

Sect. 343, n.

A table is given at the commencement of this book, showing what section of the present Act corresponds to each re-enacted provision of the Acts hereby repealed; and references are made to those provisions under the marginal notes to the re-enactments. With regard to the object of the repeal, see the note to sect. 1.

Effect of re-enactment.

The change of position of a clause by its repeal and re-enactment in a subsequent statute, does not alter its effect.¹

(1) *Morisse v. Royal British Bank* (1856), 1 C. B. (N.S.) 67; 26 L. J. C. P. 62; 3 Jur. (N.S.) 137; 5 W. R. 138; *Wallace v. Blackwell* (1856), 3 Drew. 538; 25 L. J. Ch. 644; 2 Jur. (N.S.) 656; 4 W. R. 627.

Sched. I.,
Part I., r. 1.

SCHEDULES.

SCHEDULE I.

RULES AS TO MEETINGS AND PROCEEDINGS.

Note.

By sect. 317 "The Schedules to this Act shall be read and have effect as part of this Act."

By sect. 199 "Meetings of local boards shall be held, and the proceeding thereat shall be conducted in accordance with the rules as to meetings and proceedings contained in Schedule I. to this Act; and any improvement commissioners may, if they think fit, adopt all or any of such rules."

The last-quoted section, and this schedule, so far as it is unrepealed, are applied by the Local Government Act, 1894, to all urban and rural district councils other than borough councils, and also to boards of guardians, subject, however, to certain modifications as regards the chairman and vice-chairman, and to the powers of the Local Government Board as regards guardians.¹

Incorporation of schedules.
Application of schedule.

(1.) RULES APPLICABLE TO LOCAL BOARDS.

Rule 1. Every local board shall from time to time make regulations with respect to the summoning notice place management and adjournment of their meetings, and generally with respect to the transaction and management of their business under this Act. P.H., s. 34.
P.H. 1874,
s. 27.

Note.

The Local Government Board have expressed the opinion that a Board of Guardians may now under the above rule make regulations as to the conduct of their business which will have the effect of superseding provisions of the General Consolidated Order, such as the provision of Art. 47 of that Order that tenders shall not be opened otherwise than at a meeting of the Board; although the rule does not itself, in the absence of such regulations, supersede the General Order. On the other hand, however, it would appear that the Local Government Board may in turn supersede any such regulations that the guardians may make, by virtue of the saving for the powers of the Local Government Board with respect to the proceedings of guardians contained in sect. 59 (4) of the Act of 1894.

Local boards were formerly required to make *bye-laws* for the summoning of their meetings and the transaction of their business. But, under the above rule, *regulations* are to be made for those purposes; and such regulations do not, as in the case of *bye-laws*, require the confirmation of the Local Government Board: see sect. 188.

The regulations must be subject to the rules of this schedule and to the provision of sect. 199, that a non-municipal urban district council "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 their powers and duties under this Act:" moreover, the regulations must not be unreasonable.

If the district council have no *bye-laws* or regulations in force prescribing the mode of conducting business at their meetings, they may, subject to the rules of this schedule, conduct it in such manner as they may from time to time determine. There is no general rule of law, for instance, which requires notice of intention to move a resolution to be

Proceedings of guardians.

Regulation of proceedings.

(1) 56 & 57 Vict. c. 73, s. 59, *post*, Vol. II., p. 1837.

(2) By 11 & 12 Vict. c. 63, s. 34.

Sched. I.,
Part I., r. 1, n.

given by a member before he makes the motion, or to prevent the board from rescinding a resolution at any time after it has been passed; though they cannot render the rescission of a resolution retrospective, so as to annul any effect which such resolution may have had, or any action which may have taken place in pursuance of it, while it was in force: they can only rescind the resolution as regards the future. But after the council have once adopted a regulation with respect to the transaction of their business, such regulation will, if reasonable, be binding upon the council at subsequent meetings until it is duly rescinded, altered or superseded.

A bye-law requiring a month's notice to be given by the clerk to each member of a local board of the intention to alter or rescind a resolution was held to be reasonable and valid; but doubt was expressed by Blackburn, J., as to the validity of a further clause of the same bye-law, requiring at least the same number of members to pass the alteration or rescission as were present at the meeting when the resolution was adopted.¹

Where a bye-law required a month's notice to be given of intention to move the alteration or rescission of any resolution, it was held that a resolution dismissing an officer was a fresh and independent resolution, and not a rescission of the original notice appointing him; and that therefore it did not require the month's notice to be given.²

Minutes.

The Local Government Board intimated that an urban district council, who wished to have their minutes printed and signed, instead of written, might make regulations with that object under the present rule. Further with regard to the minutes, see rule 10, and the note thereto.

Place of meeting.

Under sect. 197, an urban district council "shall, from time to time, provide and maintain such offices as may be necessary for transacting their business, and that of their officers and servants under this Act."

Admission of strangers.

The meetings of a district council are not, if it can be avoided, to be held upon premises licensed for the sale of intoxicating liquors.³

It is entirely within the discretion of the council to admit newspaper reporters or other persons to their meetings. A person who is not a councillor has no right to be present if the council have a regulation to the contrary.

Suspension of members.

The Local Government Board have expressed the opinion that a member of an urban district council could not be suspended for the remainder of any meeting of the council, unless this course were authorised to be taken where the appropriate circumstances arose, by a regulation of the council under the present schedule; but that every deliberative body is empowered to protect itself in its deliberations, and that if these deliberations are materially obstructed by the disorderly conduct of any person present thereat, whether a stranger or a member, the general body are justified in removing that obstruction by requiring such person to leave the meeting, and, if such requisition is not obeyed, using such an amount of force as may be necessary to compel his retirement; and that this view applies in the case of the meetings of an urban district council. They point out that it is desirable that any force which it may be necessary to use in any case of the kind should be applied by an officer or servant of the council, or where the opportunity offers, by a peace officer; and that the council must determine how far in any particular instance there is or is not such conduct as materially obstructs or disturbs their deliberations.

Adjournment.

An adjourned meeting is not to be considered a fresh meeting, but only a part or continuation of the original meeting, and unless the regulations of the council require notice of adjourned meetings to be given, such notice is not necessary.⁴

The chairman has no right to interrupt or postpone the business of a meeting by adjournment, his duty in the chair being merely to regulate the proceedings, and to forward the business so far as he can and so far as it is such as the meeting can legally entertain and proceed upon. But although the right of adjourning the meeting is not generally vested in the chairman, but in the whole of the members present, it seems that the chairman may, of his own authority, adjourn a meeting for the *bonâ fide* purpose of forwarding or facilitating business, as, for instance, to take a poll where a poll is demandable and has been duly demanded, or, if circumstances of violent interruption make it unsafe or seriously difficult to proceed with the business at the time. In such cases the question will turn on the intention and effect of the adjournment.⁵

Official correspondence.

The Local Government Board, in a circular letter,⁶ gave certain directions to sanitary authorities in order that the correspondence between local authorities and their office might be conducted with greater facility and despatch.

Rule 2. No business shall be transacted at any such meeting unless at least one third of the full number of members be present thereat, subject to

(1) *Mayer v. Burslem Local Board* (1875), 39 J. P. 437.

(2) *Ex parte Richards* (1878), L. R. 3 Q. B. D. 368; 47 L. J. Q. B. 498; 38 L. T. 684; 26 W. R. 695; 42 J. P. 614.

(3) 56 & 57 Vict. c. 73, s. 61, *post*, Vol. II., p. 1839.

(4) See *Scadding v. Lorant* (1851), 3

H. L. Cas. 418; 15 Jur. 955.

(5) See *Stoughton v. Reynolds* (1735), 2 Str. 1045; *Portescue*, 168; *Rev. v. Archdeacon of Chester* (1834), 1 A. & E. 342; *Reg. v. D'Oyley* (1840), 12 A. & E. 139; *Roger's Eccles. Law*, tit. Vestry.

(6) Circular Letter of Local Government Board, 20th January, 1873, *ante*, p. 718, n.

this qualification, that in no case shall a larger quorum than seven members be required.

Note.

Where resignations had reduced the number of members below a quorum, the remaining members could not fill up the vacancies under rule 65 of Sched. II. With regard to filling up casual vacancies, see the provision of the Municipal Corporations Act, 1882, as applied to district councils, boards of guardians, metropolitan borough councils, and the Woolwich Local Board, by the Local Government Act, 1894, and the orders of the Local Government Board under that Act.³

In an action of slander for words spoken by a member at a licensing meeting of the London County Council, it was held that the defendant was not entitled to absolute immunity from liability for the words spoken, the duties of the council in dealing with music and dancing licences being administrative and not judicial.⁴

Per Lord Herschell: Where an imputation made against a person "is an imputation not of misconduct in an office, but of unfitness for an office, and the office for which he is said to be unfit is not an office of profit, but one merely of what has been called honour or credit, the action will not lie unless the conduct charged be such as would enable him to be removed from or deprived of that office." An action for slander in imputing habitual drunkenness to a town councillor was therefore held not to be maintainable.⁵

Damages were recovered against the proprietor of a newspaper in an action for libel for having published, though without comment, the report of the medical officer of health of a metropolitan vestry, which was read at a meeting of the vestry, and which contained libellous matter. The Court held, that although it would be the duty of the vestry in accordance with the Metropolis Management Act to publish their medical officer's report and sell copies to any one applying for them, the defendant had no right to anticipate the publication, or give it a wider circulation, and it was doubted whether, even after the publication by the vestry, it would have been lawful to publish the report either with or without comment.⁶

A similar action was brought against the publisher of a newspaper for publishing an account of a meeting of a board of guardians, at which a statement or report was made by the chairman of the house committee, alleging misconduct in the medical officer of the union. The Court of Appeal held, that though the matter was one of public interest, yet as the meetings of the Poor Law Guardians are not necessarily public, and the report was only an *ex parte* statement grievously affecting the character of the medical officer, and might or might not be true, the guardians would have done well not to have admitted strangers, and the publication was not privileged within the principle applicable to such cases.⁷

A letter written by a medical man to a relieving officer to the effect that a professional nurse, who was seeking to obtain a certificate as a dispenser of medicine, was of unsound mind, with a view to the relieving officer taking proceedings with respect to her under the Lunacy Acts, was held to be privileged.⁸

In an action for slander by one borough councillor against another for words spoken by the latter to other councillors, the defendant pleaded privilege and absence of malice. The Court of Appeal held that the plaintiff was entitled to interrogate the defendant as to the information on which he based his belief that the words spoken were true, and the steps which he had taken to ascertain whether they were true.⁹

By the Law of Libel Amendment Act, 1888, "a fair and accurate report published in any newspaper of the proceedings of a public meeting, or (except where neither the public nor any newspaper reporter is admitted) of any meeting of a vestry, town council, school board, board of guardians, board or local authority formed or constituted under the provisions of any Act of Parliament, or of any committee appointed by any of the above-mentioned bodies, or of any meeting of any commissioners authorised to act by letters patent, Act of Parliament, warrant under the Royal Sign Manual, or other lawful warrant or authority, select committees of either House of Parliament, justices of the peace in quarter sessions assembled for administrative or deliberative purposes, and the publication at the request of any Government office or department, officer of state, commissioner of police, or chief constable of any notice or report issued by them for the information of the public, shall be privileged, unless it shall be proved that such report or publication was published or made maliciously: Provided that nothing in this section shall authorise the publication of any blasphemous or indecent matter: Provided also, that the protection

(1) *Newhaven Local Board v. Newhaven School Board* (1885), L. R. 30 Ch. D. 350; 53 L. T. 571; 34 W. R. 172.

(2) 45 & 46 Vict. c. 50, ss. 40, 66.

(3) 56 & 57 Vict. c. 73, s. 48 (4), *post*, Vol. II., p. 1839.

(4) *Royal Aquarium v. Parkinson*, L. R. 1892, 1 Q. B. 431; 61 L. J. Q. B. 409; 66 L. T. 513; 40 W. R. 450; 56 J. P. 404.

(5) *Alexander v. Jenkins*, L. R. 1892, 1 Q. B. 797; 61 L. J. Q. B. 634; 66 L. T. 391; 40 W. R. 546; 56 J. P. 452.

(6) *Popham v. Pickburn* (1862), 7 H. & N. 891; 31 L. J. Ex. 133; 8 Jur. (N.S.) 179; 5 L. T. 846; 10 W. R. 324.

(7) *Purcell v. Sowler* (1877), L. R. 2 C. P. D. 215; 46 L. J. C. P. 308; 36 L. T. 416; 25 W. R. 362; 41 J. P. 789.

(8) *Dowling v. Dods* (1900, C. A.), 64 J. P. 745, n.

