PART II

PUBLIC HEALTH ACT, 1936

PUBLIC HEALTH ACT, 1936

[26 Geo. 5 & 1 Edw. 8, c. 49.]

ARRANGEMENT OF SECTIONS.

PART I.

LOCAL ADMINISTRATION.

Local authorities and their districts.

SECT. PAGE

1. Local authorities for purposes of Act – – – – – – – – 59

Port health authorities and joint boards.

2. Constitution of port health district under port health authority – – 60
3. Jurisdiction, powers, etc., of port health authority – – – – 61
4. Restriction on discharge of functions by local authorities within port health district – – – – – – – – – – – 62
5. Existing port sanitary authorities to be renamed port health authorities – 62
6. Union of districts, or parts of districts, for certain purposes under joint board – – – – – – – – – – – – 62
7. Restriction on discharge of functions by local authorities within united district – – – – – – – – – – – 64
8. Joint boards representing councils of counties and county boroughs – 64
9. General provisions as to orders constituting port health districts, united districts and joint boards – – – – – – – – 65
10. Borrowing powers of port health authorities and joint boards – – 66

Division of districts.

11. Power or urban authority to divide their district – – – – – 66
12. Constitution and dissolution of special purpose areas in rural districts – 66

Investment of rural authorities with urban powers.

13. Power of Minister to invest particular rural authority with urban powers – 67

PART II.

SANITATION AND BUILDINGS.

Sewerage and sewage disposal.

14. General duty of local authority to provide for sewerage of their district – 70
15. Provision of public sewers and sewage disposal works – – – – 70
16. Notices to be given before constructing public sewers, or sewage disposal works, outside district – – – – – – – – – 71
17. Adoption by local authority of sewers and sewage disposal works – – 72
18. Power of local authority to agree to adopt sewer or drain, or sewage disposal works, at future date – – – – – – – – 76
19. Power of local authority to require proposed sewer or drain to be so constructed as to form part of general system – – – – – 77
20. Vesting of public sewers and sewage disposal works in local authority – 78

SECT. PAGE
21. Agreements with county council for use of highway drains and sewers for sanitary purposes, or to allow public sewers to be used for drainage of highways – – – – – – – – – – – 79
22. Power of local authority to alter, or close, public sewers – – – 79
23. General duty of local authority to maintain public sewers – – – 80
24. Power of local authority to recover cost of maintaining certain lengths of public sewers – – – – – – – – – – – 80
25. Buildings not to be erected without consent over sewer or drain shown on deposited map – – – – – – – – – – – 82
26. Local authority to afford facilities for factories to drain into public sewers 83
27. Certain matters not to be passed into public sewers – – – – 83
28. Communication of sewers with sewers of another sewerage authority – 84
29. Powers of local authority as respects land held for treating sewage – – 84
30. Sewage, etc., to be purified before discharge into streams, canals, etc. – 84
31. Local authority not to create any nuisance – – – – – – – 85
32. Duty of local authority to keep map showing public sewers, etc. – – 85
33. Application of 27 & 28 Vict. c. 114 to works for supply of sewage – – 86

Private sewers and drains and cesspools.

34. Right of owners and occupiers within district to drain into public sewers – 86
35. Use of public sewers by owners and occupiers without district – – 88
36. Right of local authority to undertake the making of communications with public sewers – – – – – – – – – – – 88
37. New buildings to be provided with any necessary drains, etc. – – 89
38. Drainage of buildings in combination – – – – – – – – 90
39. Provisions as to drainage, etc., of existing buildings – – – – 91
40. Provisions as to soil pipes and ventilating shafts – – – – – 92
41. In urban district notice to be given of intention to repair, reconstruct or alter underground drains – – – – – – – – – 93
42. Power of local authority to alter drainage system of premises – – 94

Sanitary conveniences for buildings

43. Closet accommodation to be provided for new buildings – – – 94
44. Buildings having insufficient closet accommodation, or closets so defective as to require reconstruction – – – – – – – – – – 95
45. Buildings having defective closets capable of repair – – – – 96
46. Sanitary conveniences in factories, workshops and workplaces – – 96
47. Replacement of earthclosets, etc., by waterclosets at joint expense of owner and local authority – – – – – – – – – 97

Supplemental provisions as to drains, sanitary conveniences, cesspools, etc.

48. Power of local authority to examine and test drains, etc., believed to be defective – – – – – – – – – – – 98
49. Rooms over closets of certain types, or over ash-pits, etc., not to be used as living, sleeping or work rooms – – – – – – – – 99
50. Overflowing and leaking cesspools – – – – – – – – – 99
51. Care of closets – – – – – – – – – – – 100
52. Care of sanitary conveniences used in common – – – – – 100

Provisions with respect to buildings.

53. Special provisions as to buildings constructed of materials which are short-lived, or otherwise unsuitable for use in permanent buildings – – 101
54. Power to prohibit erection of buildings on ground filled up with offensive material – – – – – – – – – – – 102
55. Means of access to houses for removal of refuse, etc. – – – – 103
56. Yards and passages to be paved and drained – – – – – 104
57. Entrances to certain courts not to be closed or narrowed – – – 105
58. Dangerous or dilapidated buildings and structures – – – – 105

SECT. PAGE
59. Exits, entrances, etc., in the case of certain public, and other, buildings – 106
60. Means of escape from fire in the case of certain high buildings – – 108

Byelaws with respect to buildings and sanitation.

61. Byelaws as to buildings and sanitation – – – – – – – 109
62. Application of certain byelaws to existing buildings – – – – 111
63. Power of local authority with consent of Minister to relax requirements of byelaws – – – – – – – – – – – 112
64. Passing or rejection of plans, and power to retain plans, etc. – – – 113
65. Power to require removal or alteration of work not in conformity with byelaws, or executed notwithstanding rejection of plans, etc. – – 114
66. Deposit of plans to be of no effect after certain interval – – – – 116
67. Power to refer questions arising under building byelaws to the Minister – 117
68. Temporary operation of building byelaws – – – – – – 117
69. Power of the Minister to make building byelaws in case of default, and to revoke unreasonable byelaws – – – – – – – – 118
70. Certain information, and copies of certain local enactments, to be appended to printed copies of building byelaws – – – – – – – 118
71. Exemption of certain buildings from building byelaws – – – – 119

Removal of refuse, scavenging, keeping of animals, etc.

72. Removal of house refuse, cleansing of ashpits, etc. – – – – 120
73. Removal of trade refuse and other matters – – – – – – 121
74. Power of local authority in certain cases to remove refuse or cleanse cesspools, etc., on behalf of owner or occupier – – – – 121
75. Regulation dustbins – – – – – – – – – – 122
76. Provisions as to deposit and disposal of refuse, and for prohibiting interference with dustbins and refuse tips – – – – – – – 123
77. Sweeping and watering of streets – – – – – – – 123
78. Scavenging of common courts and passages – – – – – – 124
79. Power to require removal of noxious matter by occupier of premises in urban district – – – – – – – – – – – 124
80. Power to require periodical removal of manure, etc., from stables, etc., in urban district – – – – – – – – – – – 125
81. Byelaws for the prevention of certain nuisances – – – – – 125
82. Byelaws as to removal through streets of offensive matter or liquid – 125

Filthy or verminous premises or articles, and verminous persons.

83. Cleansing of filthy or verminous premises – – – – – – 126
84. Cleansing or destruction of filthy or verminous articles – – – – 127
85. Cleansing of verminous persons and their clothing – – – – 127
86. Provision of cleansing stations – – – – – – – – 128

Public sanitary conveniences.

87. Provision of public conveniences – – – – – – – – 128
88. Control over conveniences in, or accessible from, streets – – – 129
89. Power to require sanitary conveniences to be provided at inns, refreshment houses, etc. – – – – – – – – – – – 129

General.

90. Interpretation of Part II – – – – – – – – – – 130

PART III.

NUISANCES AND OFFENSIVE TRADES.

General duty of local authority.

91. Duty of local authority to inspect district for detection of nuisances – 132

Nuisances which may be dealt with summarily.

SECT. PAGE

92. Statutory nuisances – – – – – – – – – – 132
93. Service of abatement notice – – – – – – – – 134
94. Power of court to make nuisance order if abatement notice disregarded 135
95. Penalty for contravention of nuisance order, and abatement of nuisance by local authority – – – – – – – – – – 136
96. Costs of local authority in abating, or preventing recurrence of, nuisance 136
97. Proceedings where nuisance caused by acts or default of more than one person – – – – – – – – – – – 137
98. Power to proceed where cause of nuisance arises outside district – – 137
99. Power of individual to make complaint as to statutory nuisance – – 138
100. Local authority may take proceedings in High Court for abatement of statutory nuisance – – – – – – – – – 138

Smoke nuisances.

101. Smoke nuisances – – – – – – – – – – 139
102. Notice to occupier of existence of smoke nuisance – – – – 139
103. Procedure with respect to smoke nuisances – – – – – 139
104. Byelaws as to smoke – – – – – – – – – 140
105. Power of local authority to investigate problems relating to atmospheric pollution – – – – – – – – – – – 141
106. Application to Crown of provisions as to smoke nuisances – – – 141

Offensive trades.

107. Restriction on establishment of offensive trade in urban district – – 141
108. Byelaws as to certain trades in urban districts – – – – – 143

General.

109. Saving for mines, smelting works, etc. – – – – – – 145
110. Interpretation of Part III – – – – – – – – 145

PART IV.

WATER SUPPLY.

General duties and powers of local authority.

111. Duty of local authority with respect to water supplies within their district – – – – – – – – – – – 146
112. Power to supply water for non-domestic purposes – – – – 147
113. Power of local authority in certain circumstances to supply water to premises outside their district – – – – – – – 147
114. Power of local authority to supply water in bulk to adjoining authority 147
115. Purity of water for domestic supply – – – – – – – 148

Waterworks and other sources of supply.

116. General powers of local authority for supplying district with water – 148
117. Rights of statutory undertakers where local authority supply water with their consent – – – – – – – – – – 150
118. Notices to be given before constructing reservoir – – – – 150
119. Powers and duties of local authority in respect of laying and maintaining water mains – – – – – – – – – – 151
120. Incorporation of certain provisions of Waterworks Clauses Acts – – 151
121. Power of owner or occupier to break open streets for laying pipes, subject, in certain cases, to right of local authority to execute the work – – 152
122. Power of water undertakers to supply water, or sell or lease waterworks, to local authority – – – – – – – – – 153
123. Power of local authority to give guarantees to water companies, etc. – 153

Public wells, pumps, etc.

SECT. PAGE

124. Certain public pumps, wells, cisterns, etc., vested in local authority – 154
125. Power of parish council to utilise wells, springs or streams for obtaining water – – – – – – – – – – – 154

Charges for water.

126. General power of local authority to make charges for water – – – 154
127. Power to charge by meter for supply to certain premises and for certain purposes – – – – – – – – – – – 155
128. Power to charge for water supplied by stand-pipes, etc. – – – 157
129. Water rates on small tenements may be demanded from the owners – 157
130. Water rates may be made recoverable half-yearly – – – – 158
131. Adjustment in respect of water rate where net annual value of premises is altered – – – – – – – – – – – 158

Byelaws for preventing waste, etc., of water: provisions as to meters and other fittings.

132. Byelaws for preventing waste, misuse or contamination of water, etc. – 159
133. Power to inspect and test water fittings – – – – – – 160
134. Charges for hire of, and repairs to, meters – – – – – – 160
135. Penalty for injuring water fittings, etc., or for fraudulent use of water – 160
136. Register of meter to be evidence – – – – – – – – 161

Power of local authority to require houses to be supplied with water.

137. New houses to be provided with sufficient water supply – – – 161
138. Power of local authority to require any occupied house to be provided with sufficient water supply – – – – – – – – 162
139. Appeal by owner against requirement to provide water supply – – 164

Provisions for the protection of public from polluted water.

140. Power to close, or restrict use of water from, polluted source of supply – 165
141. Power to deal with insanitary cisterns, etc. – – – – – 165

General.

142. Interpretation of Part IV – – – – – – – – – 165

PART V.

PREVENTION, NOTIFICATION AND TREATMENT OF DISEASE.

Regulations for the prevention and treatment of infectious disease, etc.

143. Power of Minister to make regulations with a view to the treatment of certain diseases, and for preventing the spread of such diseases – 166

Notification of disease.

144. Obligation to notify certain diseases – – – – – – – 168
145. Supply of forms of certificate, and fees for certificates – – – – 169
146. Notification of cases occurring in buildings occupied for purposes of the defence services – – – – – – – – – – 170
147. Power of local authority to declare further diseases to be notifiable – 170

Provisions for preventing spread of infection.

148. Penalty on exposure of persons and articles liable to convey notifiable disease – – – – – – – – – – – – 171
149. Person suffering from notifiable disease not to carry on occupation to danger of others – – – – – – – – – – 171
150. Child liable to convey notifiable disease may be ordered not to attend school – – – – – – – – – – – 172

SECT. PAGE
151. Local authority may require list of day-scholars at school where notifiable disease exists – – – – – – – – – – – 172
152. Restrictions on sending or taking infected articles to laundry or public washhouse, or to cleaners – – – – – – – – – 173
153. Power to prohibit home work on premises where notifiable disease exists 173
154. Restrictions on sales, etc., by persons collecting, or dealing in, rags, old clothes or similar articles – – – – – – – – 174
155. Provisions as to library books – – – – – – – – 174
156. Infectious matter not to be placed in dustbins – – – – – 175
157. Provisions as to the letting of houses, or rooms in hotels, after recent case of notifiable disease – – – – – – – – – 175
158. Persons ceasing to occupy house to disclose to owner any recent case of notifiable disease, and to disinfect – – – – – – 176
159. Provisions as to use of public conveyances by persons suffering from notifiable disease – – – – – – – – – – 176
160. Duty of owner, etc., of public conveyance in regard to cases of notifiable disease – – – – – – – – – – – 177
161. Power of Minister to make regulations as to disposal of dead bodies – 177
162. Power of justice to order dead body to be removed to mortuary, or buried forthwith – – – – – – – – – – 178
163. Restrictions in certain cases on removal of bodies of persons dying in hospital – – – – – – – – – – – 178
164. Avoidance of contact with body of person who suffered from notifiable disease – – – – – – – – – – – 179
165. Wake not to be held over body of person who suffered from notifiable disease – – – – – – – – – – – 179

Provisions as to disinfection of premises and articles, and the removal of infected persons.

166. Power of local authority to provide disinfecting station – – – 179
167. Cleansing and disinfection of premises and articles therein – – – 180
168. Power of local authority to remove temporarily inmates of infected house 181
169. Provision for removal to hospital of persons suffering from notifiable disease where serious risk of infection being spread – – – – 181
170. Power of justice to order detention in hospital of infected person without proper lodging to return to – – – – – – – – 182

Provisions as to treatment of tuberculosis.

171. Institutional treatment of tuberculosis – – – – – – 182
172. Removal to hospital of infectious persons suffering from tuberculosis of the respiratory tract – – – – – – – – – – 183
173. General provisions as to treatment of tuberculosis and after-care – – 184
174. Expenses of county councils in connection with tuberculosis – – – 184
175. Special provisions with respect to treatment of tuberculous seamen – 185

Provisions with respect to blindness.

176. Power of county councils and local authorities in respect of the prevention and treatment of blindness – – – – – – – – 186

Miscellaneous.

177. Power of local authority to provide temporary supply of medicine and medical assistance, and to provide nursing attendance in certain cases 186
178. Power of county councils and local authorities to subscribe to nursing associations – – – – – – – – – – – 186
179. Instruction, lectures, etc., on questions relating to health or disease – 187
180. Qualifications for certain appointments in connection with tuberculosis and venereal disease – – – – – – – – – 187

PART VI.

HOSPITALS, NURSING HOMES, ETC.

Hospitals.

SECT. PAGE
181. Provision of hospital accommodation by county councils and local authorities – – – – – – – – – – – 188
182. Consultation with voluntary hospitals as to accommodation to be provided – – – – – – – – – – – 188
183. Power to provide houses for officers of a hospital – – – – 189
184. Recovery of expenses of maintenance in certain institutions – – 189
185. County schemes for provision of hospital accommodation for infectious disease – – – – – – – – – – – 191
186. Expenses of county councils in making provision for the treatment of infectious disease – – – – – – – – – – 192

Nursing homes.

187. Registration of nursing homes – – – – – – – – 192
188. Cancellation of registration – – – – – – – – 194
189. Procedure, and right of appeal, where registration refused or cancelled – 194
190. Byelaws as to nursing homes – – – – – – – – 195
191. Inspection of nursing homes – – – – – – – – 195
192. Power of registration authority to exempt certain institutions – – 196
193. Power of Minister to exempt Christian Science nursing homes – – 196
194. Delegation of powers as to nursing homes by county council to council of county district – – – – – – – – – – 197
195. Offences by companies under provisions of Part VI relating to nursing homes – – – – – – – – – – – – 197

Laboratories, ambulances, mortuaries, etc.

196. Provision of laboratories – – – – – – – – – 198
197. Provision of ambulances – – – – – – – – – 198
198. Provision of mortuaries and post-mortem rooms – – – – – 198

General.

199. Interpretation of Part VI – – – – – – – – 199

PART VII.

NOTIFICATION OF BIRTHS; MATERNITY AND CHILD WELFARE, AND CHILD LIFE PROTECTION.

Welfare authorities.

200. Welfare authorities – – – – – – – – – – 200
201. Maternity and child welfare committee of welfare authority – – – 201
202. Expenses of county council as welfare authority – – – – – 202

Notification of births.

203. Provision for early notification of births – – – – – – 202

Maternity and child welfare.

204. Powers of welfare authority with respect to maternity and child welfare 203
205. Women not to be employed in factories or workshops within four weeks after birth of a child – – – – – – – – – – 204

Child life protection.

206. Notices to be given by persons receiving children for reward – – – 204
207. Notices to be given if residence is changed, or if foster child dies, or is removed – – – – – – – – – – – 205

SECT. PAGE
208. Penalties for failure to give notices – – – – – – – 205
209. Appointment and powers of child protection visitors – – – – 206
210. Persons prohibited from receiving foster children – – – – 207
211. Power of welfare authority to prevent overcrowding where foster children kept – – – – – – – – – – 207
212. Removal of foster children kept in unsuitable premises, or by unsuitable persons – – – – – – – – – – 208
213. Death of foster child to be notified to coroner – – – – – 208
214. Avoidance of insurances on lives of foster children – – – – 209
215. Prohibition of anonymous advertisements offering to undertake care of children – – – – – – – – – – 209
216. Offences in connection with notices under this Part of Act – – – 209
217. Other offences under this Part of Act – – – – – – 209
218. Welfare authority may maintain child in place of safety – – – 209
219. Exemptions from this Part of Act – – – – – – – – 210
220. Interpretation of Part VII – – – – – – – – – 211

PART VIII.

BATHS, WASHHOUSES, BATHING PLACES, ETC.

Provision of baths, etc.

