingly suffers to be occupied, for hire or rent, any vault, cellar, or underground room, *contrary to this act*, shall be liable, for every such offence, to a penalty not exceeding twenty shillings, for every day during which the same continues to be so let or occupied, *after notice in writing from the Local Board of Health in this behalf.*" There is afterwards a somewhat obscure proviso, that the provisions of this act, with respect to the letting, &c., of vaults, &c., shall not, so far as the same relate to vaults, &c., which shall have been let, &c., as dwellings, before the passing of this act, come into force or operation until the expiration of one year from the passing of this act, nor within any district, until the expiration of six months from the time when this act shall have been applied thereto. Parish officers are required to cause public notice of these provisions to be given. (a)

There is sufficient in this clause to lead to the belief that the Legislature intended it should have a general application, and not be limited to the localities in which a Local Board has been established, and the obvious policy of the section, and the little real necessity for the existence of a Local Board to carry it out, strongly point to this having been their intention. But whether such was or was not the purpose of the Legislature, it is but too clear that, except in districts where Local Boards are constituted, this section cannot be applied. The penalty for a breach of any of the provisions of the section is a sum not exceeding twenty shillings for every day during which the same (cellar, &c.) continues to be so let or occupied, "*after notice in writing from the Local Board of Health in this behalf.*" So that the penalty under this section is incurred only in letting or occupying the forbidden premises after this notice from the Local Board; and where, therefore, there is no Local Board no penalty can be incurred, and the section, therefore, is inoperative in any but districts in which a Local Board, under the act, exists.

11 & 12 VICT.
c. 63.

MANAGEMENT, ETC. OF STREETS.

Management of streets to be in the Local Boards.—By the 68th section it is enacted, that all present and future streets being highways within any district, and the pavements, stones, and other materials thereof, and all buildings, implements, and other things provided for the purposes thereof, by any surveyor of highways, are to vest in and be under the management and control of the Local Board, who are, from time to time, to cause all such streets to be levelled, paved, flagged, channelled, altered, and repaired, as and when occasion may require, and they may cause the soil of any such street to be raised, lowered, or altered, as they may think fit, and place and keep in repair fences and posts for the safety of foot passengers; and it is provided that whosoever wilfully displaces, takes up, or injures the pavement, stones, materials, fences, or posts of any such street without the consent of the Local Board, is to be subject to a specified penalty. (a)

Power of the Local Board to compel paving, sewer-ing, &c., of private streets.—In the case of private streets, not being a highway, the Local Board are empowered, if such street be not sewered, levelled, paved, flagged, and channelled to their satisfaction, to give a written notice to the respective owners or occupiers of the premises fronting and adjoining, or abutting upon such parts as may require to be sewered, &c., requiring them to sewer, level, &c., the same within a time to be limited, and in default the Local Board may execute the works, and the expenses are to be paid by the owners in default, according to the frontage of their respective premises, in such proportion as shall be settled by the surveyor, or, in case of dispute, as shall be settled by arbitration in manner provided by this act (see section 128, *post*), and such expenses may be recovered in a summary manner, or be declared to be private improvement expenses. (b)

Certain streets, not highways, may be declared such by the Local Board, and be repaired, &c., by them.—The Local Board may, by a public notice, declare any street not a highway, but which is sewered, &c., to their satisfaction, to be a highway, and it is then to

be repaired by them out of the rates, unless the owner of the street shall, by notice, object. (a)

11 & 12 VICT.
c. 63.

The Local Board may require gas and waterpipes to be moved.—If, for the purposes of this act, the Local Board deem it necessary to raise, sink, or otherwise alter the situation of any water or gas pipes, mains, plugs, or other water-works or gas-works, laid in or under any street, they may require the person to whom they belong to raise, &c., the same in such manner and within such time as they shall specify, at the expense of the said Local Board (or of the person belonging to the pipes, &c., if so directed by any local act), or if the notice is not complied with, the board themselves may do the works, but no such alteration is to permanently injure such pipes, &c., or prevent the water or gas from flowing as freely and conveniently as usual. (b)

New streets—Width and level—Power of Local Board in respect to.—One month before any street is newly laid out, written notice is to be given to the Local Board, showing the intended level and width thereof, and the level and width of every such street is to be fixed by the said Local Board, and it is not to be lawful to lay out, make, or build, upon any such street otherwise than in accordance with the level and width so fixed, unless, upon disapproval by the said Local Board of the level or width specified in such notice, the *General Board* shall otherwise direct, under a penalty not exceeding 20*l.* for every day during which the party shall permit such street to continue to be so improperly laid out, &c., and the Local Board may cause any such street laid out or made at a level and width otherwise than in accordance with the level and width so fixed or approved, or any building so otherwise built, to be altered in such manner as the case may require, at the expense of the offender. It is, however, provided, that if no such level or width be fixed, and no approval or disapproval of the level or width proposed be signified by the Local Board within one month from the notice, the intended street may be laid out and made upon the level and of the width specified in such notice, if the same be otherwise in accordance with the other provisions of this act. (c)

11 & 12 VICT.
c. 63.

The powers conferred upon the Local Board by this section appear to go beyond what are called for by the object contemplated. It is undoubtedly important that the board should have the power to prevent the constructing of narrow and confined streets, and if their powers had extended only to a prohibition against building streets, unless of a certain width, no objection could be urged to such a power being conferred. But the present section gives the board an absolute power (subject to an appeal to the General Board which will be of little avail) to determine what shall, in fact, be the width of the street, and thus, if the builder propose a street of a certain width, it will be quite competent for the board to interfere and say that it is *too wide*, and prescribe a narrower limit. Much evil may be effected through the medium of this section. It may often occur in corporate boroughs, that the main streets are corporate property, and the Local Boards in such cases may set their faces against the constructing of any new streets which shall come into competition with, or injure, their own property, and, with this view, may restrict the intended width of any new streets about to be built. All that the present section was intended to accomplish was the prevention of the erection of close and narrow streets, but for that purpose all that was necessary was that the board should have been invested with powers to prevent the erection of streets of *less* than a certain width, and it was wholly needless to give them a power to declare what the width should be.

The Local Board may purchase premises in order to improve streets.—The 73rd section is a most useful one, for it directs that the Local Board may by agreement purchase any premises for the purpose of widening, opening, enlarging, or otherwise improving any street, (a) and on a reference to the interpretation clause (section 2), it will be found that the word “street” has a very extensive signification.

PUBLIC PLEASURE GROUNDS.

Local Boards may provide, &c., places of public recreation, &c.—There is, perhaps, no section in the entire act more worthy of commendation than the

(a) Section 73.

74th, which has reference to the providing of pleasure grounds. The clause enacts that the Local Board, with the approval of the General Board, may provide, maintain, lay out, plant, and improve premises, for the purpose of being used as public walks or pleasure grounds, and support or contribute towards any premises provided for such purposes by any person whomsoever. (a)

11 & 12 VICT.
c. 63.

SUPPLY OF WATER.

Local Board to supply water—Contracts with water-companies, &c.—Very ample and judicious powers are conferred upon Local Boards for the purpose of securing a sufficient supply of water, whilst at the same time, no injustice is capable of being done to existing waterworks companies. The 75th section enacts, that the Local Board may provide their district with such a supply of water as may be proper for the purposes of this act and also for private purposes, and to this end they may, with the approval of the General Board, contract with any person whomsoever, or purchase, take upon lease, hire, construct, lay down, maintain such waterworks, and do and execute all such works, matters, and things as shall be necessary; and any waterworks company may contract with the Local Board to supply water for the purposes of this act, or may sell and dispose of, or lease their waterworks to, any Local Board. The section then provides for the keeping of a proper supply of water, but it enacts that before constructing or laying down any waterworks under this act, within the limits within, or in respect of which, any waterworks company shall have been established for supplying water, the Local Board is to give notice in writing to every waterworks company within whose limits the Local Board may be desirous of laying on or supplying water, stating the purposes for, and the extent to which, water is required by the said Board, and in that case it is not to be lawful for the Board to construct or lay down any waterworks within such limits, if, and so long as any such company shall be able and willing to lay on water, proper and sufficient for all reasonable purposes, upon such terms as shall

(a) Section 74.

11 & 12 VICT.
c. 63.

be certified by the *General Board*, after inquiry and report by a superintending inspector, or (in the event of the company being dissatisfied with such certificate) upon terms to be settled by arbitration. And in case, also, of any difference arising as to whether the water which the company is able and willing to supply is proper and sufficient, or whether or not the purposes for which it is required are sufficient, such difference is also to be settled by arbitration. (a)

Local Board may require houses to be supplied with water in certain cases.—If, upon the report of the surveyor, it appears to the Local Board that any house is without a proper supply of water, and that such supply can be furnished at a rate not exceeding twopence per week, they may give notice in writing to the occupier, requiring him, within a time to be specified therein, to obtain such supply, and to do all such works as may be necessary for that purpose, and if such notice is not complied with, the board may, themselves, do the works and obtain the supply, and levy water-rates upon the premises, not exceeding, in the whole, the rate of twopence per week, in the same manner as if the owner had applied for a supply of water, and the expenses incurred in doing the works are to be deemed private improvement expenses and recoverable as such. (b)

Water for Public Baths and Washhouses, or trading or manufacturing purposes.—Power is given to the Local Board to supply water from any waterworks purchased or constructed by them to any public baths or washhouses, or for trading purposes. (c)

Public cisterns for gratuitous use.—The Local Board also, may not only cause all existing public cisterns, pumps, wells, &c. used for the gratuitous supply of water to the inhabitants to be continued, but they may substitute, continue, maintain, and supply with water, other works, and may also construct any number of new cisterns, pumps, wells, &c., for the gratuitous supply of any public baths or washhouses, established otherwise than for private profit, or supported out of any poor or borough rates. (d)

Penalties for injuring waterworks.—Penalties are inflicted for injuring any waterworks under the control

(a) Section 75.
(c) Section 77.

(b) Section 76.
(d) Section 78.

of the Local Board, or constructed under this act in any parish or place, and also for wilfully and negligently wasting any water supplied. (a) 11 & 12 VICT.
c. 63.

Penalties for fouling water in reservoirs, &c.—Section 80 contains ample provisions for preventing the water in any reservoir, stream, waterwork, &c. from being rendered impure by bathing in, throwing things, or the discharge or escape of gas into it. (b)

RECEPTION HOUSES FOR THE DEAD, AND BURIAL GROUNDS.

Reception houses for the dead.—To prevent the evils sometimes occasioned by the retention of the dead in the dwelling-houses of the poor, the Local Board are empowered to provide, fit up, and make bye laws with respect to the management and charges for use of rooms or premises in which corpses may be received, and decently and carefully kept previously to interment, and they may also, upon application, make all necessary arrangements for the decent and economical interment of any corpse which may have been received into any rooms or premises so provided. (c)

Burial grounds dangerous to health may be prohibited.—This act contains two most excellent provisions relative to the security of the public health from the injurious effects of interments in certain burial grounds, and it is enacted by the first that if, upon the representation of the Local Board, and after an inquiry and report by a superintending inspector (notified as therein directed), or by such other ways as the General Board may think fit to direct, the said *General Board* shall certify that any burial ground situate within any district is in such a state as to be dangerous to the health of persons living in the neighbourhood, or that any church or other place of public worship within any such district is dangerous to the health of the persons frequenting the same, by reason of the surcharged state of the vaults or graves within the walls of, or underneath the same, and that sufficient means of interment exist within a convenient distance from such burial ground, church, or place of public worship, it shall not be lawful, after a time to be

(a) Section 79. (b) Section 70. Section 31.

11 & 12 VICT.
c. 63.

named in such certificate, to bury, or permit or suffer to be buried, any further corpses or coffins, in, within, or under the ground, church, or place of worship, to which the certificate relates, except so far as may be allowed by such certificate; and a penalty of 20*l.* is inflicted for burying there after notice of the certificate. (a)

It is a circumstance much to be regretted in connexion with this clause, that, notwithstanding it proposes to deal with and suppress one of the greatest social evils of the day, it comes short of the full ability to do so, for it will be observed that the power of the General Board to certify so as to prevent further interments is made to depend upon *the existence of sufficient means of interment within a convenient distance*, so that should no such convenient means of interment exist, the General Board have no power to prevent interments going on as before, although the public health may thereby be seriously injured. To have accomplished the full object of this section, power should have been given to the Local Board, under such circumstances, to have provided some place of interment as convenient as possible: this could easily have been accomplished. But, at all events, where the burials are found to be destructive to public health, they ought to be peremptorily forbidden, in which case, resort would be had to some other place of interment.

Prohibition as to burials in churches or grounds newly formed.—The second clause, upon the subject of burials, enacts that no vault or grave shall be constructed or made, within the walls or underneath any church or other place of public worship, in any district, nor shall any burialground be made or formed within any district without the consent of the General Board, unless the same be made or formed upon land purchased or authorized by Parliament to be appropriated for the purpose of being so used before this act, under a penalty not exceeding 50*l.* (b)

THE PURCHASE OF LAND AND CONTRACTS.

Power to Local Boards to purchase lands, &c.—The Local Board are empowered by agreement to purchase or take upon lease, sell, or exchange any lands or

premises, for the purposes of this act, and the "Lands 11 & 12 VICT.
Clauses Consolidation Act, 1845," excepting certain c. 63.
parts, and, so far as is consistent with this act is incorporated with it, and the words in that act of "the promoters of the undertaking," are to mean the Local Board of Health in this act; and any lands taken by the Local Board of a noncorporate district, are to be conveyed in trust for the purposes of this act, and are to be held by them as a body corporate. (a)

Contracts by the Local Board.—The 85th section confers upon the Local Board ample powers for entering into all necessary contracts with reference to the purposes of this act; but it provides for certain requisites when the value exceeds ten pounds, and also when it exceeds one hundred pounds. (b)

RATES.

With the view of carrying effectually into operation all the varying purposes of this enactment, the Local Board are empowered to levy certain rates, which are various in their objects and qualities, and are four in number, namely, a general district rate, a special district rate, a private improvement rate, and a water-rate.

General district rate, and district fund account.—The Treasurer of the Local Board is to keep a separate account to be called "The District Fund Account;" and the moneys carried to such account are to be applied by the Local Board in defraying such of the expenses incurred by such board in carrying the act into execution and not otherwise provided for; and they are, from time to time, as occasion may require, to make and levy in addition to any other rate, a rate or rates, to be called "General District Rates," for defraying such expenses as are charged upon that rate by this act, and such other expenses of executing this act in any district as are not provided for by any other rate. (c)

Special district rate.—Whenever any expenses are incurred or to be incurred by the Local Board in making, enlarging, altering, arching over, covering, or enclosing any sewer vested in them, or in or about any other works of a permanent nature, and executed or done for the benefit of or part of a district, the Local Board are to

(a) Section 84.

(b) Section 85.

(c) Section 87.

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c. 63.

make and levy in respect of the premises there situate, and for the benefit of which the expenses are incurred, a rate or rates to be called "Special District Rates," of such amount as will be sufficient to discharge the amount of such expenses and interest within such period (not exceeding thirty years) as the Local Board shall determine; provided that, with respect to the cost of making any new sewer, if it appear to the Local Board that any premises were sufficiently drained before the new sewer was made, the board are to deduct from the amount of rates such a sum, and for such time, as they may deem just. (a)

By section 120, an appeal to the General Board is given to a party aggrieved in any case in which the Local Board are empowered to recover expenses in a summary manner, or to declare such expenses to be private improvement expenses.

The property assessable, and how assessed.—The special and general district rates are to be made and levied upon the occupier (except in certain cases) of all kinds of property which, for the time being, are assessable to the poor-rate, and they are to be assessed upon the full net annual value of such property ascertained by the poor-rate. Power is given to the Local Board to inspect and take copies of, or make extracts from, any poor-rate, and provision is made for the event of there being no poor-rate within the district; and it is provided that the occupier of any land used as arable, meadow, or pasture ground only, or as woodlands, market gardens, or nursery grounds, and the occupier of any land covered with water, or used only as a canal or towing path for the same, or as a railway constructed under an act for public conveyance, is to be assessed in respect of the same in the proportion of one-fourth part only of such net annual value. Exemption from rating is provided for in certain cases, where, before this act, certain property was exempt by any local act. (b)

Rates may be prospective and retrospective—Apportionment of, may be for part of a district.—The special and general rates may be either prospective or retrospective, and in the case of unoccupied property, the same is still to be rated, but the rate not collected, and if afterwards occupied for a part of the time, the

occupier is to be charged a portion only of the rate, and the same where the occupier ceases to occupy before the whole rate is due. The district also, or even any street, may be divided into one or more parts for the purposes of this act, and a separate assessment may be made upon such part for all or any of the purposes for which it is formed.

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c. 63.

Private improvement rates.—Whenever the Local Board have incurred or become liable to any expenses which by this act are declared, or shall be declared by the said board to be private improvement expenses, the board may make and levy upon the occupier of the premises in respect of which the expenses have been incurred, in addition to all other rates, a rate or rates to be called “private improvement rates,” of such amount as will be sufficient to discharge such expenses, together with interest in such period (not exceeding thirty years) as the said board shall in each case determine. But if any such premises become unoccupied before the expiration of the time of the rate, the said rate is to become a charge upon, and be paid by the owner of the premises. (a)

Proportion of private improvement rate may be deducted from the rent.—If the occupier by whom any private improvement rate is paid holds the premises at a rent not less than the rack-rent, he is to be entitled to deduct three-fourths of the amount paid by him on account of such rate from the rent payable by him to his landlord, and if he holds at a rent less than the rack-rent, he is to be entitled to deduct from the rent such proportion of three-fourths of the rate as his rent bears to the rack-rent; and if the landlord from whose rent any deduction is made is himself liable to the payment of rent in respect of the same premises, and holds the same for a term of which less than twenty years is unexpired, but not otherwise, he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him, as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord of the same premises holding for a term of which twenty years are unexpired. (b)

Redemption of special district and private improvement rates.—Power is given to the owner or occupier

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of premises assessed to a special district or private improvement rate to redeem the same. (a)

Water-rate.—As respects the rates for the supply of water within a district under the act, it is provided, that whenever and so long as any premises are supplied with water by the Local Board for the purposes of domestic use, cleanliness, or drainage, they are to make and levy in addition to any other rate, a water-rate, which is to be assessed upon the net annual value of the premises; and when several houses in the separate occupation of several persons are supplied by one common pipe, the respective houses are to be charged with the payment of water-rates in the same manner as if each house had been supplied with water by a separate pipe. Provision is made for the particular cases of the Universities of Oxford and Cambridge. (b)

Water-rate payable in advance—Power to stop water in case of nonpayment of rates.—The water-rate is to be paid in advance, and whenever any person supplied with water under this act neglects to pay this water-rate due from him upon demand, the board may prevent the water from flowing into the premises of the defaulter in such manner as they may think fit, and may recover the arrears due, together with the expenses of stopping the supply. (c)

In reference to the power here given to the Local Board of stopping the supply of water, it must not be forgotten that it is the policy of this act, with the view to promoting the general health and cleanliness of the district, that every house should be well supplied with water, and to carry this out, powers are given to the board to compel the taking of a supply of water by occupiers in certain cases (sect. 76). The exercising, therefore, of the power to stop the supply of water, although in some cases it may effect the object intended by it, should never be resorted to, if it is likely permanently to deprive the premises of so desirable and necessary an article, even though the occupier may be indifferent as to whether or not there is any such supply.

Composition for, and recovery of, rates upon tenements under the annual value of 10l., &c.—By the 95th section it is enacted, that when the net annual

(a) Section 92.

(b) Section 93.

(c) Section 94.

value of the premises does not exceed 10*l.*, or when-
 ever any premises are let to weekly or monthly tenants,
 or in separate apartments, and the rents become pay-
 able, or are collected at any shorter period than
 quarterly, the Local Board may compound with the
 owner for the payment of all or any of the rates to be
 made under this act, upon such reduced estimate of
 the net annual value (not being less than two-thirds,
 or more than four-fifths at which the premises are
 assessed), as the board shall deem to be reasonable,
 and any owner who shall refuse such composition is
 to be rated to, and pay the rates assessed upon the
 same premises, and upon the default of payment of
 any rate or composition due from the owner, the
 amount may be levied upon his goods, wherever they
 may be found, or of the occupier or occupiers of the
 premises. The occupier, however, of such premises
 is not to be liable to pay any greater sum than the
 amount of the rent actually due from him for such
 premises, and he may deduct any amount paid by
 him from the rent due or becoming due, unless there
 be an agreement to the contrary. (a)

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Power to reduce or remit rates on account of poverty.
 —The Local Board have power to reduce or remit the
 payment of any rate on account of the poverty of the
 person liable to its payment. (b)

Existing agreements between landlord and tenant not to be affected.—Nothing in the act is to alter, inter-
 fere with, or affect any lease, contract, or agreement,
 which shall have been made or entered into between
 landlord and tenant before this act is applied to the
 district in which the premises are situated. (c)

Estimate to be prepared before making rates.—
 Before proceeding to make any general or special dis-
 trict rate or private improvement rate, the Local
 Board are to cause an estimate to be prepared of the
 money required for the purposes in respect of which
 the rate is required, showing various particulars
 specified in the act itself to be entered in a rate book,
 and kept at their office open to inspection. (d)

Notice of rate.—The Local Board are to give
 public notice of their intention to make any general
 or special district rate, and of the time at which it is

(a) Section 95.

(c) Section 97.

(b) Section 96.

(d) Section 98.

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intended to make it, and of the place where the statement of the proposed rate is deposited for inspection, which notice is to be given in the week immediately before the day on which the rate is intended to be made, and at least seven days previously; but in case of proceedings, to levy or recover such rate, it is not to be necessary to prove that such notice was given. (a)

It is apprehended, that, notwithstanding the last provision in the section, it will be competent for the *defendant* to show that due notice was not given. It must be carefully observed that the notice to be given under this section is to be *in the week immediately before the day on which the rate is to be made and at least seven days previously thereto*. The words "*at least seven days*" mean *seven clear days*: *Zouch v. Empsey*, 4 B. & Ald. 522; *Reg. v. The Justices of Middlesex*, 2 New Sess. Cas. 73; therefore, a notice given on a Wednesday, for the next Wednesday, will be bad, and it should be given not later than the Tuesday. So also a notice given on a Saturday for the next Monday week, would be bad, inasmuch as it would not be given in the week *immediately* before. Much care will be required in thus appointing the day for the making of the rate.

This section does not require any notice to be given with reference to a private improvement rate.

Rates to be open to inspection—Description of owner or occupier if his name unknown, and amendment of rates.—Any person interested in, or assessed to, any rate, may inspect the same, or any estimate, and take copies or extracts therefrom, without fee; (b) and whenever the name of any owner or occupier, liable to be rated, is not known, it is to be sufficient to assess and designate him in the rate as "*the owner*" or "*the occupier*" of the premises, without further description. (c)

The Local Board have power to amend any rate by inserting the name of any person claiming, and entitled to have his name inserted, or by inserting the name of any person who ought to have been assessed, or by striking out the name of any person who ought not to have been assessed, or by raising or reducing the sum at which any person has been assessed, if it

appears that the person has been under or over-rated, or by making any other alteration which will make the rate conformable to the provisions of the act, with a power of appeal by any person aggrieved, &c. (a)

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Publication and collection of rates and warrant of distress.—Section 103 directs that all rates made or collected under the authority of the act, are to be published in the same manner as poor-rates, and are to be made in such manner and form, and be collected by such persons, either together or separately, or with any other rate or tax as the Local Board shall appoint. Provision is then made for the collection of the rates, and the summoning of defaulters, and the levying the amount due by distress; (b) a form of warrant of distress is given (schedule D.), and a penalty is imposed upon the constable for neglecting or refusing to make a distress and sale pursuant thereto. (c)

SCHEDULE (D.)

Form of Distress Warrant.

To A.B. Collector of Rates, and to all Constables and Peace Officers.

County of [or Borough, &c.] } WHEREAS complaint hath been duly made
to wit. } by A.B. one of the collectors for the district
of under and by virtue of the Public Health Act, 1848,
that C. D. of, &c. hath not paid and hath refused to pay the
sum of duly assessed upon him in and by a certain rate
bearing date on or about the day of in the year of
our Lord one thousand eight hundred and although the
same hath been duly demanded of him: and whereas it appears
to me E. F. esquire, one of Her Majesty's justices of the peace
in and for the said county [or borough, &c.], as well upon the
oath of the said A. B. as otherwise, that the said sum of
hath been duly demanded in writing by him from the said C.D.
and that the said hath refused to pay the same for the
space of fourteen days after such demand made, and doth refuse
to pay the same: and whereas the said C. D. hath been duly
summoned to appear before me to show cause why the said sum
should not be paid by him, and not having shown to me any
sufficient cause why the same should not be paid, these are
therefore, in Her Majesty's name, to command you to levy the
said sum of and also the sum of the costs of pro-
ceeding to obtain this warrant, by distress and sale of the
goods and chattels of the said C. D., and your reasonable
charges of taking, keeping, and selling the said distress,

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rendering to him the overplus (if any), on demand; and if sufficient distress cannot be found of the goods and chattels of the said *C. D.*, that then you certify the same to me, together with this warrant, to the end that such further proceedings may be had therein as to the law doth appertain.

Given under my hand and seal, the day of in
the year of our Lord

(Signed) *E. F.* (L. s.)

Evidence of rates.—The production of the books purporting to contain any rate or assessment under the act is to be alone, and without any other evidence whatsoever, received as *prima facie* evidence of the making and validity of the said rates. (*a*)

The Universities.—Special provision is made with reference to the rating of the two Universities of Oxford and Cambridge. (*b*)

MORTGAGE OF RATES.

How and when rates may be mortgaged.—The Local Board may, for the purpose of defraying any costs, charges, and expenses, incurred, or to be incurred, by them in the execution of this act, borrow and take up at interest, on the credit of the rates (made under this act,) any sums of money necessary for defraying any such costs, charges, and expenses; and for the purpose of securing the repayment, together with interest, they may mortgage and assign to the person advancing the amount, the respective rates upon the credit of which the sums are borrowed, and the mortgagees are to be entitled to a proportion of the rates comprised in their respective mortgages, according to the sums mentioned in the mortgages. Each mortgagee is to be repaid the sums advanced with interest, without any preference by reason of priority of advance. The money, however, is to be borrowed only for works of a permanent nature, and is not at any time to exceed, in the whole, the assessable value for one year, of the premises assessable within the district, and it is as far as practicable to be borrowed upon the credit of the respective rates applicable to the works, matters, or things, in respect of which the money is required, and, also, only to be charged as far as practicable, upon the credit of any separate rate made for the purposes of such part, and where

(*a*) Section 106.

(*b*) Section 105.

the costs, &c. apply to two or more such parts, the money borrowed is to be equitably apportioned by the board upon any rates made for the purposes of such parts respectively. (a) (For form of mortgage, see next page.)

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Advance of public money.—The commissioners of public works, under the 5 & 6 Vict. c. 9, may make advances to the Local Board for the purposes of this act upon the security of the rates, without any further security than a mortgage of such rates. (b)

Power to borrow money to pay off former mortgages.—If the Local Board can at any time borrow money at a lower rate of interest than that secured by any mortgage previously made, and then outstanding, they may, with the consent of the mortgagee, borrow the same and pay off such higher rate of security, and mortgage the rates. (c) And if at the time appointed for payment of the mortgage the Local Board are unable to pay it off, they may borrow such sum of money as may be necessary for the purpose of paying off the whole or any part of the principal, and may secure the repayment in the same manner as by the former mortgage. (d)

Form and requisites of the mortgage-deed, and registration of same.—Every mortgage executed under the act is to be by deed, and it is truly to state the date, consideration, and the time and place of payment, and in the case of a noncorporate district, is to be sealed with the seal of the Local Board, and be signed by five or more members; and in the case of a corporate district, it is to be sealed with the common seal, and it may be in the form given in schedule (D.) There is also, in reference to this matter, to be kept, at the office of the Local Board, a register of the mortgages upon each rate, and within fourteen days after the date of any mortgage an entry is to be made in the register of the number and date of the mortgage, and of the names and description of the parties to it, which register is to be open to public inspection. (e)

Mortgage of rates to be made only with approval of the General Board.—It is, however, provided that the Local Board shall not borrow any sum of money

(a) Section 107. (b) Section 108. (c) Section 109.
(d) Section 110. (e) Section 111.

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c. 63. upon the credit of the rates without the previous consent of the General Board. (a)

SCHEDULE (B.)

Form of Mortgage of Rates.

BY virtue of the Public Health Act, 1848, the Local Board of Health for the district of _____ in consideration of the sum of _____ paid to the treasurer of the said district by A. B. of _____ for the purposes of the said act, do grant and assign unto the said A. B., his executors, administrators, and assigns, such proportion of the rates arising and accruing by virtue of the said act from [*the rates mortgaged*] as the said sum of _____ doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates, to hold to the said A. B., his executors, administrators, and assigns, from the day of the date hereof until the said sum of _____ with interest at the rate of _____ per centum per annum for the same, shall be fully paid and satisfied: And it is hereby declared, that the said principal sum shall be repaid on the _____ day of _____ at [*place of payment*]. Dated this _____ day of _____ one thousand eight hundred and _____

[*In case of a noncorporate district, to be signed by five members at least of the Local Board of Health, and sealed with their seal; in case of a corporate district, to be sealed with the common seal.*]

Transfer of mortgages and registration.—Provision is made enabling mortgagees to transfer their interests, and for the registration of the transfer. (b)

SCHEDULE (C.)

Form of Transfer of Mortgage.

I, A. B. of _____ in consideration of the sum of _____ paid to me by C. D. of _____ do hereby transfer to the said C. D., his executors, administrators, and assigns, a certain mortgage bearing date the _____ day of _____ and made by the Local Board of Health for the district of _____ for securing the sum of _____ and interest thereon at _____ per centum per annum [*or if such transfer be by endorsement on the mortgage, insert, instead of the words immediately following the word "assigns," the within security*], and all my right, estate, and interest in and to the money thereby secured, and in and to the rates thereby assigned. In witness whereof I have hereunto set my hand and seal, this _____ day of _____ one thousand eight hundred and _____

A. B. (L. s.)

Payment of interest and redemption of principal.— 11 & 12 VICT.
The interest due upon any mortgage (unless otherwise c. 63.
provided for) is to be paid half-yearly.

In order to pay off the principal money borrowed the Local Board are, in every year, until this is accomplished, to appropriate and set apart, as a sinking fund, such sum as, together with interest accruing thereon, will, in thirty years, amount to a sum sufficient to repay the money borrowed; and they are from time to time to cause such sinking fund and interest to be invested in the purchase of Exchequer Bills or other government securities, and to be increased by accumulation in the way of compound interest or otherwise; and whenever they are enabled to pay off one or more of the mortgages charged upon the same rate, and are not able to pay off the whole, they are (in default of arrangement) to decide by lot the order in which the same are to be paid off. (a)

Receiver of rates may be appointed in certain cases.
—If the interest or principal is due and unpaid for six months the mortgagee may, in certain cases, apply to two justices for the appointment of a receiver, and they may accordingly appoint such receiver to collect the rates liable to the payment until the amount due is satisfied, &c. (b)

BYE-LAWS.