(9) *Elliott v. Garrett*, L. R. 1902, 1 K. B. 870; 71 L. J. K. B. 415; 86 L. T. 441; 50 W. R. 504.

Sched. I.,
Part I., r. 2.

Quorum.

Libellous
statements
at meetings.Libellous
reports of
meetings.

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r. 2, n.

intended to be afforded by this section shall not be available as a defence in any proceedings if it shall be proved that the defendant has been requested to insert in the newspaper in which the report or other publication complained of appeared a reasonable letter or statement by way of contradiction or explanation of such report or other publication, and has refused or neglected to insert the same: Provided further, that nothing in this section contained shall be deemed or construed to limit or abridge any privilege now by law existing, or to protect the publication of any matter not of public concern and the publication of which is not for the public benefit. For the purposes of this section 'public meeting' shall mean any meeting *bona fide* and lawfully held for a lawful purpose, and for the furtherance or discussion of any matter of public concern, whether the admission thereto be general or restricted."¹

Rule 3. Every local board shall 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.

Annual
meeting.
Chairman.

Note.

Rule 11 provides for the holding of the "annual meeting." The chairman of a district council or board of guardians need not be a member of the council or board.² The chairman of a district council is, unless a woman or personally disqualified, an ex-officio justice of the peace.³

The Local Government Board are of opinion that if the chairman of an urban district council is elected from outside the council, he remains in office (unless he resigns or becomes incapable of acting) until his successor is elected at the annual meeting, and that he is entitled to exercise the right of giving a casting vote under rule 8 of this schedule. But that if he is elected from among the councillors, he ceases to be chairman on the 15th April in any year in which he goes out of office as councillor, but subject to this may act as chairman until his successor is elected at the annual meeting.

Election of
chairman.

A rule for a *quo warranto* was made absolute (and a verdict was subsequently given for the Crown and judgment of ouster obtained), requiring the defendant to show by what authority he claimed to exercise the office of chairman of an urban district council, on the grounds (1) that he had presided as chairman at his own election to the chair; (2) that he was not elected by a majority of lawful votes; (3) that he improperly rejected the votes of members who had not actually made their declarations; (4) that he improperly rejected the nomination of another candidate; and (5) that he conducted the election with undue haste, so as to prevent certain persons from making declarations of acceptance of office, and others, who had made their declarations from having them attested.⁴

With reference to the question of the right of an outgoing chairman to preside over the election of his successor, the Local Government Board have expressed the opinion that the outgoing chairman is entitled to preside and to exercise the right of giving a casting vote until the election of his successor, unless he was appointed from among the councillors who went out of office on April 15.⁵

Under a provisional order extending a borough, which provided that all the existing aldermen and councillors should go out of office and that for the purposes of the election of a town councillor the existing mayor should perform the duties devolving on the mayor under the Municipal Corporations Acts, it was held that the existing mayor was entitled to preside and vote at the election of a new mayor.⁶

A candidate for the office of chairman may not preside at the meeting of the council during the election to fill that office.

Rule 4. If the chairman so appointed dies resigns or becomes 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.

Rule 5. If the chairman is 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.

Note.

Vice-chair-
man.

Any urban or rural district council, other than a borough council, and any board of guardians, may appoint a vice-chairman to hold office during the term of office of the chairman, and to act during his absence.⁷

(1) 51 & 52 Vict. c. 64, s. 4.
(2) 56 & 57 Vict. c. 73, ss. 20 (7), 24 (4),
59 (1), *post*, Vol. II., pp. 1778, 1788, 1837.
(3) *Ibid.*, s. 22, *post*, Vol. II.
(4) *Reg. v. Reynolds*, MS. and Loc. Gov.
Chron., 1896, 900.

(5) *Times* newspaper, 5th May, 1898.
(6) *Bland v. Buchanan*, L.R. 1901, 2
K. B. 75; 70 L. J. K. B. 466; 84 L. T.
390; 49 W. R. 601; 65 J. P. 404.
(7) 56 & 57 Vict. c. 73, ss. 20 (7), 59 (2),
post, Vol. II.

Rule 6. The names of the members present, as well as of those voting on each question, shall be recorded, so as to show whether each vote given was for or against the question. Sched. I., Part I., r. 6.

Note.

The corresponding provisions of the Public Health Act, 1848, merely required the record of the voters' names, unaccompanied by any statement as to whether the respective votes were given for or against the question, and left it open to some doubt whether the majority required, was a majority of those present or of those voting. See rule 10 with regard to the minutes of proceedings. Record of votes.

Rule 7. Every question at a meeting shall be decided by a majority of votes of the members present, and voting on that question.

Note.

The requisite majority to carry a resolution is not therefore necessarily a majority of the members present, if they do not all vote on it. Majority.

In view of the above rule the Local Government Board stated that a regulation to the effect that a resolution should not be rescinded unless two-thirds of the members present voted for the rescission would not be valid.

In the case of boards of guardians, Art. 155 of the General Consolidated Order of the 24th July, 1847, provides that every officer to be appointed by such a board under the order shall be appointed by a majority of the guardians present at a meeting of the board, which meeting must consist of not less than three guardians. But the Local Government Board have expressed the opinion that rule 7 repeals this provision so far as it is inconsistent with such provision, and that therefore the appointment of an officer need not necessarily be made by a majority of the guardians present at the meeting, but only by a majority of those present and voting on the question.

Rule 8. In case of an equal division of votes the chairman shall have a second or casting vote.

Note.

With reference to a similar provision in the Poor Law Amendment Act, 1849, the Poor Law Board stated that "a casting vote may signify one of two things, either the single vote of a person who only votes in the case of an equality, or the double [second?] vote of a person who first votes with the rest, and then, upon an equality, creates a majority by giving a second vote." Under the above rule the chairman has a casting vote in the second of the above-mentioned senses. Casting vote.

Rule 9. The proceedings of a local board shall not be invalidated by any vacancy or vacancies among their members, or by any defect in the election of such board, or in the election or selection or qualification of any members thereof. P.H., s. 29, and see s. 19.

Note.

It was also enacted by rule 70 of the second schedule (now repealed) that all acts and proceedings of any person disqualified, disabled, or not duly qualified, or who had not made and subscribed the declaration required by the Act, should, if done previously to the recovery of the penalty mentioned in the Act, be valid and effectual to all intents and purposes. Voting by unqualified persons.

Rule 10. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, if purporting to be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

Note.

In an action in the Chancery Division the minute book of a local board was ordered to be deposited in the Record and Writ Clerks' Office in London for inspection, notwithstanding that it was in constant use by the board.² Minute book.

It is customary for local authorities, in order to ensure the correctness of the record of their proceedings, to have the minutes of each of their meetings read at the commencement

(1) 12 & 13 Vict. c. 103, s. 19. Board (1871), 40 L. J. Ch. 592; 19 W. R.
(2) *Attorney-General v. Whitwood Local* 1107.

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Part I.,
r. 10, n.

of the next meeting, and then for the members present to pass the minutes which have been read, or resolve that they (or rather their correctness) be confirmed, on which they are signed by the presiding chairman. The General Consolidated Order of the Poor Law Commissioners requires this to be done in the case of the minutes of boards of guardians, and a provision is contained in the Metropolis Management Act, 1855,¹ for signing the minutes of vestries and district boards (now the metropolitan borough councils).

It is sometimes supposed that the resolutions of the authority are inoperative or invalid unless and until this "confirmation" has taken place, but this supposition is incorrect. The object is that the minutes, which are the permanent record and the *prima facie* evidence of the acts of the authority, shall be as accurate as possible: they are read in order that the members may have the opportunity of calling attention to inaccuracies in them, and when these have, if necessary, been corrected, may declare them to be accurate; and the chairman then signs them by way of attestation.²

Destruction
of old books.

The Local Government Board consider that, though there is no objection to the council disposing of books and papers which have clearly become useless, any documents likely to be found of use at a future time as evidence of matters in which the council have an interest should be carefully preserved; and that no books of any kind should be disposed of until at least six years old. In the case of guardians, the Board have expressed the opinion that under no circumstances should minute books of the proceedings of the Board, of whatever age, be destroyed; and it is no doubt advisable that the old minute books of district councils should also be preserved.

Rule 11. The annual meeting of a local board shall be held as soon as may be convenient after the fifteenth of April in each year.

Note.

Annual
meeting.

By rule 3 the chairman is to be elected at the annual meeting, which is the first meeting after the annual election. The 15th April is the day on which the retiring members go out of office and the newly elected members come in.³

The Local Government Board have stated that it appears to them that at any meeting held on the 15th of April the newly elected members would be entitled to attend, and the retiring members would not. The newly elected members come into office and the outgoing members retire at the earliest moment of the 15th of April. The Board have intimated that there is no reason why a meeting should not be held on that day; but that such meeting would not be the "annual meeting," the annual meeting being required to be held as soon as may be convenient after the 15th of April.

L.G., s. 24 (8).

Rule 12. The first meeting of a local board for a district constituted after the passing of this Act shall be held at such place and on such day (not being more than ten days after the completion of the election) as the returning officer may by written notice to each member of the board appoint; and the members shall appoint one of their number to be chairman at such meeting, and shall also appoint one of their number to be chairman for one year at all meetings at which he is present.

Rule 13. [Nothing in these rules contained with respect to the appointment of chairman shall apply to the Oxford district, and in that district a chairman shall be appointed as heretofore.]

Note.

Oxford.

With regard to Oxford, see the note to sect. 342.

(1) 18 & 19 Vict. c. 120, s. 60.

Jur. 667.

(2) See *per* Lord Campbell, C.J., in *Reg. v. York Corpn.* (1853), 1 E. & B. 594; 17

(3) 56 & 57 Vict. c. 73, ss. 20 (6), 23 (6).
post, Vol. II., pp. 1778, 1787.

Sched. I.,
Part II., r. 1.

(2.) RULES APPLICABLE [to Committees of Local Authorities, other than Councils of Boroughs, and] TO JOINT BOARDS.

Note.

This schedule is repealed by the Local Government Act, 1894, so far as it relates to committees,¹ and the proceedings of committees of district councils are regulated by that Act.²

In the case of a joint board the following rules are compulsory unless the order forming the board contains different rules. For by sect. 282: "Meetings of any joint boards shall be held, and the proceedings thereat shall be conducted (so far as such meetings and proceedings are not regulated by the order forming the joint board), in accordance with the rules as to meetings and proceedings contained in Schedule I. to this Act."

With regard to joint boards, see sects. 280-282.

Proceedings
of committees.

Proceedings
of joint
boards.

Rule 1. A [committee or] joint board may meet and adjourn as it thinks proper.

Rule 2. The quorum of a [committee or] joint board shall consist of such number of members as may be prescribed by the authority that appointed the [committee or] joint board, or, if no number is prescribed, of three members.

Rule 3. A [committee or] joint board may appoint a chairman of its meetings.

Note.

As no time is limited for the duration of the office held by the person appointed, he will, unless he is expressly appointed for a limited time, or resigns the office, remain chairman as long as the joint board exists, and he remains a member of such board.

Tenure of
office.

Rule 4. If no chairman is elected, or if the chairman elected is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be chairman of such meeting.

Rule 5. Every question at a meeting shall be determined by a majority of votes of the members present and voting on that question.

Note.

See the note to rule 7 of the first part of this schedule.

Majority.

Rule 6. In case of an equal division of votes the chairman shall have a second or casting vote.

Note.

See the note to rule 8 of the first part of this schedule.

Casting
vote.

Rule 7. The proceedings of a [committee or] joint board shall not be invalidated by reason of any vacancy or vacancies amongst their members, or any defect in the mode of appointment of such [committee or] joint board or of any member thereof.

Note.

See the note to rule 9 of the first part of this schedule.

Voting by
unqualified
persons.

Rule 8. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, purporting to be signed by the chairman of the meeting at which such proceedings took place or

(1) 56 & 57 Vict. c. 73, s. 89, and Sched. II., *post*, Vol. II., p. 1854.

(2) *Ibid.*, s. 56, and Sched. I., Part IV., *post*, Vol. II., p. 1836.

Sched. I., Part II., r. 8. such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

Note.

Minutes. See the note to rule 10 of the first part of this schedule. The minutes of a committee of a local authority recording proceedings with reference to litigation pending, or litigation which it is contemplated may take place, are privileged from production.¹

With reference to the right of a burgess to inspect minutes² it was held that the right extended to such minutes of proceedings of committees of the council as were laid before the council, whether the proceedings of the committee were approved or not.³

(1) *Bristol Corpn. v. Cox* (1834), L. R. 26 Ch. D. 678; 53 L. J. Ch. 1144; 50 L. T. 719; 33 W. R. 255.
 (2) Under 45 & 46 Vict. c. 50. s. 233.
post, Vol. II., p. 1385.
 (3) *Williams v. Manchester Corpn.* (1897), 45 W. R. 412; *Loc. Gov. Chron.*, 1897, 341.