221. Power of local authority to provide baths, bathing places and washhouses 212
222. Charges for use of baths, etc. – – – – – – – – – 212
223. Byelaws for regulation of baths, etc. – – – – – – – – 213
224. Baths, etc., to be public places for certain purposes – – – – 213
225. Use of baths and bathing places for swimming contests, etc., or by schools or clubs – – – – – – – – – – 213
226. Closing of baths and bathing places during winter months, and use for other purposes – – – – – – – – – – 213
227. Power of local authority to lay pipes for purposes connected with baths, etc. – – – – – – – – – – – 215
228. Power of trustees to sell existing baths, etc., to local authority – – 215
229. Power of statutory undertakers to supply water, gas or electricity to baths, etc., on favourable terms – – – – – – – – 215
230. Power of parish council to provide baths, bathing places and washhouses 215

Public bathing.

231. Byelaws with respect to public bathing – – – – – – – 216
232. Provision of bathing huts, etc. – – – – – – – – 216
233. Byelaws with respect to swimming baths and bathing pools not under the management of a local authority – – – – – – 216

Life-saving appliances.

234. Provision of life-saving appliances – – – – – – – 217

PART IX.

COMMON LODGING-HOUSES.

235. Definition of "common lodging-house." – – – – – – – 218
236. No person to keep a common lodging-house unless registered in respect thereof – – – – – – – – – – – 218
237. Register of common lodging-house keepers and their houses – – 218
238. Provisions with respect to registration – – – – – – 219
239. Appeals against refusal of registration – – – – – – 220
240. Byelaws as to common lodging-houses – – – – – – 220
241. Management and control of common lodging-houses – – – – 221
242. Duty of keeper of common lodging-house to notify cases of infectious disease – – – – – – – – – – – 221

SECT. PAGE
243. Power of justice to order medical examination of inmates of common lodging-house – – – – – – – – – – – 221
244. Power to remove to hospital inmate of common lodging-house suffering from a notifiable disease – – – – – – – – 222
245. Power of court to order closing of common lodging-house on account of notifiable disease – – – – – – – – – 222
246. Offences in connection with common lodging-houses – – – – 222
247. Power of court on conviction to cancel registration and to disqualify for re-registration – – – – – – – – – – 223
248. Evidence in legal proceedings under Part IX – – – – – 223

PART X.

CANAL BOATS.

249. Authorities for registering, and enforcing provisions as to, canal boats – 224
250. Canal boats used as dwellings to be registered – – – – – 225
251. Regulations as to canal boats – – – – – – – – 225
252. Registration of canal boats and certificates of registration – – – 226
253. Penalties for use of unregistered canal boat as dwelling, and for breach of regulations – – – – – – – – – – 226
254. Infectious disease on canal boats – – – – – – – 226
255. Power to enter and inspect canal boat – – – – – – 227
256. Prosecution of offences – – – – – – – – – 227
257. Application of Part X to London – – – – – – – 228
258. Interpretation of Part X – – – – – – – – – 228

PART XI.

MISCELLANEOUS

Watercourses, ditches, ponds, etc.

259. Nuisances in connection with watercourses, ditches, ponds, etc. – – 229
260. Power of parish council, or local authority, to deal with ponds, ditches, etc. – – – – – – – – – – – 230
261. Provision for obtaining order for cleansing offensive ditches lying near to, or forming, boundary of district – – – – – – 230
262. Power of local authority to require culverting of watercourses and ditches where building operations in prospect – – – – 230
263. Watercourses in urban district not to be culverted except in accordance with approved plans – – – – – – – – 231
264. Urban authority may require repair and cleansing of culverts – – 232
265. Power of local authority to defray cost of, or execute, works relating to watercourses – – – – – – – – – – 232
266. Saving for land drainage authorities, the London County Council, railway companies and dock undertakers – – – – – – – 233

Ships and boats.

267. Application to ships and boats of certain provisions of Act – – – 233

Tents, vans, sheds, etc.

268. Nuisances arising from, and byelaws and other matters relating to, tents, vans, etc. – – – – – – – – – – 234
269. Power of local authority to control use of moveable dwellings – – 236

Hop-pickers, etc.

270. Byelaws as to hop-pickers and persons engaged in similar work – – 238

PART XII.

GENERAL.

Supplemental as to powers of councils.

SECT.		PAGE
271.	Interpretation of "provide"	239
272.	Power of councils to combine for purposes of Act	240
273.	Provisions as to sub-committees	240
274.	Power of councils to execute works outside their county or district	240
275.	Power of local authority to execute certain work on behalf of owners or occupiers	241
276.	Power of local authority to sell certain materials	241
277.	Power of councils to require information as to ownership of premises	242
278.	Compensation to individuals for damage resulting from exercise of powers under Act	242

Breaking open of streets.

279.	General provisions as to breaking open streets	243
280.	Protection for certain works of railway companies and dock undertakers	246
281.	Protection for tramway undertakings	246
282.	Application of 38 & 39 Vict. c. 55, s. 153	247

Notices, etc.

283.	Notices to be in writing; forms of notices, etc.	247
284.	Authentication of documents	248
285.	Service of notices, etc.	248
286.	Proof of resolutions, etc.	249

Entry and obstruction.

287.	Power to enter premises	249
288.	Penalty for obstructing execution of Act	251
289.	Power to require occupier to permit works to be executed by owner	251

Notices requiring the execution of works.

290.	Provisions as to appeals against, and the enforcement of, notices requiring execution of works	252

Provisions as to recovery of expenses, etc.

291.	Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments	253
292.	Power to make a charge in respect of establishment expenses	255
293.	Recovery of expenses, etc.	255
294.	Limitation of liability of certain owners	255
295.	Power of local authority to grant charging orders	256

Prosecution of offences, etc.

296.	Summary proceedings for offences	256
297.	Continuing offences and penalties	256
298.	Restriction on right to prosecute	257
299.	Inclusion of several sums in one complaint, etc.	257

Appeals and other applications to courts of summary jurisdiction, and appeals to quarter sessions.

300.	Appeals and applications to courts of summary jurisdiction	257
301.	Appeals to quarter sessions against decisions of justices	258
302.	Effect of decision of court upon an appeal	258

Arbitrations.

SECT.		PAGE
303.	Mode of reference to arbitration	259

Judges and justices.

304.	Judges and justices not to be disqualified by liability to rates	259

Protection of members and officers.

305.	Protection of members and officers of certain local authorities from personal liability	259

Compulsory purchase.

306.	Compulsory purchase of land by means of provisional order	260

Expenses and borrowing.

307.	Contributions by county councils to certain expenses of county district councils	260
308.	Special expenses of rural authorities	260
309.	Expenses of joint boards	261
310.	Power to borrow on sewage land and plant	262
311.	Loans by Public Works Loan Commissioners	263

Powers of the Minister.

312.	Confirmation of byelaws	263
313.	Orders for amendment or adaptation of local Acts	264
314.	Power to apply corresponding provisions of Act to joint boards, etc., in substitution for repealed provisions	264
315.	Existing isolation hospital committees to be dissolved	265
316.	Adaptation, where necessary, of provisional order procedure	266
317.	Amendment of 38 & 39 Vict. c. 55, s. 303	266
318.	Local inquiries	266

Regulations.

319.	Provisions as to regulations required to be laid before Parliament	267

Relinquishment and transfer of powers and duties.

320.	Relinquishment of functions by district councils	267
321.	Complaint by county council to Minister of default of council of county district	267
322.	Power of Minister to enforce exercise of powers by local authorities, etc., in default	268
323.	Subsidiary provisions on transfer of functions of body in default to county council	268
324.	Provisions as to exercise by Minister of functions of body in default	269
325.	Power to vary and revoke orders relating to defaults	270

General provisions as to transfer, compensation and superannuation rights of officers.

326.	Provisions as to the transfer and compensation of officers and superannuation rights of transferred officers	270
327.	Provisions for compensation in certain cases to officers of trustees, etc., executing local Acts	272

Savings.

328.	Powers of Act to be cumulative	273
329.	Saving for certain provisions of the Land Charges Act, 1925	273

SECT. PAGE
330. Power of railway companies, dock undertakers and land drainage authorities to alter sewers, etc., vested in a local authority – – 273
331. Works affecting water rights – – – – – – – – 274
332. Arbitration as to alteration of sewers, etc., or injurious affection of water rights – – – – – – – – – – – 274
333. Protection for works of dock undertakers and for railways – – – 275
334. Protection for works of land drainage authorities, etc. – – – 276
335. Saving for works, powers, etc., of London County Council – – – 276
336. Saving for powers and duties of Middlesex County Council as sewerage and sewage disposal authority – – – – – – – 276
337. Saving for certain payments in respect of drainage into sewers of another district – – – – – – – – – – – 277
338. Sewers or drains of collegiate and other corporate bodies and Government departments – – – – – – – – – 277
339. Saving for existing rights of drainage – – – – – – – – 278
340. Works below high-water mark – – – – – – – – 278
341. Power to apply provisions of Act to Crown property – – – – 278

Interpretation, transitory provisions, repeals, etc.

342. Application of portions of Act to London – – – – – – 279
343. Interpretation – – – – – – – – – – 280
344. Transitional provisions as to existing temporary buildings – – – 283
345. Transitional provisions as to offences and notices – – – – 283
346. Repeals – – – – – – – – – – – 284
347. Short title, date of commencement, and extent – – – – – 285

SCHEDULES :

First Schedule.—Provisions as to Medical Officers of Health and Sanitary Inspectors of Port Health Districts – – – – 286
Second Schedule.—Sections of Act extending to London for certain purposes – – – – – – – – – – – 287
Third Schedule.—Enactments repealed – – – – – – 288

An Act to consolidate with amendments certain enactments relating to public health. [31st July, 1936.]

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

INTRODUCTORY NOTE TO PART I.

Part I of the Act deals with the local administration of the Act and the authorities responsible for that administration. Such local authorities are normally the councils of boroughs and of urban and rural districts. County councils, and indeed parish councils, have functions under the Act, but these are not sufficiently extensive to necessitate their inclusion in the definition of " local authority."

Part I further provides for the constitution of port health authorities and for the constitution of joint boards for such purposes as main sewerage, hospitals, etc. Provision is made, for the first time, for the representation of county councils on joint boards, and for the constitution of joint boards representing county and county borough councils only.

PART I.

LOCAL ADMINISTRATION.

Local authorities and their districts.

1. Local authorities for purposes of Act.—(1) Subject to the provisions of this Act with respect to certain special authorities, districts and areas, it shall be the duty of the following authorities to carry this Act into execution, that is to say—

(i) in a county borough, the council of the borough ;

(ii) in an administrative county, as respects certain matters, the county council and, as respects all other matters, the councils of county districts, without prejudice, however, to the exercise by a parish council of any powers conferred upon such councils.

(2) In this Act the following expressions have the meanings hereby assigned to them :—

" local authority " means the council of a borough, urban district or rural district ;

" urban authority " means the council of a borough or urban district ;

" rural authority " means the council of a rural district ;

" district," in relation to the local authority of a borough, means the borough ; and

" parish," in relation to a common parish council acting for two or more grouped parishes, means those parishes :

Provided that, in relation to a rural district with respect to which there is in force such a direction as is mentioned in subsection (2) of section forty-two of the Local Government Act, 1933, any reference in this Act to a local authority, to a rural authority, or to a rural district council shall be construed as a reference to the council by whom the affairs of the district are being temporarily administered.

NOTES TO SECTION 1.

administrative county. The expression " county " is defined in s. 343 (1) to mean an administrative county. It is not clear why the expression " administrative county " is here used in full.

county districts defined, s. 343 (1).

parish council. See the interpretation of " parish " in sub-s. (2).

local authority. This definition replaces that in P.H.A. 1875, s. 4 (13 Halsbury's Statutes 625), which defined " local authority " as meaning urban sanitary authority and rural sanitary authority. These expressions become obsolete for the purposes of this Act and will no doubt in due course disappear from the language of the law. The change of expression involves no change in the scope of the definition, which is more limited than in the L.G.A. 1933. See s. 305 of that Act, 26 Halsbury's Statutes 466.

Local Government Act, 1933, s. 42 (2). L.G.A. 1933, s. 42 (2) (26 Halsbury's Statutes 326), mentions a direction under L.G.A. 1894, s. 24 (5) (10 Halsbury's Statutes 793), which provides that where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall . . . be a rural district. Where the number of councillors of any such district is less than five the provisions of P.H.A. 1875, s. 9 (13 Halsbury's Statutes 629), are to apply unless the L.G.B. by order direct that the affairs of the district are to be temporarily administered by the council of an adjoining district.

General note. This section is largely new. It recognises the functions of the county council in public health administration and brings up to date the legal definition of the authorities charged with the administration of the Act.

Under L.G.A. 1929, s. 57 (3), the Minister could transfer public health functions to the county council if the local authority made default in discharging those functions. This power is no longer applicable to functions under this Act (3rd Sched., Part V, *post*), but see ss. 331, 332, *post*.

Port health authorities and joint boards.

2. Constitution of port health district under port health authority.—(1) In this Part of this Act the expression "port" means a port as established for the purposes of the enactments relating to the Customs and, in relation to any such port or any part of any such port, the expression "riparian authority" means—

(*a*) any local authority whose district, or any part of whose district, forms part of, or abuts on, that port or part of a port; and

(*b*) any conservators, commissioners or other persons having authority in, over or within that port or part of a port.

(2) Subject to the provisions of this section, the Minister may by order—

(i) constitute a port health district consisting of the whole or any part of a port, and either—

(*a*) constitute one riparian authority the port health authority for the district; or

(*b*) constitute a joint board, consisting of representatives of two or more riparian authorities, to be the port health authority for the district;

(ii) constitute a port health district consisting of any two or more areas, being ports or parts of ports, and constitute a joint board, consisting of representatives of two or more riparian authorities, to be the port health authority for the district.

(3) A joint board so constituted a port health authority shall be a body corporate by such name as may be determined by the order constituting the port health district, and shall have perpetual succession and a common seal and power to hold land for the purposes of their constitution without licence in mortmain.

(4) Where the Minister proposes to make an order under this section, he shall give notice thereof to every riparian authority who will under the order be liable to contribute to the expenses of the port health authority, and if, within twenty-eight days after such notice has been given to any such riparian authority, they give notice to the Minister that they object to the proposal and the objection is not withdrawn, any order made by the Minister which will impose any such liability on that authority shall be provisional only, and shall not have effect until it is confirmed by Parliament.

(5) All expenses of, and incidental to, the constitution of a port health district shall be payable by the port health authority and, so far as those expenses are expenses incurred by the Minister, the amount thereof as certified by him shall be recoverable by him from the authority as a debt due to the Crown.

NOTES TO SECTION 2.

port. This definition re-enacts the definition in P.H.A. 1875, s. 287 (13 Halsbury's Statutes 745).

riparian authority. This definition is in effect identical with that in P.H.A. 1875, s. 287 (13 Halsbury's Statutes 745).

Definitions—

"enactment," s. 343 (1).
"local authority," s. 1 (2).
"district," s. 1 (2).
"joint board," s. 343 (1).

General note. This section and s. 3 substantially re-enact in modern terms the provisions of P.H.A. 1875, ss. 287, 288 (13 Halsbury's Statutes 745, 746), as amended by the P.H. (Ships, etc.) A. 1885, s. 3 (13 Halsbury's Statutes 806). Port sanitary districts are in future to be known as port health districts and port sanitary authorities as port health authorities. See also s. 5. The power of the Minister to "combine" two or more riparian authorities and prescribe the mode of their joint action, without forming a joint board, has been abandoned. Sub-s. (4) is new, and is in accordance with modern precedent, though it is unlikely in practice that such orders would be made except on the initiation of, or after consultation with, the riparian authorities concerned.

3. Jurisdiction, powers, etc., of port health authority.—(1) An order constituting a port health district—

(*a*) shall confer on the port health authority jurisdiction over all waters within the area to which the order relates, and also over the whole of the district of any such riparian authority as may be specified in the order, or such part of any such district as may be so specified; and

(*b*) may assign to the port health authority any of the functions, rights and liabilities of a local authority under any enactment contained in this Act, or any unrepealed enactment contained in the Public Health Acts, 1875 to 1932.

(2) Section two hundred and ninety-three of the Local Government Act, 1933, which enables any of the provisions of that Act to be applied to a joint board of which the constituent members are local authorities, shall apply also in relation to any port health authority, notwithstanding that that authority may be a single local authority, or may be a joint board of which all the constituent members are not local authorities:

Provided that, where the port health authority are the council of a borough, the provisions of the said Act relating to the audit of accounts by district auditors shall not be so applied, unless all the accounts of the council are subject to such audit.

(3) The provisions of sections one hundred and eight to one hundred and ten of the Local Government Act, 1933, as adapted and set out in the First Schedule to this Act, shall have effect with respect to the medical officer of health and sanitary inspector of a port health district.

NOTES TO SECTION 3.

Definitions—

"district," s. 1 (2).
"riparian authority," s. 2 (1).
"functions," s. 343 (1).
"local authority," s. 1 (2).
"enactment," s. 343 (1).

Jurisdiction of port health authority. Sub-s. (1) (*a*) substantially reproduces P.H.A. 1875, s. 288 (13 Halsbury's Statutes 746).

Assignment of powers. Sub-s. 3 (1) (*b*) reproduces and extends the powers of the Minister under the P.H. (Ports) A. 1896, s. 1 (13 Halsbury's Statutes 873). Under that Act the Minister was empowered by order to assign to any port sanitary authority any powers, duties, etc., under the Infectious Disease Prevention Act, 1890 (13 Halsbury's Statutes 816–824), with the necessary modifications. The Minister may now assign to the port health authority any functions, etc., of a local authority under the Public Health Acts, and where such an Order is in force the functions of the local authority so assigned will be exercisable by the port health authority to the exclusion of the local authority. See *Clark* v. *Rochford R.D.C.* (1897), 13 T. L. R. 371, and s. 4 (1). The assignment is to be made by the order constituting the port health district, but where this has not been done an amending Order may be made under s. 9 (2).

Local Government Act, 1933, s. 293. L.G.A. 1933, s. 293 (26 Halsbury's Statutes 461), provides that the order constituting a joint board may apply to that board, subject to any necessary modifications, any of the provisions of that Act, provided that the provisions of the Act enabling land to be acquired compulsorily otherwise than by Provisional Order shall not be so applied, and the provisions relating to district audit are not to be applied if the constituent authorities are boroughs except in the circumstances mentioned in the section. See proviso to sub-s. (2).

Local Government Act, 1933, ss. 108–110. For these provisions see 26 Halsbury's Statutes 363, 364.

See the adapted sections in First Schedule, *post*. The principal modifications are the omission of the statutory qualifications for medical officers of health and of the provision for forfeiture of the county contribution to the medical officer's salary when information required by L.G.A. 1933, s. 113 (26 Halsbury's Statutes 367), to be given to the county medical officer of health is not given.

4. Restriction on discharge of functions by local authorities within port health district.—(1) A local authority having jurisdiction in any part of a port health district, including the port health district of the port of London, shall cease to discharge in relation thereto any functions which are functions of the port health authority:

Provided that, with the approval of the Minister, the port health authority of any such district may by agreement delegate, with or without restrictions or conditions, any of their functions to a riparian authority whose district lies within, extends into or abuts on, the district of the port health authority.

(2) Where under the preceding subsection any functions of a port health authority are delegated to a riparian authority, the riparian authority in the discharge thereof shall act as agents of the port health authority.

NOTES TO SECTION 4.

Definitions—

"local authority," s. 1 (2).
"functions," s. 343 (1).
"district," s. 1 (2).
"riparian authority," s. 2 (1).