How made, enforced, confirmed, &c.—Every Local Board is invested with full powers, under certain restrictions, to frame bye-laws for the purposes of the act; but they are to be in writing, under their seal, and signed by five of the board, or in a corporate district, under the common seal. But such bye-laws are not to be of any force until they have been submitted to, and confirmed by, one of the principal Secretaries of State, who is empowered to allow or disallow the same, and no such bye-laws are to be confirmed unless notice of intention to apply for confirmation shall have been given, as directed, one month before the application, and a copy of the proposed bye-laws is to be kept at the office of the Local Board for the inspection of the rate-payers for one

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month before the application, with power for any rate-payer to obtain a copy on payment. (a)

Bye-laws to be printed.—The bye-laws, when confirmed, are to be printed and hung up in the office of the Local Board, and copies are to be delivered to any rate-payer of the district upon his application. (b)

POWERS OF SURVEYORS OF HIGHWAYS TRANSFERRED TO THE LOCAL BOARD.

Local Board to be surveyors of highways.—The Local Board are exclusively to execute the office of, and be, surveyors of the highways, and are to have all the powers, &c., which any surveyor now has, or may hereafter be invested with, except so far as such duties may be inconsistent with this act, and the inhabitants of any district are not to be liable, in respect of any property situate therein, to the payment of any highway-rate or other payment (not being a toll), in respect of making or of repairing roads or highways, within any parish, &c., situate beyond the limits of such district. Provision, however, is made for the recovering, by the old surveyors, of arrears due, and it is also provided that neither the allowance by justices, nor the signature of the Local Board of Health shall be necessary in case of any rate made by the Local Board under this act. (c)

Existing liabilities to make sewers, &c, not to be discharged.—The liabilities of any persons to contribute towards or defray the expense of making, completing, maintaining, &c., any sewer, walls, or works, for protecting the land against the force or encroachments of the sea, or of paving, &c., any street, &c., within the district is continued, if incurred before the act is applied, and the rates to be levied under this act are to be made only for the purposes to which such liability does not extend. (d)

GENERAL SUPERINTENDENCE, ETC.

Appeal to the General Board in certain cases.—If in any case in which the Local Board are empowered to recover any expenses incurred by them in a summary manner, or to declare such expenses to be private improvement expenses, any person shall deem himself aggrieved by the decision of the said Local Board, he

(a) Section 115.

(c) Section 117.

(b) Section 116.

(d) Section 118.

may, within seven days after notice of such decision, address a memorial to the General Board, stating the grounds of his complaint, and the General Board may make such an order in the matter as they may think equitable, which is to be binding and conclusive, and if the Local Board have proceeded to recover such expenses in a summary manner, the General Board may direct the Local Board to pay to the party such sum as they may consider to be a just compensation. (a) It will be remembered that there is an appeal also given to the General Board against the decision of the Local Board, under section 72.

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c. 63.

Superintending inspector may summon witnesses and call for plans, rates, &c.—During any inquiry by a superintending inspector under this act, he may summon before him any persons whomsoever, and examine them upon oath or otherwise, touching any matters relating to the purposes of the inquiry, and he may, by any such summons, require any parochial officer, or any officer of, or acting under, any corporation, guardians, or directors of the poor, and any commissioner, trustee, officer, or person acting under any local act in force within the district, to produce any surveys, plans, sections, rate-books, or other like documents, which may, by reason of their office, be in their custody or control, touching the matter relating to the purposes of the inquiry, and he may examine, inspect, or take copies of such books, &c. Disobedience in any of these particulars is punishable by a penalty of not exceeding 5*l.*; but no person is to be required to attend unless the reasonable charges of his attendance shall have been paid or tendered to him, nor is any one to be required to travel more than ten miles from his place of abode. (b)

The provision at the latter end of this section for the payment of the witnesses' expenses is somewhat obscure, from its not stating by whom, and out of what fund, the payment is to be made. In very many cases the inquiry by the superintending inspector must of necessity be a very protracted and difficult one, involving a careful and patient examination of many witnesses and documents, particularly where there are several local acts and interests to be considered, and it may be necessary to require the presence of many

(a) Section 120.

(b) Section 121.

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medical and legal men, besides others, to enable the inspector to arrive at a proper conclusion, and frame a satisfactory report. Who, then, is, in such a case, or in any case, to pay the expenses of these witnesses? We apprehend it must be the inspector himself who is to do it, as well as to defray all the other expenses of the inquiry, being reimbursed by virtue of the seventh section, which enables the Treasury to allow him such reasonable travelling and *other expenses* as may be incurred by him in the performance of the duties of his office.

There is, indeed, a singular vagueness in this act as to the costs of the preliminary inquiry. In many cases the inquiry will not be followed by the adoption of the act, in many others it must be followed by a provisional order and another act of Parliament, in the first of which cases the costs cannot be obtained from the locality at all, and in the next only after the passing of the act, confirming the provisional order (section 11). But these inquiries will involve a very considerable outlay, and we can find no provision for furnishing the means, anterior to the inquiry, to meet it. The General Board have no funds at their command, nor does there appear to be any power enabling them to require advances from the Lords of the Treasury.

As to auditing accounts.—Very complete and satisfactory provisions are made for the auditing of the accounts of each district by the borough auditors, in the case of corporate boroughs, or the poor-law auditors in noncorporate districts. (a)

ARBITRATION.

Mode of referring matters to arbitration.—Very many of the subjects of dispute under this act are, as we have seen, directed to be referred to arbitration, and, for the purpose of carrying out this object, several clauses have been introduced into the act, the first of which (sect. 123) enacts that in case of dispute as to the amount of compensation to be made under this act (except where otherwise provided for), and in case of any matter which is authorized to be settled by arbitration, then, unless both parties concur in the appointment of a single arbitrator, each party, on the

(a) Section 122.

request of the other, is to appoint an arbitrator to whom the matter is to be referred (to be appointed as therein specified), and such appointment is to be delivered to the arbitrators, and not to be revoked except by the consent of both parties, and if, for the space of fourteen days after any such matter shall have arisen, and notice in writing has been given by one party,—who has himself appointed an arbitrator to the other, stating the matter to be referred, and accompanied by a copy of such appointment,—the other party shall fail to appoint an arbitrator, the arbitrator appointed by the party giving the notice, is to be deemed to be appointed on behalf of both parties, and the award of the arbitrator or arbitrators is to be binding, final, and conclusive upon all persons to all intents and purposes. (a)

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c. 63.

Death of one arbitrator, or of a single arbitrator.—If, before the determination of any matter so referred, any arbitrator die or refuse, or becomes incapable to act, another arbitrator may be appointed by the party (as provided by the act), and, in case a single arbitrator becomes incapable to act before the making of his award, or fails to make his award within twenty-one days after his appointment, or within such extended time, if any, as shall have been duly appointed by him for that purpose, the matters referred to him are again to be referred to arbitration. (b)

Appointment of an umpire, and time within which an award is to be made.—Provision is made for the appointment of an umpire, (c) and it is enacted that the time for making an award shall not be extended beyond the period of three months from the date of the submission, or from the day on which the umpire shall have been appointed. (d)

Powers of arbitrator—Submission may be made a rule of court.—The arbitrator, &c. appointed may require the production of such documents in the possession or power of either party as he may think necessary, and may examine the parties or their witnesses on oath, and the costs of and consequent upon the reference are to be in the discretion of the arbitrator, and any submission may be made a rule of court. (e)

(a) Section 122. (b) Section 124. (c) Section 125.

(d) Section 126. (e) Section 127.

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c. 63.

Declaration to be made by arbitrator or umpire.—Before any arbitrator or umpire enters upon any reference he is to make and subscribe a declaration (set out in the section) before a justice, which is to be annexed to the award. (a)

The proceedings upon an arbitration under this act, will, in no material particular, vary from the usual and ordinary proceedings upon a reference, the rules and law applicable to which should be well observed.

LEGAL PROCEEDINGS.

Damages, penalties, &c., how to be recovered.—In all cases in which the amount of any damages, costs, or expenses is, by the act, directed to be ascertained and recovered in a summary manner, the same may be ascertained and recovered before two justices, together with such costs as the justices may think proper, with power of distress on nonpayment; and any penalty imposed by or under the act, or by any bye-laws made under it, the recovery of which is not otherwise provided for, may also be recovered before two justices, together with costs, with a power of distress on nonpayment, or in default of distress, imprisonment for a term not exceeding three months. (b)

Form of conviction.—The act supplies a form of conviction given in schedule (E.), and directs that any conviction so drawn up shall be valid and effectual. (c)

SCHEDULE (E.)

Form of Conviction.

County of , } BE it remembered, that on the day
[or Borough, &c. } of in the year of our Lord
to wit. A. B. is convicted before me [or us]
one [or two] of Her Majesty's justices of the peace in
and for the county [or borough, &c.] of [here describe
the offence generally, and the time and place when and where
committed, in the words of this act, or as near thereunto as may
be], contrary to the Public Health Act, 1848; and I [or we]
do adjudge that the said A. B. hath forfeited for his said
offence the sum of [amount of penalty adjudged], and that he do
pay to C. D. the further sum of as and for his costs in
this behalf.

Given under my hand and seal [or our hands and seals], the
day and year first above written.

(Signed)

(L. S.)

(L. S.)

Mode of proceeding before justices.—Section 131 provides for and regulates the mode of proceeding before justices under this act, which does not very materially vary from the ordinary course. (a) And it is provided that justices, being also members of the Local Board, may, if acting in petty sessions, notwithstanding their being such members, exercise the jurisdiction vested in them as such justices under the act. (b)

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Who to sue—Common informers—Time of proceeding—Application of penalties.—No proceedings for the recovery of any penalty are to be taken by any person other than the party aggrieved or the Local Board, or by the churchwardens and overseers (where any such penalty is directed to be paid to the latter), without the consent in writing of the Attorney-General, and no penalty is to be recovered unless proceedings for its recovery shall have been commenced within six calendar months after the commission or occurrence of the offence; and if the application of the penalty is not otherwise provided for, one half is to go to the informer, and the remainder to the Local Board; but if the Local Board be the informer they are to be entitled to the whole penalty, to be placed to the district fund account. (c) The liability, however, of any person to any penalty is not to relieve him from any other liability to which he would have been liable if this act had not passed. (d)

Appeal to the Quarter Sessions.—Any person who may think himself aggrieved by any rate, or by any order, conviction, judgment, or determination of, or by any matter or thing done by any justice in any case in which the penalty imposed or the sum adjudged exceeds twenty shillings, may appeal to the Court of General or Quarter Sessions, holden next after the making of the rate objected to or accrual of the cause of complaint. But the appellant is not to be heard in support of the appeal unless within fourteen days after the making and publication of the rate appealed against, or accrual of the cause of complaint be give to the Local Board or justice or justices by whose act he may think himself aggrieved, notice in writing, stating his intention to bring such appeal,

(a) Section 131.

(b) Section 132.

(c) Section 133.

(d) Section 134.

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together with a statement in writing of the grounds of appeal. And the sessions, upon determining the appeal, may award such costs to either party as they may think proper, and the determination is to be conclusive. It is, however, provided that if there be not time to give such notice, and enter into such recognizance before such sessions, then the appeal may be made to, and such notice, statement, and recognizance be given and entered into for the next sessions at which the appeal can be heard; and it is also provided that on the hearing no grounds are to be gone into or entertained other than those set forth in such statement. (a)

It may be at once observed that the reference in this section to a recognizance is unmeaning and may be rejected. We have reason for believing that it was the intention of the framer of this clause that the appellant should enter into a recognizance to try his appeal and abide by the result, in analogy to many other enactments in which a power of appeal is given, and that such a provision would have formed part of the present clause, but for its accidental omission by the printers.

The right of appeal, it will be observed, is given in all cases of rates, but only against an order, conviction, judgment, or determination, &c. of justices in which the penalty imposed, or sum adjudged, shall exceed the sum of *twenty shillings*.

The appeal is to be to the General or Quarter Sessions holden next after the making of the rate objected to, or accrual of the cause of complaint. The *next sessions* mean the next practicable sessions: *Reg. v. The Justices of Kent*, 8 A. & E., 639; *Reg. v. The Justices of Surrey*, 2 New Sess. Cas., 155. The present statute requires that notice of intention to appeal shall be given within fourteen days after the accruing of the ground of appeal, the appellant has that time, therefore, to determine upon whether or not he will appeal, and if, after he has given such notice, there are not days sufficient left to give the notice of appeal, pursuant to the practice of the sessions, before the next sessions commence, he will be justified in appealing to the subsequent sessions; thus, should the practice of the sessions require eight days'

notice of appeal, and a conviction takes place on the first of January and the next sessions are to be holden on the twelfth, such sessions may or may not be the next practicable sessions, accordingly as he gives or does not give his notice, so that eight days should remain after such giving of the notice, and before the sessions. He would not be bound to give it until the last of the fourteen days, when the sessions would have passed, but if he chooses to give it so that the number of days required by the practice of the sessions would remain, he must then actually appeal to those sessions.

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The notice to be given by the appellant is to be in writing, together with a statement of the grounds of appeal. When the respondents are the Local Board (as in the case of an appeal against a rate), a notice must be given to that body, but when the justices are the respondents (as in the case of an appeal against a conviction), a notice and grounds must be given to each: *Reg v. Justices of Bedfordshire*, 11 A. & E. 138.

Power of sessions upon appeals against rates.—The sessions, upon an appeal against a rate, have the same power to amend or quash any rate or assessment, and to award costs between the parties to the appeal as in the case of poor-rates, and the costs may be recovered in the same way. But it is provided that, notwithstanding the quashing of any rate, all moneys charged by such rate shall, if the sessions shall so think fit, be levied as if no appeal had been made, and such moneys, when paid, shall be taken as payment on account of the next effective rate, for the purposes for which the quashed rate was made. (a)

Defects in form, in rates, convictions, &c. immaterial—*No certiorari.*—No rate nor any proceeding to be had touching the conviction of any offender against this act, nor any order, award, or other matter, or thing whatsoever, made, done, or transacted, in, or relating to the execution of this act, is to be quashed or set aside for want of form, or be removed or removable by *certiorari* or other writ or process whatsoever, into any of the superior courts. (b)

Legal proceedings in the case of noncorporate districts—*In whose name.*—The Local Board may sue in the name of the clerk for the time being, for or con-

(a) Section 136.

(b) Section 137.

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c. 63.

cerning any contract, matter, or thing whatsoever, relating to any property, works, or things, vested in them by this act, or relating to any matter or thing entered into or done under this act; and in any action of ejectment brought by them, it is to be sufficient to lay the demise in the name of the said clerk; and in proceedings for stealing, or wilfully injuring, or otherwise improperly dealing with, any property, &c. belonging to them, or under their management, it is to be sufficient to state generally, that the property in respect of which the proceeding is instituted, is the property of the said clerk. So, also, it is enacted, that all legal proceedings *against* the Local Board may be preferred, instituted, and carried on in the name of the clerk, and no proceedings are to abate by reason of his death, and he is to be reimbursed out of the general district rates, for all costs, &c. that he shall be put to, by reason of his name being so used. (a)

Notice of action.—No writ or process is to be sued out against any superintending inspector, or any officer, or person acting in his aid, or under the direction of the General Board of Health, nor against the Local Board of Health, or any member thereof, or the officer of health, clerk, surveyor, inspector of nuisances, or other officer, or person whomsoever, acting under the direction of the said Local Board for anything done, or intended to be done, under the provisions of this act, until the expiration of one month next after notice in writing shall have been delivered to him, or left at their or his office or usual place of abode, clearly and explicitly stating the cause of action, and the name and place of abode of the intended plaintiff and of his attorney or agent in the cause; and upon the trial the plaintiff is not to be permitted to go into evidence of any cause of action which is not stated in the said notice, and unless such notice be proved, the jury are to find for the defendant. (b)

The importance of a strict compliance with all the requisites of this enactment will be at once understood, when it is remembered that a failure in any one of them may subject the plaintiff to have a verdict returned against him at the trial.

This section is not made to apply to justices of the peace, inasmuch as actions against them are provided for by the 11 & 12 Vict. c. 44, the 9th section of which regulates the notice to be given (and which slightly varies from that provided for under the present act), and will be the proper notice to be given in cases in which the action is intended to be brought against a justice. The whole of the act, however, of the 11 & 12 Vict. c. 44, should be carefully consulted, before instituting legal proceedings against a magistrate.

11 & 12 Vict.
c. 63.

Limitation of action—Venue—Plea—Tender of amends, &c.—The same section (139) proceeds to enact that every such action shall be brought or commenced within six months next after the accrual of the cause of action, and not afterwards, and shall be laid and tried in the county or place where the cause of action accrued, and not elsewhere, and the defendant is to be at liberty to plead the general issue, and give this act and all special matter in evidence under it; amends, also, may be tendered to the plaintiff, his attorney, or agent, at any time within one month after service of the notice, and in case the same is not accepted, the party may plead such tender in bar, and (by leave of the court) with the general issue, or other plea or pleas, and if, upon issue joined upon any plea pleaded to the whole action, the jury find generally for the defendant, or if the plaintiff be nonsuited, or discontinue, or if judgment be given for the defendant, then the defendant shall be entitled to full costs of suit, and have judgment accordingly; and in case amends have not been tendered, or in case the amends tendered be insufficient, the defendant may, by leave of the court, at any time before trial, pay into court, under plea, such sum of money as he may think proper, and (by like leave) may plead the general issue, or other plea or pleas. (a)

It may not be improper here again to observe, that these provisions do not apply to justices, and that in the event of any proceedings intended to be had against them, the 11 and 12 Vict. c. 44, should be consulted.

Upon reading this section much doubt arises as to whether or not the jurisdiction of the County Courts, under the 9 & 10 Vict. c. 95, is ousted. There is

(a) Section 139.

11 & 12 VICT.
c. 63.

certainly no express ousting of jurisdiction, but the language of the entire section appears to point to an action in one of the superior courts. It speaks of writ or process—not naming summons (though perhaps a summons would be included in the term “process”)—and of the plaintiff’s attorney or agent, the *jury* finding for the defendant, the regulations as to pleading, full costs of suit, &c., all of which appears to have reference to an action in one of the courts of Westminster Hall. It is, however, a very questionable matter, whether or not the jurisdiction of the County Courts is intended to be ousted.

Persons acting in the execution of this act not to be personally liable.—Protection is given to parties acting *boná fide* in the execution of this act, against personal liability. (a)

MISCELLANEOUS PROVISIONS.

Orders in council and provisional orders may be amended, &c.—Any order in council may be amended by a subsequent order in council, and the General Board, if they think fit, may alter or amend any provisional order or alter or extend the boundaries of any district by any subsequent provisional order. But no order in council or provisional order as last-mentioned, is to be made until such proceedings have been taken, in and with respect to the districts and parts to be affected, as are before required to be taken previously to the original constitution of a district, and no such provisional order is to be of any force without the previous authority of Parliament as before prescribed. (b)

Publication of orders—Orders and reports to be laid before Parliament.—All orders in council are to take effect within the district from a day to be specified in such order for that purpose, and a copy of every such order is to be published in the *London Gazette*, and to be laid before Parliament, and whenever any provisional order is submitted to Parliament for confirmation, the General Board are to present to both Houses, a copy of all reports of any superintending inspector, with respect to the parts to which the provisional order relates, and all memorials forwarded to the board with respect to such report. (c)

Entry upon lands for the purposes of this act.—In 11 & 12 VICT.
 case it shall become necessary to enter, examine, or c. 63.
 lay open, any lands or premises for the purpose of making plans, surveying, measuring, taking levels, examining works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and the owner or occupier shall refuse to permit the same to be entered upon &c., the Local Board may, upon notice to such owner or occupier, apply to two justices for an order authorizing the members of such board, and the superintending inspector, surveyor, and inspector of nuisances or any of them, to enter, examine, and lay open, the said lands and premises for the said purposes, and if no sufficient cause is shown, the justices may make an order accordingly, and the Local Board, &c. or any person authorized by them, may, between ten and four, enter, examine, or lay open, the lands or premises mentioned in the order. Provided, however, that, except in cases of emergency, no entry is to be made or works commenced under the powers of this enactment, unless twenty-four hours at least previously, notice of the intended entry, and of the object thereof, be given to the occupier of the premises. (a)

Compensation by Local Board in case of damage.—Full compensation is to be made out of the general or special district rates to all persons sustaining any damage by reason of the exercise of any of the powers of this act, and in case of dispute as to the amount, the same is to be settled by arbitration; or, if the compensation claimed does not exceed the sum of 20*l.* the same may be ascertained by and recovered before justices in a summary manner. (b)

Sewers, &c. of commissioners—Private watercourses, &c.—The Local Board are restrained from using, interfering with, &c., any sewers, &c., made under the authority of any commissioners of sewers, appointed by the Crown, or made for the purpose of draining land, under any local or private act of Parliament, or for the purpose of irrigating land, or from using any watercourse, stream, river, dock, basin, wharf, quay, or towing-path, in which the owner or occupier of any lands, mills, mines, or machinery, or the proprietors or

(a) Section 143.

(b) Section 144.

11 & 12 VICT.
c. 63.

undertakers of any canal navigation shall or may be interested, without consent in writing, &c. (a)

Local Board may allow time for certain payments.—The Local Board are empowered, in cases in which they have incurred expenses for the repayment of which the owner of premises is liable, to allow time for such repayment, and receive it by annual instalments, not being less than one-thirtieth part of the entire sum with interest. (b)

False evidence—Perjury.—Every person who, upon any examination on oath under this act, wilfully and corruptly gives false evidence, is to be liable to the penalties of perjury. (c)

Penalty for obstructing officers, defacing boards, &c.—Whoever wilfully obstructs any superintending inspector, or any member of the Local Board, or any officer or person duly employed in the execution of this act, or destroys, pulls down, injures or defaces any board upon which any bye-law, notice, or other matter is inscribed, is (if the same were put up by the authority of the Local or General Board) to be liable, for every offence, to a penalty not exceeding 5*l.* (d)

Occupier preventing execution of the works, &c.—If the occupier of any premises should prevent the owner from obeying or carrying into effect the provisions of this act, any justice to whom application is made by an order in writing (which may be according to the form in the schedule F.), is to require such occupier to permit the execution of the works required, provided the same appear to the justice to be such as are necessary for the purpose of obeying the provisions of this act; and if, within a reasonable time after the making of such order, the occupier shall refuse to comply therewith, he is to be liable to a penalty of not exceeding 5*l.* for every day of his refusal. (e)

SCHEDULE (F.)

Form of order to permit execution of works by owners.

County of	}	WHEREAS complaint hath been made to me,
[or Borough, &c.]		<i>E. F.</i> Esquire, one of Her Majesty's justices
to wit.		of the peace in and for the county [or borough,
&c.] of		by <i>A. B.</i> , owner, within the meaning of the
Public Health Act, 1848, of certain premises, to wit, a house		

(a) Section 145. (b) Section 146. (c) Section 147.

(d) Section 148. (e) Section 148.

[*as the case may be*] situate in street, [*as the case may be*] in the parish of in the said county [*or borough, &c.*,] that *C. D.*, the occupier of the said premises, doth prevent the said *A. B.* from obeying and carrying into effect the provisions of the said act, in this, to wit, that the said *C. D.* doth prevent the said *A. B.* from [*here describe the works generally, according to circumstances, for instance, thus:* constructing and laying down, in connexion with the said house, a covered drain, so as to communicate with a [*sewer or drain*] of the Local Board of Health of the district of [*or a sewer, &c.*, which the Local Board of Health of the district of are entitled to use, *as the case may require*], such sewer being within one hundred feet of the said house]: and whereas the said *C. D.*, having been duly summoned to answer the said complaint, and not having shown sufficient cause against the same, and it appearing to me that the said works are necessary for the purpose of enabling the said *A. B.* to obey and carry into effect the provisions of the said act, I do hereby order that the said *C. D.* do permit the said *A. B.* to execute the same in the manner required by the said act.

Given under my hand and seal, this day of
in the year of our Lord one thousand eight hundred and
E. F. (L. S.)

Occupiers to disclose owners' names.—A penalty is imposed upon any occupier who, upon being required on the behalf of the Local Board to disclose the name of the owner of the premises, shall refuse, or wilfully mis-state the same. (a)

Consents of General and Local Boards of Health to be in writing.—Whenever the consent, sanction, or approval, or authority of the General Board is required by this act, the same is to be in writing, under their seal and the hands of two or more of their members; and whenever the like is required of the Local Board, it is (in the case of a noncorporate district) to be in writing, under their seal, and the hands of five or more of them, or (in the case of a corporate district) under their common seal. (b)

Service of summonses, notices, &c.—Any summons, notice, suit, or proceeding of any kind to be served upon the Local Board, may be so served by being left at or sent through any post-office, directed to the Local Board of Health at their office, or by being delivered there to the clerk personally; and in all cases in which any notice is, by this act, required to be given to the owner or occupier of any premises, it is to be sufficient

(a) Section 148.

(b) Section 149.

11 & 12 VICT.
c. 63.

to address the notice by the description of the "owner" or the "occupier" (as the case may require) of the premises (naming them), without further name or description; and it is to be served upon them either personally or by delivering the same to some inmate, at their place of abode, &c. But if the owner's place of abode be not within the district the notice may be transmitted through the post. (a)

Exemption from stamp duty and window duty.—No advertisement inserted by the General or Local Board, nor any deed, award, submission, instrument, contract, agreement or writing, made or executed by the General or Local Board, their officers or servants, under this act, nor any appointment by the General or Local Board of any officer or person under this act, is to be charged with any stamp duty; and in case any vault, cellar, or underground room of any house containing, at the time of the passing of this act, seven windows or lights only, shall have been let or occupied separately as a dwelling, before the passing of this act, without any external window, as is required with respect to the letting and occupying of vaults, &c., and it shall become necessary, by reason of this act, to make such external window, the making of such is not to render any person liable, in respect of such house, to the duties payable for a house of eight windows or lights. (b)

(a) Section 150.

(b) Section 151.

THE
PUBLIC HEALTH ACT,

1848 ;

(11 & 12 Vict. c. 63.)

11 & 12 Vict.
c. 63.

together with a statement in writing of the grounds of appeal. And the sessions, upon determining the appeal, may award such costs to either party as they may think proper, and the determination is to be conclusive. It is, however, provided that if there be not time to give such notice, and enter into such recognizance before such sessions, then the appeal may be made to, and such notice, statement, and recognizance be given and entered into for the next sessions at which the appeal can be heard; and it is also provided that on the hearing no grounds are to be gone into or entertained other than those set forth in such statement. (a)

It may be at once observed that the reference in this section to a recognizance is unmeaning and may be rejected. We have reason for believing that it was the intention of the framer of this clause that the appellant should enter into a recognizance to try his appeal and abide by the result, in analogy to many other enactments in which a power of appeal is given, and that such a provision would have formed part of the present clause, but for its accidental omission by the printers.

The right of appeal, it will be observed, is given in all cases of rates, but only against an order, conviction, judgment, or determination, &c. of justices in which the penalty imposed, or sum adjudged, shall exceed the sum of *twenty shillings*.

The appeal is to be to the General or Quarter Sessions holden next after the making of the rate objected to, or accrual of the cause of complaint. The *next* sessions mean the next practicable sessions: *Reg. v. The Justices of Kent*, 8 A. & E., 639; *Reg. v. The Justices of Surrey*, 2 New Sess. Cas., 155. The present statute requires that notice of intention to appeal shall be given within fourteen days after the accruing of the ground of appeal, the appellant has that time, therefore, to determine upon whether or not he will appeal, and if, after he has given such notice, there are not days sufficient left to give the notice of appeal, pursuant to the practice of the sessions, before the next sessions commence, he will be justified in appealing to the subsequent sessions; thus, should the practice of the sessions require eight days'

notice of appeal, and a conviction takes place on the first of January and the next sessions are to be holden on the twelfth, such sessions may or may not be the next practicable sessions, accordingly as he gives or does not give his notice, so that eight days should remain after such giving of the notice, and before the sessions. He would not be bound to give it until the last of the fourteen days, when the sessions would have passed, but if he chooses to give it so that the number of days required by the practice of the sessions would remain, he must then actually appeal to those sessions.

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c. 63.

The notice to be given by the appellant is to be in writing, together with a statement of the grounds of appeal. When the respondents are the Local Board (as in the case of an appeal against a rate), a notice must be given to that body, but when the justices are the respondents (as in the case of an appeal against a conviction), a notice and grounds must be given to each: *Reg v. Justices of Bedfordshire*, 11 A. & E. 138.

Power of sessions upon appeals against rates.—The sessions, upon an appeal against a rate, have the same power to amend or quash any rate or assessment, and to award costs between the parties to the appeal as in the case of poor-rates, and the costs may be recovered in the same way. But it is provided that, notwithstanding the quashing of any rate, all moneys charged by such rate shall, if the sessions shall so think fit, be levied as if no appeal had been made, and such moneys, when paid, shall be taken as payment on account of the next effective rate, for the purposes for which the quashed rate was made. (a)

Defects in form, in rates, convictions, &c. immaterial—*No certiorari.*—No rate nor any proceeding to be had touching the conviction of any offender against this act, nor any order, award, or other matter, or thing whatsoever, made, done, or transacted, in, or relating to the execution of this act, is to be quashed or set aside for want of form, or be removed or removable by *certiorari* or other writ or process whatsoever, into any of the superior courts. (b)

Legal proceedings in the case of noncorporate districts—*In whose name.*—The Local Board may sue in the name of the clerk for the time being, for or con-

(a) Section 136.

(b) Section 137.

11 & 12 VICT.
c. 63.

cerning any contract, matter, or thing whatsoever, relating to any property, works, or things, vested in them by this act, or relating to any matter or thing entered into or done under this act; and in any action of ejectment brought by them, it is to be sufficient to lay the demise in the name of the said clerk; and in proceedings for stealing, or wilfully injuring, or otherwise improperly dealing with, any property, &c. belonging to them, or under their management, it is to be sufficient to state generally, that the property in respect of which the proceeding is instituted, is the property of the said clerk. So, also, it is enacted, that all legal proceedings *against* the Local Board may be preferred, instituted, and carried on in the name of the clerk, and no proceedings are to abate by reason of his death, and he is to be reimbursed out of the general district rates, for all costs, &c. that he shall be put to, by reason of his name being so used. (a)

Notice of action.—No writ or process is to be sued out against any superintending inspector, or any officer, or person acting in his aid, or under the direction of the General Board of Health, nor against the Local Board of Health, or any member thereof, or the officer of health, clerk, surveyor, inspector of nuisances, or other officer, or person whomsoever, acting under the direction of the said Local Board for anything done, or intended to be done, under the provisions of this act, until the expiration of one month next after notice in writing shall have been delivered to him, or left at their or his office or usual place of abode, clearly and explicitly stating the cause of action, and the name and place of abode of the intended plaintiff and of his attorney or agent in the cause; and upon the trial the plaintiff is not to be permitted to go into evidence of any cause of action which is not stated in the said notice, and unless such notice be proved, the jury are to find for the defendant. (b)

The importance of a strict compliance with all the requisites of this enactment will be at once understood, when it is remembered that a failure in any one of them may subject the plaintiff to have a verdict returned against him at the trial.

This section is not made to apply to justices of the peace, inasmuch as actions against them are provided for by the 11 & 12 Vict. c. 44, the 9th section of which regulates the notice to be given (and which slightly varies from that provided for under the present act), and will be the proper notice to be given in cases in which the action is intended to be brought against a justice. The whole of the act, however, of the 11 & 12 Vict. c. 44, should be carefully consulted, before instituting legal proceedings against a magistrate.