SCHEDULE II.

[(I.) RULES FOR ELECTION OF LOCAL BOARDS.]

Note.

The second schedule is repealed by the Local Government Act, 1894,¹ and provisions are made by that Act, and the rules of the Local Government Board made in pursuance of the Act, for the election of both urban and rural district councils.²

Notwithstanding this repeal, however, a considerable portion of the schedule remains in force, and may occasionally have to be acted upon (namely, where a poll of owners and ratepayers is taken on the question of the establishment of a market under sect. 166 of the present Act), by virtue of rule 6 of Schedule III., which applies it, as far as can be, to a poll of owners and ratepayers taken under that schedule. The rules which appear to be so applicable are therefore set out below.

Repeal.

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Wards.

* * * * *

Rule 8. No person entitled to vote shall give in the whole of the wards a greater number of votes than he would have been entitled to give if the district had not been divided into wards, nor in any one ward a greater number of votes than he is entitled to in respect of property in that ward. L. G., s. 24 (4). P.H. 1874, s. 25.

Rule 9. Subject as aforesaid, any owner or ratepayer may, by notice in writing delivered to the clerk of the local board, or in case of the first election to the returning officer, elect in what ward or wards he will vote for the ensuing year, and determine the proportion of votes which he will give in any one or more of such wards, and if he does not give such notice he shall not be entitled to vote for any ward in which he does not reside.

Qualification of Electors, Scale of Voting, and Register of Owners.

Rule 10. The word "owner," when used in relation to the right of voting [at any election of a local board], shall mean any person for the time being in the actual occupation of any kind of property in the district or part of a district for which he claims to vote, rateable to the relief of the poor, and not let to him at a rackrent, or any person receiving on his own account, or as mortgagee or other incumbrancer in possession, the rackrent of any such property. P.H., s. 20.

Note.

The difference between the definition of "owner" as here given, and that which is given in sect. 4 for the general purposes of the Act, should be particularly noticed. Thus a trustee may be deemed the owner of property for all purposes of the Act except for the purpose of voting at a poll under the present schedule. Corporations aggregate may vote as owners, but only by proxy: see rules 14 and 16.

Meaning of owner.

Rackrent is defined by sect. 4.

It is not necessary that the register of owners and proxies, formerly required to be kept under rule 19, should now be kept, or where there is one, that it should be brought up to date, in the event of a poll being taken under the present schedule: see rule 6 of Sched. III.

Rule 11. A person shall not be deemed a ratepayer or be entitled to vote as such [at any such election] unless he has 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 has also before that day paid all rates made on him for the relief of the poor in such district or part of a district for the period of one whole

(1) 56 & 57 Vict. c. 73, s. 89, and Sched. (2) See *Ibid.*, ss. 23, 24, 48, *post*, Vol. II. 11., *post*, Vol. II., p. 1854.

Sched. II., Part I., r. 11. year, and all rates due from him under this Act, except rates which have been made or become due within the six months immediately preceding.

Note.**Meaning of ratepayer.**

The term "ratepayer" is not defined otherwise than by the above rule, which only defines it in a negative way.

If the name of the person rated were omitted from the rate, he would not be deprived of his right to vote, provided that the property were described, and the rate received from him.¹

The above rule does not require the ratepayer to reside in the district; and though rule 44 seems to assume that every ratepayer will have a residence within it, it does not necessarily follow that a non-resident ratepayer is disqualified from voting.

The agent of a candidate agreed to pay the rates of voters, but as they were not actually paid until after the poll closed, the votes were held to be bad, under a local Improvement Act, which required voters to have paid their rates; and *per Cockburn, C.J.*, they would have been bad even if the person who paid the rates had been shown to be the agent of the voters and to have had the money in hand to pay the rates.²

In a case in which A and B occupied property jointly, and B was assessed in respect of it, while A paid the rates without being called upon to do so, it was held that A was not "rated."³

Owners of small tenements.

A person, who, without being actually rated, becomes liable to pay and pays the rates for the occupier under sect. 3 of the Poor Rate Assessment and Collection Act, 1869, is clearly not entitled to vote as a ratepayer; but different views are taken on the question whether an owner who is actually rated under sect. 4 of the same Act, and pays the rates, is entitled to vote as a ratepayer as well as the occupier. The Act does not expressly deprive the owner of any qualification which the actual rating and payment of rates would confer on him; and a person who thus compounded for rates under a local Act was held to be qualified for election as member of a board of guardians,⁴ although the occupiers of his premises had been held to be entitled to vote as ratepayers at the election.⁵

In a case, however, in which proceedings were taken against a member of a metropolitan vestry for voting without being duly qualified, Lindley, L.J., seems to have considered sects. 7 and 19 of the Act to be inconsistent with the right of the owner to vote in vestry, since there was no re-enactment of the provision of the repealed Small Tenements Act, 1850,⁷ that "every such owner so rated as aforesaid shall have * * * the same right to vote in vestry as if he were an occupier duly rated in respect of the same tenement."⁸

Corporations.

The Poor Law Amendment Act, 1867, contains the following enactment: "Where any corporation aggregate, joint stock or other company, commissioners, or public trustees shall be rated, any officer of such corporation, company, commissioners, or public trustees from time to time appointed by the governing body thereof whose name shall be sent in writing to the overseers before the first day of March in any year, to be entered in the rate-book under the name of such corporation, company, commissioners, or public trustees, shall be entitled to vote in respect of the property assessed as if he were assessed in his own name for the same, and in the case of a parish divided into wards shall vote in that ward where the principal office of the corporation, company, commissioners, or public trustees shall be situated, if any, or otherwise in that ward where the greatest part of the property assessed shall be situated."⁹

P.II., s. 20.

Rule 12. Owners of and ratepayers in respect of property situated within the district for which the [election] is held 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 is rated to the poor rate on a rateable value of less than fifty pounds, he shall have one vote; if such rateable value amounts to fifty pounds and is less than one hundred pounds, he shall have two votes; if it amounts to one hundred pounds and is less than one hundred and fifty pounds, he shall have three votes; if it amounts to one hundred and fifty pounds and is less than two hundred pounds, he shall have four votes; if it amounts to two hundred pounds and is less than two hundred and fifty

(1) See *Reg. v. Hulme Inhabitants* (1843), 4 Q. B. 538; 12 L. J. M. C. 100; and 32 & 33 Vict. c. 41, s. 19.

(2) *Reg. v. Briggs* (1864), 29 J. P. 423.

(3) *Moss v. St. Michael, Lichfield, Overseers* (1844), 7 Mar. & G. 72.

(4) 32 & 33 Vict. c. 41, s. 3.

(5) *Reg. v. Hampton* (1866), 6 B. & S. 939; 12 Jur. (N.S.) 587; 13 L. T. 433; 15

W. R. 43; 30 J. P. 246.

(6) *Ibid.*, 6 B. & S. 923; 13 L. T. 433; 12 Jur. (N.S.) 583; 15 W. R. 43; 30 J. P. 244.

(7) 13 & 14 Vict. c. 99, s. 6.

(8) *Mogg v. Clarke* (1885, C.A.), L. R. 16 Q. B. D. 79; 55 L. J. Q. B. 69; 53 L. T. 890; 34 W. R. 66; 50 J. P. 342.

(9) 30 & 31 Vict. c. 106, s. 10.

pounds, he shall have five votes; and if it amounts to or exceeds two hundred and fifty pounds, he shall have six votes.

Note.

An alien cannot exercise any franchise, nor can a minor or a person of unsound mind. There is nothing to prevent a single woman of full age, who is otherwise qualified, from exercising any franchise, even if she has separate property, or lives apart from her husband and is rated and pays rates,¹ except where she is expressly authorised to vote, as for the purposes of the Local Government Act, 1894.² These common law disqualifications are no doubt applicable to the right of voting under Schedule III.; but rule 6 of that schedule, which only applies such incidents as to qualification of electors as are provided by the rules in the present schedule, does not apply disqualifications for voting at elections which are imposed by other enactments, such as the provision of the Divided Parishes and Poor Law Amendment Act, 1876,³ under which no person is entitled to vote "in the election to an office under the provisions of any statute" who is in receipt of relief given to himself or his wife or child, or who has been in receipt of such relief on any day during the year last preceding the election.

A person who has been excused payment of rates on the ground of poverty will be disqualified from voting as a ratepayer.

Sched. II., Part I., r. 12.

Disqualifications.

Rule 13. 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.

Rule 14. Owners may give their votes either personally or by proxy.

Note.

The town council of a borough were held not to be bound to keep a register of owners and proxies, with a view to its use on an occasion when a poll under Schedule III. might be demanded.⁴ And as it will be equally unnecessary for a district council to keep such a register, rules 18, 19, 22 and 24-30, relating to the making and revision of the register are omitted.

Owners and proxies desirous of voting under Schedule III. will, however, have to send in claims under rule 20 of this schedule.

Register.

Rule 15. The instrument appointing a proxy shall be in writing under the hand of the appointor, or where the appointor is a corporation under their common seal, or where the appointor is a body of persons unincorporated under the hands of three directors or other persons having the direction or management of the undertaking or business carried on by such body of persons; and every such instrument shall be attested by a witness, and may be in the Form M in Schedule IV. to this Act.

Note.

The appointment of a proxy is a "letter of attorney" or an "instrument of procuration" so as to require a ten-shilling stamp under the Stamp Act, 1891.⁵

Stamp duty.

Rule 16. No member of a corporation or of any such body of persons (other than a partnership firm consisting of not more than six persons) shall be entitled to vote individually as owner in respect of property belonging to such corporation or body of persons.

Rule 17. Partners in a firm consisting of not more than six persons may vote as owners in respect of property of the firm as if that property were equally divided among the partners.

* * * * *
Rule 20. A claim by an owner or proxy [to be entered on the register] shall state his name and address within the district, and a description of the nature of the interest or estate in the property giving the qualification, and a statement of the amount of all rent service (if any) received or paid in respect thereof by him or the body of persons for whom he is proxy, and of the

(1) See *Reg. v. Harrauld* (1872), L. R. 7 Q. B. 361; 41 L. J. Q. B. 173; 26 L. T. 616; 20 W. R. 328.

(2) 56 & 57 Vict. c. 73, s. 43, *post*, Vol. II.

(3) 39 & 40 Vict. c. 61, s. 14; and see

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48 and 49 Vict. c. 46, s. 2.

(4) *Ward v. Sheffield Corpn.* (1887), L. R. 19 Q. B. D. 22; 56 L. J. Q. B. 418.

(5) 54 & 55 Vict. c. 39, Sched. tit. "Letter of Attorney." See *Reg. v. Kelk*

(1840), 12 A. & E. 559.

Sched. II., Part I., r. 20. persons from whom or to whom the same is received or paid; and in the case of a proxy the claim shall be accompanied by the appointment of the proxy or an attested copy thereof.

Claims to vote. **Note.** In order to be entitled to vote at a poll of owners and ratepayers under Schedule III., an owner or proxy must send in a claim containing the particulars above mentioned to the summoning officer in pursuance of rule 6 of that schedule; for district councils will not need to keep registers of owners and proxies.

Rule 21. A claim by an owner or proxy may be made by writing in the Form L in Schedule IV. to this Act.

Rule 23. Claims [and objections] shall be sent to the chairman of the local board [on some one of the first six days of March], and a claim or objection sent at any other time shall not be admitted by the chairman.

Claims. **Note.** Claims to vote at a poll under Schedule III. are to be sent in at least fourteen days before the last day appointed for delivery of the voting papers.¹

[Election.]

Rule 36. The returning officer shall . . . not less than fourteen days before the last day appointed for [delivery to him of nomination papers], publish a notice, signed by him, and specifying—* * *

The mode of voting in case of a contest;
The day or days on which the voting papers will be delivered and the day on which they will be collected; and

P.H., s. 21. The place for the examination and for the casting up of the votes; and shall also cause copies of such notice to be affixed at the places where parochial notices are usually affixed.

Notice of poll. **Note.** For the purposes of a poll under Schedule III., the summoning officer is to be the returning officer, and is to give notice in the same manner as the returning officer was required by the above rule to give the notice of election; but as there is no "delivery of nomination papers," the notice of the poll should apparently be published not less than fourteen days before the day fixed for the delivery of voting papers.

Parochial notices are published by being affixed on or near to the principal door of each church and chapel of the Church of England in the parish.²

The summoning officer must arrange the dates for the several events here mentioned so that there may be three clear days between the delivery and collection of the voting papers, and that the examination of votes may commence on the day after the collection. Acts appointed to be done on a Sunday, Christmas Day, Good Friday, or a Bank holiday, or fast or thanksgiving day, are to be done on the following day: see rule 66, and the note thereto.