Restriction on discharge of functions by local authority.—Sub-s. (1) substantially reproduces the second paragraph of P.H.A. 1875, s. 281, and s. 289 (13 Halsbury's Statutes 743 and 746).

Agency. This description of the effect of delegation has frequently been used. In L.G.A. 1894, s. 64 (10 Halsbury's Statutes 817), county councils were empowered to employ district councils as their agents in the transaction of administrative business. This general power was most useful but it was repealed by L.G.A. 1933 (26 Halsbury's Statutes 516), and replaced by powers of less extensive application. See s. 274 of the Act of 1933 (26 Halsbury's Statutes 451). For other examples of delegation by way of agency see L.G.A. 1929, ss. 35, 36 (10 Halsbury's Statutes 910–912).

It is doubtful whether a local authority to whom powers are delegated by another authority may in turn delegate those powers to a committee. See *Young* v. *Cuthbert* (1906), 1 Ch. 451; 19 Digest 555, *13*.

The point is not dealt with in s. 273, *post*, but by L.G.A. 1933, s. 85 (1) (26 Halsbury's Statutes 352), a local authority may delegate to a committee "any functions exercisable by the local authority."

5. Existing port sanitary authorities to be renamed port health authorities.—Port sanitary districts and port sanitary authorities constituted under any Act passed before this Act, including the port sanitary district and port sanitary authority of the port of London, shall be known as and styled port health districts and port health authorities, and references in any Act or other document to port sanitary districts or port sanitary authorities shall be construed accordingly.

NOTE TO SECTION 5.

This section extends to existing port sanitary districts and authorities the change of name adopted in the Act. See paragraph 30 of the Second Interim Report, *post*, p. 346.

6. Union of districts, or parts of districts, for certain purposes under joint board.—(1) Subject to the provisions of this section, if, on an application made to him by the local authorities of the districts to which the application relates, or by any of those authorities, it appears to the Minister that it would be for the advantage of those districts or any of them, or of any parts of those districts or any of them (whether such parts are contributory places or not), to be constituted a united district for any purpose of this Act, or of the Public Health Acts, 1875 to 1932, so far as those Acts are not repealed, the Minister may, by order, constitute for that purpose a united district consisting of such

of those districts or parts of districts as can, in his opinion, be combined advantageously.

(2) The governing body of a united district shall be a joint board, which shall be constituted by the order constituting the district and shall consist of representatives of the local authorities of the constituent districts or parts of districts:

Provided that, if the council of the county, or of any of the counties, in which the united district or any part thereof will be situate, undertake to make annual contributions towards the expenses of the joint board, provision may be made by the order constituting the board for the board to include representatives of that council, so, however, that the number of representatives appointed under this proviso shall be less than one-half of the total number of the members of the board.

(3) A joint board constituted under this section shall be a body corporate by such name as may be determined by the order constituting the united district, and shall have perpetual succession and a common seal and power to hold land for the purposes of their constitution without licence in mortmain.

(4) Where the Minister proposes to make an order under this section, he shall give notice thereof to the local authority of every district which, or any part of which, is proposed to be included in the united district, and also to the county council, and, if within twenty-eight days after such notice has been given to any such authority or council, they give notice to the Minister that they object to the proposal and the objection is not withdrawn, any order made by the Minister shall be provisional only and shall not have effect until it is confirmed by Parliament.

(5) All expenses of, and incidental to, the constitution of a united district shall be payable by the joint board and, so far as those expenses are expenses incurred by the Minister, the amount thereof as certified by him shall be recoverable by him from the board as a debt due to the Crown.

NOTES TO SECTION 6.

Definitions—

"local authority," s. 1 (2).
"district," s. 1 (2).
"contributory place," s. 343 (1).
"joint board," s. 343 (1).

Joint Board. Sub-s. 6 (1) substantially reproduces s. 279 of the P.H.A. 1875 (13 Halsbury's Statutes 742), but omits the reference in that section to water supply and main sewerage, which neither explained nor limited the scope of the section. Joint Boards have been established for hospital and cemetery purposes at least as frequently as for water supply and main sewerage. As to joint committees, see s. 272, *post*, and as to advantages of appointing a joint board, see Lumley, 10th edn., p. 621, note (*b*).

Constitution of Joint Board. The proviso to sub-s. (2) enabling provision to be made for representation of the county council on a joint board is new, but is a natural consequence of recent legislation under which powers have been conferred on county councils, for example, L.G.A. 1929, s. 57 (10 Halsbury's Statutes 922) (contribution to sewers, sewage disposal works and water supply); Poor Law Act, 1930, ss. 8, 67 (12 Halsbury's Statutes 973, 1001) (hospitals). It is to be observed, also, that county councils already had power under L.G.A. 1933, s. 91 (26 Halsbury's Statutes 355), to concur in the appointment of a joint committee.

Ex-officio members. The reference in s. 280 of P.H.A. 1875 (13 Halsbury's Statutes 742), to *ex-officio* members is not reproduced in sub-s. (2). The modern practice has been to make no provision for such members and the power has become obsolete.

Procedure. Under the former Acts the procedure for the constitution of a joint board was by Provisional Order under P.H.A. 1875, s. 297 (13 Halsbury's

Statutes 749). This procedure is modified by sub-s. (4), and a joint board may now be constituted by an Order of the Minister unless there is objection by any authority concerned or by the county council, when the Order is provisional and requires confirmation by Parliament. Note that notice must be given to the county council whether that council is to be represented or not. As to amendment or revocation of Order, see s. 9 (2).

Expenses. Sub-s. (5) replaces the second paragraph of P.H.A. 1875, s. 279 (13 Halsbury's Statutes 742), with an amendment as to the recovery of the Minister's expenses.

Isolation Hospital Committees. See s. 315, *post*.

7. Restriction on discharge of functions by local authorities within united district.—(1) A local authority having jurisdiction in any part of a united district shall cease to discharge in relation thereto any functions which are functions of the joint board:

Provided that—

(*a*) the Minister may at any time authorise a local authority having jurisdiction in any part of the district to discharge in relation to that part, concurrently with the joint board, any functions which are functions of that board, subject, however, to such conditions and restrictions, if any, as he may impose;

(*b*) with the approval of the Minister, the joint board may by agreement delegate, with or without restrictions or conditions, any of their functions to the local authority of any constituent district.

(2) Where under the preceding subsection any functions of a joint board are delegated to a local authority, that authority in the discharge thereof shall act as agents of the joint board.

NOTE TO SECTION 7.

Definitions—

"local authority," s. 1 (2).
"functions," s. 343 (1).
"district," s. 1 (2).
"joint board," s. 343 (1).

General note. This section substantially reproduces the second paragraph of P.H.A. 1875, s. 281 (13 Halsbury's Statutes 743), as extended by P.H. (Prevention and Treatment of Disease) A. 1913 (13 Halsbury's Statutes 953).

As to agency and effect of delegation, see note to s. 4, *ante*, p. 62.

8. Joint boards representing councils of counties and county boroughs.—(1) For the purpose of facilitating co-operation between councils of counties and county boroughs in the discharge of their functions under this Act, it shall be lawful for the Minister to make by order such provision as appears to him to be expedient for enabling any two or more such councils to discharge through a joint board such of those functions as may be specified in the order:

Provided that no such order shall be made except with the consent of all the councils concerned.

(2) A joint board constituted under this section shall be a body corporate by such name as may be determined by the order constituting the board, and shall have perpetual succession and a common seal and power to hold land for the purposes of their constitution without licence in mortmain.

(3) Joint committees constituted under section five of the Public Health (Tuberculosis) Act, 1921, or under any enactment repealed by that Act, shall be known as and styled joint boards and references in

any Act or other document to such joint committees shall be construed accordingly.

NOTES TO SECTION 8.

Definitions—

"county," s. 343 (1).
"functions," s. 343 (1).
"joint board," s. 343 (1).
"enactment," s. 343 (1).

General note. This section extends to the whole range of their functions under the Act the power of the Minister to effect combinations of county and county borough councils under the Poor Law Act, 1930, s. 3 (12 Halsbury's Statutes 969); the Mental Deficiency Act, 1913, s. 29 (11 Halsbury's Statutes 177); and the P.H. (Tuberculosis) A. 1921, s. 5 (13 Halsbury's Statutes 972).

As to amendment or revocation of Order, see s. 9 (2), *infra*.

9. General provisions as to orders constituting port health districts, united districts and joint boards.—(1) An order made by the Minister under the foregoing provisions of this Part of this Act constituting a port health district, or a united district, or such a joint board as is mentioned in the last preceding section, may contain such incidental, consequential and supplemental provisions as appear to him to be necessary or proper for bringing the order into operation and giving full effect thereto and, in particular, but without prejudice to the generality of the foregoing words, provisions—

(*a*) for the settlement of any differences arising in consequence of the operation of the order, between districts, parishes or other areas;

(*b*) for the transfer of property and liabilities, and the making of any such adjustment of accounts or apportionment of liabilities between districts, parishes or other areas as may be rendered necessary by the operation of the order; and

(*c*) as to the persons by and to whom any moneys found to be due are to be paid, and the raising of such moneys.

(2) Any such order as aforesaid, whether or not confirmed by Parliament, may be amended or revoked by a subsequent order made by the Minister, but, where the Minister proposes to make an order under this subsection, he shall give notice thereof to the port health authority or joint board concerned and to every authority or council which is, or under the proposed order will be, a constituent authority or council, and, if within twenty-eight days after such notice has been given to any such authority, board or council they give notice to the Minister that they object to the proposal and the objection is not withdrawn, any order made by the Minister shall be provisional only and shall not have effect until it is confirmed by Parliament.

(3) Any reference in this Act to an order constituting a port health district, united district, or joint board shall be construed as including a reference to any order made under this section for the amendment of the original order.

NOTES TO SECTION 9.

Definitions and references—

"port health district," s. 2.
"united district," s. 6.
"joint board," s. 343 (1).
"district," s. 1 (2).

Joint board. Sub-s. (1) in terms refers to such a joint board as is mentioned in s. 8. The sub-section, however, also extends to a united district, the governing body of which is a joint board (s. 6 (2)).

General note. The section replaces ss. 275 and 281 (part) of P.H.A. 1875 (13 Halsbury's Statutes 740, 743), in modern form.

See L.G.A. 1933, s. 293 (26 Halsbury's Statutes 461).

Note that a Provisional Order confirmed by Parliament may be amended or revoked by Order of the Minister without confirmation if there is no objection to the amending or revoking Order.

10. Borrowing powers of port health authorities and joint boards.—A port health authority or joint board constituted under this Part of this Act shall, subject to the provisions of the order by which they were constituted, have the like powers of borrowing for the purposes of their functions under the order as a local authority have of borrowing for the purposes of their functions under this Act.

NOTES TO SECTION 10.

Definitions—

" joint board," s. 343 (1).
" functions," s. 343 (1).
" local authority," s. 1 (2).

General note. This section replaces P.H.A. 1875, s. 244 (13 Halsbury's Statutes 727).

For borrowing powers of local authorities, see L.G.A. 1933, Part IX (26 Halsbury's Statutes 412–424), and s. 310, *post*.

Division of districts.

11. Power of urban authority to divide their district.—(1) An urban authority may divide their district into parts for all or any of the purposes of this Act, and may vary or discontinue any such division.

(2) Where a district is divided into parts under this section, the authority in making and levying rates shall charge separately on each of those parts all expenses incurred in respect of that part for the purpose or purposes for which the division was made, and such share as the authority may deem equitable of any expenses, including loan charges, properly attributable to that part in common with any other part or parts of the district.

NOTE TO SECTION 11.

For definition of district, see s. 1 (2).

This section replaces P.H.A. 1875, s. 211 (4) (13 Halsbury's Statutes 715). The provision for separate rating of a part of a district in respect of expenses incurred in respect of that part for the purpose for which the division was made is now mandatory, but the urban authority have a discretion whether they will divide their district or not.

The division of small urban districts into parts separately rated for lighting, sewers, etc., was no doubt in some places carried to excess, and tended to inefficiency in administration. The policy of the Ministry under the L.G.A. 1929, s. 46 (10 Halsbury's Statutes 916), see now L.G.A. 1933, s. 146 (26 Halsbury's Statutes 384), has favoured the establishment of large districts, and where a large urban district includes distinct towns, the exercise of these powers may again become necessary and desirable.

Note that where a district is divided into parts each part will be a " separately rated area " as defined in L.G.A. 1929, s. 135 (10 Halsbury's Statutes 974), and s. 94, and the Fifth Schedule of that Act will apply (10 Halsbury's Statutes 942, 985).

12. Constitution and dissolution of special purpose areas in rural districts.—(1) A rural authority may, with the approval of the Minister, constitute any part of their district a special purpose area for the purpose of charging thereon exclusively the expenses of works of sewerage, sewage disposal or water supply, or of any other works the expenses of which are declared by or under any enactment (including any enactment in this Act) to be special expenses.

(2) Special drainage districts constituted under section two hundred and seventy-seven of the Public Health Act, 1875, or under the corresponding provisions of any earlier Act, shall be known as and styled special purpose areas, and references in any Act or other document to special drainage districts shall be construed accordingly.

(3) The Minister may by order vary or dissolve any special purpose area, whether constituted under this Act or as mentioned in the last preceding subsection.

NOTES TO SECTION 12.

Definitions—

" rural authority," s. 1 (2).
" district," s. 1 (2).
" enactment," s. 343 (1).

General note. This section replaces s. 277 and s. 270 (3) of P.H.A. 1875 (13 Halsbury's Statutes 741, 738). An appropriate change of nomenclature is made, as neither under this nor under the former Act is the power limited to drainage purposes.

Under P.H.A. 1875, s. 270 (3), a special drainage district could only be dissolved by a Provisional Order confirmed by Parliament if a loan had been raised for the execution of works. This provision is not re-enacted.

Investment of rural authorities with urban powers.

13. Power of Minister to invest particular rural authority with urban powers.—(1) The Minister, on an application made to him in accordance with the provisions of this section, may by order—

(*a*) declare any provisions of this Act which are in force in boroughs and urban districts to be in force in any particular rural district, or in any particular contributory place in a rural district; and

(*b*) invest the council of the rural district, as respects the district or, as the case may be, as respects that particular contributory place, with all or any of the functions of an urban authority under this Act, either unconditionally or subject to such conditions as may be specified in the order as to the time, area or manner during, at or in which those functions are to be discharged.

(2) An application for the purposes of this section may be made by—

(*a*) the council of the rural district;
(*b*) the council of the county in which the district is situate;
(*c*) the parish council of any parish situate in the district; or
(*d*) any number of local government electors for the district or for any contributory place therein, not being less than one hundred or one-third of the total number of those electors, whichever is the less:

Provided that, where the application is made by the council of a parish or by local government electors for a contributory place, the order of the Minister shall not confer upon the rural district council any new power, except in relation to, or to a part of, that parish or, as the case may be, that contributory place.

NOTES TO SECTION 13.

Definitions—

" urban authority," s. 1 (2).
" district," s. 1 (2).
" contributory place," s. 343 (1).
" county," s. 343 (1).
" parish," s. 1 (2).
" functions," s. 343 (1).

Applications. Under P.H.A. 1875, s. 276 (13 Halsbury's Statutes 741), an application to the Minister could be made by persons rated . . . the assessment of whose hereditaments amounted at least to one-tenth of the district or contributory place. In accordance with modern practice (see L.G.A. 1933, Ninth Schedule, Para. 8, 26 Halsbury's Statutes 511), this provision has been replaced in sub-s. (2) (*d*) by a provision enabling an application to be made by one hundred electors or one-third of the total number, whichever is the less.

General note. The power of the Minister has been exercised frequently by Orders conferring particular powers on particular rural authorities. See also the Rural District Councils (Urban Powers) Order, 1931 (S. R. & O., 1931, No. 580) (24 Halsbury's Statutes 262), made by the Minister under L.G.A. 1894, s. 25 (10 Halsbury's Statutes 795). See now L.G.A. 1933, s. 272 (26 Halsbury's Statutes 451).

The powers of the Act which are in force in urban districts and not in rural districts are—

s. 41 (unless P.H.A. 1925, s. 39, is in force in the rural district).
s. 46 („ P.H.A.A. 1890, s. 22 „ „ „ „).
s. 79 („ P.H.A. 1875, s. 49 „ „ „ „).
s. 80 („ P.H.A. 1875, s. 50 „ „ „ „).
s. 107 („ P.H.A. 1875, s. 112 „ „ „ „).
s. 108 („ P.H.A. 1875, s. 113 „ „ „ „).
s. 263 („ P.H.A. 1925, s. 52 „ „ „ „).
s. 264 („ P.H.A. 1925, s. 53 „ „ „ „).

INTRODUCTORY NOTE TO PART II.

In approaching the study of Part II of the Act it is necessary at the outset to appreciate that while the distinction between sewers and drains is preserved, the fundamental legal consequences which follow from the distinction have been changed.

There is a change in the meaning of " drain," in that there has been omitted from the definition in P.H.A. 1875, s. 4 (13 Halsbury's Statutes 624), the element that a drain must have been made merely for the purpose of communicating with a cesspool or other like receptacle, or with a sewer.

The Act creates a further distinction between public and private sewers. All sewers which are not public sewers are private sewers. Public sewers are defined in s. 20, and these sewers are maintainable by the local authority, subject to a right to recover the cost of maintenance in certain cases (s. 24).

The old law under which a local authority might become responsible for sewers, the construction of which had not been done to their satisfaction, and the existence of which in some cases had not come to their knowledge, is thus swept away. Under the old law sewers vested automatically in the local authority. In future no sewers, other than those for which they are now responsible, will vest automatically except:

(i) sewers constructed by the local authority at their own expense, or acquired by them;

(ii) sewers constructed to the satisfaction of the local authority under P.H.A. 1875, s. 150 (13 Halsbury's Statutes 686), the Private Street Works Act, 1892 (9 Halsbury's Statutes 193), or some kindred enactment, other than those which vest in the county council.

In other cases the vesting of a sewer in a local authority will be the result of an adoption in solemn form, by a declaration made after due notice by the authority, or by the Minister on appeal.

It is difficult to foresee completely the effect of these provisions, but the Act does undoubtedly remove many of the anomalies of the existing law, including the " combined drain," and is an attempt to establish a new code which will operate equitably between public authorities and landowners.

The problem of the " combined drain " has received drastic treatment. All combined drains which would have been sewers within the meaning of P.H.A. 1875, become public sewers, but the liability to bear the cost of maintenance is not passed to the local authority. On the contrary, by s. 24 (4) the local authority may recover the expenses of maintenance not only of those pipes which were maintainable by individuals under

P.H.A.A. 1890, s. 19 (13 Halsbury's Statutes 831), but of a very great many pipes which were hitherto technically sewers by reason of that Section having been drafted in language inappropriate to express the purpose of Parliament, or indeed any intelligible or logical purpose whatsoever. The operation of the section will avoid the decisions in numerous cases, and take away established rights, but it will do substantial justice between individual owners, some of whom have hitherto been fortunate, and the general body of ratepayers.

It should be noted that there is a saving for existing rights of drainage in s. 339, *post*.