11 & 12 VICT.
c. 63.

Limitation of action—Venue—Plea—Tender of amends, &c.—The same section (139) proceeds to enact that every such action shall be brought or commenced within six months next after the accrual of the cause of action, and not afterwards, and shall be laid and tried in the county or place where the cause of action accrued, and not elsewhere, and the defendant is to be at liberty to plead the general issue, and give this act and all special matter in evidence under it; amends, also, may be tendered to the plaintiff, his attorney, or agent, at any time within one month after service of the notice, and in case the same is not accepted, the party may plead such tender in bar, and (by leave of the court) with the general issue, or other plea or pleas, and if, upon issue joined upon any plea pleaded to the whole action, the jury find generally for the defendant, or if the plaintiff be nonsuited, or discontinue, or if judgment be given for the defendant, then the defendant shall be entitled to full costs of suit, and have judgment accordingly; and in case amends have not been tendered, or in case the amends tendered be insufficient, the defendant may, by leave of the court, at any time before trial, pay into court, under plea, such sum of money as he may think proper, and (by like leave) may plead the general issue, or other plea or pleas. (a)

It may not be improper here again to observe, that these provisions do not apply to justices, and that in the event of any proceedings intended to be had against them, the 11 and 12 Vict. c. 44, should be consulted.

Upon reading this section much doubt arises as to whether or not the jurisdiction of the County Courts, under the 9 & 10 Vict. c. 95, is ousted. There is

(a) Section 139.

11 & 12 VICT.
c. 63.

certainly no express ousting of jurisdiction, but the language of the entire section appears to point to an action in one of the superior courts. It speaks of writ or process—not naming summons (though perhaps a summons would be included in the term “process”)—and of the plaintiff’s attorney or agent, the *jury* finding for the defendant, the regulations as to pleading, full costs of suit, &c., all of which appears to have reference to an action in one of the courts of Westminster Hall. It is, however, a very questionable matter, whether or not the jurisdiction of the County Courts is intended to be ousted.

Persons acting in the execution of this act not to be personally liable.—Protection is given to parties acting *bonâ fide* in the execution of this act, against personal liability. (a)

MISCELLANEOUS PROVISIONS.

Orders in council and provisional orders may be amended, &c.—Any order in council may be amended by a subsequent order in council, and the General Board, if they think fit, may alter or amend any provisional order or alter or extend the boundaries of any district by any subsequent provisional order. But no order in council or provisional order as last-mentioned, is to be made until such proceedings have been taken, in and with respect to the districts and parts to be affected, as are before required to be taken previously to the original constitution of a district, and no such provisional order is to be of any force without the previous authority of Parliament as before prescribed. (b)

Publication of orders—Orders and reports to be laid before Parliament.—All orders in council are to take effect within the district from a day to be specified in such order for that purpose, and a copy of every such order is to be published in the *London Gazette*, and to be laid before Parliament, and whenever any provisional order is submitted to Parliament for confirmation, the General Board are to present to both Houses, a copy of all reports of any superintending inspector, with respect to the parts to which the provisional order relates, and all memorials forwarded to the board with respect to such report. (c)

Entry upon lands for the purposes of this act.—In case it shall become necessary to enter, examine, or lay open, any lands or premises for the purpose of making plans, surveying, measuring, taking levels, examining works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and the owner or occupier shall refuse to permit the same to be entered upon &c., the Local Board may, upon notice to such owner or occupier, apply to two justices for an order authorizing the members of such board, and the superintending inspector, surveyor, and inspector of nuisances or any of them, to enter, examine, and lay open, the said lands and premises for the said purposes, and if no sufficient cause is shown, the justices may make an order accordingly, and the Local Board, &c. or any person authorized by them, may, between ten and four, enter, examine, or lay open, the lands or premises mentioned in the order. Provided, however, that, except in cases of emergency, no entry is to be made or works commenced under the powers of this enactment, unless twenty-four hours at least previously, notice of the intended entry, and of the object thereof, be given to the occupier of the premises. (a)

11 & 12 VICT.
c. 63.

Compensation by Local Board in case of damage.—Full compensation is to be made out of the general or special district rates to all persons sustaining any damage by reason of the exercise of any of the powers of this act, and in case of dispute as to the amount, the same is to be settled by arbitration; or, if the compensation claimed does not exceed the sum of 20*l.* the same may be ascertained by and recovered before justices in a summary manner. (b)

Sewers, &c. of commissioners—Private watercourses, &c.—The Local Board are restrained from using, interfering with, &c., any sewers, &c., made under the authority of any commissioners of sewers, appointed by the Crown, or made for the purpose of draining land, under any local or private act of Parliament, or for the purpose of irrigating land, or from using any watercourse, stream, river, dock, basin, wharf, quay, or towing-path, in which the owner or occupier of any lands, mills, mines, or machinery, or the proprietors or

(a) Section 143.

(b) Section 144.

11 & 12 VICT. c. 63. undertakers of any canal navigation shall or may be interested, without consent in writing, &c. (a)

Local Board may allow time for certain payments.—The Local Board are empowered, in cases in which they have incurred expenses for the repayment of which the owner of premises is liable, to allow time for such repayment, and receive it by annual instalments, not being less than one-thirtieth part of the entire sum with interest. (b)

False evidence—Perjury.—Every person who, upon any examination on oath under this act, wilfully and corruptly gives false evidence, is to be liable to the penalties of perjury. (c)

Penalty for obstructing officers, defacing boards, &c.—Whoever wilfully obstructs any superintending inspector, or any member of the Local Board, or any officer or person duly employed in the execution of this act, or destroys, pulls down, injures or defaces any board upon which any bye-law, notice, or other matter is inscribed, is (if the same were put up by the authority of the Local or General Board) to be liable, for every offence, to a penalty not exceeding 5*l.* (d)

Occupier preventing execution of the works, &c.—If the occupier of any premises should prevent the owner from obeying or carrying into effect the provisions of this act, any justice to whom application is made by an order in writing (which may be according to the form in the schedule F.), is to require such occupier to permit the execution of the works required, provided the same appear to the justice to be such as are necessary for the purpose of obeying the provisions of this act; and if, within a reasonable time after the making of such order, the occupier shall refuse to comply therewith, he is to be liable to a penalty of not exceeding 5*l.* for every day of his refusal. (e)

SCHEDULE (F.)

Form of order to permit execution of works by owners.

County of	} WHEREAS complaint hath been made to me,
[or Borough, &c.]	
to wit.	
&c.] of	by A. B., owner, within the meaning of the
Public Health Act, 1848, of certain premises, to wit, a house	

(a) Section 145. (b) Section 146. (c) Section 147.

(d) Section 148. (e) Section 148.

[*as the case may be*] situate in street, [*as the case may be*] in the parish of in the said county [*or borough, &c.*], that *C. D.*, the occupier of the said premises, doth prevent the said *A. B.* from obeying and carrying into effect the provisions of the said act, in this, to wit, that the said *C. D.* doth prevent the said *A. B.* from [*here describe the works generally, according to circumstances, for instance, thus:* constructing and laying down, in connexion with the said house, a covered drain, so as to communicate with a [*sewer or drain*] of the Local Board of Health of the district of [*or a sewer, &c.*, which the Local Board of Health of the district of are entitled to use, *as the case may require*], such sewer being within one hundred feet of the said house]: and whereas the said *C. D.*, having been duly summoned to answer the said complaint, and not having shown sufficient cause against the same, and it appearing to me that the said works are necessary for the purpose of enabling the said *A. B.* to obey and carry into effect the provisions of the said act, I do hereby order that the said *C. D.* do permit the said *A. B.* to execute the same in the manner required by the said act.

Given under my hand and seal, this day of
in the year of our Lord one thousand eight hundred and
E. F. (L. S.)

Occupiers to disclose owners' names.—A penalty is imposed upon any occupier who, upon being required on the behalf of the Local Board to disclose the name of the owner of the premises, shall refuse, or wilfully mis-state the same. (a)

Consents of General and Local Boards of Health to be in writing.—Whenever the consent, sanction, or approval, or authority of the General Board is required by this act, the same is to be in writing, under their seal and the hands of two or more of their members; and whenever the like is required of the Local Board, it is (in the case of a noncorporate district) to be in writing, under their seal, and the hands of five or more of them, or (in the case of a corporate district) under their common seal. (b)

Service of summonses, notices, &c.—Any summons, notice, suit, or proceeding of any kind to be served upon the Local Board, may be so served by being left at or sent through any post-office, directed to the Local Board of Health at their office, or by being delivered there to the clerk personally; and in all cases in which any notice is, by this act, required to be given to the owner or occupier of any premises, it is to be sufficient

(a) Section 148.

(b) Section 149.

11 & 12 VICT.
c. 63. to address the notice by the description of the "owner" or the "occupier" (as the case may require) of the premises (naming them), without further name or description; and it is to be served upon them either personally or by delivering the same to some inmate, at their place of abode, &c. But if the owner's place of abode be not within the district the notice may be transmitted through the post. (a)

Exemption from stamp duty and window duty.—No advertisement inserted by the General or Local Board, nor any deed, award, submission, instrument, contract, agreement or writing, made or executed by the General or Local Board, their officers or servants, under this act, nor any appointment by the General or Local Board of any officer or person under this act, is to be charged with any stamp duty; and in case any vault, cellar, or underground room of any house containing, at the time of the passing of this act, seven windows or lights only, shall have been let or occupied separately as a dwelling, before the passing of this act, without any external window, as is required with respect to the letting and occupying of vaults, &c., and it shall become necessary, by reason of this act, to make such external window, the making of such is not to render any person liable, in respect of such house, to the duties payable for a house of eight windows or lights. (b)

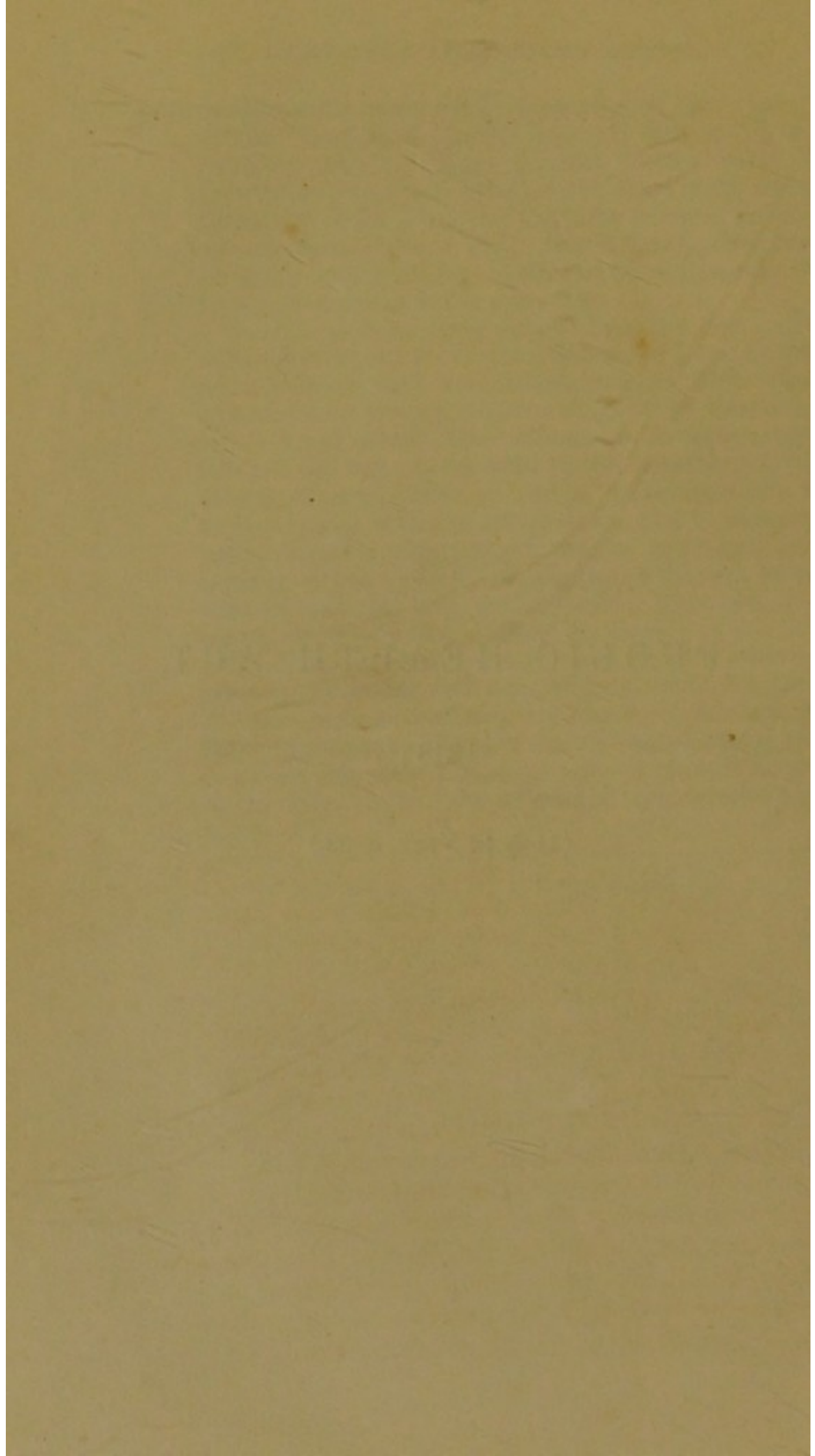
(a) Section 150.

(b) Section 151.

THE
PUBLIC HEALTH ACT,

1848 ;

(11 & 12 VICT. c. 63.)



THE
PUBLIC HEALTH ACT.

[11 & 12 VICT. c. 63.]

An Act for promoting the Public Health.

[31st August, 1848.]

WHEREAS further and more effectual provision ought to be made for improving the sanitary condition of towns and populous places in England and Wales, and it is expedient that the supply of water to such towns and places, and the sewerage, drainage, cleansing, and paving thereof, should, as far as practicable, be placed under one and the same local management and control, subject to such general supervision as is hereinafter provided: 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, That this act may from time to time be applied in manner hereinafter provided, to any part of England and Wales, except the parts next hereinafter mentioned; (that is to say,) the city of London and the liberties thereof, the parts within the limits of certain commissions of sewers bearing date at Westminster the thirtieth day of November in the year of our Lord one

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c. 63.

Parts to
which this
act may be
applied.

11 & 12 VICT.
c. 63.

thousand eight hundred and forty-seven, also the parts within the limits of a certain other commission of sewers bearing date at Westminster, the fourth day of December in the year last aforesaid, and the parts subject to the jurisdiction of the commissioners acting in the execution of an act of the fifth year of the reign of King George the Fourth, for (amongst other things) more effectually paving, lighting, watching, cleansing, and regulating the Regent's Park, and in the execution of the several acts for extending the jurisdiction of such commissioners.

Interpre-
tation of
terms.

2. And be it enacted, that in the construction of this act the following words and expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context or subject-matter in which such words or expressions occur; (that is to say,)

- "Number:" Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:
- "Gender:" Words importing the masculine gender shall include females:
- "Person:" The word "person" and words applying to any person or individual shall apply to and include corporations, whether aggregate or sole:
- "Lands:"
"Premises:" The word "lands" and the word "premises" shall include messuages, buildings, lands, and hereditaments of any tenure:
- "Owner." The word "owner" shall mean the person for the time being receiving the rack rent of the lands or premises in connexion with which the said word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rack rent:

The expression "rack rent" shall mean rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises ; and the full net annual value shall be taken to be the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe commutation rent-charge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent :

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c. 63.

Interpretation of terms.

" Rack
rent."

The word "month" shall mean calendar month :

The expression "commissioners of Her Majesty's Treasury" shall mean the commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland for the time being, or any three or more of them, or the lord high treasurer of the United Kingdom of Great Britain and Ireland for the time being :

" Commis-
sioners of the
Treasury :"

The expression "superior courts" shall include Her Majesty's superior courts of record at Westminster, and the Court of Common Pleas of the county palatine of Lancaster, and the Court of Pleas of the county of Durham :

" Superior
courts :"

The word "justice" shall mean any justice of the peace acting for the place in which the matter or any part of the matter, as the case may be, requiring the cognizance of the "justice" arises :

" Justice :"

The expression "two justices" shall mean two or more justices assembled and acting together in petty sessions, or one stipendiary or police magistrate acting in any police court, for the place in which the matter or

" Two jus-
tices :"

11 & 12 Vict.
c. 63.

*Interpreta-
tion of terms.*

"Court of
general or
quarter
sessions :"

any part of the matter, as the case may be, requiring the cognizance of "two justices" arises :

The expression "court of general or quarter sessions" shall mean the court of general or quarter sessions of the peace having jurisdiction over the whole or any part of the district or place, as the case may be, in which the matter requiring the cognizance of the "court of general or quarter sessions" arises :

"Arbitra-
tors."

The word "arbitrators" shall include a single arbitrator; and the words "arbitrators" and "arbitrator" shall include an umpire :

"Oath."

The word "oath" shall mean and include an affirmation in the case of Quakers, and a declaration in the case of persons allowed by law to make a declaration in lieu of an oath :

"Corporate
borough :"

The expression "corporate borough" shall mean any corporate borough mentioned in the schedules annexed to an act passed in the sixth year of the reign of King William the Fourth, intituled *An Act for the Regulation of Municipal Corporations in England and Wales*, and any borough incorporated by charter granted or to be granted in pursuance of that or any subsequent act :

5 & 6 Will. 4,
c. 76.

"District :"

The word "district" shall mean the entire area, places, or parts of places comprised within the limits of any district to which this act or any part thereof shall be applied by order in council or provisional order of the general board of health, sanctioned by Parliament :

"Corporate
district :"

The expression "corporate district" shall mean a district in which the powers, authorities, and duties of the local board of health of the district are exercised and executed by the council of a corporate borough :

The expression "noncorporate district" shall mean a district in which the powers, authorities, and duties of the local board of health of the district are not exercised and executed by the council of a corporate borough :

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c. 63.

*Interpreta-
tion of terms.*

"Noncor-
porate dis-
trict :"

The word "street" shall apply to and include any highway (not being a turnpike road), and any road, public bridge (not being a county bridge), lane, footway, square, court, alley, passage, whether a thoroughfare or not, and the parts of any such highway, road, bridge, lane, footway, square, court, alley, or passage within the limits of any district :

"Street :"

The word "house" shall include schools, factories, and other buildings in which more than twenty persons are employed at one time :

"House :"

The word "drain" shall mean and include any drain of and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating therefrom, with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed :

"Drain :"

The word "sewer" shall mean and include sewers and drains of every description, except drains to which the word "drain" interpreted as aforesaid applies :

"Sewer :"

The term "slaughter-house" shall mean and include the buildings and places commonly called slaughter-houses and knackers' yards, and any building or place used for slaughtering cattle, horses, or animals of any description for sale :

"Slaughter-
house :"

The expression "waterworks company" shall

"Water-

11 & 12 VICT.
c. 63.

*Interpreta-
tion of terms.*

works com-
pany:"

"Water-
works:"

"The local
board of
health:"

"The clerk,"
&c.

Mode of
citing this
act,

*General
board of
health.*

General
board of
health to be
constituted.

mean any corporation, person, or company of persons supplying or who may hereafter supply water for their own profit:

The term "waterworks" shall include streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines, and all machinery, lands, buildings, and things for supplying or used for supplying water, also the stock in trade of any waterworks company:

The expression "the local board of health" shall mean the persons authorized to execute in each district all or any of the powers, authorities, and duties vested in or imposed upon the local board of health by this act:

The expressions "the officer of health," "the clerk," "the treasurer," "the surveyor," "the inspector of nuisances," shall mean the persons respectively appointed to be or authorized to execute the offices of the officers of health, clerk, treasurer, surveyor, and inspector of nuisances respectively in each district for the purposes of this act.

3. And be it enacted, that in citing this act in other acts of Parliament, and in legal instruments and other proceedings, it shall be sufficient to use the words "The Public Health Act, 1848."

4. And be it enacted, that the first commissioner for the time being of Her Majesty's woods and forests, land revenues, works, and buildings, together with such two other persons as Her Majesty by warrant under the royal sign manual may be pleased to appoint, shall be and constitute a board for superintending the execution of this act, and shall be called "The General Board of Health," and shall have and execute all the powers and duties vested in or

imposed on such board by this act, and the said first commissioner shall be the president of the said board; and Her Majesty may from time to time, at her pleasure, remove all or any of the persons so appointed by her, and appoint others in their stead: and the powers and duties vested in the said board by this act may be exercised and executed by any two members thereof; and during any vacancy in the said board the continuing members or member thereof may act as if no vacancy had occurred: provided always, that the said general board of health shall be continued only for five years next after the day of the passing of this act, and thenceforth until the end of the then next session of Parliament, and no longer.

11 & 12 VICT.
c. 63.

General
board of
health.

5. And be it enacted, that the said board may from time to time appoint a secretary and such clerks and servants as they, subject to the approval of the commissioners of Her Majesty's treasury, may deem necessary for the purposes of this act; and every person so appointed shall be removable at the pleasure of the said board; and the said board shall cause to be made a seal for their use in the execution of this act, and documents or copies of documents purporting to proceed from them, and to be signed by any two or more of them, and to be sealed or stamped with such seal, shall be received as *primâ facie* evidence in all courts and places whatsoever.

Power to
general
board of
health to
appoint
officers and
servants,
subject to
approval of
treasury,
and to cause
a seal to be
made.

6. And be it enacted, that the general board of health may from time to time appoint so many proper persons as they, subject to the approval of the commissioners of Her Majesty's treasury, may deem necessary, to be superintending inspectors for the purposes of this act; and every person so appointed shall have all the powers, duties, and liabilities vested in or imposed upon any superintending inspector by this act, and shall assist in the superintendence

Power to
appoint
superintend-
ing inspec-
tors, subject
to approval
of treasury.

11 & 12 Vict.
c. 63.

*General
board of
health.*

Power to
treasury to
grant sala-
ries, &c., to
general
board of
health,
superintend-
ing inspec-
tors, &c.

and execution of this act, when, where, and in such manner as the said board shall direct, and shall be removable at their pleasure.

7. And be it enacted, that there shall be paid to such one of the members of the general board of health, not being the president, as Her Majesty shall direct, and to the said secretary, clerks, and servants, such salaries or wages, and to the said superintending inspectors such allowances, as shall from time to time be appointed by the commissioners of Her Majesty's treasury, out of any moneys which may from time to time be provided by Parliament for that purpose; provided always, that the allowance to a superintending inspector shall not exceed the sum of three pounds three shillings for every day he shall be actually employed or travelling in the performance of the duties of his office; provided also, that the commissioners of Her Majesty's treasury may allow to any superintending inspector such reasonable travelling and other expenses as may be incurred by him in the performance of the duties of his office under this act, in addition to his said allowance.

*Preliminary
inquiry.*

Upon peti-
tion of a cer-
tain propor-
tion of
household-
ers, &c., or
when the
deaths in any
city, &c.,
appear upon
the registrar
general's
returns to be
above a
certain pro-
portion,
super-
intending
inspector to
make local
inquiry.

8. And be it enacted, that from time to time after the passing of this act, upon the petition of not less than one-tenth of the inhabitants rated to the relief of the poor of any city, town, borough, parish, or place having a known or defined boundary, not being less than thirty in the whole, or where it shall appear or can be ascertained from the last return for the time being made up by the registrar-general of births, marriages, and deaths from the deaths registered in a period of not less than seven years that the number of deaths annually in any city, town, borough, parish, or place during the period in respect whereof such return shall have been made have on an average exceeded the proportion of twenty-three to a thousand of the popula-

tion of such city, town, borough, parish, or place, the general board of health may, if and when they shall think fit, direct a superintending inspector to visit such city, town, borough, parish, or place, and to make public inquiry, and to examine witnesses, as to the sewerage, drainage, and supply of water, the state of the burial grounds, the number and sanitary condition of the inhabitants, and as to any local acts of Parliament in force within such city, town, borough, parish, or place for paving, lighting, cleansing, watching, regulating, supplying with water, or improving the same, or having relation to the purposes of this act, also as to the natural drainage areas, and the existing municipal, parochial, or other local boundaries, and the boundaries which may be most advantageously adopted for the purposes of this act, and as to any other matters in respect whereof the said board may desire to be informed, for the purpose of enabling them to judge of the propriety of reporting to Her Majesty, or making a provisional order, as hereinafter mentioned.

11 & 12 VICT.
c. 63.

*Preliminary
inquiry.*

9. And be it enacted, that before proceeding upon such inquiry the said inspector shall give fourteen days' notice of his intention to make the same, and 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 such inquiry, by advertisement in some one or more of the public newspapers usually circulated in the parts to which the inquiry will relate, and by causing such notice to be affixed on the doors of the principal churches, chapels, public buildings, and places where public notices are usually affixed within such parts, and in such other manner as may appear to the said inspector to be necessary; and so soon as can be after the completion of such inquiry he shall report in writing to the general board of health, in such

Inspector to
give notice of
inquiry, and
report to
general
board the
result of the
same.

11 & 12 VICT.
c. 63.

*Preliminary
inquiry.*

Upon such
report
general
board may,
if they think
fit, cause
inspector to
make further
inquiries
respecting
boundaries
and present a
further
report,
which shall
be published,
&c

manner as they may direct, upon the several matters with respect to which he has been directed to inquire as aforesaid, and upon any other matters with respect to which he may deem it expedient to report for the purposes of this act; and if upon such report it appear to the said general board that the boundaries which may be most advantageously adopted for the purposes of this act are not the same as those of the city, town, borough, parish, or place with respect to which inquiry has been made, they shall cause the same or some other superintending inspector to visit the parts within the boundaries proposed to be adopted for the purposes of this act, and, after having given such notice as is hereinbefore prescribed, to hear all persons desirous of being heard before him upon the subject of the said report, and to make such further inquiry and report to the said board as they may direct; and upon the presentation of such report or further report the said board shall cause copies thereof respectively to be published in the parts to which such report or further report respectively relate, in such manner as they may direct, and shall also cause other copies thereof respectively to be deposited with the town clerk of any corporate borough affected thereby, and with the clerk to the commissioners or trustees acting under any local act of Parliament in force within such parts for lighting, paving, cleansing, watching, regulating, supplying with water, or improving such parts, or any of them, or in any wise relating to the purposes of this act, and with the clerk to the justices acting for any petty sessional division in which such parts may be, and with the clerk of the board of guardians of the union or parish the whole or part of which may be affected thereby; and if such report or further report relate to parts not being within any corporate borough the said board shall cause other copies

of the same to be deposited with the churchwardens or overseers of the poor of any parish in which such parts or any of them may be; and the copies so published or deposited shall be accompanied by a notice stating that within a certain time, not being less than one month from the time of such publication and deposit, written statements may be forwarded to the said board with respect to any matter contained in or omitted from the said report or further report, or any amendment proposed to be made therein; and all such statements shall be deposited with such town clerk, clerk to justices, clerk to the board of guardians, and with such churchwardens or overseers respectively, in like manner as the said copies, and shall, together with such copies, be open to public inspection from the hour of eleven in the forenoon till the hour of three in the afternoon every day during the time specified in the last-mentioned notice, Sundays, Christmas days, Good Fridays, and days appointed for general fasts or thanksgivings only excepted; and any town clerk, clerk to justices, clerk to the board of guardians, churchwardens, or overseers who shall refuse to receive any document or copy of any document directed to be deposited with him or them as aforesaid, or to allow such inspection, shall be liable for every such offence to a penalty not exceeding five pounds; and after the expiration of such last-mentioned notice the said board may, if they think fit, direct such further inquiry and report as to them may seem necessary and proper.

10. And be it enacted, that if after such inquiry or further inquiry as aforesaid it appear to the said general board of health to be expedient that this act or any part thereof should be applied to the city, town, borough, parish, or place with respect to which inquiry has been made, upon the petition of such inhabitants as afore-

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c. 63.

*Preliminary
inquiry.*

*Application
of the act.*

Cases in
which act
shall be put
in force by
order of
Her Majesty
in council.

11 & 12 Vict.
c. 63.

*Application
of the act.*

Cases in
which act
shall be put
in force by
provisional
order of
general
board, and
sanctioned
by Parlia-
ment.

said, and within the same boundaries as those of such city, town, borough, parish, or place, and within which there is no local act of Parliament in force for paving, lighting, (otherwise than for the profit of proprietors or shareholders,) cleaning, watching, regulating, supplying with water, or improving such city, town, borough, parish, or place, or any part thereof, or in anywise relating to the purposes of this act, they shall report to Her Majesty accordingly; and at any time after presentation of such report it shall be lawful for Her Majesty, by and with the advice of her privy council, to order that this act or any part thereof shall be applied to and be put in full force and operation within such city, town, borough, parish, or place; and if after such inquiry or further inquiry as aforesaid it appear to the said general board to be expedient that this act or any part thereof should be put in force within boundaries not being the same as those of the city, town, borough, parish, or place from which the said petition proceeded, or within boundaries where no petition has been presented from such inhabitants as aforesaid, or within any city, town, borough, parish, or place in which any such local act of Parliament as aforesaid is in force, they shall make a provisional order under their hands and seal of office accordingly, with such provisions, regulations, conditions, and restrictions with respect to the application and execution of this act or any part thereof, and with respect to any such local act, and the repeal, alteration, extension, or future execution of the same, and in all respects whatsoever as they may think necessary under all the circumstances of the case; and such provisional order shall be published in the parts to which the same relates in such manner as the said general board may direct, and shall be deposited with the town clerk of any corporate borough affected thereby,

and with the clerk to the commissioners or trustees acting under any such local act, also with the clerk to the justices acting for any petty sessional division in which such parts may be, and with the clerk of the board of guardians of the union or parish the whole or part of which may be affected thereby; and if such provisional order relate to parts not being within any corporate borough, the said board shall cause other copies of the same to be deposited with the churchwardens or overseers of the poor of any parish in which such parts or any of them may be; and in case it shall be enacted by any act of Parliament hereafter to be passed that the whole or part of any provisional order or orders of the general board of health shall be confirmed and be absolute, the whole or part of such provisional order or orders which shall be so confirmed shall be as binding and of the like force and effect as if the same had been expressly enacted by Parliament, and every such act shall be deemed a public general act; but no such provisional order shall have any force or effect, nor shall this act or any part thereof be applied in either of the cases last aforesaid, except for the purposes of such inquiry, further inquiry, report, or provisional order, without the previous authority of Parliament; and no such provisional order, or any altered or amended order, shall be made with respect to any local act of Parliament under which any waterworks company is empowered to construct waterworks or supply water for their own profit, without the consent of the waterworks company empowered by such local act first had and obtained: provided always, that, except for the purposes of main sewerage, no corporate borough or any part thereof shall be included in any district not exclusively consisting of the whole or part of one such borough without the

11 & 12 VICT.
c. 63.

—
*Application
of the act.*
—

Exception
with respect
to certain
local acts for
supplying
water.

Consent of
town coun-
cil, &c. in
certain cases.

11 & 12 VICT.
c. 63.