Rule 37. The returning officer may, if he thinks fit, cause to be made an alphabetical list of the persons entitled to vote [at the election].

Rule 38. 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 the [election] is held, and having the custody of any books or papers relating to the election of guardians of the poor, or of 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 returning officer. Any person having the custody of any such books or papers who refuses to permit the same to be inspected, or copies or extracts to be taken therefrom, shall be liable to a penalty not exceeding five pounds.

(1) Sched. III., r. 6, *post*.
(2) 7 Wm. IV. & 1 Vict. c. 45, s. 2. And see *Reg. v. Whipp* (1843), 4 Q. B. 141; 3 G. & D. 372; 12 L. J. M. C. 64; 7 Jur. 194; *Ormerod v. Chadwick* (1847), 16 M & W. 367; 16 L. J. M. C. 143; *Reg. v. Devorell* (1854), 3 E. & B. 372; 23 L. J. M. C. 121; s.c. *nom. Ex parte Warblington*, 18 Jur. 494.

Rule 43. . . . the returning officer shall cause voting papers, in the Form [A] contained in Schedule IV. to this Act, to be prepared and filled up. . . .

Note. For the purpose of a poll under Schedule III., the voting paper will be in the Form O contained in Schedule IV. **Form of voting paper.**

The provision in the Public Health Act, 1848,¹ requiring the voting papers to be filled up by the returning officer with the number of votes to which each voter was entitled, was held to be directory only, and not compulsory.² Therefore if there should be any mistake in the number of votes assigned in the voting papers, or if none be assigned, the returning officer, when he reckons up the votes, will have to assign to each voter the proper number to which he is entitled. But, *semble, per* Blackburn and Mellor, JJ., the chairman might be liable to a penalty³ for omitting to fill up the voting papers in the form provided by the Act.

A case under the Municipal Corporations Act, which raised the question whether the penny stamp on "voting papers at meetings," imposed by the Stamp Act,⁴ applied to municipal elections, would seem to show also that voting papers at a poll under Schedule III. do not require such stamps, although the poll is taken in connection with a "meeting."⁵ **Stamp duty.**

Rule 44. The returning officer shall, three days at least before the day of collection of the voting papers, cause one of such voting papers to be delivered, by persons appointed by him for that purpose, at the address stated in the [register or] claim of each owner and proxy, and at the residence within the district of each ratepayer entitled to vote therein.

Note. Where an act is required by statute to be done so many days "at least" before a given event, the time must be reckoned exclusively of both the day of the act and the day of the event, that is, there must be the specified number of clear days between those two days.⁶ A Sunday would be reckoned as one of the three days.⁷ **Computation of time.**

Rule 45. 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. **P.H., s. 25.**

Note. If the signature be omitted, the voting paper will be bad.⁸ The signature should be the voter's usual signature, and it would be no valid objection that the Christian name was denoted by an initial letter.⁹ **Signature to voting papers.**

The form of voting paper given in Schedule IV., Form O, contains directions to the voter with reference to the mode of filling up the paper. These directions, which are part of the statute,¹⁰ require the voter, whether he votes in his own right or as proxy, not merely to sign his name, but to subscribe "his name and address at full length;" and in the case of an illiterate voter, the directions require him "to make his mark instead of initials," and require the witness to attest "such mark."

A note on the form of nomination paper given in the schedule to the Municipal Elections Act, 1875,¹¹ requiring the number on the burgess roll of a subscribing burgess to be inserted, was held to be mandatory and not directory.¹²

With regard to illiterate voters, it appears to be intended that the witness shall write the voter's initials in the column headed "in favour of," or in that headed "against," as the case may be, that the voter shall then make his mark at the foot of the voting paper,

(1) 11 & 12 Vict. c. 63, s. 24, and Sched. II., p. 1844.
(2) See *Rowberry v. Morgan* (1854), 9 Ex. 730; 23 L. J. Ex. 191; 18 Jur. 452; *Peacock v. The Queen* (1858), 4 C. B. (N.S.) 264; 27 L. J. C. P. 224; 6 W. R. 517; *Ex parte Simpkin* (1859), 2 E. & E. 392; 29 L. J. M. C. 23; 6 Jur. (N.S.) 144.
(3) *Reg. v. Tart* (1859), 1 E. & E. 618; 28 L. J. Q. B. 173; 5 Jur. (N.S.) 679.
(4) *Reg. v. Avery* (1852), 18 Q. B. 576; 21 L. J. Q. B. 428; 17 Jur. 272.
(5) See s. 317.
(6) 38 & 39 Vict. c. 40, now repealed.
(7) *Henry v. Armitage* (1883), L. R. 12 Q. B. D. 257; 53 L. J. Q. B. 111; 50 L. T. 4; 32 W. R. 192; 48 J. P. 424.
(8) *Reg. v. Lofthouse* (1866), L. R. 1 Q. B. 433; 35 L. J. Q. B. 145; 12 Jur. (N.S.) 619; 14 W. R. 649; 30 J. P. 453; 7 B. & S. 447; s.c. *Reg. v. Lockhouse and Wilson*, 14 L. T. 359.
(9) Under 11 & 12 Vict. c. 63, s. 28.
(10) 33 & 34 Vict. c. 97, now 54 & 55 Vict. c. 39.
(11) *Reg. v. Strachan* (1872), L. R. 7 Q. B. 493; 41 L. J. Q. B. 210; 26 L. T. 335; 20 W. R. 629; 36 J. P. 727.
(12) *Reg. v. Shropshire Justices* (1838), 8 A. & E. 173; 3 N. & P. 286; 7 L. J. M. C. 56; 2 Jur. 807; see also *post*, Vol.

Sched. II., Part I., r. 45, n.

and, lastly, that the witness shall subscribe the voter's name and address and also his own, though it is not expressly required that the address shall be added in this case.

Rule 46. Any person voting as a proxy shall in like manner write his own initials and sign his own name, and state also in writing the name of the person or body of persons for whom he is proxy.

Rule 47. Any voter unable to write 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 mark, as well as the initials of such voter against the [name of every candidate for whom] the voter intends to vote.

Rule 48. The returning officer shall cause the voting papers to be collected on the day of collection [(which shall not be later than the seventh of April)] by such persons as he may appoint.

Rule 49. No voting paper shall be received or admitted unless the same has been delivered at the address or residence as aforesaid of the voter, nor unless the same is collected by the persons appointed for that purpose: Provided—

(a.) That if any person entitled to receive a voting paper has not received a voting paper as aforesaid, he shall, on personal application before the day of collection to the returning officer, 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:

(b.) That if any voting paper duly delivered has not been collected, through the default of the returning officer or the persons appointed to collect the same, the voter in person may deliver the same to the returning officer before twelve o'clock at noon on the day or on the first day (as the case may be) appointed for the examination and casting up of the votes.

* * * * *

Counting of Votes.

P.H., s. 27.

Rule 51. The returning officer shall on the day immediately following the day of collection of the voting papers, and on as many days immediately succeeding as may be necessary, attend at the place appointed for the examination and casting up of the votes, 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; he shall cast up such of the votes as he finds to be valid, and to have been duly given, collected, or received, and shall ascertain the number of such votes for each [candidate]. . . .

Note.

It was ruled by Lord Campbell, C.J., at nisi prius that the duties of the chairman of returning officer were not merely ministerial, but judicial, and therefore his certificate of the return of the candidates elected was conclusive as far as the validity of the votes was concerned, and no scrutiny of the votes could be held under a *quo warranto*.¹

And in a more recent case the returning officer had, by mistake, put down votes to one candidate which the voting papers showed had been given for another, and had omitted to reckon certain votes, and also had received as valid votes which were invalid, but as to which he had made no examination, his attention not having been called to them. It was held by the Court of Appeal, that as to the first and second classes of votes, the duty of the returning officer, viz. to cast up the votes, was merely ministerial, but that as to the third class he had to exercise a judicial duty, and as to this his certificate was conclusive.²

* * * * *

Rule 53. The returning officer shall also cause to be made a list containing [the names of the candidates, together with (in case of a contest)] the

(1) *Reg. v. Cross* (1852, on the Norfolk Circuit), 19 L. T. (O.S.) 35; 16 J. P. 214.
(2) *Reg. v. Collins* (1876), L. R. 2 Q. B. D. 30; 46 L. J. Q. B. 257; 36 L. T. 192.

Duty of returning officer.

number of votes given for each [and the names of the persons elected], and shall sign and certify such list, and shall deliver the same, together with the [nomination and] voting papers which he has received, to the [local board] at their first or next meeting (as the case may be), who shall cause the same to be deposited in their office.

Note.

After a poll under Schedule III., the summoning officer is required to send a copy of the resolution passed to the Local Government Board, and publish it in the district. As he is also to perform the duties of a returning officer under the present schedule, so far as the same are applicable to such a poll, he should in pursuance of the above rule certify the result of the poll to the council, stating the number of votes given in favour of and against the resolution, whether it is passed or not, and should deliver over the voting papers to the council at their next meeting.

Sched. II., Part I., r. 53.

Certificate.

Rule 54. Such list shall during office hours be open to public inspection, together with all other documents relating to the [election], for six months after the [election], without fee or reward; and the returning officer shall, as soon as may be after the completion of the [election], cause such list to be printed, and copies thereof to be affixed at the usual places for affixing parochial notices within the parts for which the election has taken place.

* * * * *

General Provisions.

Rule 66. Whenever the day appointed for the performance of any act in relation to any [election] is a Sunday, Christmas Day, or Good Friday, a Bank holiday, or any day appointed for public fast or thanksgiving, such act shall be performed on the day next following, unless it is one of the days excluded as aforesaid; and in that case on the day following such excluded day.

P.H., s. 23.

Note.

These are by the Bank Holidays Act, 1871,¹ Easter Monday, the Monday in Whitsun week, the first Monday in August, and the 26th day of December, if a week-day, and, by the Holidays Extension Act, 1872,² the 27th day of December when the 26th falls on a Sunday.

Bank holidays.

Rule 67. The necessary expenses attendant on any [election] and such reasonable remuneration to the returning officer and other persons for services performed or expenses incurred by them in relation thereto as may be allowed by the local board, shall be paid out of the general district rates levied under this Act.

P.H., s. 30.

Note.

The Court refused to order a local board to pay a reasonable compensation to a person conducting the poll upon a suggestion that an inadequate sum had been allowed; as the board had a discretion as to what sum they might think reasonable to allow, and the exercise of their discretion in this respect was not subject to review.³

Remuneration.

Rule 68. If the returning officer refuses or neglects to comply with any of the provisions of this schedule relating to [elections], he shall be liable to a penalty not exceeding fifty pounds; and any person employed for the purposes of any such [election] by or under the returning officer who is guilty of any such neglect or refusal shall be liable to a penalty not exceeding five pounds.

P.H., s. 28.

Note.

This penal provision only applies to neglect or disregard of clear and undoubted directions, not to mere mistakes upon doubtful points.⁴ It was held that an officer presiding at a municipal election under the Ballot Act, 1872,⁵ having undertaken and entered upon a ministerial duty, was liable for the negligent

Negligence of returning officer.

(1) 34 & 35 Vict. c. 17, sched. (4) *Sammerhill v. Coley* (1868), 32 J. P. 821.
(2) 38 Vict. c. 13, s. 2.
(3) See *Ex parte Metcalfe* (1856), 6 E. & B. 287; 2 Jur. (N.S.) 1245; 4 W. R. 490.
(5) 35 & 36 Vict. c. 33.

Sched. II.,
Part I.,
r. 68, n.

performance thereof; but that he would not be responsible for the negligence of his clerk in the performance of such duties as he might legally delegate to him, the relation of master and servant not existing between them; *per* Bovill, C.J., however, he was only liable if the omission were wilful.¹

The chairman of a local board of health was charged with neglect to deliver the voting papers to the local board at their meeting after the election, pursuant to the Act.² The prosecutor, a member of the board, had not been a candidate at the election, the persons returned at the election were properly elected, and the prosecutor had not obtained the consent of the Attorney-General to prosecute. He was held not to be a party aggrieved within sect. 253 of the Act, and the justices had therefore no jurisdiction to convict.³

L.G., s. 13 (5).

Rule 69. Any person who—

Fabricates in whole or in part or alters defaces destroys abstracts or purloins any voting paper, or
Personates any person entitled to vote at any election, or
Falsely assumes to act in the name or on the behalf of any person so entitled to vote, or
Interferes with the delivery or collection of any voting papers, or
Delivers any voting paper under a false pretence of being lawfully authorised so to do,

shall be liable to a penalty not exceeding twenty pounds, or, in the discretion of the Court, to imprisonment with or without hard labour for any period not exceeding three months.