The Act does not attempt a definition of " building " and indeed restricts the definition of " house," though " premises " are defined in a general way. The omission is perhaps unavoidable, but so much of the Act deals with buildings that it is perhaps unfortunate that one should be left to consider what is the " ordinary " meaning of " building " with no further assistance than is to be obtained from the general scope of the Act, *i.e.* public health, and the observation of TURNER, L.J., in *Grosvenor* v. *Hampstead Junction Rail. Co.* (1857), 1 De G. & J. 446 (11 Digest 180, *574*), that it is a word of wider signification than " house."

The provisions as to building byelaws (ss. 61–71) will need careful study. All existing byelaws will cease to have effect on 31st July, 1939, unless the Minister extends their operation or new byelaws come into operation before that date and in future building byelaws will need re-consideration at least once in ten years.

The scope of byelaws is extended in some directions (*e.g.* wells) and in others will be limited because some matters formerly dealt with by byelaws now form the subject of substantive provisions of the Act.

It may be convenient here to refer to a subject which is considered in certain technical aspects in the note to s. 64.

Under the former Acts there was a right of appeal to quarter sessions against a great variety of decisions of local authorities. This right was in some instances clearly stated, and in others only to be discovered by the perusal of various enactments and the application thereto of certain decisions of the High Court as to the interpretation of Statutes.

In certain instances this Act gives a right of appeal to the Minister (*e.g.* ss. 17, 19), but it will be observed that throughout the Act it has been the policy of Parliament to allow persons aggrieved by administrative decisions of local authorities to appeal, first to a Court of Summary Jurisdiction, and ultimately to Quarter Sessions. The policy of the Local Government Act, 1888, which entrusted the judicial and administrative functions of county government to distinct authorities, is thus in process of being reversed in the case of authorities charged with the administration of public health functions.

Apart from the Public Health Act, 1907, s. 7, similar rights of appeal, usually to Quarter Sessions, have been inserted in scores of Local Acts in recent years.

Appeals have not been numerous (for an example, see *Jackman* v. *Woking U. D. C.*, J.P. Newspaper, 1932, p. 546) partly, no doubt, because the existence of the right was obscured, but in this Act the existence of the right is for all to read and if appeals should become frequent it may

well be that the policy of local administration will be determined, not by the persons elected for the purpose, but by petty sessional courts or ultimately by the Court of Quarter Sessions for the County.

Note that by s. 300 (3), *post*, the right of appeal must be stated in any document notifying the decision of the authority.

PART II.

Sanitation and Buildings.

Sewerage and sewage disposal.

14. General duty of local authority to provide for sewerage of their district.—It shall be the duty of every local authority to provide such public sewers as may be necessary for effectually draining their district for the purposes of this Act, and to make such provision, by means of sewage disposal works or otherwise, as may be necessary for effectually dealing with the contents of their sewers.

NOTES TO SECTION 14.

Definitions—

" local authority," s. 1 (2).
" sewer," s. 343 (1).
" public sewer," s. 20 (2).
" sewage disposal works," s. 90 (5).

General note. This section replaces P.H.A. 1875, s. 15 (13 Halsbury's Statutes 632). This Part of the Act is therefore introduced by a provision declaring the duty of local authorities to provide the public sewers necessary for draining their district.

The expression " public sewer " was used in the P.H.A.A. 1890, s. 19 (13 Halsbury's Statutes 831), and sewers not vested in the local authority existed under the P.H.A. 1875. A clear distinction is, it is hoped, now drawn between public and private sewers.

The declaration of a statutory duty to provide sewage disposal works is not found in P.H.A. 1875. A local authority had power to provide such works under P.H.A. 1875, s. 27 (13 Halsbury's Statutes 637). In the case of authorities other than county borough councils default in providing sewage disposal works was a ground on which the Minister could, in the last resort, transfer this function of a local authority to the county council (L.G.A. 1929, s. 57 (3), 10 Halsbury's Statutes 922). See now ss. 321, 322 of this Act, *post*, which make complete provision for the enforcement of (*inter alia*) this duty by all local authorities.

Under L.G.A. 1929, s. 57 (3) (10 Halsbury's Statutes 922), the Minister could transfer public health functions to the county council if the local authority made default in discharging those functions. This power is no longer applicable to functions under this Act (3rd Sched., Part V, *post*), but see ss. 321, 322, *post*.

15. Provision of public sewers and sewage disposal works.—(1) A local authority may within their district and also, subject to the provisions of the next succeeding section, without their district—

(i) construct a public sewer—

(*a*) in, under or over any street, or under any cellar or vault below any street, subject, however, to the provisions of Part XII of this Act with respect to the breaking open of streets; and

(*b*) in, on or over any land not forming part of a street, after giving reasonable notice to every owner and occupier of that land;

(ii) construct sewage disposal works on any land acquired, or lawfully appropriated, for the purpose;

(iii) by agreement acquire, whether by way of purchase, lease or otherwise, any sewer or sewage disposal works, or the right to use any sewer or sewage disposal works.

(2) Where a local authority propose in the exercise of their powers under this section to construct a sewer which will cross or interfere with any watercourse or works vested in, or under the control of, a land drainage authority, they shall before adopting plans for the construction of the sewer give notice of their proposals to that authority.

(3) If a land drainage authority to whom notice has been given under the last preceding subsection, serve within twenty-eight days on the local authority notice of objection to their proposals, the local authority shall not proceed with their proposals unless all objections so made are withdrawn, or the Minister after a local inquiry has approved the proposals either with or without modification.

(4) Where a rural authority propose to carry out works for the sewerage of any part of their district, they shall, before adopting plans for the works, give notice of their proposals to the parish council of each parish to be served by the works, or, in the case of a parish not under a parish council, to the parish meeting.

NOTES TO SECTION 15.

Definitions—

" local authority," s. 1 (2).
" district," s. 1 (2).
" public sewer," s. 20 (2).
" street," s. 343 (1).
" land," s. 343 (1).
" owner," s. 343 (1).
" sewer," s. 343 (1).
" land drainage authority," s. 343 (1).
" rural authority," s. 1 (2).
" parish," s. 1 (2).

Construction of sewers.—Sub-s. (1) (i) substantially reproduces P.H.A. 1875, s. 16 (13 Halsbury's Statutes 633), with the important variation that the purposes for which sewers may be laid without the district of the local authority are no longer limited to the outfall or distribution of sewage. There is a general power in s. 274, *post*, to execute works " outside " a district, subject to the express provisions of the Act as to particular works, as to which see s. 16.

For the provisions of Part XII as to breaking open streets, see ss. 279–282, *post*.

It is not now required that the surveyor should report that it appears necessary before a public sewer is constructed in, on or over private land.

Compensation is payable to any person who suffers damage by reason of the exercise of these powers under s. 278, *post*, subject now to the set-off of any betterment (s. 278 (4)).

Sewage disposal works. Sub-s. (1) (ii) and (iii) substantially reproduce P.H.A. 1875, ss. 27 and 14 (13 Halsbury's Statutes 637, 632). The reference to appropriation is new, though the power already existed, and the power to contract to supply sewage to individuals is omitted.

The proviso to P.H.A. 1875, s. 27, is now included in a general provision in s. 31, *post*.

The Act does not authorise the construction of any works, other than public sewers, on land not purchased or leased by the local authority.

Protection of land drainage authority. Sub-ss. (2) and (3) are new and are designed to ensure proper co-operation between local authorities and land drainage authorities. Drainage authorities within the meaning of the Land Drainage Act, 1930 (23 Halsbury's Statutes 529–596), are drainage boards constituted, or to be treated as having been constituted, under that Act, or any other body of persons having power to make or maintain works for the drainage of land (s. 81, *ibid.*, p. 582). As to what is a " watercourse," see note to s. 262, *post*, p. 231.

Notice to parish. Sub-s. (4) reproduces in part L.G.A. 1894, s. 16 (3) (10 Halsbury's Statutes 788). See also s. 116 (4), *post*. The statutory notice must, however, now be given before the rural authority adopt plans, and not after they have been adopted. The former provision was of little practical value.

16. Notices to be given before constructing public sewers, or sewage disposal works, outside district.—(1) Where a local authority, in the exercise of their powers under the last preceding section, propose to construct any public sewer or sewage disposal works outside their district, the provisions of that section with respect to notices and appeals shall apply, and the authority shall, in addition to giving any notice required by that section—

(*a*) publish by advertisement in a local newspaper circulating in the district in which the proposed work is to be executed

a notice describing the nature of their proposals and specifying the land in or on which they propose to execute any work, and naming a place where a plan illustrative of their proposals may be inspected at all reasonable hours by any person free of charge; and

(*b*) serve, not later than the date of the publication of the advertisement, a copy of the notice on the local authority of the district in which the proposed work is to be executed.

(2) If, within twenty-eight days after the publication of the notice referred to in the preceding subsection, notice of objection to their proposals is served on the local authority either by the local authority of the district in which the proposed work is to be executed or by any owner or occupier of land directly affected by the proposals, they shall not proceed with their proposals, unless all objections so made are withdrawn, or the Minister, after a local inquiry, has approved the proposals, either with or without modification.

(3) The foregoing provisions of this section with respect to the publication and service of, and appeals against, such additional notices as are therein referred to shall not apply where the work which a local authority propose to carry out in the district of another local authority consists only of the construction of a public sewer in a highway repairable by the inhabitants at large and they have obtained the consent of that other local authority.

NOTES TO SECTION 16.

Definitions—

"local authority," s. 1 (2).
"public sewer," s. 20 (2).
"district," s. 1 (2).
"land," s. 343 (1).
"owner," s. 343 (1).
"sewage disposal works," s. 90 (5).

Length of notice. Under P.H.A. 1875, s. 32 (13 Halsbury's Statutes 639), notice by advertisement was required to be given three months before the commencement of the work. This was reduced to six weeks by P.H.A. 1925, s. 78 (13 Halsbury's Statutes 1151). This requirement has not been re-enacted, and if there is no objection work may be commenced immediately, subject of course to any necessary approval by the Minister.

Works in highway. Sub-s. (3) is new and avoids the necessity for public advertisements, etc., where no work is proposed other than the construction of a public sewer in a highway repairable by the inhabitants at large and the local authority in whose district the work is proposed to be executed have consented. This provision is new, and should obviate unnecessary waste of time. The highway authority, whether the consenting local authority or not, are protected by s. 279 (*post*) and the incorporated sections of the Waterworks Clauses Act, 1847.

General note. This section will simplify the procedure on giving notices while preserving the existing rights of objection and the right to have such objections determined by the Minister.

17. Adoption by local authority of sewers and sewage disposal works.—(1) Subject to the provisions of this section, a local authority may at any time declare that any sewer or sewage disposal works situate within their district, or serving their district or any part of their district, being a sewer or works the construction of which was not completed before the commencement of this Act, shall, as from such date as may be specified in the declaration, become vested in them:

Provided that an authority who propose to make a declaration under this subsection shall give notice of their proposal to the owner or owners of the sewer or works in question, and shall take no further action in the matter until either two months have elapsed without an appeal against their proposal being lodged under subsection (3) of this

section, or, as the case may be, until any appeal so lodged has been determined.

(2) Subject as aforesaid, the owner, or any of the owners, of any sewer or sewage disposal works with respect to which a local authority might have made a declaration under the preceding subsection may make an application to that authority requesting them to make such a declaration with respect thereto.

(3) An owner aggrieved by the proposal of a local authority to make a declaration under this section may appeal to the Minister within two months after notice of the proposal is served upon him, and an owner aggrieved by the refusal of a local authority to make such a declaration may appeal to the Minister at any time after receipt of notice of their refusal, or if no such notice is given to him, at any time after the expiration of two months from the making of his application.

On the hearing of an appeal under this subsection, the Minister may allow or disallow the proposal of the local authority or, as the case may be, make any declaration which the local authority might have made, and any declaration so made shall have the same effect as if it had been made by the authority:

Provided that the Minister may, if he thinks fit, specify conditions, including conditions as to the payment of compensation by the local authority, and direct that his declaration shall not take effect unless any conditions so specified are accepted.

(4) A local authority and, on an appeal, the Minister, in deciding whether a declaration should be made under this section, shall have regard to all the circumstances of the case and, in particular, to the following considerations:—

(*a*) whether the sewer or works in question is or are adapted to, or required for, any general system of sewerage or sewage disposal which the authority have provided, or propose to provide, for their district or any part thereof;

(*b*) whether the sewer is constructed under a highway, or under land reserved by a planning scheme for a street;

(*c*) the number of buildings which the sewer is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;

(*d*) the method of construction and state of repair of the sewer or works; and

(*e*) in a case where an owner objects, whether the making of the proposed declaration would be seriously detrimental to him.

(5) Any person who immediately before the making of a declaration under this section was entitled to use the sewer in question shall be entitled to use it, or any sewer substituted therefor, to the same extent as if the declaration had not been made.

(6) A declaration or an application under this section may be made with respect to a part only of a sewer.

(7) Where a local authority are about to take into consideration the question of making a declaration under this section with respect to a sewer or sewage disposal works situate within the district of another

local authority, or situate within their own district but serving the district, or any part of the district, of another local authority, they shall give notice to that other authority, and no declaration shall be made by them until either that other authority have consented thereto, or the Minister, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

In this subsection references to another local authority and their district include references to the council of a metropolitan borough and that borough.

(8) Where a local authority have made a declaration under this section with respect to a sewer or sewage disposal works situate within the district of another local authority or within a metropolitan borough, they shall forthwith give notice of the fact to that other authority or, as the case may be, to the council of that borough.

(9) A local authority shall not, except on the application of the authority, council, board or statutory undertakers concerned, make a declaration under this section with respect to any sewer or any part of a sewer, or any works, if that sewer or part of a sewer, or those works—

(*a*) is or are vested in another local authority, the council of a metropolitan borough, a county council (including the London County Council), or a joint sewerage board; or

(*b*) is or are vested in a railway company or dock undertakers and situate in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

NOTES TO SECTION 17.

Definitions—

"local authority," s. 1 (2) and s. 17 (9).
"sewer," s. 343 (1).
"sewage disposal works," s. 90 (5).
"district," s. 1 (2).
"owner," s. 343 (1).
"railway company," s. 343 (1).
"planning scheme," s. 343 (1).
"street," s. 343 (1).
"railway company," s. 343 (1).
"dock undertakers," s. 343 (1).

Vesting of sewers. Under the P.H.A. 1875, s. 13 (13 Halsbury's Statutes 631), all existing and future sewers within the district of a local authority vested in the local authority. Such sewers remain so vested (s. 20 (1)) and the provisions of the P.H.A. 1875 and the decisions thereunder must therefore be examined to determine whether or not a pipe constructed before the commencement of the Act is a sewer vested in the local authority. After the commencement of the Act sewers may be vested in the local authority by the procedure prescribed in this section and no other new sewers will vest in them except as provided by s. 20 (1) (*b*) and (*c*), *post*.

The distinction between drains and sewers remains and a drain may not be the subject of an order under this section.

Combined drains now become sewers (s. 20 (1) (*a*)).

Provision of new sewers. Under P.H.A. 1875, s. 15 (13 Halsbury's Statutes 632), a statutory duty was imposed upon local authorities to cause to be made such sewers as were necessary for effectually draining their district. This duty remains, see s. 14, *ante*. The P.H.A. 1875 did not impose on a local authority the duty of providing sewers, or sewage disposal works, in advance of the need for them, and for some years past it has been the practice of many authorities to seek for contributions from adjoining owners when sewers have been laid before the statutory obligation took effect. This practice is reasonable and is understood to have the approval of the Ministry. Serious difficulties have arisen, however, as a result of the vesting provisions of P.H.A. 1875, s. 13 (*supra*), and the definitions of sewer and drain in that Act in the case of the intensive development of large estates, local authorities being compelled not only to accept responsibility for new sewers, but to provide an adequate outfall. Various devices have been invented to escape this liability. The P.H.A. 1875, s. 150 (13 Halsbury's Statutes 686), and the Private Street Works Act, 1892 (9 Halsbury's Statutes 193), dealt with the provision of sewers in private streets. More recently attempts have been made by Local Act to charge upon

frontagers the cost of the provision of sewers in highways repairable by the inhabitants at large. See for example Romford U.D.C. Act, 1931, s. 62; Rugby Corporation Act, 1933, s. 67; Wigan Corporation Act, 1933, s. 30. This method has been the subject of consideration by a Joint Committee of the House of Lords and the House of Commons, who have reported (17th June, 1936, H. L. 123, H. C. 122) as to the terms on which such powers should be granted in future (see the Report, *post*, p. 447).

The provisions of the T. and C.P.A. 1932, s. 16 (25 Halsbury's Statutes 489), have also been applied to this purpose in an attempt not merely to defer development but also to extort contributions to the cost of outfall sewers.

However desirable it may be to throw these expenses on developers it should not be forgotten that the provision of an efficient sewerage system at the public expense was a primary purpose in the creation of sanitary authorities.

The Act approaches these problems in a new way. Sewers constructed for the development of new estates will be sewers within the meaning of the Act, but will not be "public sewers" for the maintenance of which (s. 23, *post*) the local authority is responsible, until a declaration of vesting is made under this section. Such sewers will be private sewers, and a right is given by s. 34, *post*, not only to owners and occupiers, but also to the owner of a private sewer, to drain into the public sewers. In this way, while vesting is postponed, and it is clear that it may be postponed even after the private street in which the sewer is constructed has become a highway repairable by the inhabitants, an efficient service is secured.

As to private sewers, see ss. 34–42, *post*.

As to nuisances, defects, etc., in private sewers, see ss. 39, 48, *post*.

Disposal works. By s. 17 (1) a declaration of vesting may be made in respect of sewage disposal works as well as in respect of sewers. Under P.H.A. 1875, s. 13 (13 Halsbury's Statutes 631), it was open to doubt whether disposal works vested under the words "sewers . . . together with all buildings, works, materials and things belonging thereto." The L.G.B. held the view that disposal works did not so vest. (See Lumley, 10th edn., p. 52, note (*a*)). It seems possible, however, that the Courts might take a different view. See *Minehead L.B.* v. *Luttrell*, [1894] 2 Ch. 178; 41 Digest 16, *124*; *Titterton* v. *Kingsbury Collieries, Ltd.* (1911), 75 J. P. 295; 41 Digest 35, *259*; *A.-G.* v. *Peacock*, [1926] Ch. 241; 41 Digest 6, *36*; and *Clark* v. *Epsom R.D.C.*, [1929] 1 Ch. 287; Digest Supp. In none of these cases was the point directly decided, and it may now never be decided, though cases may well arise in which local authorities desiring to take over private disposal works may have to consider whether they should make a declaration of vesting under this section or whether the works are already vested in them under P.H.A. 1875, s. 13.

Exceptions in P.H.A. 1875, s. 13. The vesting section of P.H.A. 1875 excepted certain sewers. The only instances which call for comment are sewers made for profit and sewers constructed by or transferred to another local authority. Note that new protection is given to statutory undertakers by sub-s. (9) (*b*).

Sewers made for profit. This exception originated in the belief that sewage disposal could be made a profitable undertaking. See the Sewage Utilisation Acts, 1865–1867, and the exception, which appeared in P.H.A. 1848, was no doubt designed to provide for the case of sewers made for profit in this sense. The words used in P.H.A. 1875, s. 13 (13 Halsbury's Statutes 631), have been interpreted in a much wider sense, as in *Minehead L.B.* v. *Luttrell* (*supra*); *Southstrand Estate Development Co.* v. *East Preston R.D.C.*, [1934] 1 Ch. 254; Digest Supp. The original purpose of the exception has become obsolete and the legal interpretation of the term as now understood does not appear to afford any logical reason for continuing the exception, and in cases where a real profit is made, *e.g.* by a contractual payment for use of the sewer, sub-s. (4) (*e*) and the compensation provisions give sufficient protection.