*Application
of the act.*

previous consent of the council under the common seal of the borough ; but nothing herein contained shall be construed to require such consent to the constitution of a district exclusively consisting of the whole or part of one such borough for all or any of the purposes of this act, nor to hinder or prevent the application of all or any of the provisions of this act to parts exclusively consisting of the whole or part of one such borough, although the same parts or any of them may have been already included within a district for the purposes of main sewerage : provided also, that, except for the purposes of main sewerage, no parts beyond the boundaries of a corporate borough shall be included in any district comprising the whole or part of any such borough, except upon the petition of a majority of the owners of property and rate-payers who would be qualified to vote in the election of members of a local board of health for the parts proposed to be so included ; but nothing herein contained shall be construed to require such petition in order to the constitution of a district exclusively consisting of parts not within the boundaries of any such borough, nor to hinder or prevent the application of all or any of the provisions of this act to a district exclusively consisting of such last-mentioned parts, although the same parts, or any of them, may have been already included within a district for the purposes of main sewerage.

Costs of preliminary inquiry, &c. with consent of treasury, to become a charge upon the general district rates.

11. And be it enacted, that from and after the making of any such order in council, or the passing of any act of Parliament confirming any provisional order of the general board of health, the costs, charges, and expenses especially incurred by or under the direction of the said general board, or of any superintending inspector, in relation to any inquiry or further inquiry as aforesaid, shall, to such extent and amount as the

commissioners of Her Majesty's treasury by order under their hands may think proper to direct, become a charge upon the general district rates levied in such district under the authority of this act, and be repaid to the said commissioners by annual instalments not exceeding five, together with interest after the yearly rate of five pounds in the hundred, to be computed from the date of any such last-mentioned order, upon so much of the principal sum due in respect of the said costs, charges, and expenses as shall from time to time remain unpaid.

11 & 12 Vict.
c. 63.

*Preliminary
inquiry
(continued.)*

12. And be it enacted, that in every district exclusively consisting of the whole or part of one corporate borough the mayor, aldermen, and burgesses of such borough shall be, by the council of the borough, within and for such district the local board of health under this act, and such council shall exercise and execute the powers, authorities, and duties of such local board according to the laws for the time being in force with respect to municipal corporations in England and Wales; and in every district exclusively consisting of two or more of such boroughs, or of one or more of such boroughs and also of part of any other such borough or boroughs, or exclusively consisting of part of two or more of such borough or boroughs, the mayors for the time being of the boroughs whereof the whole or part is within such last-mentioned district, and such number of other persons as shall be fixed by such provisional order as aforesaid to be selected by each of such councils respectively out of their own number, or from persons qualified to be councillors of the borough in respect of which the selection is to be made, and shall be named and selected by such councils accordingly, shall, within and for such district, be the local board of health under this act; and in every district comprising the whole or part of any such

*Local boards
of health.*

Town council to be the local board in districts consisting of one borough, &c.

Selection, &c. of local boards by town councils.

Selection of part of local board by

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c. 63.

Local boards
of health.

town coun-
cils, and
part by
owners and
rate-payers.

borough or boroughs, and also parts not within the boundaries of any such borough, the mayor or mayors for the time being of the borough or boroughs whereof the whole or part is within such last-mentioned district, and such number of other persons as shall be fixed by such provisional order to be selected by such council or each of such councils respectively out of their own number, or from the persons qualified to be councillors of the borough in respect whereof the selection is to be made, and shall be named and selected by such council or councils accordingly, shall, together with such number of persons as shall be elected as hereinafter mentioned in respect of such noncorporate parts, be, within and for such district, the local board of health under this act; and the first selection by any such council in pursuance of this act shall be made on a day to be appointed by Parliament; and each person selected by the council out of their own number shall be a member of the local board with which he is selected to act so long as he continues without re-election to be member of the council from whom he was selected, and no longer; and each person selected by the council otherwise than out of their own number shall be a member of the local board with which he is selected to act for one year from the date of his selection, and no longer; and in case of any vacancy in the number selected some other person or persons (as the case may require) shall be selected by the council by whom the person or persons causing the vacancy was or were selected, within one month after the occurrence of the vacancy; and the meeting of any council at which any selection as aforesaid is made in pursuance of this act shall to all intents and purposes be deemed to be a meeting held in pursuance of an act passed in the sixth year of the reign of King William the Fourth, intituled *An Act for*

5 & 6 Will. 4,
c. 76.

the Regulation of Municipal Corporations in England and Wales. 11 & 12 VICT.
c. 63.

13. And be it enacted, that in every district comprising the whole or part of any corporate borough or boroughs as aforesaid, and also any part or parts not within the boundaries of any corporate borough or boroughs, such number of persons, qualified as hereinafter prescribed, as shall be fixed by such provisional order as aforesaid to be elected for such part or parts, or for each of such parts respectively, shall from time to time be elected in such manner and by such owners of property and rate-payers as hereinafter mentioned, to be, together with the persons selected as aforesaid in respect of the corporate parts of such district, and shall be, within and for such district, the local board of health under this act; and in every district not comprising the whole or part of any corporate borough or boroughs, but being a district to which this act may be applied by order of Her Majesty in council, such number of persons, qualified as hereinafter prescribed in this behalf, as shall be fixed by such order in council, shall be elected, in such manner and by such owners of property and rate-payers as hereinafter mentioned, to be, and shall be, within and for such district, the local board of health under this act; and in every district not comprising the whole or part of any corporate borough or boroughs, and being a district to which this act cannot be applied without the authority of Parliament, such number of persons, qualified as hereinafter prescribed, as shall be fixed by such provisional order as aforesaid, shall be elected, in such manner and by such owners of property and rate-payers as hereinafter mentioned, to be, and shall be, within and for such district, the local board of health under this act; and the first election for any district or part of a district shall take place on a day to be

*Local boards
of health.*

Election of
members of
local board
by owners
and rate-
payers.

11 & 12 VICT.
c. 63.

*Local boards
of health.*

appointed by order of Her Majesty in council or by Parliament (as the case may require); and one-third of the number elected for the whole or any part or parts of a district respectively shall go out of office on such day in each year subsequently to that of the first election as shall be appointed by such order in council or provisional order as aforesaid (as the case may require); and the order in which the persons first elected shall go out of office shall be regulated by each local board: provided always, that if the number of persons to be elected be not divisible by three the proportion to go out of office in each year shall be regulated by such order in council or provisional order (as the case may require) so that as nearly as may be one-third shall go out of office in each year; and if the number of persons to be elected for any part of a district be less than three the persons elected shall go out of office on such day in each year, or at such other period, not being less than a year, as such order in council or provisional order (as the case may require) shall direct; but no person elected shall in any case continuously remain in office for more than three years; and on the days appointed for going out of office a number of persons shall be elected equal to the number of those so going out, and so many others as may be necessary to complete the full number of the local board of health in respect of which the election is to be made.

Regulations
as to the
number of
persons to
be selected
or elected
members of
local boards.

14. And be it enacted, that the number of persons to be selected or elected for the whole or any part of a district shall from time to time be regulated by such order in council or provisional order as aforesaid (as the case may require), due regard being had to the size and circumstances of each district, as may appear to be just and proper; and that any member of the local board of health, after going out of office, resigning, or

otherwise ceasing to be such member, may, if otherwise qualified, be again selected or elected (as the case may require); and in the event of any vacancy in the number of persons elected, by death, resignation, or otherwise, between the times appointed for election as aforesaid, or if at any time the said local board be without its full number of members, the remaining members shall continue and be as competent to act until the time appointed for election, or until the full number is selected or elected, (as the case may require,) as if no vacancy had occurred; and if any person be both selected and elected to be a member of the local board of health he shall, within three days after notice thereof from the clerk, choose, or in default of such choice the local board of which he is so selected and elected to be member shall determine, the title in respect of which he shall serve, and immediately upon such choice or determination the person so selected and elected shall be deemed to be member only in respect of the title so chosen or determined, and his office as member in respect of any other title shall thereupon become vacant.

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c. 63.

Local boards
of health.

In case of
vacancies,
remaining
members
may act.

Persons both
selected and
elected, &c.
to serve in
respect of
one title
only.

15. Provided always, and be it enacted, that if any corporate borough or part thereof be included only for the purposes of sewerage in any district comprising any part or parts not within the boundaries of any such borough, and the last-mentioned part or parts, or any of them, be constituted a district or districts for any other purposes of this act, the persons elected for such sewerage district shall, within and for the separate district within which they shall have been so elected, be and constitute the local board of health, in the same manner and as fully to all intents and purposes as if they had been expressly elected to constitute the same.

Members
elected for
part of a
sewerage
district to
constitute
separate
board for
other pur-
poses of the
act.

16. And be it enacted, that every person elected as aforesaid shall at the time of his elec-

Qualification
of elected
members.

11 & 12 VICT.
c. 63.

*Local boards
of health.*

tion, and so long as he shall continue in office by virtue of such election, be resident within the district for which or for part of which he is elected, or within seven miles thereof, and be seised or possessed of real or personal estate, or both, to such value or amount as shall be fixed by such order in council or provisional order as aforesaid (as the case may require), within the limits next hereinafter provided, or be so resident, and rated to the relief of the poor of some parish, township, or place of which some part is within such district or part of a district, upon such annual value as shall be fixed by such order in council or provisional order (as the case may require), within the limits next hereinafter provided: provided always, that it shall not be lawful to require that any person be seised or possessed as aforesaid to a value or amount exceeding one thousand pounds, or to require that any person be rated upon an annual value exceeding thirty pounds; provided also, that if two or more persons be jointly seised or possessed of real or personal estate, or both, of such value or amount as would, if equally divided between them, qualify each to be elected, or if two or more persons be jointly rated in respect of any property which if equally divided between them would qualify each to be so elected, each of the persons so jointly seised, possessed, or rated may be elected; but the same property shall not at the same time qualify both the owner and the occupier thereof.

Declaration
to be made
by members
of local
boards
before acting.

17. And be it enacted, that no person elected as aforesaid, or selected by any council otherwise than out of their number, shall act as member of the local board of health (except in administering the following declaration) until he shall have made and signed before two or more other members for the district for which he is elected a declaration in writing to the effect following; (that is to say,)

“ I *A. B.* do solemnly declare, that I am seised
 “ or possessed of real or personal [*or* real and
 “ personal] estate to the value or amount of
 “ [*or* that I am rated to the relief of the poor of
 “ upon the annual value of].

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c. 63.

Local boards
of health.

“(Signed) *A. B.*

“ Made before us, *C. D.* and *E. F.*,
 “ members of the local board of
 “ health for the district of
 “ this day of .”

And such declaration shall be made and signed by the person making the same, and shall be filed and kept by the clerk; and any person who shall falsely or corruptly make and subscribe the said declaration, knowing the same to be untrue in any material particular, shall be deemed guilty of a misdemeanor.

False declaration a misdemeanor.

18. And be it enacted, that any person elected as aforesaid, or selected by any council otherwise than out of their own number, who neglects to make and subscribe the declaration required by this act for the space of three months next after his selection or election, and any person selected or elected under this act who during three successive months is absent from all meetings and committees of the local board of health of which he is elected or selected to be member, shall be deemed to have refused to act, and shall cease to be a member of such local board, and his office as such shall thereupon become vacant.

Persons neglecting to make declaration or to act for three months to cease to be a member.

19. And be it enacted, that no bankrupt, insolvent, or other person not qualified as aforesaid shall be capable of being elected as aforesaid; and if any person, after being so elected or selected by any council otherwise than out of their own number, shall lose or discontinue to hold his qualification, or shall be declared bankrupt, or shall apply to take the benefit of any act for the relief or protection of insolvent debtors, or shall compound with his creditors, or if

Disqualifications.

11 & 12 VICT.
c. 63.

*Local boards
of health.*

any member selected or elected under this act shall accept or hold any office or place of profit under the local board of health of which he is member, or shall in any manner be concerned in any bargain or contract entered into by such board, or participate in the profit thereof, or of any work done under the authority of this act in or for the district for which he is member, then and in every such case such person shall, except in the cases next hereinafter provided, cease to be such member, and his office as such shall thereupon become vacant; and any person who, not being duly qualified to act as member of the said local board, or who has not made and subscribed the declaration required of him by this act, or who after being disqualified or disabled from acting by any provision of this act shall so act, shall for every such offence be liable to a penalty of fifty pounds, which may be recovered by any person, with full costs of suit, by action of debt; and in such action it shall be sufficient for the plaintiff to prove in the first instance that the defendant at the time when the offence is alleged to have been committed acted as such member; and the burthen of proving qualification, and the making and subscription of the declaration, or negating disqualification, by reason of nonresidence, or not being seised or possessed of the requisite real or personal estate, or both, shall be upon the defendant: provided always, that no person, being a proprietor, shareholder, or member of any company or concern established for the supply of water, or for the carrying on of any other works of a like public nature, shall be disabled from being, continuing, or acting as member of the said local board by reason of any contract entered into between such company or concern and such board; but no such person shall vote as member of the said local board upon any question in which such company

or concern is interested: provided also, that all acts and proceedings of any person disqualified, disabled, or not duly qualified as aforesaid, or who has not made and subscribed the said declaration, shall, if done previously to the recovery of the last-mentioned penalty, be valid and effectual to all intents and purposes whatsoever.

11 & 12 VICT.
c. 63.

Local boards
of health

20. And be it enacted, that at every such election as aforesaid the rate-payers in respect of property in the district or part of a district for which the election is held, and the owners of such property, shall be entitled to vote according to the scale following; (that is to say,) if the property in respect of which the person is entitled to vote be rated upon a rateable value of less than fifty pounds he shall have one vote, if such rateable value amount to fifty pounds and be less than one hundred pounds he shall have two votes, if it amount to one hundred pounds and be less than one hundred and fifty pounds he shall have three votes, if it amount to one hundred and fifty pounds and be less than two hundred pounds he shall have four votes, if it amount to two hundred pounds and be less than two hundred and fifty pounds he shall have five votes, and if it amount to or exceed two hundred and fifty pounds he shall have six votes; and any person who is owner and also *bonâ fide* occupier of the same property shall be entitled to vote both in respect of such ownership and of such occupation; and the votes shall be given, taken, collected, and returned according to the directions hereinafter contained; and the majority of the votes actually collected and returned shall be binding on the district or part of a district for which the election is had; and whosoever shall not vote or shall not comply with such directions shall be omitted in the calculation of votes, and be deemed to have had no vote: provided always, that the word "owner" and

Election of
local boards

Qualification
of electors
and scale of
voting.

Definition of
the words
"owner" and

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c. 63.

*Election of
local boards.*

“owners” as
applied to
this act.

“owners,” when used in this act in relation to the right of voting at any election under this act, shall respectively be construed to mean any person or persons for the time being in the actual occupation of any kind of property rateable to the relief of the poor, and not let to him or them at a rack rent, or any person or persons receiving, either on his or their own account, or as mortgagee or mortgagees, or other incumbrancer or incumbrancers, in possession, the rack rent of any such property ; and no person shall be deemed a rate-payer or be entitled to vote as such at any such election unless he shall have been rated to the relief of the poor in the district or part of a district for which he claims to vote for the space of one whole year immediately preceding the day of tendering his vote, and shall have also paid all rates made upon him for the relief of the poor in such district or part of a district for the period of one whole year, and shall have also paid all such rates, and all rates due from him under this act, before that day, in such district or part of a district, except rates which shall have been made or become due within the six months immediately preceding : provided also, that in case of property belonging to a corporation aggregate, or to a joint-stock or other company, or to any body of proprietors or undertakers, such corporation, company, body of proprietors or undertakers respectively, shall be deemed to be one owner for the purpose of voting under this act, and shall vote by proxy appointed in writing under the common seal (in case of a corporation) or (in any other case) under the hands of three directors or other persons in the direction or management of the company or concern ; and no member of such corporation, nor any proprietor or person interested in such company or concern, shall be entitled to vote individually as owner in respect of such property ; and no owner whoso-

ever shall be entitled to vote as such, unless, fourteen days at least previously to the day of tendering his vote, he shall have delivered to the clerk, or (in case of the first election) to such person within the district in which the qualification to vote is situate as shall be directed by such order in council or provisional order (as the case may require), a statement in writing of his name and address, and containing a description of the nature of his interest or estate in the property giving the qualification, and a statement of the amount of all rent-service (if any) which he may receive or pay in respect thereof, and of the persons from whom he may receive or to whom he may pay the same; and no such corporation aggregate, joint-stock or other company, body of proprietors or undertakers, shall be entitled to vote unless such statement contain the name and address of the proxy appointed, and a true copy of the appointment of such proxy.

11 & 12 VICT.
c. 63.

*Election of
local boards.*

21. And be it enacted, that at every election by owners of property and rate-payers under this act the chairman of the local board of health, or, in case of the first election, such person as shall be appointed by order of Her Majesty in council, or by provisional order of the general board of health, (as the case may require,) shall have the powers and perform the duties vested in or imposed upon the said chairman by this act in relation to any such election, and shall perform all other duties which it may be requisite for him to perform in conducting and completing elections under this act; and in case the office of chairman shall be vacant at the time when any such power or duty must be executed or performed, or in case the chairman or person appointed as last aforesaid, from illness or other sufficient cause, shall be unable to exercise or discharge such powers or duties, or shall be absent, or shall refuse to act, some other person

Elections, by
whom to be
conducted.

11 & 12 VICT.
c. 63.

*Election of
local boards.*

who shall be appointed (in case of the first election) by such order in council or provisional order, or (in any other case) by the local board of health, shall exercise or perform such of the said powers and duties as then remain to be exercised or performed; and the said local board, or (in case of the first election) the person appointed by such order in council or provisional order, shall, before or during the election, appoint a competent number of persons to assist and attend upon the chairman or the person so appointed (as the case may require) in conducting and completing the same.

Production
of parochial
books, &c.
for purposes
of election.

22. And be it enacted, that the clerk of the board of guardians of any union, and the overseers or other officers of every parish, wholly or in part within the parts for which any such election shall be held, and having the custody of any books or papers relating to the election of guardians of the poor, or the poor rate books relating to any such parish, shall permit the same to be inspected and copies or extracts to be taken therefrom by the said chairman, or (in case of the first election) by any person appointed by such order in council or provisional order as aforesaid; and the said chairman may, if he shall see fit, cause to be made an alphabetical list of the persons entitled to vote at the election.

List of
voters, &c.
to be made,
if necessary.

Publication
of notices
previously to
election.

23. And be it enacted, that the said chairman shall, before every such election, prepare, sign, and publish a notice, which shall contain the particulars following; that is to say, the number and qualification of the persons to be elected, the person by whom and the places where the nomination papers hereinafter mentioned are to be received, and the last day on which they are to be sent, the mode of voting in case of a contest, and the days on which the voting papers will be delivered and collected, and the time and place for the examination and casting up of the

votes; and he shall also cause such notice to be affixed on such places in the parts for which the election is to be held as are ordinarily made use of for affixing thereon notices of parochial business: provided always, that whenever the day appointed for the performance of any act in relation to any such election shall be on a Sunday, Christmas Day, or Good Friday, or any day appointed for public fast or thanksgiving, such act shall be performed on the day next following.

11 & 12 Vict.
c. 63.

*Election of
local boards.*

24. And be it enacted, that any person entitled to vote may nominate for the office of member of the local board of health himself (if qualified to be elected), or any other person or persons so qualified (not exceeding the number of persons to be elected); and every such nomination shall be in writing, and shall state the names, residence, calling, or quality of the persons nominated, and shall be signed by the party nominating, and be sent to the said chairman; and if the number of persons nominated shall be the same or less than the number of persons to be elected, such persons (if duly qualified) shall be deemed to be elected, and shall be certified accordingly by the said chairman under his hand; but if the number so nominated exceed the number to be elected, the said chairman shall cause voting papers, in the form contained in the schedule (A.) to this act annexed, to be prepared and filled up, and shall insert therein the names of all the persons nominated, in the order in which the nomination papers were received, but it shall not be necessary to insert more than once the name of any person nominated; and the said chairman shall, three days before the day of election, cause one of such voting papers to be delivered by the persons appointed for that purpose to the address in the parts for which the election is to be held of each owner and proxy, and at

Nomination
and election
of candi-
dates.

11 & 12 VICT.
c. 63.

*Election of
local boards.*

the residence of each rate-payer entitled to vote therein: provided always, that if any person put in nomination shall tender to the officer conducting the election his refusal in writing to serve as a member of the local board of health, and if in consequence of such refusal the number of persons nominated shall be the same as or less than the number of persons to be elected, all or so many of the remaining candidates as shall be duly qualified shall be deemed to be elected, and shall be certified as such by the chairman under his hand.

Mode of
voting.

25. And be it enacted, that each voter shall write his initials in the voting paper delivered to him against the name or names of the person or persons (not exceeding the number of persons to be elected) for whom he intends to vote, and shall sign such voting paper; and when any person votes as a proxy he shall in like manner write his own initials, and sign his own name, and state also in writing the name of the corporation, company, or body of proprietors or undertakers for which he is proxy: provided always, that if any voter cannot write he shall affix his mark at the foot of the voting paper in the presence of a witness, who shall attest and write the name of the voter against the same, as well as the initials of such voter against the name of every candidate for whom the voter intends to vote.

Regulations
as to collec-
tion of voting
papers.

26. And be it enacted, that the said chairman shall cause the voting papers to be collected on the day of election by the persons appointed or employed for the purpose in such manner as he shall direct; but no voting paper shall be received or admitted unless the same have been delivered at the address or residence as aforesaid of the voter within the parts for which the election is had, nor unless the same be collected by the persons appointed or employed for that purpose, except as next hereinafter provided: pro-

vided always, that if any person qualified to vote shall not have received a voting paper as aforesaid, he shall, on application before that day to the said chairman, be entitled to receive a voting paper from him, and to fill up the same in his presence, and then and there to deliver the same to him: provided also, that in case any voting paper duly delivered shall not have been collected, through the default of the said chairman, or the persons appointed or employed to receive the same, the voter in person may deliver the same to the said chairman before twelve o'clock at noon on the day, or the first day, (as the case may be,) appointed for the examination and casting-up of the votes.

27. And be it enacted, that the chairman shall, on the day immediately following the day of the election, and on as many days immediately succeeding as may be necessary, attend at the office of the local board of health, and ascertain the validity of the votes, by an examination of the rate books and such other books and documents as he may think necessary, and by examining such persons as he may see fit; and he shall cast up such of the votes as he shall find to be valid, and to have been duly given, collected, or received, and ascertain the number of such votes for each candidate; and the candidates to the number to be elected who, being duly qualified, shall have obtained the greatest number of votes, shall be deemed to be elected, and shall be certified as such by the said chairman under his hand; and to each person so elected the said chairman shall send or deliver notice of such election; and the said chairman shall also cause to be made a list containing the names of the candidates, together with (in case of a contest) the number of votes given for each, and the names of the persons elected, and shall sign and certify the same, and shall deliver such

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c. 63.

*Election of
local boards.*

Regulations
as to exami-
nation of
votes and
elections
of local
boards.

Notices to be
sent to per-
sons elected.

List of per-
sons elected,
&c. to be
transmitted
to local
boards, who
shall deposit
the same,
which shall

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c. 63.

*Election of
local boards.*

be open to
inspection.

list, together with the nomination and voting paper which he shall have received, to the local board of health at their first or next meeting (as the case may be), who shall cause the same to be deposited in their office, and the same shall, during office hours thereat, be kept open to public inspection, together with all other documents relating to the election, for six months after the election shall have taken place, without fee or reward; and the said chairman shall cause such list to be printed, and copies thereof to be affixed at the usual places for affixing notices of parochial business within the parts for which the election shall have been made.

Penalty upon
persons con-
ducting elec-
tions neg-
lecting to
comply with
provisions
of this act.

28. And be it enacted, that if the said chairman or other person charged with taking, collecting, or returning the votes at any such election as aforesaid shall neglect or refuse to comply with any of the provisions of this act in that behalf, he shall be liable for every such offence to a penalty not exceeding fifty pounds; and any person employed for the purposes of any such election, by or under the said chairman or other person charged as aforesaid, who shall be guilty of any such neglect or refusal, shall be liable for every such offence to a penalty not exceeding five pounds.

Defects in
election, &c.
not to invali-
date pro-
ceedings.

29. And be it enacted, that all proceedings of the local board of health, and of any person acting as member or under the authority thereof, shall, notwithstanding any defect in the selection or election of such board or any member thereof, be as valid and effectual as if no such defect had ever existed.

Expenses of
elections to
be defrayed
out of gene-
ral district
rates.

30. And be it enacted, that the necessary expenses attendant upon any such election as aforesaid, and such reasonable remuneration to returning officers and other persons for services performed or expenses incurred by them in relation thereto as shall from time to time be allowed

by the local board of health in that behalf, shall be paid out of the general district rates to be levied under this act.

11 & 12 Vict.
c. 63.

*Election of
local boards.*

31. Provided always, and be it enacted, that nothing hereinbefore contained with respect to the appointment, selection, or election of any local board of health, or member thereof, shall apply to the city of Oxford, or the parts within the jurisdiction of the commissioners for amending certain mileways leading to Oxford, and making improvements in the University and city of Oxford, the suburbs thereof, and the adjoining parish of Saint Clement, (which commissioners are hereinafter called the Oxford commissioners,) or to the borough of Cambridge, or the parts within the jurisdiction of the commissioners acting under an act of the thirty-fourth year of the reign of King George the Third, for amending and enlarging the powers of a former act of the same reign, for the better paving, cleansing, and lighting the town of Cambridge, for removing and preventing obstructions and annoyances, and for widening the streets, lanes, and other passages within that town (which commissioners are hereinafter called the Cambridge commissioners); and if the city of Oxford, or the parts within the first-mentioned jurisdiction, become a district under this act, the same shall be called the Oxford district, and the said Oxford commissioners for the time being shall, within and for such district, be the local board of health under this act; and if the borough of Cambridge, or the parts comprised within the jurisdiction secondly above mentioned, become a district under this act, the same shall be called the Cambridge district, and the said Cambridge commissioners for the time being shall, within and for such district, be the local board of health under this act.

Local board
of health in
Oxford and
Cambridge
to consist of
Oxford and
Cambridge
improvement
commis-
sioners.

52 Geo. 3.
c. lxxii.

34 Geo. 3.
c. clv.

32. And be it declared and enacted, that whenever by any such provisional order as afore-

With respect
to the execu-
tion of the

11 & 12 Vict.
c. 63.

*Election of
local boards.*

act by com-
missioners
under local
acts in other
cases.

said the commissioners or trustees acting under any local act of parliament are constituted the local board of health under this act, such commissioners or trustees shall, within and for the district to which such provisional order applies, exercise and execute the powers, authorities, and duties vested in or imposed on the local board of health by this act, and so much of this act as relates to the appointment, election, or selection of local boards of health shall not apply to such district.

Local board
of health, in
case of a
district
afterwards
becoming
a corporate
borough.

33. And be it enacted, that if, after the application of this act to any district, the parts constituting the district shall afterwards become or be entirely comprised within the limits of a corporate borough, the mayor, aldermen, and burgesses of such borough shall from and after such day as shall have been specified in the charter of incorporation in this behalf be, by the council of the borough, the local board of health within and for such district; and in case any day shall have been so specified, but not otherwise, the powers, authorities, duties, property, and liabilities of any other persons as such local board shall from and after that day absolutely cease and determine, and be vested in such mayor, aldermen, and burgesses, as fully to all intents and purposes as if they had always been the local board of health from the time when the district was originally constituted.

*Meetings, &c.
of local
boards.*

Meetings of
local boards
of noncorpo-
rate dis-
tricts, and
regulation of
business, &c.

34. And be it enacted, that the local board of health of every noncorporate district shall hold an annual meeting and other meetings for the transaction of business under this act once at least in each month, and at such other times as may be necessary for properly executing its powers and duties under this act, and shall from time to time make bye laws with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally

with respect to the transaction and management of business by such board under this act: provided always, that no business shall be transacted at any such meeting unless at least one-third of the full number of members be present thereat, except in either of the districts to be called the Oxford or Cambridge districts, in which cases business may be transacted if at least seven members be present; and all questions shall be decided by a majority of votes; and the names of the members present, as well as of those voting upon each question, shall be recorded; and the said local board shall at their first meeting under this act, and afterwards from time to time at their annual meeting, appoint one of their number to be chairman for one year at all meetings at which he is present; and in case the chairman so appointed be absent from any meeting at the time appointed for holding the same the members present shall appoint one of their number to act as chairman thereat; and in case the chairman appointed as first aforesaid die, resign, or become incapable of acting, another member shall be appointed to be chairman for the period during which the person so dying, resigning, or becoming incapable would have been entitled to continue in office, and no longer; and the chairman at any meeting shall have a second or casting vote in case of an equality of votes; but nothing herein contained with respect to the appointment of chairman shall apply to any district to be called the Oxford or Cambridge district, and in such districts the Oxford or Cambridge commissioners respectively shall appoint a chairman as heretofore.

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c. 63.

*Meetings, &c.
of local
boards.*

35. And be it enacted, that the local board of health shall from time to time provide and maintain such officers as may be necessary for transacting their business and that of their

Local boards
to provide
offices for
transacting
business,
and cause a

11 & 12 Vict.
c. 63.

Meetings, &c.
of local
boards.

seal to be
made.

Committees
may be ap-
pointed.

Local officers.

Power to
local boards
to appoint
surveyor,
inspector of
nuisances,
clerk, trea-
surer, &c.

Same person
may be sur-
veyor and

officers and servants under this act, and (in the case of a noncorporate district) shall cause to be made a seal for the use of such board in the execution of this act; and documents or copies of documents purporting to proceed from the said local board, and to be signed by any five or more members thereof, and to be sealed or stamped with such seal, or (in the case of a corporate district) to be sealed with the common seal, shall be received as *primâ facie* evidence in all courts and places whatsoever.

36. And be it enacted, that the local board of health may from time to time appoint out of their own number so many persons as they may think fit, for any purposes which in the opinion of the said local board would be better regulated and managed by means of a committee: provided always, that the acts of every such committee shall be submitted to the said local board for their approval.

37. And be it enacted, that the local board of health shall from time to time appoint fit and proper persons to be surveyor, inspector of nuisances, clerk, and treasurer for the purposes of this act, and shall appoint or employ such collectors and other officers and servants as may be necessary and proper for the efficient execution of this act, and shall make bye laws for regulating the duties and conduct of the several officers and servants so appointed or employed; and the said local board may pay, out of the general district rates to be levied under this act, to such officers and servants, such reasonable salaries, wages, or allowances as the said local board may think proper; and every such officer and servant shall be removable by the said local board at their pleasure, subject nevertheless, in the case of the removal of the surveyor, to the approval of the general board of health: provided always, that the same person may be both

surveyor and inspector of nuisances ; but neither the person holding the office of treasurer, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or shall in any manner assist or officiate in the office of clerk ; and neither the person holding the office of clerk, nor his partner, nor any person in the service or employ of them or either of them, shall hold, be eligible to, or shall in any manner assist or officiate in the office of treasurer ; and whosoever offends in any of the cases enumerated in this proviso shall forfeit and pay the sum of one hundred pounds, which may be recovered by any person, with full costs of suit, by action of debt.

11 & 12 VICT.
c. 63.

Local officers.

inspector of
nuisances,
but not clerk
and trea-
surer.