Note.

Penalties.

As rule 6 of Schedule III. expressly applies the provisions as to penalties in rule 63 of this schedule to a poll of owners and ratepayers, it is doubtful whether the general words "in all respects whatsoever" in the first-mentioned rule can be taken to apply rule 69 (to which no such express reference is made) to such a poll.

Fabrication
of voting
paper.

The wife of a voter, in the absence of her husband, promised his vote, and not being able to write, placed a mark on the voting paper, which was attested by a witness who was canvassing for the candidate to whom the promised vote was given. He did this, and placed the voter's initials against the name of the candidate believing that the wife was authorised to fill up the voting paper, and that he was not acting contrary to the Act. On an information for fabricating a voting paper, it was held that he had not fabricated a voting paper within the meaning of the Act.⁴ Again, where certain persons went to the houses of voters who were marksmen, to assist in filling up the voting papers, and having obtained the express or implied consent of the voters or members of their families, filled up the papers with the proper names and marks of the voters, and put their own names as attesting witnesses, without obtaining the actual signatures or marks of the parties themselves, it was held, that this did not constitute the offence of forgery at common law; *see quere*, whether it amounted to an indictable misdemeanour. The defendants having been indicted separately, Crompton, J., on the application of their counsel, and with the consent of the counsel for the prosecution, permitted all the cases to be tried.⁵

Personation
of voters.

Writing the voter's initials in pencil on the voting paper was held not to amount to "fabrication" or "falsely assuming to act," in the absence of fraud, the voter having been told to fill in the initials in ink.⁶

It would seem that the offence of personation is not committed unless the voter personated is entitled to vote at the time of the election; thus the personation of one who had died previously to an election of guardians was held not to have been an offence under the Poor Law Amendment Act, 1851,⁷ under which it is an offence to "personate any person entitled to vote at such election."⁸

Penalty.

An unsuccessful candidate, who would have been successful if the votes given in a fabricated voting paper had been given for instead of against him, may lay the information for the penalty as being a "person aggrieved" within sect. 253; and *per* Lush, J., "he would be aggrieved whether the fabricated votes turned the election or not."⁹

(1) *Pickering v. James* (1873), L. R. 8 C. P. 489; 42 L. J. C. P. 217; 21 W. R. 786; 37 J. P. 679; s.c. *nom. Jones v. Pickering*, 29 L. T. 210.

(2) 11 & 12 Vict. c. 63, s. 27; see rule 53 of this schedule.

(3) *Reg. v. Blanshard* (1866), 30 J. P. 280.

(4) *Aberdare Local Board v. Hammett* (1875), L. R. 10 Q. B. 162; 44 L. J. M. C. 49; 32 L. T. 20; 39 J. P. 598; *Wickham v. Phillips* (1883), 47 J. P. 612.

(5) *Reg. v. Hartshorn* (1853, Staffordshire Assizes), 6 Cox C. C. 395.

(6) *Gough v. Murdoch* (1887), 57 L. T. 308; 35 W. R. 836; 51 J. P. 471.

(7) 14 & 15 Vict. c. 105, s. 3.

(8) *Whitley v. Chappell* (1868), L. R. 4 Q. B. 147; 38 L. J. M. C. 51; 19 L. T. 355; 17 W. R. 175; 33 J. P. 244.

(9) *Verdin v. Wray* (1877), L. R. 2 Q. B. D. 608; 46 L. J. M. C. 170; 35 L. T. 942; 25 W. R. 274; 41 J. P. 484.

Sched. II.,
Part II., n.

[(II.) PROCEEDINGS IN CASE OF LAPSE OF LOCAL BOARD.]

Note.

This part of the schedule is also repealed by the Local Government Act, 1894, which authorises the county council to order a new election to be held, and a temporary council to be formed, in case of the lapse of a district council.¹ Repeal.

* * * * *

(1) 56 & 57 Vict. c. 73, s. 59 (5), *post*, Vol. II., p. 1837.

Sched. III.,
r. 1.

SCHEDULE III.

RULES AS TO RESOLUTIONS OF OWNERS AND RATEPAYERS.

L.G., s. 13 (1).

Rule 1. For the purpose of passing a resolution of owners and ratepayers under this Act, a meeting shall be summoned on the requisition of any twenty ratepayers or owners, or of any twenty ratepayers and owners, resident in the district or place with respect to which the resolution is to be passed.

Note.

The only occasion on which it is now necessary for a resolution of owners and ratepayers to be passed, is when an urban district council propose to establish a market under sect. 166 of the present Act. The powers of that section can only be exercised with the consent of the owners and ratepayers of the district expressed by resolutions passed in the manner provided by this schedule.

Formerly such resolutions were required to be passed before the constitution of a local government district; 1 the division of a district into wards; 2 the election of a new local board on the lapse of an existing board; 3 the formation into a highway parish of the "excluded part" of an urban sanitary district; 4 or the promotion of or opposition to a bill in Parliament by an urban sanitary authority.⁵

With regard to the meaning of "owner," see the definition in sect. 4, and the note thereto.⁶ But see also Rule 10 of Schedule II.,⁷ and the note to that rule. With regard to the meaning of the term "residence," see the note to sect. 20 of the Local Government Act, 1894.⁸

Rule 2. The summoning officer of such meeting shall be—

In boroughs, the mayor;

In Improvement Act districts, the chairman of the Improvement Commissioners;

In local government districts, the chairman of the local board;

* * * * *

If any summoning officer appointed by the Local Government Board dies, becomes incapable, or refuses or neglects to act, the Local Government Board may appoint another officer in his room.

Rule 3. Ratepayers or owners making a requisition for the summoning of such meeting shall, if required, give security in a bond, with two sufficient sureties, for repayment to the summoning officer, in the event of the resolution not being passed, of the costs incurred in relation to such meeting or any poll taken in pursuance of any demand made thereat; the amount of the security to be given by such sureties, and their sufficiency, and the amount of such costs, to be settled by agreement between the summoning officer and such ratepayers or owners, or, in case of dispute, by a court of summary jurisdiction.

L.G., s. 13 (2).

Rule 4. The summoning officer shall, on such requisition as aforesaid, fix a time and place for holding such meeting, and shall forthwith give notice thereof—

By advertisement in some one or more of the local newspapers circulated in the district or place;

By causing such notice to be affixed to the principal doors of every church and chapel in the place to which notices are usually affixed.

Note.

It is only essential to post the notices on the doors of churches and chapels of the Church of England.⁹

Publication
of notices.

(1) Sect. 272.

(2) Sched. II., Part I., r. 6.

(3) Sched. II., Part II., r. 2.

(4) Sect. 216, and 45 & 46 Vict. c. 27,

s. 9.

(5) 35 & 36 Vict. c. 91, s. 4, *post*, Vol. II.,

p. 1185.

(6) *Ante*, pp. 270, 278.(7) *Ante*, p. 975.(8) *Post*, Vol. II., p. 1780.(9) See *Reg. v. Whipp*, *Ormerod v.**Chadwick*, *Reg. v. Deverell*, *ante*, p. 978.

Rule 5. The summoning officer shall be the chairman of the meeting unless he is unable or unwilling to preside, in which case the meeting on assembling shall choose one of its number as chairman, who may with the consent of a majority of the persons present, adjourn the same from time to time.

Note.

It does not appear that fresh notice need be given of an adjourned meeting. In the case of vestry meetings, it has been held that such meetings held by adjournment are to be considered as part of the original meetings; and that in the absence of any express provision as to notice, no notice is necessary for the adjourned meeting.¹

Sched. III.,
r. 5.
L.G., s. 13 (3).Adjourn-
ment.

Rule 6. The chairman shall propose to the meeting the resolution, and the meeting shall decide for or against its adoption: Provided, that if any owner or ratepayer demands that such question be decided by a poll of owners and ratepayers, such poll shall be taken by voting papers in the Form O, in Schedule IV. to this Act, in the same way and with the same incidents and conditions as to the qualification of electors and scale of voting, as to notice to be given by the returning officer, delivery filling up and collection of voting papers, as to the counting of votes, as to penalties for neglect or refusal to comply with the provisions of the Act, and in all respects whatsoever as is provided by the rules for the election of local boards in Schedule II. to this Act; except that in districts or places where there is no register of owners and proxies under this Act, any owner or proxy shall be entitled to have a voting paper delivered to him if at least fourteen days before the last day appointed for delivery of the voting papers, he sends a claim in writing to the summoning officer containing the particulars required by Schedule II. to this Act to be contained in claims to be entered on the register of owners and proxies, and except that the provisions with respect to certain specified days of the month shall not apply.

For the purposes of such poll the summoning officer shall be the returning officer, and shall have the powers and perform the duties of a returning officer under Schedule II. to this Act, so far as the same are applicable to a poll under this schedule.

If no poll is demanded, or the demand for a poll is withdrawn by the persons making the same, a declaration by the chairman shall, in the absence of proof to the contrary, be sufficient evidence of the decision of such meeting.

Note.

Per Jessel, M.R., "according to the common law of the country . . . votes at all meetings are taken by show-of hands," though if a poll be taken a scale of voting may be applicable.²

Where several different matters are dealt with at the same meeting, a poll with respect to any one of them must be demanded at once, before the meeting proceeds with any other matter. Thus, where a meeting was held to elect waywardens under the Highway Act, 1852, for several different townships, and no poll was demanded until all the elections had taken place, the chairman ruled that the demand for a poll on two of the elections was too late, and refused a poll. On a rule for a mandamus to reassemble the meeting, and proceed to an election of waywardens for the two townships, it was held, that the proceeding in respect of each township was a separate election, and that the demand for a poll was too late, as it should, in each case, have been made upon the declaration of the show of hands.³

The above provision as to the poll being taken by the summoning officer is in accordance with a case in which it was held that if a poll be demanded, the functions of the chairman will thereupon cease, and the poll should be taken, and all things connected with it carried out by the summoning officer.⁴ And if a poll be demanded and the chairman refuse to grant it, and no resolution be come to, but the consideration of the question be adjourned to another and distant day, a mandamus will not lie against the chairman to

Show of
hands.

Poll.

(1) *Scadding v. Lorant* (1851), 3 H. L. C.418; 15 Jur. 955; *Kerr v. Wilkie* (1860),

6 Jur. (N.S.) 383; 1 L. T. 501; 8 W. R.

286; 24 J. P. 211.

(2) *In re Horbury Bridge Coal Iron and**Wagon Co.* (1879), L. R. 11 Ch. D. 115;

43 L. J. Ch. 341; 40 L. T. 353; 27 W. R.

433.

(3) *Reg. v. Thomas* (1883), L. R. 11Q. B. D. 282; s.c. *nom. Reg. v. Vicar of**St. Asaph*, 52 L. J. Q. B. 671.(4) *Ex parte Littleborough Local Board*

(1870), 22 L. T. 437; 35 J. P. 118.

Sched. III,
r. 6, n.

take a poll, for after the meeting is dissolved the chairman's functions are at an end. In such a case the proceedings must commence *de novo*.¹
At a meeting of owners and ratepayers, a ratepayer demanded a poll; and another seconded the demand "if necessary," but was told by the town clerk that it was not necessary. The first-mentioned ratepayer, having subsequently withdrawn his demand, the second was held entitled to insist on the poll being taken. *Scoble, per Darling J.*, a demand for a poll cannot be withdrawn after the close of the meeting.²
There must at least be fourteen clear days between the day on which the claim is received by the summoning officer and the last day appointed for delivery of the voting papers.³

L.G., s. 19.

Rule 7. A copy, under the hand of the summoning officer, of every resolution so passed, shall be forwarded by him to the Local Government Board; and it shall be his duty to publish a copy thereof by advertisement for three successive weeks in some one or more of the local newspapers circulated in the district or place, and by causing a copy thereof to be affixed to the principal doors of every church and chapel in the place to which notices are usually affixed.

Note.

With regard to the mode of publication of notices, see the note to rule 4.

Publication
of notices.

L.G., s. 23.

Rule 8. Where in pursuance of a resolution passed in manner provided by this schedule any place is constituted a local government district, all costs incurred by the summoning officer in relation to the meeting, and any poll taken in pursuance of any demand made thereat, shall be a first charge on the general district rates leviable within such district; in the case of a resolution so passed by owners or ratepayers in any urban district, such costs shall be paid out of the fund or rate applicable by the urban authority to the general purposes of this Act.

Note.

The first part of the above rule applies only to the case of a meeting held for the purpose of passing a resolution under sect. 272, now superseded; but the latter part applies to meetings held for the purpose of consenting to the establishment of a market.
If the resolution is negatived by the meeting, the costs will be paid by the persons who summoned such meeting or by their sureties: see rule 3.