Sewers constructed by another authority. Under the proviso to P.H.A. 1875, s. 13 (13 Halsbury's Statutes 631), sewers within the district of a local authority which were constructed by or transferred to some other local authority, etc., vested in the authority who constructed them or to whom they had been transferred, subject to agreement. Sewers may now be constructed outside the district for purposes other than the outfall or distribution of sewage, but the exception is not reproduced. It is replaced by sub-s. (9), *post*, which in effect renders transfer possible only by agreement.

Declaration of vesting. Sub-s. (1) prescribes the new method of adopting sewers. Note that a declaration may be made with respect to a part only of a sewer (sub-s. (6)) but not of a disposal works. Two months' notice at least is necessary (see sub-s. (3)). The declaration should be by resolution. There appear to be no means whereby a local authority may divest themselves of a sewer, or otherwise dispose of it, except to another authority. Note that a declaration may be made in respect of a sewer outside the district.

The owner's application. Sub-s. (2) is important. If the local authority take no steps the owner of a sewer or disposal works may make an application requesting the authority to make a declaration. If the local authority refuse, or take no action, the owner may appeal to the Minister, who may make the declaration. There is a similar right of appeal if the owner objects to a proposal. Note

that appeals under the Act in most instances lie to a court of summary jurisdiction (see s. 300, *post*), but cf. s. 19 (1), *post*.

Appeals and compensation. Very wide powers are given to the Minister in the determination of appeals. He may not only make a declaration vesting a sewer in a local authority but may impose conditions, including conditions as to the payment of compensation. The words "including conditions as to the payment of compensation" are no doubt inserted to avoid the decision in *West Midlands Joint Electricity Authority* v. *Pitt*, [1932] 2 K. B. 1; Digest Supp.; and to empower the Minister to determine the quantum of compensation, for declarations of vesting cannot be the subject of compensation under s. 278, *post*, see sub-s. (3) of that section. There do not seem to be adequate reasons for the introduction of this anomaly into the law of compensation.

It is not very clear how these provisions will operate in practice. Any person other than the owner of the sewer who sustains damage by the operation of the declaration of vesting is in a precarious position, for he is expressly excluded from the general remedy under s. 278, and is not given a right of objection, a right of appeal, or a right of audience before the Minister.

Again, unless terms are agreed beforehand, when the transaction becomes a purchase under s. 15 (1) (iii), an owner who apprehends damage or loss *must* appeal against the local authority's proposal. There is no other road to compensation. In cases where there is nothing in dispute but price, therefore, the vesting must be delayed pending an appeal (see Proviso to sub-s. (1)).

Sub-s. (3) refers to the "hearing" of an appeal but does not require a local inquiry. Such an inquiry may be held under s. 318, *post*.

When is declaration appropriate. Sub-s. (4) instances certain matters which are to be taken into consideration by the local authority, or by the Minister on appeal, in determining whether a declaration should be made. The list is not intended to be exhaustive and other relevant matters may be taken into consideration.

Rights of previous owner. By sub-s. (5) any person who was entitled to use a sewer immediately before a declaration of vesting may continue to use it, or any sewer substituted therefor. These provisions are adopted from the second part of P.H.A. 1875, s. 13 (13 Halsbury's Statutes 632), which was applicable to cases of purchase by the local authority. They are not reproduced in s. 15 of the present Act. No doubt the provisions of s. 34 (1), *post*, achieve the same result in practice, but the reason for the differentiation is not obvious, and if a purchase is completed otherwise than by a declaration of vesting the point should be dealt with in the instrument of transfer.

Sewers of other authorities. Under sub-s. (7) it is made clear that a declaration of vesting may be made in respect of a sewer in another district, or serving the needs of another district. See sub-s. (9) as to the position when such sewers are vested in another local authority, or in statutory undertakers.

As to "drain" and "sewer" see Introductory Note to Part II, *ante*, p. 68.

18. Power of local authority to agree to adopt sewer or drain, or sewage disposal works, at future date.—(1) A local authority may agree with any person constructing, or proposing to construct, a sewer or sewage disposal works that, if the sewer or works is or are constructed in accordance with the terms of the agreement, they will upon the completion of the work, or at some specified date, or on the happening of some future event, declare the sewer or works to be vested in them, and any such agreement shall be enforceable against the authority by the owner or occupier for the time being of any premises served by the sewer or works.

(2) The foregoing provisions of this section shall apply also in relation to drains, but it shall be a condition of any agreement made under those provisions with respect to a drain that the declaration shall not be made before the drain has become a sewer.

(3) A local authority shall not make an agreement under this section with respect to a sewer or drain or sewage disposal works situate within the district of another local authority or within a metropolitan borough, until that other authority or, as the case may be, the council of that borough have consented thereto, or the Minister, on an application made to him, has dispensed with the necessity for such

consent, either unconditionally or subject to such conditions as he may think fit to impose.

Definitions—

NOTES TO SECTION 18.

"local authority," s. 1 (2).
"sewer," s. 343 (1).
"sewage disposal works," s. 90 (5).
"owner," s. 343 (1).
"premises," s. 343 (1).
"drain," s. 343 (1).

General note. This section is also new and is consequential on s. 17. The section enables the local authority to undertake at some future time, or on the happening of some future event, to make a declaration of vesting. In the absence of some such provision it is doubtful how far a local authority may fetter their discretion as to the exercise of their statutory powers at a future date. See *York Corporation* v. *Henry Leetham & Sons*, [1924] 1 Ch. 557; 21 Digest 274, *916*, and cases cited in argument in that case.

19. Power of local authority to require proposed sewer or drain to be so constructed as to form part of general system.—(1) Where a person proposes to construct a drain or sewer, the local authority may, if they consider that the proposed drain or sewer is, or is likely to be, needed to form part of a general sewerage system which they have provided or propose to provide, require him to construct the drain or sewer in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall, or otherwise, from the manner in which he proposes, or could otherwise be required by them, to construct it, and it shall be his duty to comply with the requirements of the local authority:

Provided that, if he is aggrieved by the requirements of the authority, he may within twenty-eight days appeal to the Minister who may either disallow the requirements or allow them with or without modification.

(2) An authority who exercise the powers conferred upon them by this section shall repay to the person constructing the drain or sewer the extra expenses reasonably incurred by him in complying with their requirements and, until the drain or sewer becomes a public sewer, they shall also from time to time repay to him so much of any expenses reasonably incurred by him in repairing or maintaining it as may be attributable to their requirements having been made and complied with, and, if any question arises as to the amount of any payment to be made to him under this subsection, that question may on his application be determined by a court of summary jurisdiction, or he may require it to be referred to arbitration.

(3) If any person who under this section has been required by a local authority to construct a drain or sewer in a particular manner constructs it otherwise than in accordance with the requirements of the authority, he shall be liable to a fine not exceeding fifty pounds, but without prejudice to the right of the authority to avail themselves of any other remedy.

(4) Nothing in this section shall apply in relation to so much of any drain or sewer as is proposed to be constructed by a railway company or dock undertakers in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

Definitions—

NOTES TO SECTION 19.

"local authority," s. 1 (2).
"drain," s. 343 (1).
"sewer," s. 343 (1).
"railway company," s. 343 (1).
"dock undertakers," s. 343 (1).

General note. This section reproduces and extends P.H.A. 1925, s. 40 (13 Halsbury's Statutes 1133). The extension is threefold. That section applied only to the construction of a sewer in a street not repairable by the inhabitants at large. The present section is not so limited, a distinction which may become important in the future. S. 40 applied only to proposed sewers. The present section applies also to drains. S. 40 enabled the local authority to require an increase of size only. The present section authorises requirements affecting the proposal as regards material, size of pipes, depth, fall, position, outfall or otherwise.

The local authority are to repay the extra cost and until the drain or sewer becomes a public sewer are to repay so much of the cost of maintenance as is attributable to their requirement.

Note that under this section, as under s. 17, *ante*, an appeal lies to the Minister.

20. Vesting of public sewers and sewage disposal works in local authority.—(1) All sewers within the meaning of the Public Health Act, 1875, and sewage disposal works which, by virtue of the provisions of that Act, were immediately before the commencement of this Act vested in a local authority, shall continue to be vested in them, and there shall also vest in them—

(*a*) all combined drains constructed before the commencement of this Act which, by virtue of the provisions of the Public Health Act, 1875, would immediately before the commencement of this Act have been vested in the local authority as sewers but for the provisions of some enactment or statutory scheme relating to the construction of combined drains, or of an order made under such an enactment or scheme;

(*b*) all sewers and sewage disposal works constructed by them at their expense, or acquired by them;

(*c*) all sewers constructed under any enactment relating to the sewering of private streets to the satisfaction of the council carrying that enactment into execution, except any such sewer which by virtue of section twenty-nine of the Local Government Act, 1929, will vest in the county council; and

(*d*) all sewers and sewage disposal works with respect to which a declaration of vesting made under the foregoing provisions of this Part of this Act has taken effect.

(2) Sewers which by virtue of this section continue to be, or become, vested in a local authority shall be known as, and are in this Act referred to as, "public sewers":

Provided that a sewer constructed by a local authority after the commencement of this Act for the purpose only of draining property belonging to them shall not be deemed to be a public sewer for the purposes of this Act until it has been declared to be a public sewer.

NOTES TO SECTION 20.

Definitions—

"sewer," s. 343 (1).
"sewage disposal works," s. 90 (5).
"local authority," s. 1 (2).
"enactment," s. 343 (1).

General note. This section defines "public sewers" and indicates the classes of pipes which are included in the term, and is the operative section vesting sewers and disposal works in the local authority. The most notable provision is that in sub-s. (1) (*a*) vesting existing "combined drains" in the local authority. See s. 24, *post*, as to maintenance.

The term "combined drain" does not appear in P.H.A.A. 1890, s. 19 (13 Halsbury's Statutes 831), which is repealed by this Act. Its mourners will be few. It applied only to drains from houses belonging to different owners and the difficulty of interpreting its language is equalled only by the difficulty of attempting to reconcile the authorities upon it.

While the present Act preserves the distinction between drains and sewers the liability of the local authority no longer depends on this distinction, and private

sewers include many pipes which would not have been repairable by the owners of the houses drained by them under P.H.A.A. 1890, s. 19.

See the Introductory Note to Part II, *ante*, p. 68, on this subject.

The proviso to sub-s. (2) will apply *e.g.* to the drainage of housing estates and public buildings.

21. Agreements with county council for use of highway drains and sewers for sanitary purposes, or to allow public sewers to be used for drainage of highways.—(1) Subject to the provisions of this section, a county council and a local authority may agree that—

(*a*) any drain or sewer which is vested in the county council in their capacity of highway authority may, upon such terms as may be agreed, be used by the local authority for the purpose of conveying surface water from premises or streets;

(*b*) any public sewer vested in the local authority may, upon such terms as may be agreed, be used by the county council for conveying surface water from roads repairable by the county council.

(2) Where a sewer or drain with respect to which a county council and a local authority propose to make an agreement under this section discharges, whether directly or indirectly, into the sewers or sewage disposal works of another sewerage authority, the agreement shall not be made without the consent of that other sewerage authority, who may give their consent upon such terms as they think fit.

(3) A county council or local authority shall not unreasonably refuse to enter into an agreement for the purposes of this section or insist unreasonably upon terms unacceptable to the other party, and a sewerage authority shall not unreasonably refuse to consent to the making of such an agreement or insist unreasonably upon terms unacceptable to either party thereto, and any question arising under this section as to whether or not any authority or council are acting unreasonably shall be referred to the Minister, whose decision shall be final.

(4) Nothing in this section shall be construed as limiting the rights of a county council under subsection (2) of section twenty-nine of the Local Government Act, 1929.

NOTES TO SECTION 21.

Definitions—

"local authority," s. 1 (2).
"drain," s. 343 (1).
"sewer," s. 343 (1).
"highway authority," s. 343 (1).
"surface water," s. 90 (1).
"premises," s. 343 (1).
"street," s. 343 (1).
"public sewer," s. 20.
"sewerage authority," s. 90 (1).

General note. This section is new and is designed to secure co-operation on reasonable terms between county councils and local authorities in relation to pipes vested in them respectively. Note that a sewerage authority not directly concerned with the matter may be compelled to receive the surface water the subject of the agreement. This principle has not been adopted in s. 28, *post*.

The section does not deal with drains or sewers constructed by the Minister of Transport for the drainage of roads in respect of which he is, by virtue of the Road Traffic Act, 1930, s. 57 (1) (23 Halsbury's Statutes 652), the highway authority (*a*).

22. Power of local authority to alter, or close, public sewers.—A local authority may alter the size or course of any public sewer vested in them, or may discontinue and prohibit the use of any such public

(*a*) This point will be met if the Trunk Roads Bill becomes law in its present form. See footnote on p. 124, *post*.

sewer, either entirely, or for the purpose of foul water drainage, or for the purpose of surface water drainage, but, before any person who is lawfully using the sewer for any purpose is deprived by the authority of the use of the sewer for that purpose, they shall provide a sewer equally effective for his use for that purpose and shall at their expense carry out any work necessary to make his drains or sewers communicate with the sewer so provided.

NOTES TO SECTION 22.

Definitions—

" local authority," s. 1 (2).
" public sewer," s. 20 (2).
" surface water," s. 90 (1).
" sewer," s. 343 (1).
" drain," s. 343 (1).

General note. This section substantially reproduces P.H.A. 1875, s. 18 (13 Halsbury's Statutes 634), with the exception of the Proviso, as to which see s. 31, *post*.

23. General duty of local authority to maintain public sewers.—It shall be the duty of every local authority to maintain, cleanse and empty all public sewers vested in them, subject, however, to their right under the next succeeding section to recover in certain cases the expenses, or a part of the expenses, incurred by them in maintaining a length of a public sewer.

NOTES TO SECTION 23.

Definitions—

" local authority," s. 1 (2).
" public sewers," s. 20 (2).

General note. This section substantially reproduces P.H.A. 1875, s. 19 (13 Halsbury's Statutes 634), the nuisance provisions, again, being left to s. 31, *post*.

Under L.G.A. 1929, s. 57 (3) (10 Halsbury's Statutes 922), the Minister could transfer public health functions to the county council if the local authority made defaults in discharging those functions. This power is no longer applicable to functions under this Act (3rd Sched., Part V, *post*), but see ss. 321, 322, *post*.

24. Power of local authority to recover cost of maintaining certain lengths of public sewers.—(1) Where a local authority have carried out work for the maintenance of any length of a public sewer, being a length to which this section applies, they may, subject to the provisions of this section, recover the expenses reasonably incurred by them in so doing from the owners for the time being of the premises served by that length of sewer in such proportions as the authority deem it fair to fix, regard being had by them to all the circumstances of the case, including the benefit derived by each owner from that length of sewer, the distance for which it is laid in land belonging to each owner, the point at which any work was necessary and the responsibility for any act or default which rendered the work necessary :

Provided that, unless in the opinion of the local authority immediate action is necessary, they shall, not less than seven days before commencing the work, give notice of the work which they propose to undertake to the owners of any premises known by them to be served by the length of sewer in question and consider any representations as to the need for, and reasonableness of, the proposed work which may be made to them by any of those owners within seven days of the service of the notice.

The expression " maintenance " in relation to any length of a public sewer to which this section applies includes repair, renewal and improvement, but in the case of improvement includes only such improvement as may be necessary to make that length of sewer adequate for draining the premises served by it immediately before the improvement was undertaken.

(2) If a local authority, in lieu of executing works of maintenance only to any length of a public sewer to which this section applies, improve or enlarge that length of sewer for the purpose of enabling it to serve additional premises, they shall be entitled to recover under the last preceding subsection from the owners of the premises served by the existing sewer such sum only as they might reasonably have expended in executing works of maintenance necessary to make that length of sewer adequate for draining the premises served by it immediately before the improvement or enlargement was undertaken, and for the purposes of any future works of maintenance that length of sewer shall cease to be a length of sewer to which this section applies.

(3) Any question arising under this section as to whether any length of sewer is one to which this section applies, as to the necessity for any work carried out by a local authority, as to the amount, or the reasonableness, of the expenses incurred by them, or as to the fairness of any division or apportionment of expenses made by them, may be determined by a court of summary jurisdiction either in proceedings taken by the local authority for the recovery of expenses incurred by them, or on the application of any owner concerned.

(4) This section applies to any length of a public sewer, being either—

(*a*) a length for the maintenance of which persons other than the local authority were, immediately before the commencement of this Act, responsible by virtue either of some enactment or statutory scheme relating to combined drains or of an order made under such an enactment or scheme, or of an agreement, being an enactment, scheme, order or agreement whereby the authority were entitled to require those persons to maintain that length of the sewer, or to abate any nuisance therein, or to contribute in proportions to, or indemnify the authority against, any expenses incurred by the authority in maintaining it ; or

(*b*) a length which was vested in the local authority immediately before the commencement of this Act, but was not constructed at their expense or at the expense of any authority whose successors they are, and which lies in a garden, court or yard belonging to any of the premises served by the sewer or common to any two or more of them, or lies under a building comprised in any of those premises, or lies in a roadway, footway, passage or alley which is used solely or mainly as a means of access to those premises or any of them, but is not a highway repairable by the inhabitants at large.

(5) So much of any local Act as relates to the liability for the repair of a single private drain connecting two or more houses with a public sewer is hereby repealed.

NOTES TO SECTION 24.

Definitions—

" local authority," s. 1 (2).
" public sewer," s. 20 (2).
" sewer," s. 343 (1).
" premises," s. 343 (1).
" enactment," s. 343 (1).
" statutory scheme," s. 343 (1).
" owner," s. 343 (1).
" local Act," s. 343 (1).

General note. This section is new and is designed to continue existing obligations to maintain combined drains and certain other pipes which are declared by the Act to be public sewers. The existing law relating to combined drains which ceases to be operative for the purposes of determining whether a pipe is a drain or sewer, or in whom a pipe is vested, will therefore be one test of the local authority's right to recover expenses of maintenance, subject to sub-s. (4) (*b*).

The right to recover is preserved also where the liability to maintain now exists under a local Act, a statutory scheme, or an agreement.

Sewers by Statute. The section does much more than preserve the *status quo*. Sub-s. (4) in effect amends and extends P.H.A.A. 1890, s. 19 (13 Halsbury's Statutes 831), and applies it to a great number of pipes which are now in law sewers maintainable by the local authority. In other words, the law is altered retrospectively, and the decisions in a large number of cases under P.H.A.A. 1890, s. 19, become obsolete, for example, *Jackson* v. *Wimbledon U.D.C.*, [1905] 2 K. B. 27; 41 Digest 39, *292*; *Wood Green U.D.C.* v. *Joseph*, [1907] 1 K. B. 182; 41 Digest 3, *9*; *Hill* v. *Aldershot Corporation*, [1933] 1 K. B. 259; Digest Supp., etc.

In many cases liabilities which have in the past been accepted by the local authority, or imposed upon the authority by judicial decision will be transferred to owners. The subsection will no doubt be closely examined to see if any loophole remains. Possibly the words "used solely or mainly as a means of access" may provide some difficulty in interpretation.