38. And be it enacted, that no officer or servant appointed or employed by or under the local board of health shall in anywise be concerned or interested in any bargain or contract made with such board for the purposes of this act ; and if any such officer or servant be so concerned or interested, or shall, under colour of his office or employment, exact, take, or accept any fee or reward whatsoever, other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this act, and shall forfeit and pay the sum of fifty pounds, which may be recovered by any person, with full costs of suit, by action of debt.

Penalty
upon officers,
&c. interest-
ed in con-
tracts or
taking fees
improperly.

39. And be it enacted, that before any such officer or servant enters upon any office or employment under this act by reason whereof he will or may be intrusted with the custody or control of money, the local board of health by whom he is appointed shall require and take from him sufficient security for the faithful execution of such office or employment, and for duly accounting for all moneys which may be intrusted to him by reason thereof ; and every such officer or servant

Officers, &c.
intrusted
with money
to give se-
curity, and
to account.

11 & 12 Vict.
c. 63.

Local officers.

employed in the collection of rates under the authority of this act shall, within seven days after he shall have received any moneys on account of such rates, pay over the same to the treasurer, and shall, as and when the said local board may direct, deliver a list, signed by him, containing the names of all persons who have neglected or refused to pay any such rate, and the sums respectively due from them ; and every officer and servant appointed or employed by or acting under the said local board shall respectively, when and in such manner as shall be required by such board, make out and deliver to them a true and perfect account in writing of all moneys received by him for the purposes of this act, and stating how, and to whom, and for what purpose such moneys have been disposed of, and shall, together with such account, deliver the vouchers or receipts for all payments made by him, and pay over to the treasurer all moneys owing by him upon the balance of accounts ; and if any such officer or servant fail to render such account, or to produce and deliver up such of the said vouchers and receipts as may be in his possession or power, or to pay over any such moneys as aforesaid, or if for the space of five days after being thereunto required he fail to deliver up to the said local board all papers and writings, property, effects, matters, and things, in his possession or power, relating to the execution of this act, or belonging to such board, then and in every such case a justice shall, on complaint being made to him in that behalf, summon the party charged to appear and answer the complaint before two justices at a time and place to be specified in the summons ; and upon the appearance of the party charged, or upon proof that the summons was personally served upon him, or left at his last known place of abode or business, and if it appear to the last-mentioned justices that

Summary
proceedings
to be taken
in case of
failing to
account, &c.

he has failed to render any such accounts, or to produce and deliver up any such vouchers of receipts, or any such papers, writings, property, effects, matters or things as aforesaid, and that he still fails or refuses so to do, they may, by warrant under their hands and seals, commit the offender to gaol, there to remain, without bail, until he shall have rendered such accounts, and produced and delivered up all such vouchers, receipts, books, papers, writings, property, effects, matters, and things in respect of which the charge was made ; and if it appear that the party charged has failed to pay over any such moneys as aforesaid, and that he still fails or refuses so to do, the last-mentioned justices may, by a like warrant, cause the same to be levied by distress and sale of his goods and chattels, and in default of any sufficient distress commit him to gaol, there to remain, without bail, for a period of three months, unless such moneys be sooner paid : provided always, that if the complainant, by deposition on oath, show to the satisfaction of any justice that there is probable cause for believing that the party charged intends to abscond, such justice may without previous summons, by warrant under his hand and seal cause him to be forthwith apprehended ; and in such case the said party shall, within twenty-four hours after apprehension, be brought before the same or some other justice, who may order that he be discharged from custody, if such justice think that there is no sufficient ground for detention or that he be further detained until he be brought before two justices at a time and place to be named in the order, unless bail to the satisfaction of the justice be given for the appearance of the party before such two justices : provided also, that no such proceeding shall be construed to relieve or discharge any surety of the offender from any liability whatsoever.

11 & 12 VICT.
c. 63.

Local officers.

11 & 12 VICT.
c. 63.

Local officers.

Power to
appoint an
officer of
health.

40. And be it enacted, that the local board of health may from time to time, if they shall think fit, appoint a fit and proper person, being a legally qualified medical practitioner or member of the medical profession, to be and be called the officer of health, who shall be removable by the said local board, and shall perform such duties as the said general board shall direct; and the same person may be officer of health for two or more districts; and the local board or boards of health of the district or districts respectively for which any such officer is appointed, may pay to him, out of the general district rates to be levied under this act, such remuneration by way of annual salary or otherwise as the said local board or boards may by order in writing determine and appoint, and (in case of a joint appointment for two or more districts) in such proportions as the said general board may by order in writing determine and appoint; provided always, that the appointment and removal of the officer of health shall be subject to the approval of the said general board.

*District Maps,
&c.*

Map exhibit-
ing system
of sewerage.

41. And be it enacted, that the said local board of health may, if they shall think fit, cause to be prepared, or to procure a map exhibiting a system of sewerage for effectually draining their district for the purposes of this act, upon a scale to be prescribed by the general board of health; and every such map shall be kept at the office of the said local board, and shall at all reasonable times be open to the inspection of the rate-payers of the district to which it applies.

Expense of
surveys, &c.

42. And be it enacted, that the expense of surveys, maps, or plans made, prepared, or procured by the local board of health for the purposes of this act shall be defrayed out of the general district rates to be levied under this act.

Sewers.

Sewers, &c.

43. And be it enacted, that all sewers, whether existing at the time when this act is applied

or made at any time thereafter, (except sewers made by any person or persons for his or their own profit, or for the profit of proprietors or shareholders, and except sewers made and used for the purpose of draining, preserving, or improving land under any local or private act of Parliament, or for the purpose of irrigating land and sewers under the authority of any commissioners of sewers appointed by the crown,) together with all buildings, works, materials, and things belonging or appertaining thereto, shall vest in, belong to, and be entirely under the management and control of the local board of health.

11 & 12 VICT.
c. 63.

Sewers.

vested in
local board.

44. And be it enacted, that the local board of health may, if they shall think fit, purchase the rights, privileges, powers, and authorities vested in any person for making sewers, or contract for the use of any sewers within their district, or purchase any such sewers, with or without the buildings, works, materials, and things belonging or appertaining thereto; and any person to whom any such rights, privileges, powers, authorities, sewers, buildings, works, materials, or things belong may sell and dispose of the same to or otherwise contract with the said local board; and in case of any such sale, the purchase money shall be settled and applied to the same uses and trusts to which the property purchased may have been subject at the time of such sale, and the property purchased shall vest in and belong to the local board of health purchasing the same, anything to the contrary notwithstanding: provided always, that, notwithstanding any such purchase, any person who previously thereto may have acquired perpetual right to use any sewer so purchased shall be entitled to use the same, or any other sewer substituted in lieu thereof, in as full and ample a manner as he would or might have done if such purchase had not been made.

Power to
purchase,
&c. certain
sewers.

11 & 12 VICT.
c. 63.

Sewers.

Making, alteration, and discontinuance of sewers vested in local board.

45. And be it enacted, that the local board of health shall from time to time repair the sewers vested in them by this act, and shall cause to be made such sewers as may be necessary for effectually draining their district for the purposes of this act ; and the said local board may carry any such sewers through, across, or under any turnpike road, or any street or place laid out as or intended for a street, or under any cellar or vault which may be under the pavement or carriageway of any street, and, after reasonable notice in writing in that behalf, (if upon the report of the surveyor it should appear to be necessary,) into, through, or under any lands whatsoever ; and the said local board may from time to time enlarge, lessen, alter, arch over, or otherwise improve all or any of the sewers vested in them by this act, and discontinue, close up, or destroy such of them as they may deem to have become unnecessary : provided always, that the discontinuance, closing up, or destruction of any sewer shall be so done as not to create a nuisance ; and if by reason thereof any person is deprived of the lawful use of any sewer the said local board shall provide some other sewer as effectual for his use as the one of which he is so deprived.

As to cleansing and emptying sewers, &c. by local board.

46. And be it enacted, that the local board of health shall cause the sewers vested in them by this act to be constructed, covered, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied ; and for the purpose of clearing, cleansing, and emptying the same they may construct and place either above or under ground, such reservoirs, sluices, engines, and other works as may be necessary, and may cause all or any of such sewers to communicate with and be emptied into such places as may be fit and necessary, or to cause the sewage and refuse therefrom to be col-

lected for sale for any purpose whatsoever, but so as not to create a nuisance. 11 & 12 Vict.
c. 63.

47. And be it enacted, that it shall not be lawful to cause any sewer or drain to communicate with or to be emptied into any sewer of the local board of health, nor to cause any building to be newly erected over any such last-mentioned sewer, nor to cause any vault, arch, or cellar to be newly built or constructed under the carriageway of any street, without the written consent of the said local board first had and obtained; and whosoever offends against this enactment shall forfeit to the said local board the sum of five pounds, and a further penalty of forty shillings for every day during which the offence is continued after notice in writing from them in this behalf; and if any sewer, drain, building, vault, arch, or cellar be made, erected, or constructed contrary to this enactment the said local board may cause the same to be altered, pulled down, or otherwise dealt with as they may think fit, and the expenses incurred by them in so doing shall be repaid to them by the offender, and be recoverable from him in the summary manner hereinafter provided. *Sewers.*

Penalty for making unauthorized sewers, and building over sewers and under streets.

48. And be it enacted, that any owner or occupier of premises adjoining or near to but beyond the limits of any district may cause any sewer or drain of or from such premises to communicate with any sewer of the local board of health upon such terms and conditions as shall be agreed upon between such owner and occupier and such local board, or, in case of dispute, as shall be settled by arbitration in the manner provided by this act. Use of sewers by persons beyond district.

49. And be it enacted, that it shall not be lawful newly to erect any house, or to rebuild any house which may have been pulled down to or below the floor commonly called the ground floor, or to occupy any house so newly erected or *Drains, privies, &c.*

No new house to be built without drains, &c.

11 & 12 VICT.
c. 63.

*Drains,
privies, &c.*

Local board
may, upon
report of
surveyor
that any
house is
without a
drain, cause
one to be
constructed,
&c.

rebuilt, unless and until a covered drain or drains be constructed, of such size and materials, and at such level, and with such fall as upon the report of the surveyor shall appear to be necessary and sufficient for the proper and effectual drainage of the same and its appurtenances ; and if the sea, or a sewer of the local board of health, or a sewer which they are entitled to use, be within one hundred feet of any part of the site of the house to be built or rebuilt, the drain or drains so to be constructed shall lead from and communicate with such one of those means of drainage as the said local board shall direct, or if no such means of drainage be within that distance, then the last-mentioned drain or drains shall communicate with and be emptied into such covered cesspool or other place, not being under any house, and not being within such distance from any house as the said local board shall direct ; and whosoever erects or rebuilds any house or constructs any drain contrary to this enactment shall be liable for every such offence to a penalty not exceeding fifty pounds, which may be recovered by any person, with full costs of suit, by action of debt ; and if at any time, upon the report of the surveyor, it appear to the said local board that any house, whether built before or after the time when this act is applied to the district in which it is situate, is without any drain, or without such a drain or drains communicating with the sea or a sewer as is or are sufficient for the proper and effectual drainage of the same and its appurtenances, and if the sea, or a sewer of the said local board, or a sewer which they are entitled to use, be within one hundred feet of any part of such house, they shall cause notice in writing to be given to the owner or occupier of such house, requiring him forthwith, or within such reasonable time as shall be specified therein, to construct and lay down, in connexion with such house and one of

those means of drainage, one or more covered drain or drains, of such materials and size, at such level, and with such fall as upon the last-mentioned report shall appear to be necessary; and if such notice be not complied with the said local board may, if they shall think fit, do the works mentioned or referred to therein, and the expenses incurred by them in so doing shall be recoverable by them from the owner in a summary manner, or, by order of the said local board, shall be declared to be private improvement expenses, and be recoverable as such in manner hereinafter provided.

11 & 12 VICT.
c. 63.

*Drains,
privies, &c.*

50. And be it enacted, that if it shall appear to a majority of not less than three-fifths of the rated inhabitants of any parish or place containing less than two thousand inhabitants on the then last census, in which this act shall not have been applied by order in council or provisional order as aforesaid, assembled at a public meeting to be called as is hereinafter provided, that it would contribute to the health and convenience of the inhabitants that any pond, pool, open ditch, sewer, drain, or place containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health, should be drained, cleansed, covered, or filled up, or that a sewer should be made or improved, a well dug, or a pump provided, for the public use of the inhabitants, the churchwardens and overseers of such parish or place shall procure a plan and an estimate of the cost of executing such works, or any of them, and shall lay the same before another public meeting of such rated inhabitants, to be called as is hereinafter provided; and if the same shall be approved and sanctioned by a majority of the rated inhabitants assembled at such last-mentioned meeting, such churchwardens and overseers shall cause the works in respect of which

*Execution of
minor works
by overseers,
&c.*

*As to construction of
sewers,
wells,
pumps, &c.
for parishes,
&c. with less
than 2,000
inhabitants,
and in which
this act is
not otherwise
applied.*

11 & 12 VICT.
c. 63.

*Execution of
minor works
by overseers,
&c.*

such estimate shall have been made and sanctioned as aforesaid to be executed, and shall pay the cost thereof out of the poor rates of such parish or place: provided always, that notice of every such meeting shall be given by such churchwardens and overseers as is by this act directed to be given by superintending inspectors, before proceeding upon inquiries previously to the application of this act, and every such notice shall also contain a statement of the works proposed or intended to be submitted for consideration and approval.

*Drains,
privies, &c.
(continued.)*

Penalty on
persons
erecting
houses with-
out water
closets, &c.

Local board
may, upon
report of
surveyor,
order water-
closets, &c.
to be erected
in houses,
whether
built before
or after this
act is ap-
plied, &c.

51. And be it enacted, that it shall not be lawful newly to erect any house, or to rebuild any house pulled down to or below the floor commonly called the ground floor, without a sufficient watercloset or privy and an ashpit, furnished with proper doors and coverings; and whosoever offends against this enactment shall be liable to a penalty not exceeding twenty pounds; and if at any time, upon the report of the surveyor, it appear to the local board of health that any house, whether built before or after the time when this act is applied to the district in which it is situate, is without a sufficient watercloset or privy and an ashpit, furnished with proper doors and coverings, the said local board shall give notice in writing to the owner or occupier of such house, requiring him forthwith, or within such reasonable time as shall be specified therein, to provide a sufficient watercloset or privy and an ashpit so furnished as aforesaid, or either of them as the case may require; and if such notice be not complied with, the said local board may, if they shall think fit, cause to be constructed a sufficient watercloset or privy and an ashpit, or either of them, or do such other works as the case may require; and the expenses incurred by them in so doing shall be recoverable by them from the owner in a summary manner, or, by order of

the said local board, shall be declared to be private improvement expenses, and be recoverable as such in manner hereinafter provided: provided always, that where a watercloset or privy has been and is used in common by the inmates of two or more houses, or if, in the opinion of the said local board, a watercloset or privy may be so used, they need not require the same to be provided for each house.

11 & 12 VICT.
c. 63.

*Drains,
privies, &c.
(continued.)*

52. And be it enacted, that if at any time it appear to the local board of health, upon the report of the surveyor, that any house is used or intended to be used as a factory or building in which persons of both sexes, and above twenty in number, are employed or intended to be employed at one time in any manufacture, trade, or business, the said local board may, if they shall think fit, by notice in writing to the owner or occupier of such house, require them or either of them, within a time to be specified in such notice, to construct a sufficient number of waterclosets or privies for the separate use of each sex; and whosoever neglects or refuses to comply with any such notice shall be liable for each default to a penalty not exceeding twenty pounds, and a further penalty not exceeding forty shillings for every day during which the default is continued.

Certain
waterclosets
to be con-
structed in
factories, &c.

53. And be it enacted, that, fourteen days at the least before beginning to dig or lay out the foundations of or for any new house, or to rebuild any house pulled down to the extent aforesaid, the person intending so to build or rebuild shall give to the local board of health written notice thereof, together with the level or intended level of the cellars or lowest floor, and the situation and construction of the privies and cesspools to be built, constructed, or used in connexion with such house; and it shall not be lawful to begin to build or rebuild any such house, or to build

Notice of
building and
rebuilding,
with respect
to levels of
houses,
situation of
privies, &c.

11 & 12 VICT.
c. 63.

*Drains,
privies, &c.
(continued.)*

or construct any such privy or cesspool, until the particulars so required to be stated have been approved by the said local board; and in default of such notice, or if any such house, privy, or cesspool be built, rebuilt, or constructed as aforesaid without such approval, or in any respect contrary to the provisions of this act, the offender shall be liable to a penalty not exceeding fifty pounds; and the said local board may, if they shall think fit, cause such house, privy, or cesspool to be altered, pulled down, or otherwise dealt with as the case may require, and the expenses incurred by them in so doing shall be repaid by the offender, and be recoverable from him in the summary manner hereinafter provided: provided always, that if the said local board fail to signify their approval or disapproval of the said particulars for the space of fourteen days after receiving such notice it shall be lawful to proceed according to such notice if the same be otherwise in accordance with the provisions of this act.

Local board
to provide
that drains,
water-
closets, &c.
do not
become a
nuisance.

54. And be it enacted, that the local board of health shall see and provide that all drains whatsoever, and the waterclosets, privies, cesspools, and ashpits within their district, are constructed and kept so as not to be a nuisance or injurious to health; and the surveyor may, by written authority of the said local board (who are hereby empowered to grant such authority, upon the written application of any person showing that the drain, watercloset, privy, cesspool, or ashpit in respect of which application is made is a nuisance or injurious to health, but not otherwise), and after twenty-four hours' notice in writing, or in case of emergency without notice, to the occupier of the premises to which such drain, watercloset, privy, cesspool, or ashpit is attached or belongs, enter such premises, with or without assistants, and cause the ground to be opened,

and examine and lay open such drain, water-closet, privy, cesspool, or ashpit; and if the drain, water-closet, privy, cesspool, or ashpit in respect of which such examination is made be found to be in proper order and condition, he shall cause the ground to be closed, and any damage done to be made good as soon as can be, and the expenses of the works shall be defrayed by the said local board; but if upon such examination such drain, water-closet, privy, cesspool, or ashpit appear to be in bad order and condition, or to require alteration or amendment, he shall cause the ground to be closed, and the said local board shall cause notice in writing to be given to the owner or occupier of the premises upon or in respect of which the examination was made, requiring him forthwith, or within such reasonable time as shall be specified in such notice, to do the necessary works: and if such notice be not complied with, the person to whom it is given shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default, and the said local board may, if they shall think fit, execute such works, and the expenses incurred by them in so doing shall be recoverable by them from the owner in a summary manner, or, by order of the said local board, shall be declared to be private improvement expenses, and be recoverable as such in the manner hereinafter provided.

55. And be it enacted, that the local board of health shall from time to time and at all convenient times provide that all streets within their district, including the foot pavements thereof, are properly swept, cleansed, and watered, and that all dust, ashes, rubbish, filth, dung, and soil thereon are collected and removed; and they may make bye laws with respect to the removal by the occupier, or (in case of his default) by the said local board, of dust, ashes, rubbish, filth, manure, dung, and soil collected, placed, or found

11 & 12 Vict.
c. 63.

—
*Drains,
privies, &c.
(continued.)*
—

*Surface
cleansing, &c.*

—
Cleansing
of streets,
removal of
dust, &c.

11 & 12 VICT.
c. 63.

*Surface
cleansing, &c.*

Local board
to cause
places for
deposit of
dust, soil,
&c. to be
provided.

Public
necessaries.

Nuisances.

Offensive
ditches,
drains, &c.
to be
cleansed or
covered.

in or about any house, stable, cowhouse, street, or place whatsoever, and for preventing the deposit thereof in or by the side of any street, or so as to be a nuisance to any person, and with respect to the times and manner of cleansing and emptying water-closets, privies, and cesspools.

56. And be it enacted, that the local board of health may, in their discretion, provide, in proper and convenient situations, boxes or other conveniences for the temporary deposit and collection of dust, ashes, and rubbish, and also fit buildings and places for the deposit of the sewage, soil, dung, filth, ashes, dust, and rubbish collected by such board; and all sewage, soil, dung, filth, ashes, dust, and rubbish so collected by the said local board, or in any convenience provided as aforesaid, shall be vested in and be sold and disposed of by such board, and the proceeds thereof shall be carried to the district fund account hereinafter mentioned; and whosoever, without the consent of the said local board, collects or removes any sewage, soil, dung, filth, ashes, dust, or rubbish belonging to them, shall for every such offence be liable to a penalty not exceeding forty shillings.

57. And be it enacted, that the local board of health may, if they think fit, provide and maintain, in proper and convenient situations, water-closets, privies, and other similar conveniences for public accommodation, and defray the necessary expenses out of the district rates to be levied under this act.

58. And be it enacted, that the local board of health shall drain, cleanse, cover, or fill up, or cause to be drained, cleansed, covered, or filled up, all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health; and they shall cause written notice to be

given to the person causing any such nuisance, or to the owner or occupier of any premises whereon the same exists, requiring him, within a time to be specified in such notice, to drain, cleanse, cover, or fill up any such pond, pool, ditch, sewer, drain, or place, or to construct a proper sewer or drain for the discharge thereof, as the case may require; and if the person to whom such notice is given fail to comply therewith, the said local board shall execute the works mentioned or referred to therein, and the expenses incurred by them in so doing shall be recoverable by them from him in a summary manner, or by order of the said local board shall be declared to be private improvement expenses, and be recoverable as such in the manner hereinafter provided: provided always, that the said local board may order that the whole or a portion of the expenses incurred in respect of any such last-mentioned works be defrayed out of the special or general district rates to be levied under this act, and in case of any such order the whole or such portion of the expenses as may be mentioned therein shall be defrayed and levied accordingly.

59. And be it enacted, that whosoever keeps any swine or pigstye in any dwelling-house, or so as to be a nuisance to any person, or suffers any waste or stagnant water to remain in any cellar or place within any dwelling-house for twenty-four hours after written notice to him from the local board of health to remove the same, and whosoever allows the contents of any water-closet, privy, or cesspool to overflow or soak therefrom, shall for every such offence be liable to a penalty not exceeding forty shillings, and to a further penalty of five shillings for every day during which the offence is continued; and the said local board shall abate or cause to be abated every such nuisance, and the expenses

11 & 12 VICT.
c. 63.

Nuisances.

Penalties for
keeping
swine, &c.
in improper
situations,
allowing
waste water
to remain in
cellars, &c.

11 & 12 Vict.
c. 63.

Nuisances.

Removal of
filth, on cer-
tificate of
inspector of
nuisances.

incurred by them in so doing shall be repaid to them by the occupier of the premises upon which the same exists, and be recoverable from him in the summary manner hereinafter provided: and if at any time it appear to the inspector of nuisances that any accumulation of manure, dung, soil, or filth, or other offensive or noxious matter whatsoever, ought to be removed, he shall give notice to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove the same; and if at the expiration of twenty-four hours after such notice the same be not complied with, the manure, dung, soil, or filth, or matter referred to, shall be vested in and be sold or disposed of by the said local board, and the proceeds thereof shall be carried to the district fund account hereinafter mentioned.

Houses to be
purified, on
certificate of
officer of
health, or of
two medical
practitioners

60. And be it enacted, that if upon the certificate of the officer of health (if any), or of any two medical practitioners, it appear to the local board of health that any house or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing, cleansing, or purifying of any house or part thereof would tend to prevent or check infectious or contagious disease, the said local board shall give notice in writing to the owner or occupier of such house or part thereof to whitewash, cleanse, or purify the same, as the case may require; and if the person to whom notice is so given fail to comply therewith within such time as shall be specified in the said notice, he shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default; and the said local board may, if they shall think fit, cause such house, building, or part thereof to be whitewashed, cleansed, or purified, and the expenses incurred by them in so doing shall be

repaid by the owner or occupier in default, and be recoverable from either of them in the summary manner hereinafter provided. 11 & 12 Vict.
c. 63.
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61. And be it enacted, that every building or place used as a slaughter-house shall, within three months after this act is applied to the district in which it is situate, or, in the case of a building or place newly used as a slaughter-house after that time, within three months after the commencement of such user, be registered by the owner or occupier thereof at the office of the said local board, in a book which shall be kept by such board for that purpose; and whosoever uses or suffers to be used any building or place as a slaughter-house without its being registered as required by this act shall be liable for every such offence to a penalty not exceeding five pounds, and a further penalty not exceeding ten shillings for every day during the continuance of the offence after written notice thereof from the said local board. *Slaughter-houses, &c.*
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Slaughter-houses to be registered.

62. And be it enacted, that the local board of health may from time to time, if they shall think fit, provide premises for the purpose of being used as slaughter-houses; and they shall make bye laws for and with respect to the management and charges for the use of the premises so provided, and with respect to the inspection of all slaughter-houses, and for keeping the same in a cleanly and proper state: provided always, that nothing herein contained shall prejudice or affect the rights, privileges, powers, or authorities of any persons incorporated by any local act of Parliament passed before the passing of this act for the purpose of making and maintaining slaughter-houses for the accommodation of any city, town, borough, or place. Local board may provide slaughter-houses, and make bye laws with respect to slaughter-houses in general.

63. And be it enacted, that the inspector of nuisances may, and he is hereby empowered, at all reasonable times, with or without assistants, Power to Inspector of nuisances to enter places

11 & 12 VICT.
c. 63.

*Slaughter-
houses, &c.*

used for sale
of butcher's
meat, &c.

to enter into and inspect any shop, building, stall, or place kept or used for the sale of butcher's meat, poultry, or fish, or as a slaughter-house, and to examine any animal, carcase, meat, poultry, game, flesh, or fish which may be therein; and in case any animal, carcase, meat, poultry, game, flesh, or fish appear to him to be intended for the food of man, and to be unfit for such food, the same may be seized; and if it appear to a justice, upon the evidence of a competent person, that any such animal, carcase, meat, poultry, game, flesh, or fish is unfit for the food of man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food; and the person to whom such animal, carcase, meat, poultry, game, flesh, or fish belongs, or in whose custody the same is found, shall be liable to a penalty not exceeding ten pounds for every animal or carcase, fish, or piece of meat, flesh, or fish, or any poultry or game, so found, which penalty may be recovered before two justices in the manner hereinafter provided with respect to penalties the recovery whereof is not expressly provided for.

Offensive
trades newly
established
to be subject
to regulation
of local board
of health.

64. And be it enacted, that the business of a blood-boiler, bone-boiler, fellmonger, slaughterer of cattle, horses, or animals of any description, soap-boiler, tallow-melter, tripe-boiler, or other noxious or offensive business, trade, or manufacture, shall not be newly established in any building or place, after this act is applied to the district in which such building or place is situate, without the consent of the local board of health, unless the said general board shall otherwise direct; and whosoever offends against this enactment shall be liable for each offence to a penalty of fifty pounds, and a further penalty of forty shillings for each day during which the offence is continued; and the said local board may from

time to time make such bye laws with respect to any such businesses so newly established as they may think necessary and proper, in order to prevent or diminish the noxious or injurious effects thereof.

11 & 12 Vict.
c. 63.
—
Nuisances.
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65. And be it declared and enacted, that nothing in this act shall be construed to render lawful any act, matter, or thing whatsoever which but for this act would be deemed to be a nuisance, nor to exempt any person from any liability, prosecution, or punishment to which he would have been otherwise subject in respect thereof.

Act not to
affect present
law as to
nuisances.

66. And be it enacted, that it shall not be lawful to keep any common ~~public~~ lodging house unless the same be registered as next hereinafter mentioned; and the local board of health shall cause a register to be kept, in which shall be entered the name of every person applying to register any common lodging house kept by him, and the situation of every such house; and the said local board shall from time to time make bye laws, for fixing the number of lodgers who may be received into each house so registered, for promoting cleanliness and ventilation therein, and with respect to the inspection thereof, and the conditions and restrictions under which such inspection may be made; and the person keeping any such lodging house shall give access to the same when required by any persons who shall produce the written authority of the said local board in this behalf, for the purpose of inspecting the same, or for introducing or using therein any disinfecting process, and the expenses incurred by the said local board in so introducing or using any disinfecting process shall be recoverable by them in a summary manner from the person keeping the lodging house in which the same shall have been used or introduced; and whosoever shall receive lodgers in any common

*Lodging
houses.*
—

Common
lodging
houses to be
registered.

Penalty on
neglect.

11 & 12 VICT.
c. 63.

*Lodging
houses.*

lodging house without having registered the same as required by this act, or shall refuse to admit therein, at any time within the hour of eleven in the forenoon and the hour of four in the afternoon, any person authorized by the said local board as last aforesaid, shall for every such offence be liable to a penalty not exceeding forty shillings.

*Occupation of
cellars, &c.*

Cellars, &c.
newly built
not to be let
as dwelling
rooms.

No cellars,
&c. to be let
except under
certain con-
ditions.

67. And be it enacted, that it shall not be lawful to let or occupy or suffer to be occupied separately as a dwelling any vault, cellar, or underground room built or rebuilt after the passing of this act, or which shall not have been so let or occupied before the passing of this act; and it shall not be lawful to let or continue to let, or to occupy or suffer to be occupied, separately as a dwelling, any vault, cellar, or underground room whatsoever, unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof, nor unless the same be at least three feet of its height above the surface of the street or ground adjoining or nearest to the same, nor unless there be outside of and adjoining the same vault, cellar, or room, and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof up to the surface of the said street or ground, an open area of at least two feet and six inches wide in every part, nor unless the same be well and effectually drained by means of a drain the uppermost part of which is one foot at least below the level of the floor of such vault, cellar, or room, nor unless there be appurtenant to such vault, cellar, or room the use of a watercloset or privy and an ashpit, furnished with proper doors and coverings, kept and provided according to the provisions of this act, nor unless the same have a fireplace with a proper chimney or flue, nor unless the same have an external window of at

least nine superficial feet in area clear of the sash frame, and made to open in such manner as shall be approved by the surveyor, except in the case of an inner or back vault, cellar, or room let or occupied along with a front vault, cellar, or room as part of the same letting or occupation, in which case the external window may be of any dimensions, not being less than four superficial feet in area clear of the sash frame; and whosoever lets, occupies, or continues to let, or knowingly suffers to be occupied, for hire or rent, any vault, cellar, or underground room, contrary to this act, shall be liable for every such offence to a penalty not exceeding twenty shillings for every day during which the same continues to be so let or occupied after notice in writing from the local board of health in this behalf: provided always, that in any area adjoining a vault, cellar, or underground room there may be steps necessary for access to such vault, cellar, or room, if the same be so placed as not to be over, across, or opposite to the said external window, and so as to allow between every part of such steps and the external wall of such vault, cellar, or room a clear space of six inches at the least, and that over or across any such area there may be steps necessary for access to any building above the vault, cellar, or room to which such area adjoins, if the same be so placed as not to be over, across, or opposite to any such external window: provided also, that every vault, cellar, or underground room in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this act: provided also, that the provisions of this act with respect to the letting and occupation of vaults, cellars, and underground rooms shall not, so far as the same relate to vaults, cellars, and underground rooms, which shall have been let or occupied as dwellings before the passing of this act, come into force or operation until the expiration of

11 & 12 VICT.
c. 63.

—
*Occupation of
cellars, &c.*
—

Act not to
come into
operation
until the
expiration of
a certain
time, in case
of cellars, &c.
already occu-
pied as
dwellings.

11 & 12 Vict.
c. 63.

Occupation of
cellars, &c.