Costs.

(1) *Reg. v. Bird* (1864), 28 J. P. 279; 39 K. B. 668; 72 L. J. K. B. 210; 88 L. T. L. T. (O.S.) 286, n.
(2) *Reg. v. Dover Corpn.*, L. R. 1903, 1 296; 67 J. P. 81; 1 L. G. R. 266.
(3) See *post*, p. 1844.

SCHEDULE IV.

FORMS.

Note.

Sect. 317 enacts that "the forms contained in Schedule IV. to this Act, or forms to the like effect, varied as circumstances may require, may be used and shall be sufficient for all purposes."

With regard to the authentication of notices, see sect. 266.

Sect. 267 contains provisions with respect to the mode of addressing notices to the owners and occupiers of premises, and with respect to the service of notices.

By the Summary Jurisdiction Rules, 1886, rule 31, "the forms in the schedule hereto, or forms to the like effect, may be used, with such variations as circumstances may require."

The schedule referred to gives (amongst others), in Part I., forms for an information or complaint in summary proceedings other than for a civil debt, summons to defendant, orders for payment of money and for other matters, warrant for apprehension, warrants of distress and commitment, conviction, order for payment of money or for other matters, etc.; and, in Part II., forms applicable to proceedings for the recovery of a civil debt.

Validity
of forms.

Notices.

Summary
proceedings.

FORM A.

*Form of Notice requiring Abatement of Nuisance.*¹

To [person causing the nuisance, or owner or occupier of the premises whereon the nuisance exists, as the case may be].

TAKE notice that under the provisions of the Public Health Act, 1875, the [describe the local authority], being satisfied of the existence of a nuisance at [describe premises or place where the nuisance exists], arising from [describe the cause of nuisance, for instance, want of a privy or drain; or for further instance, a ditch or drain so foul as to be a nuisance or injurious to health; or for further instance, swine kept so as to be a nuisance or injurious to health], do hereby require you within from the service of this notice to abate the same, and for that purpose to [state any things required to be done or works to be executed].

If you make default in complying with the requisitions of this notice, or if the said nuisance, though abated, is likely to recur, a summons will be issued requiring your attendance to answer a complaint which will be made to a court of summary jurisdiction for enforcing the abatement of the nuisance, and prohibiting a recurrence thereof, and for recovering the costs and penalties that may be incurred thereby.

Dated this _____ day of _____ 18 .
Signature of officer }
of local authority }

(1) See s. 94, *ante*, p. 441.

Sched. IV.,
Form B.

FORM B.

Form of Summons.¹

Summons.

To the owner or occupier of [describe premises], situated at [insert such a description as may be sufficient to identify the premises], or, to A.B. of
 County of } YOU are required to appear before [describe the court of
 [or borough of } summary jurisdiction], at the petty sessions [or court]
 etc., or district of } holden at on the day of
 or as the case } next, at the hour of in the noon, to answer
 may be } to wit. } the complaint this day made to me by
 that in or on the premises above mentioned [or in or on certain premises situated at No. in the street in the parish of or such other description or reference as may be sufficient to identify the premises], in the district, under the Public Health Act, 1875, of [describe the local authority], the following nuisance exists [describing it, as the case may be], and that the said nuisance is caused by the act or default of the occupier [or owner] of the said premises, or by you, A.B. [or in case the nuisance be discontinued but likely to be repeated, say, there existed recently, to wit, on or about the day of on the premises, the following nuisance [describe the nuisance], and that the said nuisance was caused [etc.], and although the same has since the said last-mentioned day been abated or discontinued, there is reasonable ground to consider that the same or the like nuisance is likely to recur on the said premises].
 Given under my hand and seal this day of J.S. 18 . (L.S.)

FORM C.

Form of Order for Abatement or Prohibition of Nuisance.²

To the owner [or occupier] of [describe the premises] situated [give such description as may be sufficient to identify the premises], or to A.B. of
 County of } WHEREAS on the day of complaint was
 [or borough, etc. } made before Esquire, one of Her Majesty's justices
 of } of the peace acting in and for the county [or other juris-
 district of } diction] stated in the margin [or as the case may be], by
 or as the case } that in or on certain premises situated at
 may be } in the district under the Public Health Act, 1875, of [describe the local authority] the following nuisance then existed [describing it]: and that the said nuisance was caused by the act or default of the owner [or occupier] of the said premises [or was caused by A.B.]. [If the nuisance have been removed, say, the following nuisance existed on or about [the day the nuisance was ascertained to exist], and that the said nuisance was caused, etc., and although the same is now removed, the same or the like nuisance is likely to recur on the same premises.]
 And whereas the owner [or occupier] within the meaning of the said Public Health Act, 1875, [or the said A.B.] hath this day appeared before us [(or me) describing the court], to answer the matter of the said complaint [or in case the party charged do not appear, say, and whereas it hath been this day proved to our [or my] satisfaction that a true copy of a
 (1) See s. 95, ante, p. 445, and the note at p. 987. (2) See s. 95, ante, p. 446, and the note at p. 987.

summons requiring the owner [or occupier] of the said premises [or the said A.B.] to appear this day before us [or me] hath been duly served according to the said Act. Sched. IV., Form C.

Now on proof here had before us [or me] that the nuisance so complained of doth exist on the said premises, and that the same is caused by the act or default of the owner [or occupier] of the said premises [or by the said A.B.], we [or I], in pursuance of the said Act, do order the said owner [or occupier, or A.B.] within [specify the time] from the service of this order or a true copy thereof according to the said Act [here specify any things required to be done or works to be executed, as for instance, to provide for the cleanly and wholesome keeping of, or, to remove the animal kept so as to be a nuisance or injurious to health; or, for further instance, to cleanse, whitewash, purify, and disinfect the said dwelling-house; or, for further instance, to construct a privy or drain, etc.; or, for further instance, to cleanse or to cover or to fill up the said cesspool, etc.], so that the same shall no longer be a nuisance or injurious to health as aforesaid.
 [And if it appear to the court that the nuisance is likely to recur on the premises, say, [And we] [or I] being satisfied that notwithstanding the said cause or causes of nuisances may be removed under this order, the same is or are likely to recur, do therefore prohibit the said owner [or occupier, or A.B.] from [here insert the matter of the prohibition, as for instance,] from using the said house or building for human habitation until the same, in our [or my] judgment, is rendered fit for that purpose].
 In case the nuisance were removed before complaint, say, Now on proof here had before us [or me] that at or recently before the time of making the said complaint, to wit, on as aforesaid, the cause of nuisance complained of did exist on the said premises, but that the same hath since been removed, yet, notwithstanding such removal, we [or I] being satisfied that it is likely that the same or the like nuisance will recur on the said premises, do hereby prohibit [order of prohibition]; and if this order of prohibition be infringed, then we [or I] [order on local authority to do works].
 Given under the hands and seals of us, [or the hand and seal of me, describing the court].

This day of 18 .
 J.S. (L.S.)
 J.P. (L.S.)

FORM D.

Form of Order for Abatement of Nuisance by Local Authority.¹

To the town council, etc., as the case may be.
 County, etc. } WHEREAS [recite complaint of nuisance as in last form].
 to wit. } And whereas it hath been now proved to our [or my] satisfaction that such nuisance exists, but that no owner or occupier of the premises, or persons causing the nuisance, is known or can be found [as the case may be]; Now we [or I], in pursuance of the said Act, do order the said [local authority, naming it,] forthwith to [here specify the works to be done].
 Given, etc. (as in last form).

(1) See s. 100, ante, p. 450, and the note at p. 987.

Sched. IV., Form I. of and made by the local authority under the Public Health Act, 1875, 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.)

FORM K.

Form of Rentcharge.¹

By virtue of the Public Health Act, 1875, we the being the local authority under that Act for the district of do hereby declare and absolutely order that the inheritance of the [dwelling-house shops lands and premises, as the case may be], situated in street, in the parish of within the said district, and now in the occupation of shall be absolutely charged with the sum of pounds, paid by of for the improvement by drainage and water supply [as the case may be], of the same dwelling-house shops lands and premises [as the case may be], together with interest for the same from the date hereof at pounds per centum per annum, until full payment thereof; and also all costs incurred by the said his executors, administrators or assigns, under this security, shall be fully paid and satisfied. And we hereby further declare that the said principal and interest moneys shall be paid and payable by the owner or occupier of the said premises to the said his executors, administrators and assigns, in manner following; (that is to say,) the interest on such principal sum of pounds, or on so much thereof as shall from time to time remain due and payable under this order, shall be paid and payable by equal half-yearly payments whilst payable on the day of and the day of in every year, the first payment thereof to be made on the day of next, and such principal sum of pounds shall be paid and payable by equal annual instalments on the day of in each of the next succeeding years, towards the discharge of the same principal sum, until the whole shall be fully satisfied and discharged.

[To be sealed with the common seal of the local authority.]

FORM L.

[Register of Owners for the District of—. Notice of Time for making Claims and Objections. Owner's Claim. Claim of Proxy. Form of Objection.]

Note.

The Forms L, M, N are omitted, as they applied to elections held under Schedule II., which is repealed by the Local Government Act, 1894.

FORM M.

[Appointment of Proxy.]

(1) See s. 240, ante, p. 792.

FORM N.

[Form of Voting Paper at Elections of Members of Local Boards. Voting Paper.]

* * * * *

FORM O.

Form of Voting Paper for Poll taken under Schedule III.¹ Voting Paper No. ().

At a meeting held on the day of at in the county of it was agreed that the following resolution should be proposed to the owners and ratepayers of

(Set out the resolution.)

	In favour of.	Against.	Number of Votes.	
			As Owner.	As Ratepayer.
Do you vote in favour of or against the adoption of this resolution?				

(Signed)

or the mark of _____

Witness to the mark _____

or proxy for _____

Directions to the Voter.

The voter must write his initials under the heading "in favour" or "against," according as he votes for or against the resolution, and must subscribe his name and address at full length.

If the voter cannot write he must make his mark instead of initials, but such mark must be attested by a witness, and such witness must write the initials of the voter against his mark.

If a proxy votes he must in like manner write his initials, subscribe his own name and address, and add after his signature the words "as proxy for," with the name of the body of persons for whom he is proxy.

This paper will be collected on the of between the hours of and .

Note.

This form may still be required where an urban authority propose to establish a market with the consent of the owners and ratepayers of their district. The procedure by issue of voting papers in cases where it is proposed to form a new urban district is now superseded by the inquiry held by the county council.

Poll of owners and ratepayers.

(1) See Sched. III., r. 6, ante, p. 985.

SCHEDULE V.

Note.

By sect. 343, "the Acts specified in the first and second parts of Schedule V, to this Act are hereby repealed to the extent in the third column in the said parts of that schedule mentioned." Certain portions, however, of these Acts are re-enacted in the third part of this schedule; and sect. 343 contains a general saving for acts, rights, liabilities, securities, penalties, legal proceedings, etc., under the repealed Acts.

Tables showing the sections of the Public Health Act, 1875, which respectively correspond to those of the repealed Acts, will be found at the commencement of this book. The sections of the repealed Acts which correspond to those of the Public Health Act, 1875, are noted under the marginal notes to the latter Act, and an explanation of these abbreviated notes precedes the tables above mentioned.

Where any provisions of these repealed Acts are referred to in an Act of Parliament, an order of the Secretary of State or Local Government Board, or in any other document, the corresponding provisions of the present Act are, by sect. 313, to be deemed to be substituted for them.

"The Sanitary Acts" are defined by sect. 4 to mean the Acts mentioned in the first part of this schedule, and also the Bakehouse Regulation Act, 1863, for which certain provisions of the Factory and Workshop Act, 1901,¹ are now substituted; the Artisans' and Labourers' Dwelling Act, 1868, the Labouring Classes' Lodging-Houses Act, 1851, and the Labouring Classes' Dwelling Houses Acts, 1855, 1867, for which the Housing of the Working Classes Act, 1890,² is now substituted; and the Baths and Washhouses Acts, 1846, 1847.

With regard to the Metropolis or County of London, reference must now be made to the Public Health (London) Act, 1891, which is substituted for the old Sanitary Acts;³ except that it expressly enacts that "for the removal of doubts it is hereby declared that so much of the Public Health Act, 1875, as re-enacts sects. 51 and 52 of the Sanitary Act, 1866,⁴ and sects. 34 to 36 of the Public Health Act, 1872,⁵ extends to London."⁶

PART I.