Determination of questions by court. An appeal from the determination of a court of summary jurisdiction lies to quarter sessions, under s. 301, *post*. The right given to an owner by sub-s. (3) should be brought to his notice by the local authority.

25. Buildings not to be erected without consent over sewer or drain shown on deposited map.—(1) Where plans of a building or of an extension of a building are, in accordance with building byelaws, deposited with a local authority, and it is proposed to erect the building or extension, as the case may be, over any sewer or drain which is shown on the map of sewers required by this Part of this Act to be kept deposited at the offices of the authority, the authority shall reject the plans, unless they are satisfied that in the circumstances of the particular case they may properly consent to the erection of the proposed building or extension, either unconditionally or subject to compliance with any requirements specified in their consent.

(2) Any question arising under the preceding subsection between a local authority and the person by whom or on whose behalf plans are deposited as to whether the site on which it is proposed to erect a building or an extension of a building is over any such sewer or drain as aforesaid, or whether, and if so upon what conditions, a consent ought to be given by the local authority, may on the application of that person be determined by a court of summary jurisdiction.

(3) If before the commencement of this Act a building has been erected over a sewer without such consent, if any, as under section twenty-six of the Public Health Act, 1875, was required at the date of the erection of the building, the local authority may by notice require the owner of the building to pull it down or to alter it in such manner as may be necessary.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.

NOTES TO SECTION 25.

Definitions—

"building byelaws," s. 343 (1).
"local authority," s. 1 (2).
"erect," s. 90 (2).
"plans," s. 90 (3).
"sewer," "drain," s. 343 (1).

General note. This section in effect reproduces P.H.A. 1875, s. 26 (13 Halsbury's Statutes 637), as extended to rural districts by S. R. & O., 1931, No. 580 (24 Halsbury's Statutes 262). Instead of being a simple penalty section, however, it is provided that the local authority shall reject building plans, notwithstanding that

they comply with the byelaws if it is proposed to erect or extend a building over any sewer or drain shown on the map of sewers, as to which see s. 32, *post*. If a sewer is not in fact shown on the map the authority have no jurisdiction to reject on this ground and the material parts of P.H.A. 1875, s. 26, are repealed by the Act.

For provisions of Part XII as to notices requiring the execution of works, see s. 290, *post*.

See also s. 64, *post*, as to rejection of building plans.

See note to previous section as to the builder's right under sub-s. (2).

26. Local authority to afford facilities for factories to drain into public sewers.—Subject to the provisions of this Act, a local authority shall give facilities for enabling manufacturers within their district to carry the liquids from their manufacturing processes into a public sewer vested in the authority:

Provided that nothing in this section shall be construed as requiring an authority—

(*a*) where separate sewers are provided for foul water and for surface water, to admit any such liquid into a sewer provided for surface water only; or

(*b*) to admit into their sewers any liquid which would prejudicially affect the sewers, or the treatment or disposal of the contents of the sewers, or would, from its temperature or otherwise, be prejudicial to health; or

(*c*) to give such facilities as aforesaid where their sewers or sewage disposal works are only sufficient for the requirements of their district,

or as affecting the provisions of the next succeeding section.

NOTES TO SECTION 26.

Definitions—

"local authority," s. 1 (2).
"surface water," s. 90.
"sewer," s. 343 (1).
"public sewer," s. 20 (2).
"prejudicial to health," s. 343 (1).
"district," s. 1 (2).

General note. This section substantially reproduces the Rivers Pollution Prevention Act, 1876, s. 7 (20 Halsbury's Statutes 319). Proviso (*a*) is new. As to proposed amendments of the law, see Second Interim Report, para. 45, pp. 33, 34, and p. 352, *post*. See also s. 27, *post*, and note to s. 34, *post*.

27. Certain matters not to be passed into public sewers.—(1) No person shall throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any drain or sewer communicating with a public sewer—

(*a*) any matter likely to injure the sewer or drain, or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or

(*b*) any chemical refuse or waste steam, or any liquid of a temperature higher than one hundred and ten degrees Fahrenheit, being refuse or steam which, or a liquid which when so heated, is, either alone or in combination with the contents of the sewer or drain, dangerous, or the cause of a nuisance, or prejudicial to health; or

(*c*) any petroleum spirit, or carbide of calcium.

(2) A person who contravenes any of the provisions of this section shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.

(3) In this section the expression "petroleum spirit" means any such—

(*a*) crude petroleum;

(*b*) oil made from petroleum, or from coal, shale, peat or other bituminous substances; or

(*c*) product of petroleum or mixture containing petroleum,

as, when tested in the manner prescribed by or under the Petroleum (Consolidation) Act, 1928, gives off an inflammable vapour at a temperature of less than seventy-three degrees Fahrenheit.

NOTES TO SECTION 27.

Definitions—

" public sewer," s. 20 (2).
" sewer," " drain," s. 343 (1).

General note. This section reproduces P.H.A.A. 1890, ss. 16, 17 (13 Halsbury's Statutes 830), and P.H.A. 1925, s. 41 (13 Halsbury's Statutes 1133).

For the test prescribed by the Petroleum (Consolidation) Act, 1928, see 13 Halsbury's Statutes 1188, 1192.

28. Communication of sewers with sewers of another sewerage authority.—(1) A sewerage authority may, by agreement with another sewerage authority, and with the approval of the Minister, cause any sewer vested in them to communicate with a sewer of, or to discharge into sewage disposal works of, that other authority in such manner, and on such terms, as may be agreed between the authorities:

Provided that, where any sewer of a sewerage authority discharges, whether directly or indirectly, into the sewers or sewage disposal works of another sewerage authority, the first mentioned authority shall not, without the consent of that other authority, enter into any agreement under this section for admitting further sewage to the sewer in question.

(2) This section extends to London so far as to enable agreements to be made thereunder between a sewerage authority in London and a sewerage authority outside London.

NOTES TO SECTION 28.

Definitions—

" sewerage authority," s. 90.
" sewer," s. 343 (1).
" London," s. 343 (1).

General note. This section reproduces in effect P.H.A. 1875, s. 28 (13 Halsbury's Statutes 638), omitting the power of the Minister to settle terms in case of dispute and adding words enabling agreements to be made between an authority in London and an authority outside London.

29. Powers of local authority as respects land held for treating sewage.—A local authority who hold any land for the purpose of treating the contents of their sewers may themselves manage it in such manner as they think fit, or may let it on lease for a period not exceeding twenty-one years, but every lease so granted shall contain provisions for ensuring the effective disposal, without the creation of a nuisance, of all sewage brought to the land.

NOTES TO SECTION 29.

Definitions—

" local authority," s. 1 (2).
" land," s. 343 (1).
" sewer," s. 343 (1).

General note. This section reproduces in effect P.H.A. 1875, s. 29 (13 Halsbury's Statutes 638).

30. Sewage, etc., to be purified before discharge into streams, canals, etc.—Nothing in this Part of this Act shall authorise a local authority

to construct or use any public or other sewer, or any drain or outfall, for the purpose of conveying foul water into any natural or artificial stream, watercourse, canal, pond or lake, until the water has been so treated as not to affect prejudicially the purity and quality of the water in the stream, watercourse, canal, pond or lake.

NOTES TO SECTION 30.

Definitions—

" local authority," s. 1 (2).
" sewer," " drain," s. 343 (1).

General note. This section reproduces in effect P.H.A. 1875, s. 17 (13 Halsbury's Statutes 633), but the language is wider and is not confined to the removal of " excrementitious or other foul or noxious matter."

31. Local authority not to create any nuisance.—A local authority shall so discharge their functions under the foregoing provisions of this Part of this Act as not to create a nuisance.

NOTES TO SECTION 31.

Definitions—

" local authority," s. 1 (2).
" functions," s. 343 (1).

General note. This section takes the place of provisions in P.H.A. 1875 relating to particular Acts and the prohibition of nuisance now applies generally to the whole of the provisions of Part II (including the provisions relating to buildings). For the corresponding provisions of P.H.A. 1875, see ss. 18, 19, and 27 (13 Halsbury's Statutes 634, 637).

32. Duty of local authority to keep map showing public sewers, etc.—(1) Subject to the provisions of subsection (3) of this section with respect to existing sewers, every local authority shall keep deposited at their offices, for inspection by any person at all reasonable hours free of charge, a map showing and distinguishing all sewers and drains within their district which are—

(*a*) public sewers;

(*b*) sewers with respect to which a declaration of vesting has been made under this Part of this Act but has not yet taken effect;

(*c*) sewers or drains with respect to which an agreement to make such a declaration in the future has been entered into.

(2) Where some of the public sewers in the district are reserved for foul water only or for surface water only, the map referred to in this section shall show also the purposes which each such sewer is intended to serve.

(3) Public sewers which were vested in the local authority before the commencement of this Act shall be shown on the said map if they are reserved for foul water only or for surface water only, but, save as aforesaid, it shall not be obligatory on the local authority to show on the map a public sewer which was vested in them before the commencement of this Act.

NOTES TO SECTION 32.

Definitions and references—

" local authority," s. 1 (2).
" sewer," s. 343 (1).
" public sewer," s. 20 (2).
" declaration of vesting," see s. 17.
" agreement to make . . . declaration," see s. 18.
" drain," s. 343 (1).
" surface water," s. 90 (1).

General note. By P.H.A. 1875, s. 20 (13 Halsbury's Statutes 634), urban authorities were empowered, but not required, to provide a map of " a system of sewerage for effectually draining their district." This power was extended to rural authorities by S. R. & O., 1931, No. 580 (24 Halsbury's Statutes 262). See also P.H.A. 1875 (Support of Sewers) A.A. 1883, s. 3 (3) (13 Halsbury's Statutes 798).

The present section requires all local authorities to keep a map, showing all public sewers and sewers in respect of which a declaration of vesting, or agreement to make such a declaration, exists but has not yet taken effect.

By sub-s. (3) certain sewers need not be shown, but it is desirable that they should be, see, *e.g.*, s. 25 (1). Obviously it would be unreasonable to impose obligations on builders and others in respect of sewers the existence of which cannot be known to them.

The provisions of ss. 321, 322, *post*, no doubt apply if the duty imposed by this section is not performed, but the local authority are alone able to furnish the necessary information.

33. Application of 27 & 28 Vict. c. 114 to works for supply of sewage.—Works for the supply of sewage to land for agricultural purposes shall be deemed to be an improvement of land authorised by the Improvement of Land Act, 1864, and the provisions of that Act shall apply accordingly.

NOTE TO SECTION 33.

"land" defined in s. 343 (1).
This section reproduces P.H.A. 1875, s. 31 (13 Halsbury's Statutes 630).
For the Improvement of Land Act, 1864, see 10 Halsbury's Statutes 127.

Private sewers and drains and cesspools.

34. Right of owners and occupiers within district to drain into public sewers.—(1) Subject to the provisions of this section, the owner or occupier of any premises, or the owner of any private sewer, within the district of a local authority shall be entitled to have his drains or sewer made to communicate with the public sewers of that authority, and thereby to discharge foul water and surface water from those premises or that private sewer:

Provided that nothing in this subsection shall entitle any person—

(*a*) to discharge directly or indirectly into any public sewer—

(i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or

(ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any enactment (including any enactment in this Act); or

(*b*) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—

(i) foul water into a sewer provided for surface water; or

(ii) except with the approval of the local authority, surface water into a sewer provided for foul water; or

(*c*) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.

(2) Subject to the provisions of Part XII of this Act with respect to the breaking open of streets, the owner or occupier of any premises may break open any street for the purpose of exercising his rights under this section and for the purpose of examining, repairing and renewing any drain or private sewer draining his premises into a public sewer.

(3) A person desirous of availing himself of the foregoing provisions of this section shall give to the local authority notice of his proposals, and at any time within twenty-one days after receipt thereof, the authority may by notice to him refuse to permit the communication to be made, if it appears to them that the mode of construction or condition of the drain or sewer is such that the making of the communication would be prejudicial to their sewerage system, and for the purpose of examining the mode of construction and condition of the

drain or sewer they may, if necessary, require it to be laid open for inspection:

Provided that any question arising under this subsection between a local authority and a person proposing to make a communication as to the reasonableness of any such requirement of the local authority, or of their refusal to permit a communication to be made, may on the application of that person be determined by a court of summary jurisdiction.

(4) Where the local authority do not under the next but one succeeding section elect themselves to make the communication, the person making it shall, before commencing the work, give reasonable notice to any person directed by the authority to superintend the execution of the work and afford him all reasonable facilities for superintending the execution thereof.

(5) Any person causing a drain or sewer to communicate with a public sewer without complying with, or in contravention of, any of the provisions of this section, or before the expiration of the period mentioned in subsection (3) of this section, shall be liable to a fine not exceeding twenty pounds and, whether proceedings have or have not been taken by them in respect of that offence, the local authority may close any communication made in contravention of any of those provisions, and recover from the offender any expenses reasonably incurred by them in so doing.

NOTES TO SECTION 34.

Definitions—

"owner," s. 343 (1).
"enactment," s. 343 (1).
"premises," s. 343 (1).
"private sewer," s. 343 (1).
"district," "local authority," s. 1 (2).
"drain," "sewer," s. 343 (1).
"public sewer," s. 20 (2).
"surface water," s. 90 (1).
"street," s. 343 (1).

The right to communicate. P.H.A. 1875, s. 21 (13 Halsbury's Statutes 634), gave all owners and occupiers an absolute right to cause their drains to empty into the sewers of the local authority for the district, subject to notice. This right has been restricted partly by judicial interpretation and partly by the effect of P.H.A.A. 1907, s. 38 (13 Halsbury's Statutes 924), where that section is in force, there being no appeal against the refusal of the surveyor to certify.

The authorities are somewhat inconsistent on two points (*a*) the right of a householder to discharge surface water into a foul-water sewer, and *vice versa*; (*b*) the right to discharge trade effluents. See, *e.g.* under (*a*), *Brown* v. *Dunstable* (*Mayor, etc. of*), [1899] 2 Ch. 378; 41 Digest 42, *306*; *Graham* v. *Wroughton*, [1901] 2 Ch. 451; 41 Digest 43, *312*; and cases cited in Lumley, 10th edn., p. 85; and under (*b*) *Peebles* v. *Oswaldtwistle U.D.C.*, [1897] 1 Q. B. 625; 41 Digest 19, *148*; *Eastwood* v. *Honley U.D.C.*, [1900] 1 Ch. 781; 41 Digest 43, *311*; *Brook* v. *Meltham U.D.C.*, [1908] 2 K. B. 780; 41 Digest 10, *70*.

The section is an attempt to clear away all these difficulties.

Trade effluents. Sub-s. 34 (1) (*a*) must be considered in connection with s. 26, *ante*. The law stated in the Act is intended to be temporary. Failing further legislation before 1st October, 1937, the position appears to be as follows:

(*a*) The owner or occupier of a factory has a right to have his drains made to communicate with the public sewer.

(*b*) This right does not entitle him to discharge trade effluents.

(*c*) The local authority are required to give facilities to enable him to discharge his trade effluent into a public sewer, subject to s. 26, Provisoes (*b*) and (*c*), *ante*.

(*d*) Certain matters may not be passed into public sewers in any event (s. 27, *ante*).

It is not clear whether manufacturers are in a better position or not.

Foul and surface water. Sub-s. (1) (*b*) and (*c*) are directed to the difficulties which have arisen where separate systems of sewers for foul and surface water exist. Foul water may not be discharged into surface-water sewers. Surface water

may only be discharged into foul-water sewers with the consent of the local authority. No pipe may discharge into a storm-water overflow sewer.

By s. 90 (1), *post*, "surface water" includes water from roofs, but it is not otherwise defined and the definition is not exclusive. It is clearly the intention that the differentiation between foul and surface water is to be made at the point of origin and not at the point of discharge into the public sewer.

Breaking open streets. For the provisions of Part XII as to breaking open streets, see s. 279, *post*. As to sub-s. (2), note s. 279 (2), *post*.

Refusal by local authority. Sub-s. (3) entitles the local authority to refuse to permit communication on certain limited grounds. An appeal lies ultimately to quarter sessions under s. 301, *post*. Note s. 300 (3), *post*.

35. Use of public sewers by owners and occupiers without district.—(1) Subject as hereinafter provided, the owner or occupier of any premises and the owner of any private sewer without the district of a local authority shall have the like rights with respect to drainage into the public sewers of that authority as he would have under the last preceding section if his premises or sewer were situate within their district, and the provisions of that section shall apply accordingly:

Provided that, without prejudice to their right under the last preceding section to prohibit the discharge of certain liquids or other matters into their sewers or into some of their sewers, or to refuse to permit a communication to be made on the ground of the defective construction or condition of a drain or sewer, and to require the drain or sewer to be laid open for inspection, the local authority may, in the case of a drain or sewer from premises outside their district, refuse to permit a communication to be made except upon such reasonable terms and conditions, including the making to them of a reasonable payment or reasonable periodical payments, as they think fit.

(2) If a person is aggrieved by any terms or conditions which a local authority seek to impose under the preceding subsection, the reasonableness thereof may on his application be determined by a court of summary jurisdiction, or he may require it to be referred to arbitration.

(3) Where a person avails himself of the provisions of this section, the local authority of the district in which his premises or sewer are or is situate may, if they think fit, defray, or contribute towards, any expenses incurred by him for the purpose, or any payment which he is required under this section to make to the other local authority.

NOTES TO SECTION 35.

Definitions—
"owner," s. 343 (1).
"premises," s. 343 (1).
"district," s. 1 (2).
"local authority," s. 1 (2).
"public sewer," s. 20 (1).
"private sewer," s. 343 (1).
"sewer," s. 343 (1).
"drain," s. 343 (1).

General note. This section in effect reproduces P.H.A. 1875, s. 22 (13 Halsbury's Statutes 635). The settlement of the amount of the periodical payment may be made a condition precedent to communication.

Sub-s. (3), which enables the local authority of the district in which the premises are situate to contribute, is new.

It is the duty of the local authority to inform those concerned of their right under sub-s. (2).

36. Right of local authority to undertake the making of communications with public sewers.—(1) Where under either of the two last preceding sections a person gives to a local authority notice of his proposal to have his drains or sewer made to communicate with a public sewer of that authority, the authority may, within fourteen days after

the receipt of the notice or, if any question arising under the notice requires to be determined by a court of summary jurisdiction or by an arbitrator, within fourteen days after the decision of that question, give notice to that person that they intend themselves to make the communication and, if after such a notice has been given to him, he proceeds himself to make the communication, he shall be liable to a fine not exceeding fifty pounds.

(2) Where a local authority have given such a notice as aforesaid, they shall have all such rights in respect of the making of the communication as the person desiring it to be made would have, but it shall not be obligatory on them to make the communication until the cost of the work, as estimated by their surveyor, has been paid to them, or security for payment has been given to their satisfaction.

(3) If any payment so made to the local authority exceeds the expenses reasonably incurred by them in the execution of the work, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, if any, made to them, they may recover the expenses, or the balance thereof, from the person for whom the work was done.

(4) For the purposes of this section, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

NOTES TO SECTION 36.

Definitions—
"local authority," s. 1 (2).
"drain," "sewer," s. 343 (1).
"public sewer," s. 20 (2).
"private sewer," s. 343 (1).