Churchwar-
dens, &c. to
give notice of
enactment.

Management
of streets.

Management
of streets
vested in
local board.

one year from the passing of this act, nor within any district until the expiration of six months from the time when this act shall have been applied thereto; and all churchwardens and overseers of the poor shall from time to time after the passing of this act cause public notice of the provisions of this act with respect to the letting and occupation of vaults, cellars, and underground rooms to be given in such manner as may appear to them to be best calculated to make the same generally known.

68. And be it enacted, that all present and future streets, being or which at any time become highways within any district, and the pavements, stones, and other materials thereof, and all buildings, implements, and other things provided for the purposes thereof by any surveyor of highways, or by any person serving the office of surveyor of highways, shall vest in and be under the management and control of the said local board of health; and the said local board shall from time to time cause all such streets to be levelled, paved, flagged, channelled, altered, and repaired, as and when occasion may require, and they may from time to time cause the soil of any such street to be raised, lowered, or altered as they may think fit, and place and keep in repair fences and posts for the safety of foot passengers; and whosoever wilfully displaces, takes up, or injures the pavement, stones, materials, fences, or posts of any such street, without the consent of the said local board, shall be liable for every such offence to a penalty not exceeding five pounds, and a further sum not exceeding five shillings for every square foot of the pavement, stones, or other materials so displaced, taken up, or injured.

Power to
compel pav-
ing, &c. of pri-
vate streets.

69. And be it enacted, that in case any present or future street, or any part thereof, (not being a highway,) be not sewered, levelled, paved, flagged, and channelled to the satisfaction of the local

board of health, such board may, by notice in writing to the respective owners or occupiers of the premises fronting, adjoining, or abutting upon such parts thereof as may require to be sewered, levelled, paved, flagged, or channelled, require them to sewer, level, pave, flag, or channel the same, within a time to be specified in such notice ; and if such notice be not complied with, the said local board may, if they shall think fit, execute the works mentioned or referred to therein ; and the expenses incurred by them in so doing shall be paid by the owners in default, according to the frontage of their respective premises, and in such proportion as shall be settled by the surveyor, or in case of dispute as shall be settled by arbitration (having regard to all the circumstances of the case) in the manner provided by this act ; and such expenses may be recovered from the last-mentioned owners in a summary manner, or the same may be declared by order of the said local board to be private improvement expenses, and be recoverable as such in the manner hereinafter provided.

70. And be it enacted, that if any present or future street, not being a highway at the time when this act is applied to the district in which it is situate, be sewered, levelled, paved, flagged, and channelled to the satisfaction of the local board of health, the said local board may, if they shall think fit, by notice in writing put up in any part of the street, declare the same to be a highway, and thereupon the same shall become a highway, and be from time to time repaired by them out of the rates levied in that behalf under the authority of this act ; and every such notice shall be entered amongst the proceedings of the said local board : provided always, that no street shall become a highway as last aforesaid, if within one month after notice in writing shall have been put up as last aforesaid the proprietor of such

11 & 12 VICT.
c. 63.

—
*Management
of streets.*
—

Certain
streets not
highways to
be deemed
such, and
repaired by
local board.

11 & 12 VICT.
c. 63.

*Management
of streets.*

Power to
require gas
and water
pipes to be
moved.

street, or the person representing or entitled to represent such proprietor, shall by notice in writing to the said local board object thereto.

71. And be it enacted, that if and when for the purposes of this act the local board of health deem it necessary to raise, sink, or otherwise alter the situation of any water or gas pipes, mains, plugs, or other waterworks or gasworks laid in or under any street, they may by notice in writing require the person to whom the pipes, mains, plugs, or works belong to raise, sink, or otherwise alter the situation of the same in such manner and within such reasonable time as shall be specified in such notice, and the expenses attendant upon or connected with any such alteration shall be paid by the said local board out of the general district rates levied under this act; and if such notice be not complied with the said local board may make the alteration required: provided always, that no such alteration shall be required or made which will permanently injure any such pipes, mains, plugs, or works, or prevent the water or gas from flowing as freely and conveniently as usual; provided also, that where under any local act of Parliament the expenses attendant upon or connected with the raising, sinking, or otherwise altering the situation of any water or gas pipes, mains, plugs, or other waterworks or gasworks, are or shall be directed to be borne by the person to whom such pipes or works belong, his liability in that respect shall continue, in the same manner and under the same conditions in all respects as if this act had not been passed.

Notice to be
given to local
board before
laying out
new streets,
who shall fix
the levels
and widths
thereof.

72. And be it enacted, that one month at the least before any street is newly laid out as afore-said, written notice shall be given to the local board of health, showing the intended level and width thereof; and the level and width of every such street shall be fixed by the said local board, and it shall not be lawful to lay out, make, or

build upon any such street otherwise than in accordance with the level and width so fixed, unless, upon disapproval by the said local board of the level or width specified in such notice, the general board of health shall otherwise direct; and whosoever shall lay out, make, or build, upon any such street otherwise than in accordance with the level and width fixed by the said local board, or approved by the said general board, shall be liable for every such offence to a penalty not exceeding twenty pounds for every day during which he shall permit or suffer such street to continue to be so improperly laid out, made, or built upon; and the said local board may, if they shall think fit, cause any such street laid out or made at a level or width otherwise than in accordance with the level and width so fixed or approved as aforesaid, or any building built in any such street otherwise than in accordance with such level and width, to be altered in such manner as the case may require, and the expenses incurred by them in so doing shall be repaid to them by the offender, and be recoverable from him in a summary manner: provided always, that if no such level or width be fixed, and no approval or disapproval of the level or width proposed be signified by the said local board within one month from the last-mentioned notice, the intended street may be laid out and made upon the level and of the width specified in such notice, if the same be otherwise in accordance with the other provisions of this act.

73. And be it enacted, that the said local board may, by agreement, purchase any premises for the purpose of widening, opening, enlarging, or otherwise improving any street; and any part of the premises so purchased which shall not be wanted for that purpose shall be resold at the best price that can be gotten for the same, and the proceeds of such resale shall be carried to the district fund account hereinafter mentioned.

11 & 12 Vict.
c. 63.

*Management
of streets.*

Local board
may purchase
premises in
order to improve
streets.

11 & 12 VICT.
c. 63.

Public pleasure grounds.

Local board may provide places of public recreation, &c.

Supply of water.

Local board to provide sufficient supplies of water, and may erect waterworks, &c.

In case of waterworks constructed by local board, the water may be kept constantly under pressure.

74. And be it enacted, that the local board of health, with the approval of the said general board, may provide, maintain, lay out, plant, and improve premises for the purpose of being used as public walks or pleasure grounds, and support or contribute towards any premises provided for such purposes by any person whomsoever.

75. And be it enacted, that the local board of health may provide their district with such a supply of water as may be proper and sufficient for the purposes of this act, and for private use to the extent required by this act; and for those purposes, or any of them, the said local board may from time to time, with the approval of the general board of health, contract with any person whomsoever, or purchase, take upon lease, hire, construct, lay down, maintain such waterworks, and do and execute all such works, matters, and things, as shall be necessary and proper; and any waterworks company may contract with the local board of health to supply water for the purposes of this act in any manner whatsoever, or may sell and dispose of or lease their waterworks to any local board of health willing to take the same; and the said local board may provide and keep in any waterworks constructed or laid down by them under the powers of this act a supply of pure and wholesome water, and the water so supplied may be constantly laid on at such pressure as will carry the same to the top story of the highest dwelling-house within the district supplied: provided always, that before constructing or laying down any waterworks under the powers of this act within any limits within, for or in respect of which any waterworks company shall have been established for supplying water, the said local board shall give notice in writing to every waterworks company within whose limits the said local board may be desirous of laying on or

supplying water, stating the purposes for and (as far as may be practicable) the extent to which water is required by the said local board; and it shall not be lawful for the said local board to construct or lay down any waterworks within such limits, if and so long as any such company shall be able and willing to lay on water proper and sufficient for all reasonable purposes for which it is required by the said local board, and upon such terms as shall be certified to be reasonable by the general board of health, after inquiry and report by a superintending inspector in this behalf, or (in case such company shall be dissatisfied with such certificate) upon such terms as shall be settled by arbitration in the manner provided by this act; and in case any difference shall arise as to whether the water which any such company is able and willing to supply or lay on is sufficient for the purposes for which it is required by the said local board, or whether the purposes for which it is required are reasonable, the same shall be settled by arbitration in the manner provided by this act.

76. And be it enacted, that if upon the report of the surveyor it appear to the local board of health that any house is without a proper supply of water, and that such a supply of water can be furnished thereto at a rate not exceeding twopence *per* week, the said local board shall give notice in writing to the occupier, requiring him, within a time to be specified therein, to obtain such supply, and to do all such works as may be necessary for that purpose; and if such notice be not complied with, the said local board may, if they shall think fit, do such works, and obtain such supply accordingly, and make and levy water rates upon the premises, not exceeding in the whole the rate of twopence *per* week, in manner hereinafter provided, as if the owner or occupier of the premises had demanded a supply

11 & 12 VICT.
c. 63.

—
*Supply of
water.*
—

Local board
not to con-
struct water-
works, &c. if
any water-
works com-
pany within
their dis-
trict be able
and willing
to supply
water upon
terms.

Local board
may require
that houses
be supplied
with water,
&c. in certain
cases.

11 & 12 VICT.
c. 63.

*Supply of
water.*

Water for
public baths,
or trading or
manufactur-
ing purposes.

Maintenance
and con-
struction of
public cis-
terns for gra-
tuitous use.

Penalty for
injuring
waterworks,
diverting
streams, or
wasting
water.

of water and were willing to pay water rates for the same ; and the expenses incurred by them in doing such works as last aforesaid shall be private improvement expenses, and be recoverable as such in the manner hereinafter provided.

77. And be it enacted, that the local board of health may, if they shall think fit, supply water from any waterworks purchased or constructed by them under this act to any public baths or wash-houses, or for trading or manufacturing purposes, upon such terms and conditions as may be agreed upon between the said local board and the persons desirous of being so supplied.

78. And be it enacted, that the local board of health may cause all existing public cisterns, pumps, wells, reservoirs, conduits, aqueducts, and works used for the gratuitous supply of water to the inhabitants to be continued, maintained, and plentifully supplied with water, or they may substitute, continue, maintain, and plentifully supply with water other such works equally convenient ; and the said local board may, if they shall think fit, construct any number of new cisterns, pumps, wells, conduits, and works for the gratuitous supply of any public baths or wash-houses established otherwise than for private profit or supported out of any poor or borough rates.

79. And be it enacted, that whosoever shall wilfully or carelessly break, injure, or open any lock, cock, waste pipe, or waterworks belonging to or under the management or control of the local board of health, or constructed, continued, or maintained under this act, in any parish or place in which there shall be no local board of health, or shall unlawfully flush, draw off, divert, or take water from any waterworks belonging to or under the management or control of the said local board, or so constructed, continued, or maintained in any such parish or place, or from any waters or streams by which such waterworks

are supplied, or shall wilfully or negligently waste or cause to be wasted any water with which he is supplied by the said local board, shall for every such offence forfeit a sum not exceeding five pounds, and a further penalty of twenty shillings for each day whilst the offence is continued after written notice in that behalf, which penalties shall be paid to the said local board, or, in the case of a parish or place in which there shall be no local board of health, to the churchwardens and overseers of the poor, to be by them applied in aid of the rate for the relief of the poor of such parish or place : provided always, that nothing herein contained shall prevent the owner or occupier of any premises through or by which any streams may flow, from using the same as they would have been entitled to do if this act had not been passed.

11 & 12 VICT.
c. 63.

*Supply of
water.*

80. And be it enacted, that whosoever shall bathe in any stream, reservoir, conduit, aqueduct, or other waterworks belonging to or under the management or control of the local board of health, or in any reservoir, conduit, aqueduct, or other waterworks constructed, continued, or maintained under this act in any parish or place in which there shall be no local board of health, or shall wash, cleanse, throw, or cause to enter therein any animal, rubbish, filth, stuff, or thing of any kind whatsoever, or shall cause or permit or suffer to run or be brought therein the water of any sink, sewer, drain, engine, or boiler, or other filthy, unwholesome, or improper water, or shall do any thing whatsoever whereby any water belonging to the said local board or under their management or control, or whereby any water of or contained in any such reservoir, conduit, aqueduct, or other waterworks so constructed, continued, or maintained in any such parish or place as aforesaid shall be fouled, shall for every such offence forfeit a sum not exceed-

Penalties on
persons for
causing
water in
reservoirs to
be fouled ;

11 & 12 VICT.
c. 63.

*Supply of
water.*

and on pro-
prietors of
gas works,
&c.

ing five pounds, and a further sum of twenty shillings for each day whilst the offence is continued, after written notice in that behalf; which penalties shall be paid to the said local board, or, in the case of a parish or place in which there shall be no local board of health, to the churchwardens and overseers of the poor, to be by them applied in aid of the rate for the relief of the poor of such parish or place; and whosoever, being proprietor of any gas works, or being engaged or employed in the manufacture or supply of gas, causes or suffers to be brought or to flow into any stream, reservoir, conduit, aqueduct, or waterworks belonging to or under the management or control of the said local board, or into any drain or pipe communicating therewith, any washing or other substance produced in the manufacture or supply of gas, or shall wilfully do any act connected with the manufacture or supply of gas whereby the water in any such stream, reservoir, aqueduct, or waterworks is fouled, shall forfeit to the said local board for every such offence the sum of two hundred pounds, and, after the expiration of twenty-four hours notice in writing from them in this behalf, a further sum of twenty pounds for every day during which the offence is continued, or during the continuance of the act whereby the water is fouled; and every such penalty shall be recoverable, with full costs of suit, by action of debt; and if any water supplied by, belonging to, or under the management or control of the said local board be fouled in any manner by the gas of any such proprietor or person as last aforesaid, he shall forfeit to the local board for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for every day whilst the offence is continued after the expiration of twenty-four hours notice in writing from the said local board in this behalf;

and for the purpose of ascertaining whether such water is fouled by the gas of any such proprietor or person the said local board may lay open and examine any pipes, conduits, and works from which the gas is supposed to escape; provided that before beginning so to do twenty-four hours notice in writing be given to the person to whom such pipes, conduits, or works belong, or under whose management or control they may be, of the time at which the examination is intended to be made; and if upon such examination it appear that the water has been fouled by the gas proceeding from or contained in the pipes, conduits, or works examined, the expenses of the examination shall be paid and borne by the person to whom such pipes, conduits, or works belong, or under whose management or control they may be, and be recoverable from him in the summary manner hereinafter provided; but if it appear that the water has not been so fouled, then such expenses, and all damages occasioned by the examination, shall be paid by the said local board out of the general district rates levied under this act, and be recoverable from them in the summary manner hereinafter provided.

81. And for the purpose of preventing the manifold evils occasioned by the retention of the dead in the dwellings of the poor, be it enacted, that the local board of health may, if they shall think fit, provide, fit up, and make bye laws with respect to the management and charges for the use of, rooms or premises in which corpses may be received and decently and carefully kept previously to interment; and the said local board may, upon proper application, and subject to such regulations and at such rates and charges as shall be prescribed by any such bye laws, make all necessary arrangements for the decent and economical interment of any corpse which

11 & 12 VICT.
c. 63.

*Supply of
water.*

*Reception
houses for the
dead.*

Power to
provide pre-
mises for the
reception of
the dead pre-
viously to
interment.

11 & 12 VICT.
c. 63.
— may have been received into any rooms or premises so provided in pursuance of this enactment.

*Burial
grounds.*
—

Burial
grounds, &c.
dangerous to
health may
be prohibited

82. And be it enacted, that if upon the representation of the local board of health, and after inquiry and report by a superintending inspector, notified to the Lord Bishop of the diocese, and made, notified, and published in manner hereinbefore directed with respect to the inquiry and report of superintending inspectors previously to the constitution of a district under this act, and after inquiry by such other ways and means as the general board of health may think fit to direct, the said general board shall certify (such certificate to be published in the *London Gazette*, and in some one or more of the public newspapers usually circulated within the district) that any burial ground situate within any district to which this act is applied is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof, or that any church or other place of public worship within any such district is dangerous to the health of persons frequenting the same, by reason of the surcharged state of the vaults or graves within the walls of or underneath the same, and that sufficient means of interment exist within a convenient distance from such burial ground, church, or place of public worship, it shall not be lawful, after a time to be named in such certificate, to bury or permit or suffer to be buried any further corpses or coffins in, within, or under the ground, church, or place of worship to which the certificate relates, except in so far as may be allowed by such certificate; and whosoever, after notice of such certificate, buries, or causes, permits, or suffers to be buried, any corpse or coffin contrary to this enactment, shall for every such offence be liable to a penalty of twenty pounds.

83. And be it enacted, that no vault or grave shall be constructed or made within the walls of or underneath any church or other place of public worship built in any district after the passing of this act, and no burial ground shall be made or formed within any district after the passing of this act, without the consent of the general board of health first had and obtained, unless the same be made or formed upon land purchased or authorized by Parliament to be appropriated for the purpose of being used as a burial ground before the passing of this act; and whosoever shall bury, or cause, permit, or suffer to be buried, any corpse or coffin in any vault, grave, or burial ground constructed, made, or formed contrary to this enactment, shall for every such offence be liable to a penalty not exceeding fifty pounds, which may be recovered by any person, with full costs of suit, in an action of debt.

11 & 12 VICT.
c. 63.

*Burial
grounds.*

As to inter-
ments within
churches or
burial
grounds
newly
erected or
formed.

84. And be it enacted, that the local board of health, by agreement, may purchase, or take upon lease, sell, or exchange, any lands or premises for the purposes of this act; and the Lands Clauses Consolidation Act, 1845, except the parts and enactments of that act with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the recovery of forfeitures, penalties, and costs, and with respect to lands acquired by the promoters of the undertaking, but which shall not be wanted for the purposes thereof, shall, in so far as the same is consistent with this act, be incorporated with this act; and for the purposes of this act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean the local board of health mentioned in this act; and all lands and premises which shall be purchased, hired, or taken on lease by the local board of

*Purchase, &c.
of lands.*

Power to
local boards
to purchase
lands, &c.
under
8 & 9 Vict.
c. 18.

11 & 12 VICT.
c. 63.

Purchase, &c.
of lands.

Contracts.

Contracts by
local board.

Composition
for penalties
in respect of
breach of
contracts.

Estimates to
be made
before com-
mencing
works.

health of any noncorporate district shall be conveyed, demised, and assured to such local board and their successors, in trust for the purposes of this act, and shall be accepted, taken, and held as a body corporate.

85. And be it enacted, that the local board of health may enter into all such contracts as may be necessary for carrying this act into execution; and every such contract whereof the value or amount shall exceed ten pounds shall be in writing, and (in the case of a noncorporate district) sealed with the seal of the local board by whom the same is entered into, and signed by five or more members thereof, and (in the case of a corporate district), sealed with the common seal, and shall specify the work, materials, matters, or things to be furnished, had, or done, the price to be paid, and the time or times within which the contract is to be performed, and shall fix and specify some pecuniary penalty to be paid in case the terms of the contract are not duly performed; and every contract so entered into, and duly executed by the other parties thereto, shall be binding on the local board by whom the same is executed, and their successors, and upon all other parties thereto, and their executors, administrators, successors, or assigns, to all intents and purposes: provided always, that the said local board may compound with any contractor or other person in respect of any penalty incurred by reason of the non-performance of any contract entered into as aforesaid, whether such penalty be mentioned in any such contract, or in any bond or otherwise, for such sums of money or other recompense as to such local board may seem proper: provided also, that before contracting for the execution of any works under the provisions of this act the said local board shall obtain from the surveyor an estimate in writing, as well of the probable expense of executing the work

in a substantial manner as of the annual expense of repairing the same; also a report as to the most advantageous mode of contracting, that is to say, whether by contracting only for the execution of the work, or for executing and also maintaining the same in repair during a term of years or otherwise: provided also, that before any contract of the value or amount of one hundred pounds or upwards is entered into by the said local board ten days public notice at the least shall be given expressing the nature and purpose thereof, and inviting tenders for the execution of the same; and the said local board shall require and take sufficient security for the due performance of the same.

11 & 12 VICT.
c. 63.

Contracts.

As to con-
tracts above
the value
of 100*l*.

86. And be it enacted, that whenever any expenses are incurred or to be incurred by the local board of health in making, enlarging, altering, arching over, covering, or enclosing any sewer vested or to be vested in them by this act, or purchased or acquired by them by virtue thereof, or in or about any other works, matters, and things of a permanent nature, and executed or done for the benefit of any district or part of a district, the said local board shall make and levy, in respect of the premises situate in the district or part of a district for the benefit of which the expenses are incurred or to be incurred, a rate or rates, to be called special district rates, of such amount as will be sufficient to discharge the amount of such expenses and interest thereon, within such period, not exceeding thirty years, as the said local board shall in each case determine: provided always, with respect to the cost of making any such new sewer, that if it appear to the said local board that any premises were sufficiently drained before the new sewer was made, they shall deduct from the amount of rates otherwise chargeable in respect of such premises such a sum and for such time as the said local

Rates.

Special dis-
trict rate.

11 & 12 VICT.
c. 63.

Rates.

District fund
account to
be kept.

General dis-
trict rate.

Property
assessable to
special and
general dis-
trict rates.

board may, under all the circumstances of the case, deem to be just.

87. And be it enacted, that the treasurer shall keep a separate account, to be called "The District Fund Account," and the moneys carried to such account under the directions of this act shall be applied by the local board of health in defraying such of the expenses incurred or to be incurred by the said local board in carrying this act into execution, and not otherwise expressly provided for, as they may think proper; and the said local board shall from time to time, when and as often as occasion may require, make and levy, in addition to any other rate, a rate or rates to be called "General District Rates," for defraying such expenses as are charged upon that rate by this act, and such other expenses of executing this act in any district as are not provided for by any other rate, or defrayed out of the said district fund account.

88. And be it enacted, that the said special and general district rates shall be made and levied upon the occupier (except in the cases hereinafter provided) of all such kinds of property as by the laws in force for the time being are or may be assessable to any rate for the relief of the poor, and shall be assessed upon the full net annual value of such property ascertained by the rate (if any) for the relief of the poor made next before the making of the respective assessments under this act; and for the purpose of making any such assessment the local board of health, or any person appointed by them so to do, may from time to time, at all reasonable times, inspect, take copies of, or make extracts from any rate for the relief of the poor within their district, or any assessments by which the same are made; and whosoever, having the custody of such last-mentioned rate or assessment, refuses to permit such inspection, or the taking

of any such copy or extract, shall for every such offence be liable to a penalty not exceeding five pounds: provided always, that if in any district or part of a district there be no rate for the relief of the poor the said special and general district rates shall be made upon an estimate of the net annual value of the several premises liable there- to in such district or part of a district, by a fit person appointed by the local board of health in that behalf, and such estimate shall be made, as near as circumstances will permit, in the manner prescribed by an act passed in the seventh year of the reign of King William the Fourth, intituled *An Act to regulate Parochial Assessments*, or any other act for the time being in force for regulating parochial assessments: provided also, that the occu- pier of any land used as arable, meadow, or pasture ground only, or as woodlands, market gardens, or nursery grounds, and the occupier of any land covered with water, or used only as a canal, or towing path for the same, or as a railway, con- structed under the powers of any act of Parlia- ment, for public conveyance, shall be assessed in respect of the same in the proportion of one fourth part only of such net annual value thereof: provided also, that if within any district or part of a district any kind of property shall before the passing of this act have been exempted from rating by any local act, in respect of all or any of the purposes for which general or special district rates may be made under this act, the same kind of property shall, in respect of the same purposes, and to the same extent within the parts to which the exemption applies, but not further or other- wise, be exempt from assessment to any general or special district rates under this act.

89. And be it enacted, that the local board of health may make and levy the said special and general district rates, or any or either of them, prospectively, in order to raise money for

11 & 12 VICT.
c. 63.

Rates.

If in any dis-
trict there be
no rate for
relief of the
poor, rates
shall be made
in manner
prescribed by
6 & 7 Will. 4,
c. 66.

Exemptions
under local
acts.

Rates may be
prospective
or retrospec-
tive.

11 & 12 VICT.
c. 63.

Rates.

Assessment
to district
rates in case
of unoccu-
pied premises

Apportion-
ment of rates
between out-
going and
in-coming
tenants, &c.

Parts of dis-
trict may be
separately
assessed.

the payment of future charges and expenses, or retrospectively, in order to raise money for the payment of charges and expenses which may have been incurred at any time within six months before the making of the rate ; and if at the time of making any general or special district rate any premises in respect of which the rate may be made are unoccupied, such premises shall be included in the rate, but the rate shall not be charged upon any person in respect of the same whilst they continue to be unoccupied ; and if any such premises are afterwards occupied during any part of the period for which the rate was made, and before the same shall have been fully paid, the name of the in-coming tenant shall be inserted in the rate, and thereupon so much of the rate as at the commencement of his tenancy may be in proportion to the remainder of the said period shall be collected, recovered, and paid in the same manner in all respects as if the premises had been occupied at the time when the rate was made ; and if any owner or occupier assessed or liable to any such rate cease to be owner or occupier of the premises in respect whereof he is so assessed or liable before the end of the period for which the rate was made, and before the same is fully paid off, he shall be liable to pay only such part of the rate as shall be in proportion to the time during which he continues to be such owner or occupier ; and in every such case, if any person afterwards become owner or occupier of the premises during part of the said period, he shall pay such part of the rate as shall be in proportion to the time during which he continues to be such owner or occupier, and the same shall be recovered from him in the same manner as if he had been originally assessed or liable ; and the said local board may from time to time divide their district, or any street therein, into one or more parts, for all or any or either of the purposes of

this act, and make a separate assessment upon any such part for and in respect of all or any of the purposes for which the same is formed; and every such part, so far as relates to the purposes in respect of which such separate assessment is made, shall be exempt from any other assessment under this act: provided always, that if any expenses are incurred or to be incurred in respect of two or more parts of a district in common the same shall be apportioned between them in a fair and equitable manner.

11 & 12 VICT.
c. 63.
Rates.

90. And be it enacted, that whenever the local board of health have incurred or become liable to any expenses which by this act are or by the said local board shall be declared to be private improvement expenses, the said local board may, if they shall think fit, make and levy upon the occupier of the premises in respect of which the expenses shall have been incurred, except in the cases hereinafter provided, in addition to all other rates, a rate or rates, to be called private improvement rates, of such amount as will be sufficient to discharge such expenses, together with interest thereon at a rate not exceeding five pounds in the hundred, in such period not exceeding thirty years as the said local board shall in each case determine: provided always, that whenever any premises in respect of which any private improvement rate is made become unoccupied before the expiration of the period for which the rate was made, or before the same is fully paid off, such rate shall become a charge upon and be paid by the owner of the premises so long as the same continue to be unoccupied.

Private im-
provement
rates.

91. And be it enacted, that if the occupier by whom any private improvement rate is paid holds the premises in respect of which the rate is made at a rent not less than the rack rent he shall be entitled to deduct three-fourths of the

Proportion
of private
improve-
ment rate
may be
deducted
from rent.

11 & 12 VICT.
c. 63.

Rates.

amount paid by him on account of such rate from the rent payable by him to his landlord, and if he hold at a rent less than the rack rent he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the rate as his rent bears to the rack rent ; and if the landlord from whose rent any deduction is made under the provision last aforesaid is himself liable to the payment of rent for the premises in respect of which the deduction is made, and holds the same for a term of which less than twenty years is unexpired, but not otherwise, he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof : provided always, that nothing herein contained shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

Redemption
of special
district and
private im-
provement
rates.

92. Provided always, and be it enacted, that at any time before the expiration of the period for which any special district rate or private improvement rate is made, the owner or occupier of the premises assessed thereto may redeem the same, by paying to the local board of health the expenses in respect of which the rate was made, or such part thereof as may not have been defrayed by sums already levied in respect of the same.

Water rate.

93. And be it enacted, that whenever and so long as any premises are supplied with water by the local board of health, for the purposes of domestic use, cleanliness, or drainage, they shall make and levy, in addition to any other

rate, a water rate upon the occupier, except as hereinafter provided; and the rate so made shall be assessed upon the net annual value of the premises, ascertained in the manner hereinbefore prescribed with respect to the said special and general district rates; and when several houses in the separate occupation of several persons are supplied by one common pipe, the respective houses shall be charged with the payment of water rates, in the same manner as if each house had been supplied with water by a separate pipe: provided always, that in any district to be called the Oxford or Cambridge district the local board of health, with the consent of the said general board, may supply water to any hall, college, or premises of the university within such district, upon such terms with respect to the mode of paying for such supply as shall from time to time be agreed upon between such university, or any hall or college thereof, and the said local board.

11 & 12 Vict.
c. 63.

Rates.

Agreements
with univer-
sities.

94. And be it enacted, that the said water rate shall be payable in advance; and whenever any person supplied with water under the provisions of this act neglects to pay the water rate due from him, upon demand, the local board of health may prevent the water from flowing into the premises of the defaulter in such manner as they may think fit, and may recover the arrears due, together with the expenses of stopping the supply, in the manner herein-after provided with respect to the recovery of rates made under the authority of this act: provided always, that the stopping or cutting off any supply of water by the said local board under this enactment shall not relieve any person from any penalty or liability to which he would have been otherwise subject.

Water rate
payable in
advance.

Power to
stop water
in case of
nonpayment
of rates.

95. Provided always, and be it enacted, that when the net annual value of any premises

Composition
for and re-
covery of

11 & 12 VICT.
c. 63.

Rates.

rates upon
tenements
under the
annual value
of ten
pounds, &c.

liable to assessment under this act does not exceed the sum of ten pounds, or whenever any premises liable to such assessment are let to weekly or monthly tenants, or in separate apartments, and the rents become payable or are collected at any shorter period than quarterly, the local board of health, may from time to time, if they shall think fit, compound with the owner of such premises for the payment of all or any of the rates to be made under this act, upon such reduced estimate of the net annual value, not being less than two-thirds or more than four-fifths of the net annual value at which the premises are then assessed, as the said local board shall deem to be reasonable; and any owner who shall refuse to enter into such composition shall be rated to and pay the rates assessed upon such premises in respect of which the composition is offered; and if at any time the amount of composition, or any rate to which an owner is assessed as last aforesaid, be due and unpaid, the same may be levied by distress and sale of the goods and chattels of the owner

default, wheresoever they may be found, or of the occupier or occupiers of the premises, in the same manner as is hereinafter provided with respect to the recovery of rates made under this act: provided always, that no such owner shall be assessed in respect of any increased rent which may become payable to him by reason of his so compounding for or becoming liable to any rates as aforesaid: provided also, that the occupier or occupiers of any such premises as last aforesaid shall be liable to distress and sale of his or their goods and chattels for the non-payment of such amount of composition or rates as may become due in respect of the premises occupied by him or them during his or their tenancy, but shall never be liable to pay any greater sum than the amount of the rent actually

due from him or them for such premises; and he or they may deduct any amount paid by him or them from the rent due, or from time to time becoming due, from him or them, unless there be an agreement to the contrary; and the receipt for the amount paid by him or them shall to that extent be, as against the owner in default, a sufficient discharge for rent.

11 & 12 VICT.
c. 63.

Rates.