Enactments which have been already repealed are in a few instances included in this repeal, in order to avoid the necessity of reference to previous statutes.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
11 & 12 Vict. c. 63 . . .	The Public Health Act, 1848.	The whole Act.
14 & 15 Vict. c. 28 . . .	The Common Lodging-Houses Act, 1851.	The whole Act, except so far as relates to the Metropolitan Police District.
16 & 17 Vict. c. 41 . . .	The Common Lodging-Houses Act, 1853.	The whole Act, except so far as relates to the Metropolitan Police District.
18 & 19 Vict. c. 116 . . .	The Diseases Prevention Act, 1855.	The whole Act, except so far as relates to the Metropolis.
18 & 19 Vict. c. 121 . . .	The Nuisances Removal Act for England, 1855.	The whole Act, except so far as relates to the Metropolis.
21 & 22 Vict. c. 93 . . .	The Local Government Act, 1858.	The whole Act.
23 & 24 Vict. c. 77 . . .	An Act to amend the Acts for the Removal of Nuisances and the Prevention of Diseases.	The whole Act, except so far as relates to the Metropolis.
24 & 25 Vict. c. 61 . . .	The Local Government Act (1858) Amendment Act, 1861.	The whole Act.
26 & 27 Vict. c. 17 . . .	The Local Government Act Amendment Act, 1863.	The whole Act.
26 & 27 Vict. c. 117 . . .	The Nuisances Removal Act for England (Amendment Act), 1863.	The whole Act, except so far as relates to the Metropolis.

(1) 1 Edw. VII. c. 22, *post*, Vol. II., p. 1939.

(2) 53 & 54 Vict. c. 70, *post*, Vol. II., p. 1631.

(3) 54 & 55 Vict. c. 76.

(4) But see, as to these sections, *post*, pp. 998, 999.

(5) *Post*, p. 999.

(6) 54 & 55 Vict. c. 76, s. 142 (5).

Repeal of
Sanitary
Acts.

Metropolis.

PART I.—continued.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
28 & 29 Vict. c. 75 . . .	The Sewage Utilisation Act, 1865.	The whole Act, except so far as relates to Scotland and Ireland.
29 & 30 Vict. c. 41 . . .	The Nuisances Removal (No. 1) Act, 1866.	The whole Act, except so far as relates to the Metropolis.
29 & 30 Vict. c. 50 . . .	The Sanitary Act, 1866.	Parts I., II., and III., except so far as relates to the Metropolis or to Scotland or Ireland.
30 & 31 Vict. c. 113 . . .	The Sewage Utilisation Act, 1867.	The whole Act, except so far as relates to Scotland or Ireland.
31 & 32 Vict. c. 115 . . .	The Sanitary Act, 1868.	The whole Act, except so far as relates to the Metropolis.
32 & 33 Vict. c. 100 . . .	The Sanitary Loans Act, 1869.	The whole Act, except so far as relates to the Metropolis.
33 & 34 Vict. c. 53 . . .	The Sanitary Act, 1870.	The whole Act, except so far as relates to the Metropolis.
35 & 36 Vict. c. 79 . . .	The Public Health Act, 1872.	The whole Act, except so far as relates to the Metropolis.
37 & 38 Vict. c. 89 . . .	The Sanitary Law Amendment Act, 1874.	The whole Act, except so far as relates to the Metropolis or the Metropolitan Police District.

Of the above Acts, the following (namely), "The Public Health Act, 1848," and "The Local Government Act, 1858," and "The Local Government Act (1858) Amendment Act, 1861," and "The Local Government Act Amendment Act, 1863," are in this Act referred to as "The Local Government Acts."

PART II.

Note.

This part of the schedule is repealed by the Statute Law Revision Act, 1883,¹ but not so as to revive the repealed enactments mentioned in it.

These repealed enactments are the following, namely: The Public Health Supplemental Act, 1849, except the short title and the confirmation of provisional orders relating to Carmarthen, Chatham, Coventry, Croydon, Durham, Gloucester, Kendal, Lancaster, Leicester, New Windsor, Sheerness, Taunton, Uxbridge, Ware, and Worcester²; the Public Health Supplemental Act, 1850 (No. 2), except the short title and the confirmation of provisional orders relating to Ashly-de-la-Zouch, Preston, Sandgate, Swansea, Wigan, and Wolverhampton;³ and the first Public Health Supplemental Act, 1852, except the short title, and the confirmation subject to alterations of provisional orders relating to Banbury, Burnham, Calne, Gainsborough, Rotherham and Kimberworth, Worksop, and Worthing.⁴

These Acts, and the subsequent Acts confirming provisional orders made under the Sanitary Acts, were printed among the public general Acts until 1867, since which year such Acts have been placed among the local and personal Acts of each session.

PART III.

Note.

By sect. 343, "so much of the said Acts (*i.e.* the Acts specified in the first and second parts of this schedule) as is set forth in the third part of that schedule shall be re-enacted in manner therein appearing, and shall be in force as if enacted in the body of this Act."

11 & 12 Vict. c. 63, s. 83.

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 urban district after the thirty-first day of August one thousand eight hundred and forty-eight; and whosoever shall bury, or cause, permit, or suffer to be buried, any corpse or coffin in any vault or grave constructed or made contrary to

(1) 46 & 47 Vict. c. 39.

(2) 12 & 13 Vict. c. 94, ss. 1, 12, and sched.

(3) 13 & 14 Vict. c. 90, ss. 1, 7, and sched.

(4) 15 & 16 Vict. c. 42, ss. 1-5, 16, and sched.

Repeal.

Re-enactments.

As to interments within churches.

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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.

Maintenance
of vaults.

Note.
The Burial Act, 1857, authorises the Queen in Council, on the representation of the Secretary of State, "from time to time to order such acts to be done by or under the directions of the churchwardens or such other persons as may have the care of any vaults or places of burial, for preventing them from becoming or continuing dangerous or injurious to the public health." 1 Ten days' notice of the intention to make the order is to be given to the churchwardens or persons having the care of the vaults or burial places; the order in council is to be published in the *London Gazette*, and the expenses of complying with it are to be paid out of the poor rate. 2 If the persons having the care of the vaults or burial places are not the churchwardens, and if they neglect to comply with the order, the churchwardens of the parish may do what is required. 3 See also the re-enactment of the Local Government Act (1858) Amendment Act, 1861, 4 with regard to the maintenance of closed burial grounds in proper order.

Burial
grounds near
dwelling-
houses.

If the burial ground is subject to the Burial Acts, the following prohibition contained in the Burial Act, 1855, applies to it: "No ground not already used as or appropriated for a cemetery shall be used for burials under the said Act 6 or this Act, or either of them, within the distance of one hundred yards from any dwelling-house, without such consent as aforesaid." 7 that is, the consent in writing of the owner, lessee, and occupier of the dwelling-house. If, on the other hand, the burial ground is not subject to the Burial Acts, but is one to which the Cemeteries Clauses Act, 1847, applies, as for instance a cemetery which a district council have established under the powers conferred by the Public Health (Interments) Act, 1879, 8 then "no part of the cemetery shall be constructed nearer to any dwelling-house than the prescribed distance, or if no distance be prescribed, two hundred yards, except with the consent in writing of the owner, lessee, and occupier of such house." 9

A Standing Order of the House of Lords provides that "in every Bill for making altering or enlarging any cemetery or burial ground a clause shall be inserted prohibiting the making altering or enlarging such cemetery or burial ground within three hundred yards of any house of the annual value of £50, or of any garden or pleasure ground occupied therewith, except with the consent of the owner lessee and occupier thereof in writing." 10

New burial
grounds.

The provision of the section partly re-enacted here, which prohibited the formation of a burial ground without either parliamentary authority or the consent of the General Board of Health [predecessors of the Local Government Board] is not re-enacted.

The Burial Act, 1853, however, enacts that "where by any such order in council as aforesaid it is ordered that no new burial ground shall be opened in any city or town, or within any limits therein mentioned, without the previous approval of one of Her Majesty's principal Secretaries of State, no new burial ground or cemetery (parochial or non-parochial) shall be provided and used in such city or town, or within such limits, without such previous approval." 11

A burial ground established in pursuance of such approval of the Secretary of State is subject to the limitations of distance from dwelling-houses above mentioned, though not established by a burial board. 12

Closing
burial
grounds.

The order in council referred to in the enactment above quoted is an order made under the same Act, which authorises the issue of a prohibitory order by the Privy Council, where the Secretary of State represents that "for the protection of the public health the opening of any new burial ground in any city or town, or within any other limits, save with the previous approval of one of such Secretaries of State, should be prohibited, or that burial in any city or town, or within any other limits, or in any burial ground or places of burial, should be wholly discontinued, or should be discontinued subject to any exception or qualification." 13 A person burying any body, or assisting in the burial of any body, in contravention of the prohibition, is guilty of a misdemeanour. 14 Persons having rights of burial in churches or burial grounds may, however, in cases where the exercise of such rights will not be injurious to health, obtain licences for burials from the Secretary of State, notwithstanding any such prohibitory order. 15

An order made under the Burial Acts for closing a churchyard is not to include any portion which may have been reserved to the donor of land added to the churchyard under the Consecration of Churchyards Act, 1867; but the reserved portion may be closed under

(1) 20 & 21 Vict. c. 81, s. 23.

(2) *Ibid.*

(3) 22 Vict. c. 1, s. 1.

(4) 24 & 25 Vict. c. 61, s. 21, *post*, p. 997.(5) *I.e.* before the 14th August, 1855.

(6) 15 & 16 Vict. c. 85.

(7) 18 & 19 Vict. c. 128, s. 9.

(8) 42 & 43 Vict. c. 31, *post*, Vol. II.,

p. 1325.

(9) 10 & 11 Vict. c. 65, s. 10, *post*, Vol. II.

(10) S. O. H. L. 140.

(11) 16 & 17 Vict. c. 134, s. 6.

(12) *Greenwood v. Wadsworth* (1873), L.R.

16 Eq. 288; 43 L. J. Ch. 78; 29 L. T. 88;

21 W. R. 722; *Lord Cochrane v. Byas* (1877),

L. R. 5 Ch. D. 944; 37 L. T. 238; 26 W. R.

1; 41 J. P. 804.

(13) 16 & 17 Vict. c. 134, s. 1.

(14) *Ibid.*, s. 3.(15) *Ibid.*, s. 4.

a separate order founded on a special report that the ground is in such a state as to render any further interments therein prejudicial to the public. 1
(Closed burial grounds are to be maintained in proper order at the cost of the poor rate or the rates of the urban district council. 2

With regard to the recovery of penalties, see sect. 251. Since "any person" may recover the penalty, the limitation in sect. 253 does not apply.

21 & 22 Vict. c. 98, s. 49.

When a vestry of any parish comprised in a local government district resolves to appoint a burial board, the local board may at the option of the vestry be the burial board for such parish, and all expenses incurred by such burial board shall be defrayed out of a rate to be levied in such parish in the same manner as a general district rate.

Provided, that if such parish has been declared a ward for the election of members of the local board, such members shall form the burial board for the parish, and shall be deemed to be a burial board elected under the Burial Acts for the time being in force.

Note.

Sect. 49 of the Local Government Act, 1858, is only partially re-enacted here. See also the re-enactments from the Sanitary Act, 1866, 3 and the note thereto. And see sect. 310, with reference to former transfers of powers under the Burial Acts to urban sanitary authorities. The Burial Acts cannot now be adopted for any part of an urban district without the consent of the district council. 4

Under the Burial Acts, the expenses would have been charged to the poor rate, unless the board thought fit to pay them out of the general district rate or a separate rate in the nature of a general district rate. 5

Improvement commissioners, constituted a burial board, had an option of paying their expenses under the Burial Acts out of their improvement rate, or a similar separate rate, 6 and with the consent of the Treasury might mortgage the rate for the purposes of the Acts. 7

The accounts of the urban district council acting as a burial board are to be audited in the same manner as their other accounts. 8

The Burial Acts, 1852, 1853, 1854, 1855, 1857, 1859, 1860, 1862, 1871, 1880, 1881, 1885, and 1900, 9 are known collectively by the short title of "The Burial Acts, 1852 to 1900." 10

The Burial Act, 1855, contained a saving clause for the powers, etc., of the local board of health of a borough which had been constituted a burial board; 11 and gave the powers conferred by the Burial Acts upon burial boards to any local board of health acting as, or created a board by a local Act. 12

The town council of a borough may have the powers of a burial board conferred upon them by the Privy Council for the purpose of providing burial grounds for parishes wholly or partly in the borough, whose burial grounds have been closed by order in council. 13 The Burial Act, 1857, authorised the Privy Council to constitute a local board or improvement commissioners the burial board for their district in certain cases. 14

With regard to the adoption and execution of the Burial Acts in rural parishes, see the provisions of the Local Government Act, 1894. 15

24 & 25 Vict. c. 61, s. 21.