General note. P.H.A.A. 1890, s. 18 (13 Halsbury's Statutes 830), entitled an owner to call upon the local authority to execute the necessary works to cause a drain to communicate with a sewer. P.H.A. 1925, s. 38 (13 Halsbury's Statutes 1132), which is here reproduced in effect, when adopted gave the local authority, instead of the owner, the option of executing the works.

37. New buildings to be provided with any necessary drains, etc.—(1) Where plans of a building or of an extension of a building are, in accordance with building byelaws, deposited with a local authority, the authority shall reject the plans unless either the plans show that satisfactory provision will be made for the drainage of the building or of the extension, as the case may be, or the authority are satisfied that in the case of the particular building or extension they may properly dispense with any provision for drainage.

In this section the expression "drainage" includes the conveyance, by means of a sink and any other necessary appliance, of refuse water and the conveyance of rain water from roofs.

(2) Any question arising under the preceding subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether provision for drainage may properly be dispensed with, or whether any provision for drainage proposed to be provided ought to be accepted by the authority as satisfactory, may on the application of that person be determined by a court of summary jurisdiction.

(3) A proposed drain shall not be deemed to be a satisfactory drain for the purposes of this section unless it is proposed to be made, as the local authority, or on appeal a court of summary jurisdiction, may

require, either to connect with a sewer, or to discharge into a cesspool or into some other place:

Provided that, subject to the provisions of the next succeeding subsection, a drain shall not be required to be made to connect with a sewer unless—

(*a*) that sewer is within one hundred feet of the site of the building or, in the case of an extension, the site either of the extension or of the original building, and is at a level which makes it reasonably practicable to construct a drain to communicate therewith, and, if it is not a public sewer, is a sewer which the person constructing the drain is entitled to use; and

(*b*) the intervening land is land through which that person is entitled to construct a drain.

(4) Notwithstanding anything in proviso (*a*) to the last preceding subsection, a drain may be required to be made to connect with a sewer which is not within the distance mentioned in that proviso, but is otherwise such a sewer as is therein mentioned, if the authority undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, the drain as may be attributable to the fact that the distance of the sewer exceeds the distance so mentioned.

If any question arises as to the amount of any payment to be made to a person under this subsection, that question may on his application be determined by a court of summary jurisdiction, or he may require it to be referred to arbitration.

NOTES TO SECTION 37.

Definitions—

"local authority," s. 1 (2).
"building byelaws," s. 343 (1).
"plans," s. 90 (3).
"cesspool," s. 90.
"drain," "sewer," s. 343 (1).

Existing obligations of owners. These are as follows:

P.H.A. 1875, s. 23 (13 Halsbury's Statutes 635), deals with existing *houses*. See s. 39, *post*.

P.H.A. 1875, s. 25 (13 Halsbury's Statutes 636), makes it illegal to erect a new *house* unless a covered drain is constructed.

P.H.A.A. 1907, s. 49 (13 Halsbury's Statutes 930), requires the provision of proper sinks and drains for carrying off refuse water.

P.H.A. 1925, s. 36 (13 Halsbury's Statutes 1131), gives power to the local authority to do work in default.

Building. The present section is not limited to "houses" even in the extended meaning given to that word in P.H.A. 1875, s. 4 (13 Halsbury's Statutes 624), as amended, but extends to buildings and extensions of buildings of which plans are required by building byelaws to be deposited with the local authority. On the other hand the obligation to provide drainage is not absolute, but may be dispensed with by the local authority.

Appeal. There is an appeal against the decision of the local authority to a court of summary jurisdiction and ultimately to quarter sessions (s. 301, *post*). Note s. 300 (3), *post*.

Exemptions. The existing exemption (P.H.A. 1875, s. 25; 13 Halsbury's Statutes 636), from the obligation to connect with a sewer at a greater distance than 100 feet is reproduced and a new exemption is added, when the intervening land is not land through which the owner is legally (sub-s. (3) (*b*)) or physically (sub-s. (3) (*a*)) able to construct a drain.

Note that the authority may require a connection with a sewer not within 100 feet if they undertake to bear the additional expense.

As to provisions of sub-s. (3) *cf.* s. 90 (6), *post*.

Note that water from roofs is "surface water," see s. 90 (1).

38. Drainage of buildings in combination.—(1) Where a local authority might under the last preceding section require each of two or more buildings to be drained separately into an existing sewer,

but it appears to the authority that those buildings may be drained more economically or advantageously in combination, the authority may, when the drains of the buildings are first laid, require that the buildings be drained in combination into the existing sewer by means of a private sewer to be constructed either by the owners of the buildings in such manner as the authority may direct, or, if the authority so elect, by the authority on behalf of the owners:

Provided that a local authority shall not, except by agreement with the owners concerned, exercise the powers conferred by this subsection in respect of any building for the drainage of which plans have been previously passed by them.

(2) A local authority who make such a requirement as aforesaid shall fix the proportions in which the expenses of constructing, and of maintaining and repairing, the private sewer are to be borne by the owners concerned, or, in a case in which the distance of the existing sewer from the site of any of the buildings in question is or exceeds one hundred feet, the proportions in which those expenses are to be borne by the owners concerned and the local authority, and shall forthwith give notice of their decision to each owner affected.

An owner aggrieved by the decision of a local authority under this subsection may appeal to a court of summary jurisdiction; but, subject to any such appeal, any expenses reasonably incurred in constructing, or in maintaining or repairing, the private sewer shall be borne in the proportions so fixed, and those expenses, or, as the case may be, contributions thereto, may be recovered accordingly by the persons, whether the local authority or owners, by whom they were incurred in the first instance.

(3) A sewer constructed by a local authority under this section shall not be deemed to be a public sewer by reason of the fact that the expenses of its construction are in the first instance defrayed by the authority, or by reason of the fact that some part of those expenses is borne by them.

(4) So much of any local Act as empowers a local authority to require in certain cases the construction of a combined drain is hereby repealed.

NOTES TO SECTION 38.

Definitions—

"local authority," s. 1 (2).
"sewer," "drain," s. 343 (1).
"private sewer," s. 343 (1).
"owner," s. 343 (1).
"public sewer," s. 20 (2).
"local Act," s. 343 (1).

General note. This section, which was introduced into the Act during its consideration by Parliament, introduces a principle which had been applied to P.H.A.A. 1890, s. 19 (13 Halsbury's Statutes 831), by Local Act, *e.g.* Surrey County Council Act, 1931, s. 92. The section enables the local authority, instead of requiring each of two or more buildings to be connected by a separate drain to the public sewer, to require the buildings to be drained in combination by a private sewer. The material provisions of the local Acts referred to are repealed.

As to appeals, see s. 301, and note s. 300 (3), *post*.

39. Provisions as to drainage, etc., of existing buildings.—(1) If it appears to a local authority that in the case of any building—

(*a*) satisfactory provision has not been, and ought to be, made for drainage as defined in section thirty-seven of this Act; or

(*b*) any cesspool, private sewer, drain, soil pipe, rain water pipe, spout, sink or other necessary appliance provided for the building, is insufficient or, in the case of a private sewer or

drain communicating directly or indirectly with a public sewer, is so defective as to admit subsoil water; or

(*c*) any cesspool or other such work or appliance as aforesaid provided for the building is in such a condition as to be prejudicial to health or a nuisance; or

(*d*) any cesspool, private sewer or drain formerly used for the drainage of the building, but no longer used therefor, is prejudicial to health or a nuisance,

they shall by notice require the owner of the building to make satisfactory provision for the drainage of the building, or, as the case may be, require either the owner or the occupier of the building to do such work as may be necessary for renewing, repairing or cleansing the existing cesspool, sewer, drain, pipe, spout, sink or other appliance, or for filling up, removing or otherwise rendering innocuous the disused cesspool, sewer or drain.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.

(2) Subsections (3) and (4) of section thirty-seven of this Act shall apply in relation to any drain which a local authority require to be constructed under this section as they apply in relation to any such proposed drain as is mentioned in that section.

(3) Subject as hereinafter provided, the provisions of subsection (1) of this section, so far as they empower a local authority to take action in such cases as are mentioned in paragraphs (*a*) and (*b*) of the subsection, shall not apply in relation to a building which belongs to any statutory undertakers and is held or used by them for the purposes of their undertaking:

Provided that the exemption conferred by this subsection shall not extend to houses, or to buildings used as offices or showrooms, other than buildings so used which form part of a railway station.

NOTES TO SECTION 39.

Definitions—

" local authority," s. 1 (2).
" drainage," s. 37 (1).
" cesspool," s. 90 (1).
" private sewer," s. 343 (1).
" drain," s. 343 (1).
" prejudicial to health," s. 343 (1).
" house," s. 343 (1).
" owner," s. 343 (1).
" statutory undertakers," s. 343 (1).

General note. This section reproduces in effect P.H.A. 1875, ss. 23, 41 (13 Halsbury's Statutes 635, 642), as amended by P.H.A.A. 1907, s. 34 (13 Halsbury's Statutes 924), subject to bringing the law relating to existing buildings into line with the provisions of s. 37, *ante*, as to new buildings.

For provisions of Part XII as to notices requiring execution of works, see s. 290, *post*.

Note the substitution of " building " for " house."

40. Provisions as to soil pipes and ventilating shafts.—(1) No pipe for conveying rain water from a roof shall be used for the purpose of conveying the soil or drainage from any sanitary convenience.

(2) The soil pipe from every watercloset shall be properly ventilated.

(3) No pipe for conveying surface water from any premises shall be permitted to act as a ventilating shaft to any drain or sewer conveying foul water.

(4) If it appears to the local authority that there is on any premises a contravention of any provision of this section, they may by notice require the owner or the occupier of those premises to execute such work as may be necessary to remedy the matter.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.

NOTES TO SECTION 40.

Definitions—

" sanitary convenience," s. 90 (1).
" watercloset," s. 90 (1).
" sewer," " drain," s. 343 (1).
" premises," s. 343 (1).
" owner," s. 343 (1).
" surface water," s. 90 (1).

General note. This section reproduces in effect P.H.A.A. 1907, ss. 36, 37 (13 Halsbury's Statutes 924), and P.H.A. 1925, s. 42 (13 Halsbury's Statutes 1133). The right of appeal is more clearly stated.

For provisions of Part XII as to notices requiring execution of works, see s. 290, *post*.

41. In urban district notice to be given of intention to repair, reconstruct or alter underground drains.—(1) In a borough or urban district, and in a rural district or contributory place in which section thirty-nine of the Public Health Act, 1925, was in force immediately before the commencement of this Act, no person shall—

(*a*) except in case of emergency, repair, reconstruct, or alter the course of, any underground drain which communicates with a sewer, or with a cesspool or any other receptacle for drainage;

(*b*) where in a case of emergency any such works have been executed without notice, cover over the drain or sewer,

without giving to the local authority at least twenty-four hours' notice of his intention so to do.

(2) While any such work as aforesaid is being executed, all persons concerned shall permit the surveyor or sanitary inspector, or any other authorised officer, of the local authority to have free access to the work.

(3) A person who fails to comply with any requirement of this section shall be liable to a fine not exceeding five pounds.

(4) Nothing in this section shall apply in relation to—

(*a*) so much of any drain or sewer constructed by, or belonging to, a railway company as runs under, across, or along their railway; or

(*b*) so much of any drain or sewer constructed by, or belonging to, dock undertakers as is situate in or on land of the undertakers which is held or used by them for the purposes of their undertaking.

NOTES TO SECTION 41.

Definitions—

" contributory place," s. 343 (1).
" drain," " sewer," s. 343 (1).
" cesspool," s. 90 (1).
" local authority," s. 1 (2).
" authorised officer," s. 343 (1).
" railway company," s. 343 (1).
" land," s. 343 (1).
" dock undertakers," s. 343 (1).

General note. This section reproduces P.H.A. 1925, s. 39 (13 Halsbury's Statutes 1132), with the addition of " repair " to the operations of which notice must be given.

P.H.A. 1925, s. 39, was adoptive by urban district councils and could be applied to rural district councils by order of the Minister. It is repealed by this Act and there appear to be no means whereby these provisions can be adopted or applied after 1st October, 1937, if they are not adopted or applied before that date.

42. Power of local authority to alter drainage system of premises.—(1) Where any premises have a drain or sewer communicating with a public sewer or a cesspool, but that system of drainage, though sufficient for the effectual drainage of the premises, is not adapted to the general sewerage system of the district, or is in the opinion of the local authority otherwise objectionable, the authority may, at their own expense and on condition that they first provide in a position equally convenient to the owner of the premises a drain or sewer equally effectual for the drainage thereof and communicating with a public sewer, close the existing drain or sewer and fill up the cesspool, if any, and do any work necessary for that purpose.

(2) A local authority who propose to execute any work under this section shall give notice of their proposals to the owner of the premises in question and, if he is aggrieved thereby, as regards either the position or the sufficiency of the drain or sewer proposed to be provided for the drainage of the premises, he may appeal to a court of summary jurisdiction.

NOTES TO SECTION 42.

Definitions—

" premises," s. 343 (1).
" drain," " sewer," s. 343 (1).
" public sewer," s. 20 (2).
" cesspool," s. 90 (1).
" local authority," s. 1 (2).
" district," s. 1 (2).

General note. This section reproduces P.H.A. 1875, s. 24 (13 Halsbury's Statutes 636), with the following additions:

(*a*) The power is extended to pipes communicating with a cesspool.
(*b*) A right of appeal is given.
Note s. 300 (3) as to notifying the right of appeal.

Sanitary conveniences for buildings.

43. Closet accommodation to be provided for new buildings.—(1) Where plans of a building or of an extension of a building are, in accordance with building byelaws, deposited with a local authority, the authority shall reject the plans unless either the plans show that sufficient and satisfactory closet accommodation consisting of one or more waterclosets or earthclosets, as the authority may approve, will be provided, or the authority are satisfied that in the case of the particular building or extension they may properly dispense with the provision of closet accommodation:

Provided that—

(i) unless a sufficient water supply and sewer are available, the authority shall not reject the plans on the ground that the proposed accommodation consists of or includes an earthcloset or earthclosets; and

(ii) if the plans show that the proposed building or, as the case may be, extension is likely to be used as a factory, workshop or workplace in which persons of both sexes will be employed, or will be in attendance, the authority shall reject the plans, unless either the plans show that sufficient and satisfactory separate closet accommodation for persons of each sex will be provided, or the authority are satisfied that in the circumstances of the particular case they may properly dispense with the provision of such separate accommodation.

(2) Any question arising under this section between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether—

(*a*) the provision of closet accommodation, or, as the case may be, the provision of separate closet accommodation for persons of each sex, may properly be dispensed with; or

(*b*) the closet accommodation proposed to be provided is sufficient and satisfactory or, as the case may be, sufficient and satisfactory for persons of either sex; or

(*c*) the provision of an earthcloset in lieu of a watercloset should in any particular instance be approved,

may on the application of that person be determined by a court of summary jurisdiction.

NOTES TO SECTION 43.

Definitions—

" plans," s. 90 (3).
" building byelaws," s. 343 (1).
" local authority," s. 1 (2).
" closet," s. 90 (1).
" watercloset," s. 90. (1).
" earthcloset," s. 90 (1).
" sewer," s. 343 (1).
" factory," s. 343 (1).
" workshop," s. 343 (1).
" workplace," s. 343 (1).

General note. This section in effect combines P.H.A. 1875, s. 35 (13 Halsbury's Statutes 640), and P.H.A.A. 1907, s. 39 (2) (13 Halsbury's Statutes 925). See paragraphs 50 *et seq.* of the Second Interim Report, *infra*, p. 354. This and the sections which follow, dealing with different aspects of the same problem, need careful study. The law is not only codified, but is also brought into line with modern thought. In the present section, for example, the words in P.H.A. 1875, s. 36, authorising the use of a " privy and an ashpit furnished with proper doors and coverings," are omitted.

As to the proviso to sub-s. (1), cf. s. 90 (6), *post*.

44. Buildings having insufficient closet accommodation, or closets so defective as to require reconstruction.—(1) If it appears to a local authority—

(*a*) that any building is without sufficient closet accommodation; or

(*b*) that any closets provided for or in connection with a building are in such a state as to be prejudicial to health or a nuisance and cannot without reconstruction be put into a satisfactory condition,

the authority shall by notice to the owner of the building require him to provide the building with such closets or additional closets, or such substituted closets, being in each case either waterclosets or earthclosets, as may be necessary:

Provided that, unless a sufficient water supply and sewer are available, the authority shall not require the provision of a watercloset except in substitution for an existing watercloset.

(2) The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this section.

(3) This section shall not apply to a shop to which the Shops Act, 1934, applies, or to a factory or workshop to which section nine of the

Factory and Workshop Act, 1901, applies, or to a building to which the next but one succeeding section applies.

NOTES TO SECTION 44.

Definitions—

" local authority," s. 1 (2).
" closet," s. 90 (1).
" prejudicial to health," s. 343 (1).
" owner," s. 343 (1).
" watercloset," s. 90 (1).
" earth closet," s. 90 (1).
" factory," s. 343 (1).
" workshop," s. 343 (1).

General note. This section in effect reproduces P.H.A. 1875, s. 36 (13 Halsbury's Statutes 640), and P.H.A.A. 1907, s. 39 (3) (13 Halsbury's Statutes 925).

See note to s. 43.

As to when a sufficient water supply and sewer are available, see s. 90 (6), *post*.

For provisions of Part XII as to notices requiring the execution of works, etc. see s. 290, *post*.

45. Buildings having defective closets capable of repair.—(1) If it appears to a local authority that any closets provided for or in connection with a building are in such a state as to be prejudicial to health or a nuisance, but that they can without reconstruction be put into a satisfactory condition, the authority shall by notice require the owner or the occupier of the building to execute such works, or to take such steps by cleansing the closets or otherwise, as may be necessary for that purpose.

(2) In so far as a notice under this section requires a person to execute works, the provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to the notice.

(3) In so far as such a notice requires a person to take any steps other than the execution of works, he shall, if he fails to comply with the notice, be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the building.

(4) This section shall not apply to a shop to which the Shops Act, 1934, applies, or to a factory or workshop to which section nine of the Factory and Workshop Act, 1901, applies, or to a building to which the next succeeding section applies.

NOTES TO SECTION 45.

Definitions—

" local authority," s. 1 (2).
" closet," s. 90 (1).
" prejudicial to health," s. 343 (1).
" owner," s. 343 (1).
" factory," " workshop," s. 343 (1).

General note. This section in effect reproduces part of P.H.A. 1875, s. 36 (13 Halsbury's Statutes 640).

See note to s. 43.

For provisions of Part XII as to notices requiring the execution of works, etc., see s. 290, *post*.

For the Factory and Workshop Act, 1901, s. 9, see 8 Halsbury's Statutes 522.

46. Sanitary conveniences in factories, workshops and workplaces.—(1) In a borough or urban district, and in a rural district or contributory place in which section twenty-two of the Public Health

Acts Amendment Act, 1890, was in force immediately before the commencement of this Act, every building which is used as a factory, workshop or workplace shall be provided with sufficient and satisfactory accommodation in the way of sanitary conveniences, regard being had to the number of persons employed in, or in attendance at, the building and also, where persons of both sexes are employed or in attendance, with sufficient and satisfactory separate accommodation for persons of each sex, unless the local authority are satisfied that in the circumstances of the particular case the provision of such separate accommodation is unnecessary.