96. Provided also, and be it enacted, that it shall be lawful for the local board of health to reduce or remit the payment of any rate on account of the poverty of any person liable to the payment thereof.

Power to
reduce or
remit rates
on account
of poverty.

97. Provided also, and be it enacted, that nothing in this act shall alter, interfere with, or affect any lease, contract, or agreement which shall have been made or entered into between landlord and tenant before this act is applied to the district in which the premises are situate in respect of which the lease, contract, or agreement was made.

Act not to
affect exist-
ing agree-
ments be-
tween land-
lord and
tenant.

98. And be it enacted, that the local board of health, before proceeding to make any general or special district rate or private improvement rate under this act, shall cause an estimate to be prepared of the money required for the purposes in respect of which the rate is to be made, showing the several sums required for each of such purposes, the rateable value of the property assessable, and the amount of rate which for those purposes it is necessary to make upon each pound of such value; and the estimate so made shall forthwith, after being approved of by the said local board, be entered in the rate book, and be kept at their office, open to public inspection during office hours thereat.

Estimate to
be prepared
before mak-
ing rates.

99. And be it enacted, that public notice of intention to make any general or special district rate, and of the time at which it is intended to make the same, and of the place where a state-

Notice of
rate.

11 & 12 VICT.
c. 63.

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Rates.
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Rates to be
open to in-
spection.

Description
of owner or
occupier in
rates if his
name be un-
known.

Rates may be
amended.

ment of the proposed rate is deposited for inspection, shall be given by the local board of health, in the week immediately before the day on which the rate is intended to be made, and at least seven days previously thereto; but in case of proceedings to levy or recover any rate it shall not be necessary to prove that such notice was given.

100. And be it enacted, that any person interested in or assessed to any rate made under this act may inspect the same, and any estimate made previously thereto, and may take copies of or extracts therefrom, without fee or reward; and whosoever, having the custody of such estimate or rate, refuses to allow or does not permit such inspection, or such copies or extracts to be taken, shall for every such offence be liable to a penalty not exceeding five pounds.

101. And be it enacted, that whenever the name of any owner or occupier liable to be rated under this act is not known to the local board of health, it shall be sufficient to assess and designate him in the rate as "the owner" or "the occupier" of the premises in respect of which the assessment is made, without further description.

102. And be it enacted, that the local board of health may from time to time amend any rate made in pursuance of this act, by inserting therein the name of any person claiming and entitled to have his name inserted, or by inserting the name of any person who ought to have been assessed, or by striking out the name of any person who ought not to have been assessed, or by raising or reducing the sum at which any person has been assessed, if it appear to the said local board that he has been under-rated or over-rated, or by making any other alteration which will make the rate conformable to the provisions of this act, and no such amendment shall be held to avoid the rate: provided always, that any

person who may feel himself aggrieved by any such amendment shall have the same right of appeal therefrom as he would have had if the matter of amendment had appeared on the rate originally made, and with respect to him the amended rate shall be considered to have been made at the time when he first received notice of the amendment; and in the case of any person the amount of whose rate is increased by the amendment, or whose name is thereby newly inserted as aforesaid, the rate shall not be payable by him until seven days after such notice shall have been given to him.

103. And be it enacted, that all rates made or collected under the authority of this act shall be published in the same manner as poor rates, and shall commence and be payable at such time or times, and shall be made in such manner and form, and be collected by such persons, and either together or separately, or with any other rate or tax, as the local board of health shall from time to time appoint; and if any person assessed to any such rate fail to pay the same when due, and for the space of fourteen days after the same shall have been lawfully demanded in writing, any justice may and he is hereby empowered to summon the defaulter to appear before him, or any other justice, at a time and place to be mentioned in the summons, to show cause why the rate in arrear should not be paid; and in case the defaulter fail to appear according to the exigency of the summons, or no sufficient cause for non-payment be shown, the justice may, by warrant under his hand and seal, cause the same to be levied by distress of the goods and chattels of the defaulter: provided always, that if no distress sufficient to satisfy the amount can be found within the jurisdiction of the justice by whom such warrant is granted, and it so appear upon oath before a justice of any other county or juris-

11 & 12 VICT.
c. 63.

Rates.

Rates made under this act to be published as poor rates, and collected as local board shall appoint.

Justices may summon persons for nonpayment, and in default may recover by distress.

11 & 12 VICT.
c. 63.

Rates.

diction in which any goods or chattels of the defaulter may be, the last-mentioned justice shall indorse his signature upon the said warrant, and thereupon the amount to be levied, or so much thereof as may be unsatisfied, shall be levied of the last-mentioned goods and chattels, in the same manner as if the defaulter had been assessed in the last-mentioned county or jurisdiction; and if any person quit or be about to quit any premises without payment of any rate then due from him in respect of such premises under this act, and refuse to pay the same after lawful demand thereof in writing, any justice having jurisdiction where such person resides or his goods are found may and he is hereby empowered to summon him to appear, at a time and place to be mentioned in the summons, to show cause why the rate so due should not be paid; and in case the defaulter fail to appear, or no sufficient cause for nonpayment be shown, the justice may, by warrant under his hand and seal, cause the sum to be levied by distress of the goods and chattels of the defaulter.

Form of
distress
warrant.

Penalty upon
constables
refusing to
levy.

104. And be it enacted, that warrants of distress for the recovery of any rate payable under the authority of this act may be in the form contained in the schedule (D.) annexed to this act, or to the like effect; and any constable authorized by any such warrant who shall neglect or refuse to make distress or sale pursuant to the same, after being required so to do by a collector of the district in which the rate in arrear was made, shall be liable to a penalty not exceeding five pounds.

Quota of rates
to be paid by
the universi-
ties, &c.

105. Provided always, and be it enacted, that nothing in this act shall be deemed to alter or interfere with the liability of the universities of Oxford and Cambridge respectively to contribute in the proportion and manner specified in any local act under which the Oxford and Cambridge

commissioners respectively now act towards the expense of paving and pitching, repairing, lighting, and cleansing, under the powers of any such local act, the several streets, lanes, ways, alleys, passages, and places within the jurisdiction of such commissioners respectively; and in case any difference shall arise between either of the said universities and the local board of health with respect to the proportion and manner in which the university shall contribute towards any expenses under this act, and to which the university is not liable under any such local act, the same shall be settled by the general board of health: provided also, that all rates, contributions, and sums of money which may become payable under this act by the said universities respectively, and their respective halls and colleges, may be recovered from such universities, halls, and colleges in the same manner in all respects as rates, contributions, and sums of money may now be recovered from them by virtue of any such local act.

11 & 12 VICT.
c. 63.
Rates.
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106. And be it enacted, that the production of the books purporting to contain any rate or assessment made under this act shall alone, and without any other evidence whatsoever, be received as *prima facie* evidence of the making and validity of the rates mentioned therein.

Evidence of
rates.

107. And be it enacted, that the local board of health may, for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by them in the execution of this act, borrow and take up at interest, on the credit of the rates authorized to be made or collected under this act, any sums of money necessary for defraying any such costs, charges, and expenses; and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, the said local board may mortgage and

Mortgage of
rates.
—
Rates may be
mortgaged.

11 & 12 VICT.
c. 63.

*Mortgage of
rates.*

No priority
amongst
mortgagees.

assign over to the persons by or on behalf of whom such sums are advanced the respective rates upon the credit of which the sums are borrowed; and the respective mortgagees shall be entitled to a proportion of the rates comprised in their respective mortgages according to the sums in such mortgages mentioned to have been advanced; and each mortgagee shall be repaid the sums so advanced, with interest, without any preference over the others of them by reason of any priority of advance or the date of his mortgage: provided always, that the money borrowed under the authority of this act shall be borrowed only for works of a permanent nature, and shall not at any time exceed in the whole the assessable value for one year of the premises assessable under this act within the district or part of the district for or in respect of which such money shall be borrowed, and shall (as far as practicable) be borrowed upon the credit of the respective rates applicable to the works, matters, or things in respect of which the money is required; and the money borrowed for the purpose of defraying any costs, charges, or expenses incurred or to be incurred in respect of part of a district only shall be charged (as far as practicable) upon the credit of any separate rates made or to be made for the purposes of such part; and in case any such costs, charges, or expenses shall apply to or be incurred in respect of two or more of such parts, the money borrowed in respect of the same shall be equitably apportioned by the local board upon any rates made or to be made for the purposes of such parts respectively.

Commissioners of public works may make advances to local boards under 5 & 6 Vict. c. 9.

108. And be it enacted, that the commissioners acting in the execution of an act passed in the second session of the fifth year of Her Majesty's reign, intituled *An Act to authorize the Advance of Money out of the Consolidated Fund, to*

a limited Amount, for carrying on Public Works and Fisheries and Employment of the Poor, and to amend the Acts authorizing the Issue of Exchequer Bills for the like Purposes, and in the execution of any of the acts recited in that act, or of any act or acts for amending or continuing the same acts or any of them, may, if they shall think fit, make advances to the local board of health of any district for the purposes of this act, upon the security of the rates to be levied by such board under this act, and without requiring any further or other security than a mortgage of such rates.

11 & 12 VICT.
c. 63.
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Mortgage of
rates.
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109. And be it enacted, that if the local board of health can at any time borrow at a lower rate of interest than that secured by any mortgage previously made by them, and then outstanding and in force, they may, if they shall think fit, so borrow accordingly, in order, with the consent of the mortgagee, to pay off and discharge any of the securities bearing a higher rate of interest, and may charge the rates which they may be authorized to mortgage under this act with payment of the sum so borrowed, together with the interest thereon, in such manner and subject to such regulations as are herein contained with respect to other moneys borrowed upon mortgage.

Money may
be borrowed
at lower rates
of interest to
pay off secu-
rities bearing
a higher rate.

110. And be it enacted, that if at the time appointed by any mortgage deed for payment of the principal money secured thereby the local board of health are unable to pay off the same, they may, if they shall think fit, borrow such sum of money as may be necessary for the purpose of paying off the whole or any part of the said principal moneys, and may secure the repayment of the same, and the interest to be paid thereon, in the same manner in all respects as in the case of moneys borrowed for defraying costs, charges, and expenses incurred by the local board of health in the execution of this act.

Power to
borrow
money to pay
off former
mortgages.

11 & 12 VICT.
c. 63.

—
*Mortgage of
rates.*
—

Form of
mortgage.

Register of
mortgages.

111. And be it enacted, that every mortgage authorized to be made under this act shall be by deed, truly stating the date, consideration, and the time and place of payment, and shall (in the case of a non-corporate district) be sealed with the seal of the local board of health by or on the part of whom the same is executed, and be signed by five or more members thereof (or, in the case of a corporate district), be sealed with the common seal, and may be made according to the form contained in the schedule (B.) to this act annexed, or to the like effect; and there shall be kept at the office of the local board of health a register of the mortgages upon each rate, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and description of the parties thereto, as stated in the deed; and every such register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds.

Transfer of
mortgages.

112. And be it enacted, that any mortgagee or other person entitled to any such mortgage may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date and the consideration for the transfer; and such transfers may be according to the form contained in the schedule (C.) to this act annexed, or to the like effect; and there shall be kept at the office of the local board of health a register of the transfers of mortgage charged upon each kind of rate, and within thirty days after the date of such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the clerk, who shall, upon payment of the sum of five shil-

Register of
transfers.

lings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer; and upon any transfer being so registered, the transferee, his executors, administrators, or assigns, shall be entitled to the full benefit of the original mortgage, and the principal and interest secured thereby; and every such transferee may in like manner transfer his estate and interest in any such mortgage; and no person, except the person to whom the same shall have been last transferred, his executors, administrators, or assigns, shall be entitled to release or discharge any such mortgage, or any money secured thereby.

11 & 12 VICT.
c. 63.

*Mortgage of
rates.*

113. And be it enacted, that the interest secured by any mortgage authorized to be made under this act shall, unless otherwise provided, be paid half-yearly; and in order to pay off any moneys borrowed and secured by any such mortgage, the local board of health shall in every year, until the same be paid off, appropriate and set apart as a sinking fund such sum as, together with the interest from time to time to accrue thereon, will in the period of thirty years amount to a sum sufficient to repay the moneys borrowed and secured by any such mortgage, and shall, from time to time, cause such sinking fund, and the interest thereon, to be invested in the purchase of Exchequer bills or other government securities, and to be increased by accumulation in the way of compound interest or otherwise; and whenever the said local board are enabled to pay off one or more of the mortgages charged upon the same property or rate, and are not able to pay off the whole of the mortgages so charged, they shall, in default of arrangement between the local board of health and the mortgagees, decide by lot the order in which the same shall be paid off.

Interest to be
paid half-
yearly.

Mortgage
debts to be
paid off by
means of a
sinking fund.

114. And be it enacted, that if at the expira-

Receiver may
be appointed

11 & 12 Vict.
c. 63.

*Mortgage of
rates.*

in certain
cases.

tion of six months from the time when any principal money or interest has become due upon any mortgage of rates made under this act, and after demand in writing, the same be not paid, the mortgagee or other person entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to two justices, who are hereby empowered, after hearing the parties, to appoint, in writing under their hands and seals, some person to collect and receive the whole, or a competent part, of the rates liable to the payment of the principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and the costs of collection, are fully paid; and upon such appointment being made, all such rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees of such rates, and shall be rateably apportioned between them : provided always, that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application be made by two or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as last aforesaid, moneys collectively amounting to that sum.

Bye laws.

Bye laws of
local board
not to be in
force till
confirmed by
Secretary of
State.

115. And be it enacted, that all bye laws made by the local board of health under and for the purposes of this act shall be in writing under their seal, and the signature of any five or more of their number, or (in the case of a corporate district) under the common seal; and the said local board may by any such bye laws impose upon offenders against the same such reasonable penalties as they shall think fit, not exceeding the sum of five pounds for each offence, and in

the case of a continuing offence a further penalty not exceeding the sum of forty shillings for each day after written notice of the offence from the said local board; and the said local board may alter or repeal any such bye laws by any subsequent bye laws, sealed and signed, or (in case of a corporate district) sealed as last aforesaid: provided always, that all such bye laws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty: provided also, that no such bye laws shall be repugnant to the laws of England or to the provisions of this act, and the same shall not be of any force or effect unless and until the same be submitted to and confirmed by one of Her Majesty's principal Secretaries of State, who is hereby empowered to allow or disallow the same, as he may think proper: provided also, that no such bye laws shall be confirmed unless notice of intention to apply for confirmation of the same shall have been given in one or more of the public newspapers usually circulated within the district to which such bye laws relate one month at least before the making of such application; and for one month at least before any such application a copy of the proposed bye laws shall be kept at the office of the local board of health, and be open during office hours thereat to the inspection of the ratepayers of the district to which such bye laws relate, without fee or reward; and the clerk shall furnish every such ratepayer who shall apply for the same with a copy thereof, or of any part thereof, on payment of sixpence for every one hundred words contained in such copy.

116. And be it enacted, that all bye laws made by the local board of health in pursuance of this act shall be printed, and hung up in the office of the said local board; and copies thereof shall be delivered to any ratepayer of the district to which such bye laws relate, upon his application for the same.

11 & 12 VICT.
c. 63.

Bye laws.

Notice of
confirmation,
&c.

Bye laws to
be printed,
&c.

11 & 12 VICT.
c. 63.

Powers transferred, &c.

Local board
to be surveyors of
highways;

but existing
surveyors to
recover rates
in arrear.

Existing
liabilities to
make sewers,
&c. not to be
discharged.

117. And be it enacted, that the local board of health within the limits of their district shall, exclusively of any other person whatsoever, execute the office of, and be surveyor of highways, and have all such powers, authorities, duties, and liabilities as any surveyor of highways in England is now or may hereafter be invested with or be liable to by virtue of his office by the laws in force for the time being, except in so far as such powers, duties, or authorities are or may be inconsistent with the provisions of this act; and the inhabitants of any district shall not, in respect of any property situate therein, be liable to the payment of highway rate or other payment, not being a toll, in respect of making or repairing roads or highways within any parish, township, or place, or part of any parish, township, or place, situate beyond the limits of such district: provided always, that the several persons who at the time when this act is applied to any district are surveyors of highways within the same district may recover any highway rate made in respect of the said district, and then remaining unpaid, in the same manner as if this act had not been passed; and the money so recovered shall be applied, in the first place, in reimbursing themselves any expenses incurred by them as such surveyors, and in discharging any debts legally owing by them on account of the highways within their jurisdiction; and the surplus (if any) shall be paid by them to the treasurer, and carried to the district fund account mentioned in this act: provided also, that neither the allowance by justices, nor the signature by the local board of health, shall be necessary in the case of any rate made by the local board of health under this act.

118. And be it enacted, that, notwithstanding the application of this act to any district, the liability of any person whomsoever to defray or contribute towards the expense of making, com-

pleting, altering, amending, or maintaining any sewer, or any walls or works for protecting the land against the force or encroachments of the sea, or of paving or flagging or putting in order any street or part thereof within the district, shall, if incurred previously to the time when this act is so applied, continue, and the same may be enforced, as if this act had not been passed, and the rates to be levied under this act shall be made only for purposes to which such liability does not extend.

11 & 12 VICT.
c. 63.

Powers transferred, &c.

119. And be it enacted, that it shall not be lawful for the local board of health to borrow or take up at interest any sum or sums of money upon the credit of any rates authorized to be made or collected under this act, without the previous consent of the general board of health.

*General
superintend-
ence.*

Mortgage of rates to be made only with approval of general board.

120. And be it enacted, that if in any case in which the local board are empowered to recover any expenses incurred by them in a summary manner, or to declare such expenses to be private improvement expenses, any person shall deem himself to be aggrieved by the decision of the said local board thereupon, he may, within seven days after notice of such decision, address a memorial to the said general board, stating the grounds of his complaint; and the said general board may make such order in the matter as to them may seem equitable, and the order so made shall be binding and conclusive upon the said local board; and if the said local board shall have proceeded to recover such expenses in a summary manner, the said general board may, if they shall think fit, direct the said local board to pay to the person so proceeded against such sum as they may consider to be a just compensation for the loss, damage, or grievance thereby sustained by him.

Parties aggrieved by proceedings of local board as to recovery of certain expenses may appeal to the general board.

121. And be it enacted, that during any inquiry by a superintending inspector under this act he

Superintending inspectors may

11 & 12 VICT.
c. 63.

*General
superintend-
ence.*

summon wit-
nesses, call
for plans,
rates, &c.

may and he is hereby empowered to summon before him any persons whomsoever, and to examine them upon oath or otherwise touching any matter relating to the purposes of the inquiry, and he may by any such summons require any parochial officer, or any officer of or acting under any corporation, guardians, or directors of the poor, and any commissioner, trustee, officer, or person acting under any local act of Parliament in force within the district or place to which any such inquiry may relate, to produce before him any surveys, plans, sections, rate-books, or other like documents which may by reason of their office be in their custody or control touching any matter relating to the purposes of such inquiry, and such inspector may examine, inspect, or take copies of any such books, surveys, plans, sections, and documents, or any of them, or part thereof; and whosoever wilfully disobeys any such summons, or prevents any such inspector from examining, inspecting, or taking copies as last aforesaid, or refuses to answer any question put to him by such inspector for the purposes of the said inquiry, shall be liable to a penalty not exceeding five pounds: provided always, that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him; and no person shall be required in any case, in obedience to any such summons, to travel more than ten miles from his place of abode.

As to audit
of accounts.

122. And be it enacted, that the accounts of the receipts and expenditure of the local board of health shall be audited and examined once in every year at the least, at such time or times as shall be appointed by such local board, in case of a corporate district, by the auditors of the corporate borough, whereof the whole or part is within such district; and in case of a district exclusively consisting of the whole or part of

two or more corporate boroughs, or of one or more of such boroughs, and also of part of any such borough or boroughs, by such two of the auditors for the time being of the corporate boroughs respectively, whereof the whole or part is within such district as shall from time to time be appointed by the local board of health; and in case of any other district as soon as can be after the twenty-fifth day of March in every year, by the auditor of accounts relating to the relief of the poor for the district for the audit of such accounts, or for the parish or union in which such district under this act is comprised, or if any district under this act be partly situate in two or more parishes, unions, or districts for the audit of accounts, by such one of the auditors for the time being of the parishes, unions, or districts for the audit of accounts (whereof the whole or part is within such district under this act) as shall from time to time be appointed by the local board of health; and for the purposes of any audit and examination of accounts under this act, every such auditors or auditor may, by summons in writing, require the production before him of all books, deeds, contracts, accounts, vouchers, and all other documents and papers which they or he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers to appear before them or him at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same; and if any such person neglect or refuse so to do, or to produce any such books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign such declaration, he shall be liable for every neglect or refusal to a penalty of forty shillings, and if he falsely or corruptly make or sign any such declaration,

11 & 12 VICT.
c. 63.

General
superintend-
ence.

Power to
auditor to
require pro-
duction of
books, &c.

Penalty on
persons for
neglect.

11 & 12 VICT.
c. 63.

*General
superintend-
ence.*

Accounts
previous to
audit to be
deposited,
and open to
inspection,
&c.

Arbitration.

Mode of
referring to
arbitration.

knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted upon persons guilty of wilful and corrupt perjury; and all accounts certified by the auditors or auditor acting under this act shall be final and conclusive to all intents and purposes; and such auditors or auditor shall in respect of each audit be paid by the local board of health, out of the general district rates levied under this act, such reasonable remuneration as they shall from time to time by order in writing determine and appoint: provided always, that before each audit and examination of accounts under this act the clerk shall give ten days' notice of the time and place at which the same will be made, by advertisement in some one or more of the public newspapers usually circulated within the district for which the audit and examination will be made; and a copy of the accounts to be audited and examined shall be deposited in the office of the local board of health, and be open during office hours thereat, to the inspection of all persons interested, for seven days before the audit and examination; and all such persons shall be at liberty to take copies of or extracts from the same without fee or reward; and within fourteen days after the audit and examination shall have been completed the auditors or auditor shall report upon the accounts audited and examined, and shall deliver such report to the clerk, who shall cause the same to be deposited in the office of the local board of health, and to be published in some one or more of the public newspapers usually circulated in the district to which it relates.

123. And be it enacted, that in case of dispute as to the amount of any compensation to be made under the provisions of this act (except where the mode of determining the same is specially provided for), and in case of any matter which

by this act is authorized or directed to be settled by arbitration, then, unless both parties concur in the appointment of a single arbitrator, each party, on the request of the other, shall appoint an arbitrator, to whom the matter shall be referred; and every such appointment when made on the behalf of the local board of health shall (in the case of a non-corporate district) be under their seal and the hands of any five or more of their number, or under the common seal in case of a corporate district, and on the behalf of any other party under his hand, or if such party be a corporation aggregate under the common seal thereof; and such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration by the parties making the same; and after the making of any such appointment the same shall not be revoked without the consent of both parties, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such matter shall have arisen, and notice in writing by one party who has himself duly appointed an arbitrator to the other party, stating the matter to be referred, and accompanied by a copy of such appointment, the party to whom notice is given fail to appoint an arbitrator, the arbitrator appointed by the party giving the notice shall be deemed to be appointed by and shall act on behalf of both parties; and the award of any arbitrator or arbitrators appointed in pursuance of this act shall be binding, final, and conclusive upon all persons, and to all intents and purposes whatsoever.

11 & 12 VICT.
c. 63.

Arbitration.

124. And be it enacted, that if before the determination of any matter so referred any arbitrator die, or refuse or become incapable to act, the party by whom such arbitrator was appointed may appoint in writing another person in his stead; and if he fail so to do for the space

Death, &c. of
one of several
arbitrators;

11 & 12 VICT.
c. 63.

Arbitration.

of single
arbitrator.

of seven days after notice in writing from the other party in that behalf the remaining arbitrator may proceed *ex parte*; and every arbitrator so appointed shall have the same powers and authorities as were vested in the arbitrator in whose stead the appointment is made; and in case a single arbitrator die, or become incapable to act, before the making of his award, or fail to make his award within twenty-one days after his appointment, or within such extended time, if any, as shall have been duly appointed by him for that purpose, the matters referred to him shall be again referred to arbitration under the provisions of this act, as if no former reference had been made.

Appointment
of umpire by
the parties;

by quarter
sessions.

125. And be it enacted, that in case there be more than one arbitrator, the arbitrators shall, before they enter upon the reference, appoint by writing under their hands an umpire, and if the person appointed to be umpire die, or become incapable to act, the arbitrators shall forthwith appoint another person in his stead; and in case the arbitrators neglect or refuse to appoint an umpire for seven days after being requested so to do by any party to the arbitration, the court of general or quarter sessions shall, on the application of any such party, appoint an umpire; and the award of the umpire shall be binding, final, and conclusive upon all persons and to all intents and purposes whatsoever; and in case the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time, if any, as shall have been duly appointed by them for that purpose, the matters referred shall be determined by the umpire; and the provisions of this act with respect to the time for making an award, and with respect to extending to the same in the case of a single arbitrator, shall apply to an umpirage.

126. Provided always, and be it enacted, that the time for making an award under this act shall not be extended beyond the period of three months from the date of the submission or from the day on which the umpire shall have been appointed (as the case may be).

11 & 12 Vict.
c. 63.

Arbitration.

Time within
which award
must be
made.

127. And be it enacted, that any arbitrator, arbitrators, or umpire, appointed by virtue of this act, may require the production of such documents in the possession or power of either party as they or he may think necessary for determining the matters referred, and may examine the parties or their witnesses on oath; and the costs of and consequent upon the reference shall be in the discretion of the arbitrator or arbitrators, or of the umpire (in case the matters referred are determined by an umpire under the power hereinbefore contained in that behalf); and any submission to arbitration under the provisions of this act may be made a rule of any of the superior courts, on the application of any party thereto.

Power to
arbitrator to
require pro-
duction of
documents.

As to costs of
reference.

Submission
may be made
a rule of
court.

128. And be it enacted, that before any arbitrator or umpire shall enter upon any such reference as aforesaid he shall make and subscribe the following declaration before a justice of the peace (that is to say),

Declaration
to be made
by arbitrator
and umpire.

"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 Public Health Act, 1848.

"*A. B.*"

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire shall wilfully act contrary to such declaration he shall be guilty of a misdemeanor.

129. And be it enacted, that in all cases in which the amount of any damages, costs, or expenses is by this act directed to be ascertained

Legal
proceedings.

Recovery of
damages, &c.

11 & 12 VICT.
c. 63.

*Legal
proceedings.*

or recovered in a summary manner the same may be ascertained by and recovered before two justices, together with such costs of the proceedings as the justices may think proper; and if the sums adjudged be not paid by the party against whom the adjudication is made the same may be levied by distress and sale of his goods and chattels, by warrant under the hands and seals of the justices making the adjudication; and any penalty imposed by or under the authority of this act, or any bye law made under this act, the recovery whereof is not otherwise expressly provided for, may, upon proof on oath of the offence in respect of which the penalty is alleged to have been incurred, be recovered before two justices, together with such costs of the proceedings as they may think proper; and if the sums adjudged be not paid by the party against whom the adjudication is made the same may be levied by distress and sale of his goods and chattels, by warrant under the hands and seals of the justices making the adjudication; and such justices or either of them may order that any offender convicted as last aforesaid be detained and kept in safe custody until return can be conveniently made to the last-mentioned warrant, unless he give sufficient security, by way of recognizance or otherwise, for his appearance on the day appointed by the return, such day not being more than eight days from the time of taking the security; and if before issuing such warrant, or upon the return thereof, it appear to the satisfaction of the last-mentioned justices that no sufficient distress can be had within their jurisdiction, they may, by warrant under their hands and seals, cause the offender to be committed to gaol, there to remain, without bail, for any term not exceeding three months, unless such penalty and costs be sooner paid.

Form of
conviction.

130. And be it enacted, that the justices before

whom any person is convicted of any offence against the provisions of this act may cause the conviction to be drawn up according to the form and directions contained in the schedule (E.) annexed to this act, or to the like effect; and any conviction so drawn up shall be valid and effectual to all intents and purposes.

11 & 12 VICT.
c. 63.

Legal
proceedings.

131. And be it enacted, that in proceeding before any justice or justices under the provisions of this act, in any case in which the mode of proceeding is not specially prescribed, any one justice may summon the party charged to appear before the justice or justices by whom the matter is to be determined at a time and place to be named; and upon the appearance of the party charged, or in his absence upon proof of service of the summons upon him personally, or by leaving a copy thereof at his last known place of abode or business, the last-mentioned justice or justices may hear and determine the matter, and for that purpose examine the parties or any of them, and their witnesses, on oath; and the costs of all such proceedings shall be in the discretion of the last-mentioned justice or justices; and where in this act any sum of money whatsoever is directed to be levied by distress and sale of the goods and chattels of any party, the overplus arising from such sale shall, after satisfying such sum, and the costs and expenses of the distress and sale, be returned to him, on demand; and no distress levied under the authority of this act shall be unlawful, nor shall any party making the same be a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall he be a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction in an action upon the case.

Mode of
proceeding
before
justices.

Distress how
to be levied;

not unlawful
for want of
form.

11 & 12 VICT.
c. 63.

*Legal
proceedings.*

Justices,
though mem-
bers of local
board, may
act under
this act.

Common
informers
not to sue
without
consent of
Attorney-
General.

Proceedings
for penalties
to be taken
within six
months.

Application
of penalties.

Liability to
penalty not
to relieve
from other
liabilities.

Appeal to
quarter
sessions.

132. And be it enacted, that justices of the peace, being also members of any local board of health, may, if acting in petty sessions, notwithstanding their being such members, exercise the jurisdiction vested in them as such justices under this act.

133. And be it enacted, that no proceedings for the recovery of any penalty incurred under the provisions of this act shall be had or taken by any person other than by a party grieved, or the local board of health in whose district the offence is committed, or by the churchwardens and overseers of the poor (where any such penalty is directed to be paid to the churchwardens and overseers of the poor), without the consent in writing of Her Majesty's Attorney-General first had and obtained; and that no such penalty shall be recovered unless proceedings for the recovery thereof shall have been commenced within six calendar months after the commission or occurrence of the offence upon which the penalty attaches; and if the application of the penalty be not otherwise provided for, one half thereof shall go to the informer, and the remainder to the local board of health of the district in which the offence was committed: provided always, that if the said local board be the informer they shall be entitled to the whole of the penalty recovered, and all penalties or sums recovered on account of any penalty by them shall be paid over to the treasurer, and shall by him be placed to the district fund account mentioned in this act.

134. And be it declared and enacted, that, notwithstanding the liability of any person to any penalty under the provisions of this act, he shall not be relieved from any other liability to which he would have been subject if this act had not been passed.

135. And be it enacted, that any person who shall think himself aggrieved by any rate made

under the provisions of this act, or by any order, conviction, judgment, or determination of or by any matter or thing done by any justice or justices, in any case in which the penalty imposed or the sum adjudged shall exceed the sum of twenty shillings, may appeal to the Court of General or Quarter Sessions holden next after the making of the rate objected to, or accrual of the cause of complaint; but the appellant shall not be heard in support of the appeal, unless within fourteen days after the making and publication of the rate appealed against, or accrual of the cause of complaint, he give to the local board of health or justice or justices by whose act he may think himself aggrieved notice in writing stating his intention to bring such appeal, together with a statement in writing of the grounds of appeal; and the said court, upon hearing and finally determining the matter of the appeal, shall and may, according to its discretion, award such costs to the party appealing or appealed against as they shall think proper, and its determination in or concerning the premises shall be conclusive and binding on all persons to all intents and purposes whatsoever: provided always, that if there be not time to give such notice and enter into such recognizance as aforesaid before the sessions holden as last aforesaid, then such appeal may be made to, and such notice, statement, and recognizance be given and entered into for, the next sessions at which the appeal can be heard: provided also, that on the hearing of the appeal no grounds of appeal shall be gone into or entertained other than those set forth in such statement as aforesaid.