Any urban authority constituted a burial board may from time to time repair and uphold the fences surrounding any burial ground which has been discontinued as such within their jurisdiction, or take down such fences and substitute others in lieu thereof, and shall from time to time take the necessary steps for preventing the desecration of such burial ground and placing it in a proper sanitary condition; and they may from time to time pass bye-laws (subject to the provisions of this Act) for the preservation and regulation of

(1) 30 & 31 Vict. c. 33, s. 11.

(2) See 24 & 25 Vict. c. 61, s. 21, and note, *post*, p. 997.(3) 29 & 30 Vict. c. 97, s. 44, *post*, p. 998.(4) 56 & 57 Vict. c. 73, s. 62, *post*, Vol. II., p. 1839.

(5) 23 & 24 Vict. c. 64, s. 1.

(6) *Ibid.*, s. 2.

(7) 25 & 26 Vict. c. 100, s. 1.

(8) *Ibid.*, s. 3.

(9) 15 & 16 Vict. c. 85; 16 & 17 Vict. c.

134; 17 & 18 Vict. c. 87; 18 & 19 Vict. c.

128; 20 & 21 Vict. c. 81; 22 Vict. c. 1; 23

& 24 Vict. c. 64; 25 & 26 Vict. c. 100; 34 & 35 Vict. c. 33; 43 & 44 Vict. c. 41; 44 & 45 Vict. c. 2; 48 & 49 Vict. c. 21; 63 & 64 Vict. c. 15. See Part I., Chap. I., § 9, *ante*, p. 14, and Chap. V., § 15 (a), *ante*, p. 130, as to these Acts.

(10) 39 & 60 Vict. c. 14.

(11) 18 & 19 Vict. c. 128, s. 19.

(12) *Ibid.*, 20.

(13) 17 & 18 Vict. c. 87, ss. 1, 2.

(14) 20 & 21 Vict. c. 81, s. 4.

(15) 56 & 57 Vict. c. 73, ss. 7, 53, *post*,

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burial
grounds.

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all burial grounds within their jurisdiction; and the expense of carrying this section into execution may be defrayed out of any rates authorised to be levied by any urban authority constituted a burial board.

Note.

With regard to burial grounds belonging to parishes or burial board districts, it is enacted by the Burial Act, 1855, that "in every case in which any order in council has been or shall hereafter be issued for the discontinuance of burials in any churchyard or burial ground, the burial board or churchwardens [parish council], as the case may be, shall maintain such churchyard or burial ground of any parish in decent order, and also do the necessary repair of the walls and other fences thereof, and the costs and expenses shall be repaid by the overseers, upon the certificate of the burial board or churchwardens, as the case may be, out of the rate made for the relief of the poor of the parish or place in which such churchyard or burial ground is situate, unless there shall be some other fund legally chargeable with such costs and expenses."²

Closed burial grounds.

Building on disused burial grounds.

The erection of buildings on disused burial grounds is, subject to certain exceptions, prohibited by the Disused Burial Grounds Act, 1884,³ as amended by the Open Spaces Act, 1887.⁴

Under the above-mentioned enactment of 1884, certain persons who had purchased a disused Roman Catholic burial ground, and obtained the approval of the urban district council to the plans of the buildings which they proposed to erect on it, were, with the builder, indicted for unlawfully removing human remains from the ground and for unlawfully building on it. They pleaded guilty, and, except those who did not appear to have known to what extent the offensive nature of the work had gone, were sentenced by Phillimore, J., to terms of imprisonment in the first class, and, except the builder, were bound over in recognisances to pull down the buildings and restore the ground within six months.⁵

It has been held by the House of Lords that a hoarding or screen may be erected upon a disused burial ground for the purpose of preventing an adjoining owner from acquiring a right of light over such ground.⁶

Bye-laws.

With regard to the making and confirmation, etc., of bye-laws, see sects. 182-186.

26 & 27 Vict. c. 17, s. 6.

[Local government districts to be within highway districts for purpose of highway meetings.]

Note.

This enactment is now obsolete.

Power of burial boards in certain cases to transfer their powers to urban authority.

29 & 30 Vict. c. 90, s. 44.

When the district of a burial board is included in or conterminous with the district of an urban authority, the burial board may, by resolution of the vestry, and by agreement of the burial board and urban authority, transfer to the urban authority all their estate property rights powers duties and liabilities; and from and after such transfer, the urban authority shall have all such estate property rights powers duties and liabilities as if they had been duly appointed a burial board under the Burial Acts for the time being in force.

Note.

By the Local Government Act, 1894, the Burial Acts are not to be adopted for any part of an urban district without the approval of the district council; and where there is an existing burial board in an urban district, or part of an urban district, the council may by resolution, without the consent of the vestry or of the burial board, take over the powers, duties, property, debts, and liabilities of that board.⁷ Where such a transfer has been carried out, the expenses of the council in respect of burials are to be defrayed out of the poor rates and not the general district rates.⁸

Where a burial board district was, on the "appointed day," under the Local Government Act, 1894, partly in an urban and partly in a rural district, the functions of the board are, until other provision is made, to be exercised by a joint committee of the district council and parish councils or meetings.⁹

The concluding part of the above section is amended in the re-enactment.

Transfer of powers.

(1) 56 & 57 Vict. c. 73, s. 6 (1, b), *post*, Vol. II., p. 1749.
 (2) 18 & 19 Vict. c. 128, s. 18.
 (3) 47 & 48 Vict. c. 72, *post*, Vol. II., pp. 1481, 1482.
 (4) 50 & 51 Vict. c. 32, s. 4, *post*, Vol. II., p. 1481.
 (5) *Rex v. Kenyon and others* (1901, Chester Assizes), 65 J. P. 730.

(6) *Puddington Borough Council v. Attorney-General*, *ante*, p. 591.
 (7) 56 & 57 Vict. c. 73, s. 62, *post*, Vol. II., p. 1839.
 (8) *Rex v. Overseers of Connah's Quay*, L. R. 1901, 2 K. B. 174; 84 L. T. 601; 49 W. R. 463; 65 J. P. 500.
 (9) 56 & 57 Vict. c. 73, s. 53 (2), and see the note thereto, *post*, Vol. II., p. 1834.

29 & 30 Vict. c. 90, s. 51.

[Power to reduce penalties imposed by Quarantine Act, 1825.]

Note.

This and the following clause and the Quarantine Act, 1825, to which they referred (as well as a provision of the Public Health (London) Act, 1891,² by which they were declared applicable to London), are repealed by the Public Health Act, 1896.³

With regard to the importation of infected cattle, see the provisions of the Diseases of Animals Act, 1894,⁴ under which the Privy Council, county councils, and municipal corporations have various powers and duties.

29 & 30 Vict. c. 90, s. 52.

[Description of vessels within provisions of Quarantine Act, 1825.]

35 & 36 Vict. c. 79,* s. 34.

Where in any local Acts the consent, sanction, or confirmation of one of Her Majesty's Principal Secretaries of State is required with respect to the borrowing of any money, to the giving effect to any bye-laws, or to the appointment of any officer for sanitary purposes, the consent, sanction, or confirmation of the Local Government Board shall be required instead of that of the Secretary of State.

The consent of the Local Government Board, and not that of the Treasury, shall be required to the borrowing of money for the purposes of the Baths and Washhouses Acts.

If any question arises as to what are sanitary purposes within the meaning of this section, the determination of the Local Government Board on such question shall be conclusive.

Note.

The Baths and Washhouses Acts, 1846, 1847, are set out at length in Vol. II. With regard to the power to borrow money for the purposes of these Acts, see the Act of 1846.⁵ "Sanitary purposes" are defined by sect. 4 to mean any object or purposes of the Sanitary Acts.

With regard to the meaning of the expression "The Sanitary Acts," see the note at the commencement of this schedule.⁶

35 & 36 Vict. c. 79, s. 35.

The powers and duties of the Board of Trade under the Alkali Act, 1863, and any Act amending the same, and under the Metropolis Water Acts, 1852 and 1871, shall be exercisable and performed by the Local Government Board, and "the Local Government Board" shall be deemed to be substituted for "the Board of Trade" wherever the latter expression occurs in the said Acts.

Note.

The Alkali Acts, 1863, 1868, and 1874, are repealed by the Alkali, etc., Works Regulation Act, 1881.⁷

The Acts of 1852 and 1871,⁸ as amended and extended by the Metropolitan Water Act, 1897,⁹ deal with the purity and sufficiency of supply of water not only in the metropolis but throughout the limits of supply of the Metropolitan Water Board, to whom the property and powers of the metropolitan water companies were transferred.¹⁰

The above, the next preceding, and the next following re-enactments were expressly declared by the Public Health (London) Act, 1891, to apply to London.¹¹

35 & 36 Vict. c. 79, s. 36.

All powers, duties, and acts vested in, imposed on, or required to be done by or to one of Her Majesty's Principal Secretaries of State by the several Acts of Parliament relating to highways in England and Wales,

(1) 6 Geo. IV. c. 78.
 (2) 54 & 55 Vict. c. 76, s. 142 (5).
 (3) 59 & 60 Vict. c. 19, *post*, Vol. II., p. 1879.
 (4) 57 & 58 Vict. c. 57.
 (5) 9 & 10 Vict. c. 74, s. 21, *post*, Vol. II., p. 1051.
 (6) *Ante*, p. 994.

(7) 44 & 45 Vict. c. 37, s. 30, *post*, Vol. II., p. 1343.
 (8) 15 & 16 Vict. c. 84; 34 & 35 Vict. c. 113.
 (9) 60 & 61 Vict. c. 56.
 (10) See *ante*, p. 385.
 (11) 54 & 55 Vict. c. 76, s. 142 (5), and see *ante*, p. 995.

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* c. 76 is here printed in some Queen's Printers' copies.

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and to turnpike roads and trusts and bridges in England and Wales, shall be imposed on and be done by or to the Local Government Board, subject to the conditions, liabilities, and incidents to which such powers, duties, and acts were respectively subject immediately before the passing of the Public Health Act, 1872, or as near thereto as circumstances admit.

Note.

With regard to the Acts relating to highways and bridges, see Part I. of this work.

35 & 36 Vict. c. 79, s. 37.

All inspectors, clerks, and other officers who are by virtue of section thirty-seven of the Public Health Act, 1872, attached to and under the control of the Local Government Board, shall hold their offices and places upon the same terms and conditions, and shall have the same powers, privileges, and immunities with respect to the performance of their duties, as if this Act had not passed.

The Local Government Board may by order distribute the business to be performed under the Local Government Board amongst such officers and persons in such manner as the Local Government Board may think expedient.

Note.

The section, which is here re-enacted with amendments, originally enacted that "all inspectors, clerks, and other officers employed in or about the execution of the powers and duties transferred by virtue of the provisions of this Act to the Local Government Board (*i.e.* by virtue of sects. 34, 35, and 36 of the Public Health Act, 1872, re-enacted above), shall, from and after such transfer, be attached to and under the control of the Local Government Board." 2 These are not local officers, but officers connected with the public departments in London, which were transferred to the Local Government Board; see the provisions of the Local Government Board Act of 1871. 3

35 & 36 Vict. c. 79, s. 38.

Notwithstanding anything contained in any Act of Parliament now in force, there shall be paid out of moneys to be provided by Parliament to the medical officer of the Local Government Board such salary as the Treasury may from time to time determine.

Note.

The section here partly re-enacted recited that the medical officer of the Privy Council had under and by virtue of the sixth section of the Local Government Board Act, 1871, 4 been attached to the Local Government Board.

35 & 36 Vict. c. 79, s. 48.

Every general order of the Local Government Board, made in pursuance of the Poor Law Amendment Act, 1834, and the several Acts amending the same, shall be published in the *London Gazette*, and when so published shall take effect in like manner, and shall be of as much force and validity as any general order of the Poor Law Board made and sent in the manner prescribed by the last-mentioned Acts, and no further proceeding shall be necessary in such behalf; and as regards any single order of the said Board, made in pursuance of the said last-mentioned Acts, it shall not be necessary henceforth to send a copy thereof to the clerk to the justices of the petty sessions.

Note.

The orders of the Poor Law Commissioners were required to be sent to overseers, guardians, and clerks to justices. 5 They may be removed into the King's Bench Division by *certiorari*. 6 Disobedience to such orders is punishable summarily, or on a third offence, by indictment. 7

(1) Chap. I., § 22, *ante*, p. 54, and Chap. V., § 7, *ante*, p. 112.

(2) 35 & 36 Vict. c. 79, s. 37.

(3) 34 & 35 Vict. c. 70, s. 6, *post*, Vol. II., p. 1173.

(4) *Ibid.*

(5) 4 & 5 Will. IV. c. 76, s. 18.

(6) *Ibid.*, s. 105.

(7) *Ibid.*, s. 98.

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