11 & 12 VICT.
c. 63.
—
Legal
proceedings.
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136. And be it enacted, that the said Court of General or Quarter Sessions shall upon appeals under this act against any rate have the same power to amend or quash any rate or assessment, and to award costs between the parties to the

Power of
sessions upon
appeals
against rates.

11 & 12 VICT.
c. 63.

*Legal
proceedings.*

appeal, as is or may by law be vested in any Court of General or Quarter Sessions with respect to amending or quashing any rate or assessment, or awarding costs, upon appeals with respect to rates for the relief of the poor; and the costs awarded by the said court under this act may be recovered in the same manner in all respects as costs awarded upon the last-mentioned appeals: provided always, that, notwithstanding the quashing of any rate appealed against, all moneys charged by such rate shall, if the court before whom the appeal is heard think fit so to order, be levied as if no appeal had been made, and such moneys, when paid, shall be taken as payment on account of the next effective rate for the purposes in respect of which the quashed rate was made.

No rate or
proceeding
to be quashed
for want of
form, &c.

137. And be it enacted, that no rate, nor any proceeding to be had touching the conviction of any offender against this act, nor any order, award, or other matter or thing whatsoever made, done, or transacted in or relating to the execution of this act, shall be vacated, quashed, or set aside for want of form, or be removed or removable by *certiorari* or other writ or process whatsoever into any of the superior courts.

Proceedings
in case of
noncorporate
districts.

138. And be it enacted, that the local board of health of any noncorporate district may sue and be sued in the name of the clerk for the time being for or concerning any contract, matter, or thing whatsoever relating to any property, works, or things vested or to become vested in them by reason of the provisions of this act, or relating to any matter or thing whatsoever entered into or done, or intended to be entered into or done by them, under the provisions of this act; and in any action of ejectment brought or prosecuted by such local board it shall be sufficient to lay the demise in the name of the said clerk, and in proceedings by or on the

Actions, &c.
in name of
clerk.

Mode of
describing

part of such local board against any person for stealing or wilfully injuring or otherwise improperly dealing with any property, works, or things belonging to them or under their management, it shall be sufficient to state generally that the property or thing in respect of which the proceeding is instituted is the property of the said clerk, and all legal proceedings by, on the part of, or against such local board, under this act, may be preferred, instituted, and carried on in his name; and no proceedings whatever shall abate or be discontinued by the death, resignation, or removal of the clerk, or by reason of any change or vacancy in such local board by death, resignation, or otherwise: provided always, that the clerk in whose name any such action or suit, complaint, information, or proceeding, may be brought, preferred, instituted, or defended as aforesaid, shall be fully reimbursed out of the general district rates to be levied under this act all such costs, charges, damages, and expenses as he shall or may be or become liable to pay, sustain, or be put unto by reason of his name being so used.

11 & 12 Vict.
c. 63.

Legal
proceedings.

property of
local board.

Actions, &c.
not to abate.

Clerk to be
reimbursed
expenses.

139. And be it enacted, that no writ or process shall be sued out against or served upon any superintending inspector, or any officer or person acting in his aid, or under the direction of the general board of health, nor against the local board of health, or any member thereof, or the officer of health, clerk, surveyor, inspector of nuisances, or other officer or person whomsoever acting under the direction of the said local board, for anything done or intended to be done under the provisions of this act, until the expiration of one month next after notice in writing shall have been delivered to him, or left at their or his office or usual place of abode, clearly and explicitly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his attorney or agent in the cause; and upon

Notice of
action.

11 & 12 VICT.
c. 63.

*Legal
proceedings.*

Limitation
of actions.
Venue.

General issue

Tender of
amends, &c.

Money may
be paid into
court.

Persons act-
ing in execu-
tion of act
not to be
personally
liable.

the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the last-mentioned notice; and unless such notice be proved the jury shall find for the defendant; and every such action shall be brought or commenced within six months next after the accrual of the cause of action, and not afterwards, and shall be laid and tried in the county or place where the cause of action occurred, and not elsewhere; and the defendant shall be at liberty to plead the general issue, and give this act and all special matter in evidence thereunder; and any person to whom any such notice of action is given as aforesaid may tender amends to the plaintiff, his attorney or agent, at any time within one month after service of such notice, and in case the same be not accepted may plead such tender in bar, and (by leave of the court) with the general issue or other plea or pleas; and if upon issue joined upon any plea pleaded to the whole action the jury find generally for the defendant, or if the plaintiff be nonsuited or discontinued, or if judgment be given for the defendant, then the defendant shall be entitled to full costs of suit, and have judgment accordingly; and in case amends have not been tendered as aforesaid, or in case the amends tendered be insufficient, the defendant may, by leave of the court, at any time before trial, pay into court, under plea, such sum of money as he may think proper, and (by the like leave) may plead the general issue or other plea or pleas, any rule of court or practice to the contrary notwithstanding.

140. And be it enacted, that no matter or thing done or contract entered into by the local board of health, nor any matter or thing done by any superintending inspector, or any member of the said local board, or by the officer of health, clerk, surveyor, inspector of nuisances, or other

officer or person whomsoever acting under the direction of the said local board, shall, if the matter or thing were done or the contract were entered into *bonâ fide* for the purpose of executing this act, subject them or any of them personally to any action, liability, claim, or demand whatsoever; and any expense incurred by any such local board, member, officer of health, clerk, surveyor, inspector of nuisances, or other officer or person acting as last aforesaid, shall be borne and repaid out of the general district rates levied under the authority of this act.

11 & 12 VICT.
c. 63.

Legal
proceedings.

141. And be it enacted, that Her Majesty may from time to time alter or amend any order in council made under or in pursuance of the provisions of this act, by any subsequent order in council, in such manner as Her Majesty, by and with the advice of her Privy Council, may think proper; and if at any time it appear to the general board of health that any provisional order made by them under this act should be altered or amended, or that the boundaries of any district should be altered or extended, they shall make a provisional order under their hands and seal of office accordingly: provided always, that no order in council or provisional order as last aforesaid shall be made until such proceedings have been taken in and with respect to the district and parts to be affected thereby as are hereinbefore required to be taken previously to the original constitution of a district under this act; and no such provisional order shall be of any force or effect without the previous authority of Parliament, as hereinbefore prescribed with respect to provisional orders made under this act.

Miscellaneous

Orders in
council and
provisional
orders may
be amended,
and districts
extended.

142. And be it enacted, that all orders in council under this act shall take effect and be in full force and operation within the district to which they apply from and after a day which shall be specified in such orders for that pur-

Publication
of orders in
council, &c.

11 & 12 VICT.
c. 63.

Miscellaneous

Reports of
superintend-
ing inspec-
tors, &c. to
be laid before
Parliament.

Entry upon
lands for the
purposes of
this Act.

pose; and a copy of every such order shall be published in the *London Gazette*, and shall be laid before Parliament in the month of January in every year, if Parliament be then sitting, or if Parliament be not then sitting then within one week after the next meeting thereof; and whenever any provisional order of the general board of health is submitted to Parliament for confirmation, the said general board shall present to both Houses of Parliament a copy of all reports of any superintending inspector with respect to the parts to which the provisional order relates, and of all memorials forwarded to the said general board with respect to such reports.

143. And be it enacted, that in case it shall become necessary to enter, examine, or lay open any lands or premises for the purpose of making plans, surveying, measuring, taking levels, examining works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and the owner or occupier of such lands or premises shall refuse to permit the same to be entered upon, examined, or laid open for the purposes aforesaid or any of them, the local board of health may, upon notice to such owner or occupier, apply to two justices for an order authorizing the members of such local board, and the superintending inspector, surveyor, and inspector of nuisances, or any of them, to enter, examine, and lay open the said lands and premises for the purposes aforesaid or any of them, and if no sufficient cause shall be shown against the same the said justices may make an order authorizing the same accordingly, and thereupon any superintending inspector, the local board of health, or any member thereof, the surveyor, and inspector of nuisances, and any person authorized by any such superintending inspector, local board, surveyor, or inspector of nuisances, may, at all reasonable times between the hours of ten in the

forenoon and four in the afternoon, enter, examine, or lay open the lands or premises mentioned in such order, for such of the said purposes as shall be specified in the said order, without being subject to any action or molestation for so doing: provided always, that, except in case of emergency, no entry shall be made or works commenced under the powers of this enactment unless twenty-four hours at the least previously thereto notice of the intended entry, and of the object thereof, be given to the occupier of the premises intended to be entered.

11 & 12 VICT.
c. 63.

Miscellaneous

144. And be it enacted, that full compensation shall be made, out of the general or special district rates to be levied under this act, to all persons sustaining any damage by reason of the exercise of any of the powers of this act; and in case of dispute as to amount the same shall be settled by arbitration in the manner provided by this act; or, if the compensation claimed do not exceed the sum of twenty pounds, the same may be ascertained by and recovered before justices in a summary manner.

Compensation in case of damage by local board.

145. And be it declared and enacted, that nothing in this act shall be construed to authorize the local board of health to use, injure, or interfere with any sluices, flood-gates, sewers, groynes, sea defences, or other works already or hereafter made under the authority of any commissioners of sewers appointed by the Crown, or any sewers or other works already or hereafter made and used for the purpose of draining, preserving, or improving land under any local or private act of Parliament, or for the purpose of irrigating lands, or to use, injure, or interfere with any watercourse, stream, river, dock, basin, wharf, quay, or towing path in which the owner or occupier of any lands, mills, mines, or machinery, or the proprietors or undertakers of any canal or navigation, shall or may be interested,

Sewers, &c. of commissioners of sewers, private water-courses, &c., not to be used without consent.

11 & 12 VICT.
c. 63.

Miscellaneous

Local board
may allow
owners time
for repay-
ment of
expenses.

False
evidence
punishable
as perjury.

Penalty for
obstructing
officers,
defacing
boards, &c. ;

without consent in writing first had and obtained; and that nothing herein contained shall prejudice or affect the rights, privileges, powers, or authorities given or reserved to any person under any local or private act of Parliament for the drainage, preservation, or improvement of land, or for or in respect of any mills, mines, machinery, canal, or navigation, as last aforesaid.

146. And be it enacted, that in any case in which the local board of health may have incurred expenses for the repayment whereof the owner of the premises for or in respect of which the same are incurred is made liable by this act, the said local board may, if they think fit, allow such owner time for repayment, and receive the same by such annual instalments, not being less than one thirtieth part of the entire sum, together with interest at the rate of five pounds in the hundred upon the sum from time to time remaining unpaid, as they, under the circumstances of each case, may consider to be just; but although time for repayment be allowed as last aforesaid, the sum due, or so much thereof as may be unpaid, shall from time to time, in case of default in payment at the times respectively appointed for payment, be recoverable in like manner in all respects as the entire sum might have been recovered if time for repayment had not been allowed.

147. And be it enacted, that every person who upon any examination on oath under the provisions of this act shall wilfully and corruptly give false evidence shall be liable to the penalties inflicted upon persons guilty of wilful and corrupt perjury.

148. And be it enacted, that whosoever wilfully obstructs any superintending inspector, or any member of the local board of health, or any officer or person duly employed in the execution of this act, or destroys, pulls down, injures, or

defaces any board upon which any bye law, notice, or other matter is inscribed, shall, if the same were put up by authority of the local or general board of health, be liable for every such offence to a penalty not exceeding five pounds; and if the occupier of any premises prevent the owner thereof from obeying or carrying into effect the provisions of this act, any justice to whom application is made in this behalf shall, by order in writing (which may be according to the form contained in the schedule (F.) to this act annexed, or to the like effect), require such occupier to permit the execution of the works required to be executed, provided that the same appear to such justice to be such as are necessary for the purpose of obeying or carrying into effect the provisions of this act; and if within a reasonable time after the making of such order the occupier against whom it is made refuse to comply therewith, he shall be liable to a penalty not exceeding five pounds for every day afterwards during the continuance of such refusal; and if the occupier of any premises, when requested by or on behalf of the local board of health, to state the name of the owner of the premises occupied by him shall refuse or wilfully omit to disclose or wilfully mis-state the same, any justice may, on oath made before him of such request, and refusal, omission, or mis-statement, summon the party to appear before him or some other justice at a time and place to be appointed in such summons, and if after being so summoned he neglect or refuse to attend at the time and place so appointed, or if he do not show good cause for such refusal, or if such wilful omission or mis-statement be proved, the justice before whom the party is so summoned may impose upon the offender a penalty not exceeding five pounds.

11 & 12 VICT.
c. 63.

Miscellaneous

upon
occupiers
preventing
execution of
works.

Occupiers
to disclose
owner's
name.

149. And be it enacted, that whenever the consent, sanction, or approval or authority of the

Consents of
board of
health and

11 & 12 VICT.
c. 63.

Miscellaneous

local board
to be in
writing.

general board of health is required by the provisions of this act, the same shall be in writing under their seal and the hands of two or more members thereof; and whenever the consent, sanction, approval, or authority of the local board of health is so required the same shall (in the case of a noncorporate district) be in writing under their seal and the hands of five or more of them, or (in case of a corporate district) under their common seal.

Service of
notice upon
local board;

upon owners
and occu-
piers.

150. And be it enacted, that any summons, notice, writ, or proceeding of any kind whatsoever to be served upon the local board of health may be so served by being left at or sent through any post office, directed to the local board of health at their office, or by being delivered there to the clerk personally; and in all cases in which any notice is by this act required to be given to the owner or occupier of any premises it shall be sufficient to address the notice to them by the description of the "owner" or "occupier" (as the case may require) of the premises (naming them) in respect of which the notice is given, without further name or description; and the notice shall be served upon them or one of them, as the case may require, either personally or by delivering the same to some inmate of his or their place of abode, or in the case of the occupier (and also in case of the owner, if his place of abode be unknown,) upon any inmate of the last-mentioned premises, or if such premises be unoccupied, then, in case the notice is required to be served upon the occupier, (and in case of the owner also, if his residence be unknown,) it shall be sufficient to fix the notice upon some conspicuous part of the premises: provided always, in the case of notices to the owner, that, although his place of abode be known to the local board of health, yet, if it be not within the limits of their district, it shall be sufficient for

them to transmit any notice, directed to him by 11 & 12 VICT.
name, through the post. c. 63.

151. And be it enacted, that no advertisement *Miscellaneous*
inserted or caused to be inserted by the general *Exemptions*
or local board of health in the *London Gazette* from stamp
or any paper or publication under this act, or for duty.
the purpose of carrying the same into effect, nor
any deed, award, submission, instrument, con-
tract, agreement, or writing made or executed
by the said general or local board, their officers
or servants, under or for the purposes of this
act, nor any appointment by the general or local
board of any officer or person under this act,
shall be chargeable with any stamp duty what-
ever; and in case any vault, cellar, or under- *Exemption*
ground room of any house containing, at the from window
time of the passing of this act, seven windows or duty in cer-
lights only, shall have been let or occupied sepa- tain cases.
rately as a dwelling before the passing of this
act, without any external window, or such an
external window as is required by the provisions
of this act with respect to the letting and occu-
pation of vaults, cellars, and underground rooms,
and it shall become necessary, by reason of such
provisions, to make such an external window as
is required thereby, in order that such vault,
cellar, or underground room may lawfully be let
or occupied separately as a dwelling, the making
only of such external window shall not render
any person liable in respect of such house to the
duties payable for a house having eight windows
or lights, anything in any act of Parliament to
the contrary notwithstanding.

152. And be it enacted, that this act may be *Amendment*
amended or repealed by any act to be passed of act, &c.
during this present session of Parliament.

11 & 12 VICT.
c. 63.

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.)

Form of Voting Paper.

District of

No. of Voting Paper.	Name and Address of Voter.	Number of Votes.	
		As Owner.	As Rate-payer

DIRECTIONS TO THE VOTER.

The voter must write his initials against the name of every person for whom he votes, and must sign this paper.

If the voter cannot write he must affix his mark, but such mark must be attested by a witness, and such witness must write the initials of the voter against the name of every person for whom the voter intends to vote.

If a proxy vote he must in like manner write his initials, sign his own name, and state in writing the name of the corporation or company for whom he is proxy.

Initials of the Voter against the Names of the Persons for whom he intends to vote.	Names of the Persons nominated	Residence of the Persons nominated	Quality or Calling of the Persons nominated	Names of the Nomina- tors.	Address of the Nomina- tors.
.
.
.
.

I vote for the persons in the above list against whose names my initials are placed.

Signed
or the mark of

Witness to the mark.

or

proxy for

SCHEDULE (B.)

11 & 12 VICT.
c. 63.*Form of Mortgage of Rates.*

By virtue of the Public Health Act, 1848, the Local Board of Health for the district of _____ in consideration of the sum of _____ paid to the treasurer of the said district by A. B. of _____ for the purposes of the said act, do grant and assign unto the said A. B., his executors, administrators, and assigns, such proportion of the rates arising or accruing by virtue of the said act from [the rates mortgaged] as the said sum of _____ doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates, to hold to the said A. B., his executors, administrators, and assigns, from the day of the date hereof until the said sum of _____ with interest at the rate of _____ per centum per annum for the same, shall be fully paid and satisfied: And it is hereby declared, that the said principal sum shall be repaid on the _____ day of _____ at [place of payment]. Dated this _____ day of _____ one thousand eight hundred and _____

[In case of a noncorporate district, to be signed by five members at least of the Local Board of Health, and sealed with their seal; in case of a corporate district, to be sealed with the common seal.]

SCHEDULE (C.)

Form of Transfer of Mortgage.

I, A. B. of _____ in consideration of the sum of _____ paid to me by C. D. of _____ do hereby transfer to the said C. D., his executors, administrators, and assigns, a certain mortgage bearing date the _____ day of _____ and made by the Local Board of Health for the district of _____ for securing the sum of _____ and interest thereon at _____ per centum per annum [or if such transfer be by endorsement on the mortgage, insert, instead of the words immediately following the word "assigns," the within security], and all my right, estate, and interest in and to the money thereby secured, and in and to the rates thereby assigned. In witness whereof I have hereunto set my hand and seal, this _____ day of _____ one thousand eight hundred and _____

A. B. (L. S.)

11 & 12 VICT.
c. 63.

SCHEDULE (D.)

Form of Distress Warrant.

To *A.B.* Collector of Rates, and to all Constables and Peace Officers.

County of
[or Borough, &c.] } WHEREAS complaint hath been duly made
to wit. } by *A.B.* one of the collectors for the district
of under and by virtue of the Public Health Act, 1848,
that *C. D.* of, &c. hath not paid and hath refused to pay the
sum of duly assessed upon him in and by a certain rate
bearing date on or about the day of in the year of
our Lord one thousand eight hundred and although the
same hath been duly demanded of him: and whereas it appears
to me *E. F.* esquire, one of Her Majesty's justices of the peace
in and for the said county [or borough, &c.], as well upon the
oath of the said *A. B.* as otherwise, that the said sum of
hath been duly demanded in writing by him from the said *C.D.*
and that the said hath refused to pay the same for the
space of fourteen days after such demand made, and doth refuse
to pay the same: and whereas the said *C. D.* hath been duly
summoned to appear before me to show cause why the said sum
should not be paid by him, and not having shown to me any
sufficient cause why the same should not be paid, these are
therefore, in Her Majesty's name, to command you to levy the
said sum of and also the sum of the costs of pro-
ceeding to obtain this warrant, by distress and sale of the
goods and chattels of the said *C. D.*, and your reasonable
charges of taking, keeping, and selling the said distress,
rendering to him the overplus (if any), on demand: and if
sufficient distress cannot be found of the goods and chattels of
the said *C. D.*, that then you certify the same to me, together
with this warrant, to the end that such further proceedings may
be had therein as to the law doth appertain.

Given under my hand and seal, the day of in
the year of our Lord

(Signed) *E. F.* (L. s.)

SCHEDULE (E.)

11 & 12 VICT.
c. 63.*Form of Conviction.*

County of _____, } BE it remembered, that on the _____ day
 [or Borough, &c.] } of _____ in the year of our Lord
 to wit. } A. B. is convicted before me [or us]
 one [or two] of Her Majesty's justices of the peace in
 and for the county [or borough, &c.] of _____ [here describe
the offence generally, and the time and place when and where
committed, in the words of this act, or as near thereunto as may
be], contrary to the Public Health Act, 1848; and I [or we]
 do adjudge that the said A. B. hath forfeited for his said
 offence the sum of [amount of penalty adjudged], and that he do
 pay to C. D. the further sum of _____ as and for his costs in
 this behalf.

Given under my hand and seal [or our hands and seals], the
 day and year first above written.

(Signed)

(L. S.)

(L. S.)

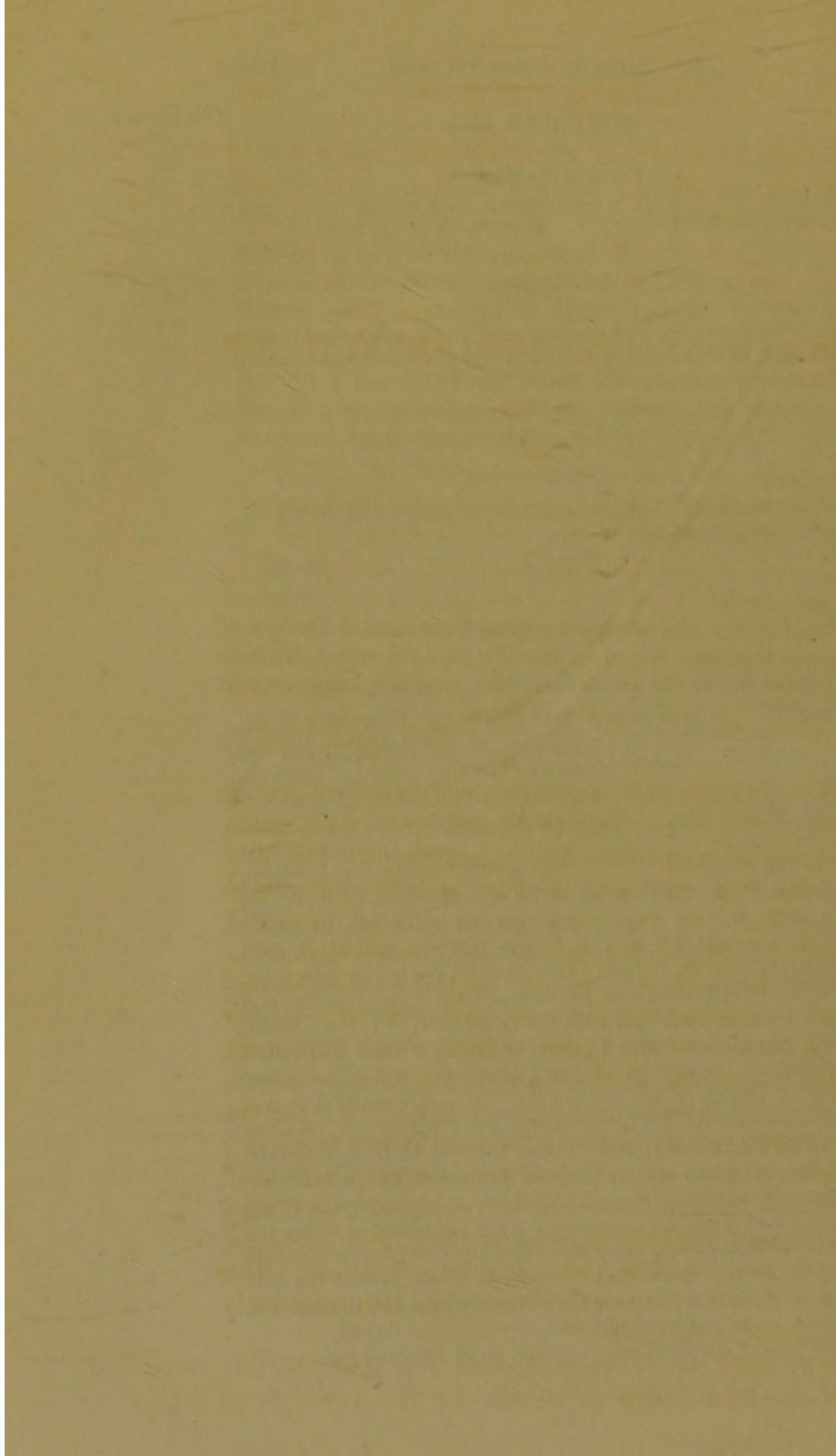
SCHEDULE (F.)

Form of order to permit execution of works by owners.

County of _____ } WHEREAS complaint hath been made to me,
 [or Borough, &c.] } E. F. Esquire, one of Her Majesty's justices
 to wit. } of the peace in and for the county [or borough,
 &c.] of _____ by A. B., owner, within the meaning of the
 Public Health Act, 1848, of certain premises, to wit, a house
 [as the case may be] situate in _____ street, [as the case may
 be] in the parish of _____ in the said county [or borough,
 &c.,] that C. D., the occupier of the said premises, doth prevent
 the said A. B. from obeying and carrying into effect the provi-
 sions of the said act, in this, to wit, that the said C. D. doth
 prevent the said A. B. from [here describe the works generally,
according to circumstances, for instance, thus: constructing and
laying down, in connexion with the said house, a covered drain,
so as to communicate with a [sewer or drain] of the Local Board
of Health of the district of [or a sewer, &c., which the Local
Board of Health of the district of _____ are entitled to use,
as the case may require], such sewer being within one hundred
feet of the said house]: and whereas the said C. D., having been
duly summoned to answer the said complaint, and not having
shown sufficient cause against the same, and it appearing to me
that the said works are necessary for the purpose of enabling the
said A. B. to obey and carry into effect the provisions of the said
act, I do hereby order that the said C. D. do permit the said
A. B. to execute the same in the manner required by the said act.

Given under my hand and seal, this _____ day of
 in the year of our Lord one thousand eight hundred and

E. F. (L. S.)



THE
PUBLIC HEALTH SUPPLEMENTAL ACT,
1849.

[12 & 13 VICT. c. 94.]

An Act for confirming certain Provisional Orders of the General Board of Health, and for other Matters relative to the Public Health and the Improvement of Towns and populous Places.

[1st August, 1849.]

WHEREAS the General Board of Health have, in pursuance of the Public Health Act, 1848, made, published, and deposited, according to the provisions of the act, certain provisional orders mentioned in the schedule to this act annexed, and it is expedient that the said orders should be confirmed: 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, that the provisional orders of the General Board of Health referred to in the schedule to this act annexed shall be and the same are hereby confirmed, and shall from and after the passing of this act be absolute, and be as binding and of the like force and effect as if the provisions of the same had been expressly enacted in this act.

Confirmation
of certain
provisional
orders of the
general
board of
health.

2. And be it enacted, that the first election of the local board of health for the borough of

First election
of local
board of

12 & 13 VICT.
c. 94.

health for
Taunton.

First election
of local
board of
health for
Croydon.

First election
of local
board of
health for
Chatham.

First election
of local
board of
health for
Sheerness.

First election
of local
board of
health for
Ware.

First election
of local
board of
health for
Uxbridge.

Local board
of health
may contract
for lighting.

Taunton, for the purposes of the said Public Health Act shall take place on the fourteenth day of September in the year of our Lord one thousand eight hundred and forty-nine.

3. And be it enacted, that the first election of the local board of health for the town of Croydon for the purposes of the said Public Health Act shall take place on the twenty-ninth day of August in the year of our Lord one thousand eight hundred and forty-nine.

4. And be it enacted, that the first election of the local board of health for that part of Chatham lying without the liberties of the city of Rochester, to wit, Chatham Extra, for the purposes of the said Public Health Act, shall take place on the twenty-ninth day of August in the year of our Lord one thousand eight hundred and forty-nine.

5. And be it enacted, that the first election of the local board of health for the parish of Minster, Isle of Sheppey, for the purposes of the said Public Health Act, shall take place on the twenty-ninth day of August in the year of our Lord one thousand eight hundred and forty-nine.

6. And be it enacted, that the first election of the local board of health for the town of Ware for the purposes of the said Public Health Act shall take place on the twenty-ninth day of August in the year of our Lord one thousand eight hundred and forty-nine.

7. And be it enacted, that the first election of the local board of health for the town of Uxbridge for the purposes of the said Public Health Act shall take place on the twenty-ninth day of August in the year of our Lord one thousand eight hundred and forty-nine.

8. And whereas it is expedient that the local boards of health for the execution of the Public Health Act, 1848, should be invested with cer-

tain powers not included in that act; be it therefore enacted, that the said local boards constituted under the said Public Health Act, may contract for any period not exceeding three years at any one time, with any company or person for the supply of gas or oil, or other means of lighting the streets, roads, and other open places, markets, and public buildings within their respective districts, and may provide such lamps, lamp-posts, and other materials and apparatus as such local boards respectively may think necessary for lighting the same; and the expenses incurred by any such local board in so doing shall be defrayed out of the general or special district rates (as the nature of the case may require) levied under the said Public Health Act.

12 & 13 VICT.
c. 94.

9. And be it enacted, that every provisional order issued by the General Board of Health relating to any city, borough, or place, which shall be included under or enumerated in the schedule of any bill for confirming certain provisional orders of the General Board of Health, shall be printed, and printed copies thereof shall be delivered to the doorkeepers of both Houses of Parliament, for the use of the members of such houses respectively, before the first reading of such bill.

Printed
copies of
provisional
orders to be
delivered to
both Houses
of Parlia-
ment.

10. And be it declared and enacted, that the expression "corporate borough" whenever used in the Public Health Act, 1848, shall be construed to include any city, borough, port, cinque port, or town corporate named in the schedules annexed to an act passed in the sixth year of the reign of King William the Fourth, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and to any city, borough, port, cinque port, or town corporate incorporated by charter granted or to be granted in pursuance of that or any subsequent act; and the word "burgesses" wherever used

Construction
of certain
expressions
used in the
Public
Health Act,
1848.

12 & 13 Vict.
c. 94.
— in the said Public Health Act shall be construed
to mean citizens in the case of a city.

Act incor-
porated with
Public
Health Act,
1848. 11. And be it enacted, that this act shall be
deemed to be incorporated with the Public Health
Act, and shall be as if this act and the said Public
Health Act were one act.

Short title
of this act. 12. And be it enacted, that in citing this act in
any other act of Parliament, or in any proceeding,
instrument, or document whatsoever, it shall be
sufficient to use the words and figures "The
Public Health Supplemental Act, 1849."

Act may be
amended,
&c. 13. And be it enacted, that this act may be
amended or repealed by any act to be passed in
the present session of Parliament.

—◆—
SCHEDULE to which this Act refers.

—
*Provisional Orders of the General Board of Health, submitted
for the confirmation of Parliament.*

Places to which the Orders apply.

Taunton.	New Windsor.
Worcester.	Carmarthen.
Ware.	Gloucester.
Sheerness.	Lancaster.
Kendal.	Croydon.
Durham.	Uxbridge.
Leicester.	Coventry.
Chatham.	

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