(2) If it appears to the local authority that the provisions of the preceding subsection are not complied with in the case of any building, they shall by notice require the owner or the occupier of the building to make such alterations in the existing conveniences, and to provide such additional conveniences, as may be necessary.

(3) The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this section.

(4) This section shall not apply to a shop to which the Shops Act, 1934, applies.

(5) Section nine of the Factory and Workshop Act, 1901 (which relates to the provision of sanitary conveniences in factories and workshops), shall not apply to any borough or urban district, or to any rural district or contributory place to which either section twenty-two of the Public Health Acts Amendment Act, 1890, or this section has been applied by order.

NOTES TO SECTION 46.

Definitions—

" contributory place," s. 343 (1).
" factory," s. 343 (1).
" workshop," s. 343 (1).
" workplace," s. 343 (1).
" sanitary convenience," s. 90 (1).
" owner," s. 343 (1).
" local authority," s. 1 (2).

General note. This section is intended to replace P.H.A.A. 1890, s. 22 (13 Halsbury's Statutes 833), which is an adoptive provision and where in force replaces P.H.A. 1875, s. 38 (13 Halsbury's Statutes 641), and the Factory and Workshop Act, 1901, s. 9 (8 Halsbury's Statutes 522).

The section does not replace the alternative code under the two last-mentioned provisions in districts where these remain in force or apply to a shop to which the Shops Act, 1934, applies.

For provisions of Part XII as to notices requiring the execution of works, etc. see s. 290, *post*.

For the Shops Act, 1934, see 27 Halsbury's Statutes 226.

47. Replacement of earthclosets, etc., by waterclosets at joint expense of owner and local authority.—(1) If a building has a sufficient water supply and sewer available, the local authority may, subject to the provisions of this section, by notice to the owner of the building require that any closets, other than waterclosets, provided for, or in connection with, the building shall be replaced by waterclosets, notwithstanding that the closets are not insufficient in number and are not prejudicial to health or a nuisance.

(2) A notice under this section shall either require the owner to execute the necessary works, or require that the authority themselves

shall be allowed to execute them, and shall state the effect of the next succeeding subsection.

(3) Where under the preceding subsection a local authority require that they shall be allowed to execute the works, they shall be entitled to recover from the owner one-half of the expenses reasonably incurred by them in the execution of the works, and, where they require the owner to execute the works, the owner shall be entitled to recover from them one-half of the expenses reasonably incurred by him in the execution thereof.

(4) Where the owner of a building proposes to provide it with a watercloset in substitution for a closet of any other type, the local authority may, if they think fit, agree to pay to him a part, not exceeding one-half, of the expenses reasonably incurred in effecting the replacement, notwithstanding that a notice has not been served by them under this section.

(5) The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under this section requiring a person either to execute works or to allow works to be executed, subject however to the modifications that no appeal shall lie on the ground that the works are unnecessary and that any reference in the said provisions to the expenses reasonably incurred in executing works shall be construed as a reference to one-half of those expenses.

NOTES TO SECTION 47.

Definitions—

" sewer," s. 343 (1).
" local authority," s. 1 (2).
" owner," s. 343 (1).
" closet," s. 90 (1).
" watercloset," s. 90 (1).
" prejudicial to health," s. 343 (1).

General note. This section in effect reproduces P.H.A.A. 1907, s. 39 (4) (13 Halsbury's Statutes 925). Under that subsection, however, the local authority are entitled to recover one-half the expenses if they themselves do the work in default of the owner, but are not bound to bear half the expenses if the owner complies with the notice.

As to when a building has a sufficient water supply and sewer available, see s. 90 (6).

Sub-s. (4) is new and enables the owner to initiate a replacement without the previous service of a notice.

For provisions of Part XII as to notices requiring the execution of works, etc., see s. 290, *post*.

Supplemental provisions as to drains, sanitary conveniences, cesspools, etc.

48. Power of local authority to examine and test drains, etc., believed to be defective.—(1) Where it appears to a local authority that there are reasonable grounds for believing that a sanitary convenience, drain, private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance, or that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water, they may examine its condition, and for that purpose may apply any test, other than a test by water under pressure, and, if they deem it necessary, open the ground.

(2) If on examination the convenience, drain, sewer or cesspool is found to be in proper condition, the authority shall, as soon as possible, reinstate any ground which has been opened by them and make good any damage done by them.

NOTES TO SECTION 48.

Definitions—

" local authority," s. 1 (2).
" sanitary convenience," s. 90 (1).
" drain," " sewer," s. 343 (1).
" private sewer," s. 343 (1).
" cesspool," s. 90 (1).
" prejudicial to health," s. 343 (1).

General note. This section in effect reproduces the provisions of P.H.A. 1875, s. 41 (13 Halsbury's Statutes 642), and P.H.A.A. 1907, ss. 34, 45 (13 Halsbury's Statutes 924, 928), relating to the testing of drains, etc.

For the provisions as to remedying defects discovered on examination, see s. 39, *ante*.

49. Rooms over closets of certain types, or over ashpits, etc., not to be used as living, sleeping or work rooms.—(1) A room which, or any part of which, is immediately over a closet, other than a watercloset or earthcloset, or immediately over a cesspool, midden or ashpit, shall not be occupied as a living room, sleeping room or workroom.

(2) Any person who, after seven days' notice from the local authority, occupies any room in contravention of the provisions of this section, or who permits any room to be so occupied, shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

NOTES TO SECTION 49.

Definitions—

" closet," s. 90 (1).
" watercloset," s. 90 (1).
" earthcloset," s. 90 (1).
" cesspool," s. 90 (1).
" local authority," s. 1 (2).

General note. This section reproduces P.H.A.A. 1890, s. 24 (13 Halsbury's Statutes 834), extended to rural districts by S. R. & O., 1931, No. 580 (24 Halsbury's Statutes 262).

50. Overflowing and leaking cesspools.—(1) If the contents of any cesspool soak therefrom or overflow, the local authority may by notice require the person by whose act, default or sufferance the soakage or overflow occurred or continued to execute such works, or to take such steps by periodically emptying the cesspool or otherwise, as may be necessary for preventing the soakage or overflow:

Provided that this subsection shall not apply in relation to the effluent from a properly constructed tank for the reception and treatment of sewage, if that effluent is of such a character, and is so conveyed away and disposed of, as not to be prejudicial to health or a nuisance.

(2) In so far as a notice under this section requires a person to execute works, the provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to the notice.

(3) In so far as such a notice requires a person to take any steps other than the execution of works, he shall, if he fails to comply with the notice, be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements.

NOTES TO SECTION 50.

Definitions—

" cesspool," s. 90 (1).
" local authority," s. 1 (2).
" prejudicial to health," s. 343 (1).

General note. This section reproduces with amendments P.H.A. 1875, s. 47 (3) (13 Halsbury's Statutes 646). That section applied only to urban districts. The new section is of general application. The prohibition in the new section is not absolute. The local authority have discretion whether to serve a notice or not and the reasonableness of their action may be tested on appeal.

Under P.H.A. 1875, s. 47, proceedings were to be instituted against the occupier. Under the new section proceedings are to be taken against the person by whose act, default or sufferance the soakage or overflow occurs.

For provisions of Part XII as to notices requiring the execution of works, etc., see s. 290, *post*.

51. Care of closets.—(1) The occupier of every building in, or in connection with, which a watercloset or an earthcloset is provided shall, in the case of a watercloset, cause the flushing apparatus thereof to be kept supplied with water sufficient for flushing and where necessary to be properly protected against frost, and shall, in the case of an earthcloset, cause it to be kept supplied with dry earth or other suitable deodorising material.

(2) A person who fails to comply with any of the provisions of this section shall be liable to a fine not exceeding forty shillings.

NOTES TO SECTION 51.

Definitions—

" watercloset," s. 90 (1).
" earthcloset," s. 90 (1).

General note. This section is new. It was formerly possible to deal with the supply of water to waterclosets by byelaw under P.H.A. 1890, s. 23 (13 Halsbury's Statutes 833).

Quære : As to " where " it is " necessary " to protect flushing apparatus against frost. A penal section might have been more precisely worded. The mere fact that the water freezes cannot, it is suggested, be sufficient to constitute an offence, though there appears to be an obligation to restore the supply immediately.

52. Care of sanitary conveniences used in common.—Where a sanitary convenience is used in common by the members of two or more families, the following provisions shall have effect :—

(*a*) if any person injures or improperly fouls the convenience, or anything used in connection therewith, or wilfully or by negligence causes an obstruction in the drain therefrom, he shall be liable to a fine not exceeding ten shillings ;

(*b*) if the convenience, or the approach thereto, is, for want of proper cleansing or attention, in such a condition as to be insanitary, such of the persons having the use thereof in common as are in default, or, in the absence of satisfactory proof as to which of them is in default, each of them, shall be liable to a fine not exceeding ten shillings, and to a further fine not exceeding five shillings for each day on which the offence continues after conviction therefor.

NOTES TO SECTION 52.

Definitions—

" sanitary convenience," s. 90 (1).
" drain," s. 343 (1).

General note. This section reproduces P.H.A.A. 1890, s. 21 (13 Halsbury's Statutes 832)

Provisions with respect to buildings.

53. Special provisions as to buildings constructed of materials which are short-lived, or otherwise unsuitable for use in permanent buildings.—(1) Where plans of a building are, in accordance with building byelaws, deposited with a local authority, and the plans show that it is proposed to construct a building of materials to which this section applies, or to place or assemble on the site a building constructed of such materials, the authority may, notwithstanding that the plans conform with the byelaws—

(i) reject the plans ; or

(ii) in passing the plans fix a period on the expiration of which the building must be removed and impose with respect to the use of the building such reasonable conditions, if any, as having regard to the nature of the materials used in its construction they deem appropriate, so, however, that no condition shall be imposed which conflicts with any provision applicable to the building under a planning scheme.

(2) If a building in respect of which plans ought under the building byelaws to have been deposited, but have not been deposited, appears to the authority to be constructed of such materials as aforesaid, the authority, without prejudice to their right to take proceedings in respect of any contravention of the byelaws, may fix a period on the expiration of which the building must be removed and, if they think fit, impose such conditions with respect to the use of the building as might have been imposed under the last preceding subsection upon the passing of plans for the building and, where they fix such a period, shall forthwith give notice thereof, and of any conditions imposed, to the owner of the building.

(3) A local authority may from time to time extend any period fixed, or vary any conditions imposed, under this section :

Provided that, unless an application in that behalf is made to them by the owner of the building in question, they shall not exercise their power of varying conditions except when granting an extension, or further extension, of the period fixed with respect to the building.

(4) Any person aggrieved by the action of a local authority under this section in rejecting plans, or in fixing or refusing to extend any period, or in imposing or refusing to vary any conditions, may appeal to a court of summary jurisdiction.

(5) The owner of any building in respect of which a period has been fixed under this section shall, on the expiration of that period or, as the case may be, of that period as extended, remove the building, and, if he fails to do so, the local authority shall remove it and may recover from him the expenses reasonably incurred by them in so doing, and, without prejudice to the right of the authority to exercise that power, he shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day during which the building is allowed to remain after the conviction.

(6) A person who uses a building in contravention of any condition imposed under this section, or who permits a building to be so used, shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.

(7) A local authority may by their building byelaws provide that the provisions of this section shall apply to any materials specified in the byelaws as being materials which are, in the absence of special care, liable to rapid deterioration, or are otherwise unsuitable for use in the construction of permanent buildings.

(8) The provisions of this section shall apply in relation to any extension of an existing building as they apply in relation to a new building.

NOTES TO SECTION 53.

Definitions—

" building byelaws," s. 343 (1).
" local authority," s. 1 (2).
" planning scheme," s. 343 (1).
" plans," s. 90 (3).
" owner," s. 343 (1).

Deposit of plans. P.H.A.A. 1907, s. 27 (13 Halsbury's Statutes 920), exempted from control any building expressly exempt from the operation of the Public Health Acts or the local byelaws. Many small structures, such as tool sheds and small garages, are exempt, if at specified distances from another building, under the Model Byelaws, which are in force in most districts, but site plans are required to be deposited in order that the exemption may be established. In future it is not intended that the local authority shall interfere unless plans are required to be submitted. The courts will doubtless be relieved from the consideration of such propositions as were advanced in *Whitehorn* v. *Smelt* (1910), 74 J. P. 102; 38 Digest 188, *263*.

Materials to which the section applies. The section does not prescribe the materials to which it applies. See sub-s. (7) which authorises the local authority to apply the section by byelaw to materials of a certain class.

Conditions. Subject to the right of appeal the power of the local authority to impose reasonable conditions, consistent with any planning scheme in operation, is unrestricted. Under P.H.A.A. 1907, s. 27 (13 Halsbury's Statutes 920), conditions could only be imposed dealing with sanitary arrangements, ingress and egress, protection against fire, and period. No doubt conditions, to be reasonable, must be limited to the scope of the local authority's powers under the Public Health Acts.

Failure to deposit plans. Sub-s. (2) remedies one of the defects in s. 27 (*supra*). If plans ought to be but are not deposited, the local authority, without prejudice to their right to take proceedings, may fix a period and impose conditions.

Extension of time.—By sub-s. (3) express power is given to a local authority to extend the period fixed. It has generally been assumed, in the administration of P.H.A.A. 1907, s. 27 (*supra*), that such a power existed.

Byelaws. The materials to which this section applies, as already noted, are to be fixed by byelaw. It is the intention of the Act (see s. 68 (*b*), *post*) that new byelaws shall be made by every local authority within three years from the 31st July, 1936, but it will be obvious that until new byelaws are made the present section is of no effect. It is therefore provided (s. 346 (1), Proviso (*e*), *post*) that the repeal of P.H.A.A. 1907, s. 27 (*supra*), shall not take effect until (*a*) the date when new byelaws take effect or (*b*) 1st October, 1938, whichever is the earlier. See also s. 68, *post*.

General note. The Second Interim Report, paras. 71–75, pp. 363–4, *post*, contains a full discussion of P.H.A.A. 1907, s. 27 (*supra*), and the reasons which led the Committee to advise an alteration in the law.

Appeal. Note the provisions of s. 300 (3), *post*, as to notifying applicants of their right of appeal.

54. Power to prohibit erection of buildings on ground filled up with offensive material.—(1) Where plans for the erection or extension of a building are, in accordance with building byelaws, deposited with a local authority, and the site on which it is proposed to erect the building or the extension, as the case may be, is ground which has been filled up with any material impregnated with fæcal or offensive animal or offensive vegetable matter, or is ground upon which any such material has been deposited, the authority shall reject the plans, unless they are satisfied that the material in question has been removed, or has become or been rendered innocuous.

(2) Any question arising under this section between a local authority and the person by whom or on whose behalf plans are deposited as to whether the local authority ought to approve the erection of the building or of the extension, as the case may be, on the site in question may on the application of that person be determined by a court of summary jurisdiction.

NOTES TO SECTION 54.

Definitions—

" plans," s. 90 (3).
" erection of a building," s. 90 (2).
" building byelaws," s. 343 (1).
" local authority," s. 1 (2).

General note. This section in effect reproduces P.H.A.A. 1890, s. 25 (13 Halsbury's Statutes 834). An appeal lies from a court of summary jurisdiction to quarter sessions under s. 301, *post*. It is not easy to follow the distinction between " plans of a building " (s. 53) and " plans for the erection or extension of a building " in this section.

It is the duty of the local authority to inform applicants of their right under sub-s. (2).

55. Means of access to houses for removal of refuse, etc.—(1) Where plans for the erection or extension of a house are, in accordance with building byelaws, deposited with a local authority, the local authority shall reject the plans, unless it is shown to them that satisfactory means of access from the house to a street for the purpose of the removal of refuse and fæcal matter can, and will, be provided:

Provided that this subsection shall not apply in relation to houses erected in accordance with plans and specifications approved by the Minister in connection with housing operations to which section ninety-nine of the Housing Act, 1925, applies.

Any question arising under this subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether any means of access proposed to be provided can be provided and ought to be accepted by the authority as satisfactory may on the application of that person be determined by a court of summary jurisdiction.

(2) It shall be unlawful for any person except with the consent of the local authority to close or obstruct the means of access by which refuse or fæcal matter is removed from any house, and the local authority in giving their consent may impose such conditions as they think fit with respect to the improvement of any alternative means of access, or the substitution of other means of access.

Any person who contravenes the provisions of this subsection shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

(3) Any byelaws made by a local authority, whether under section twenty-three of the Public Health Acts Amendment Act, 1890, or under a local Act, with respect to the provision of means of access for the removal of house refuse shall cease to have effect, and so much of any local Act as authorises the making of such byelaws is hereby repealed.

NOTES TO SECTION 55.

Definitions—

" plans," s. 90 (3).
" building byelaws," s. 343 (1).
" local authority," s. 1 (2).
" house," s. 343 (1).
" street," s. 343 (1).
" local Act," s. 343 (1).

Means of access. This expression is not defined. It is no doubt intended to secure the provision of secondary means of access so as to avoid the removal of the matters referred to through living rooms. See General Note, *infra*.

Housing Act, 1925, s. 99. This section (13 Halsbury's Statutes 1057), as amended by the Housing Act, 1930, s. 63 (2) and Fifth Schedule, will be replaced on 1st January, 1937, by the Housing Act, 1936, s. 138, which provides—

138. Relaxation of building byelaws.—(1) Where in connection with housing operations to which this section applies new buildings are constructed, or public streets and roads are laid out and constructed, in accordance with plans and specifications approved by the Minister, the provisons of any building byelaws shall not, so far as they are inconsistent with the plans and specifications so approved, apply to those buildings and streets, and, notwithstanding the provisions of any other Act, any public street or road laid out and constructed in accordance with those plans and specifications may be taken over and thereafter maintained by the local authority.

(2) Where the Minister has approved plans and specifications which in certain respects are inconsistent with the provisions of any building byelaws in force in the district in which the works are to be executed, any proposals for the erection therein of houses and the laying out and construction of new streets which do not form part of housing operations to which this section applies may, notwithstanding those provisions, be carried out if the local authority are, or, on appeal the Minister is, satisfied that they will involve departures from such provisions only to the like extent as in the case of the plans and specifications so approved, and that, where such plans and specifications have been approved subject to any conditions, the like conditions will be complied with in the case of proposals to which this sub-section applies.

(3) As respects the administrative county of London, the Minister shall not approve for the purposes of sub-section (1) of this section any plans and specifications inconsistent with the provisions of any building byelaws in force in the county except after consultation with the London County Council on the general question of the relaxation of such provisions in connection with housing operations.

(4) In the application of sub-section (2) of this section to the administrative county of London, references to the local authority shall be construed, in relation to matters within the jurisdiction of the London County Council, as references to them, and, in relation to other matters, as references to the Common Council of the City of London or the council of a metropolitan borough as the case may be.

(5) The housing operations to which this section applies are housing operations carried out under this Act by a local authority or county council, or by a housing association or housing trust.

P.H.A.A. 1890, s. 23. This section (13 Halsbury's Statutes 833) authorised the making of byelaws requiring secondary means of access "in connexion with the laying out of new streets." The section and byelaws thereunder are now repealed (sub-s. (3)).

General note. In many Local Acts the obligation to provide access is not limited to the two purposes stated in this section. It is not clear whether this section requires secondary access or merely that there should be adequate access to a street sufficient for the purposes mentioned. It is the duty of the local authority to inform applicants of their right under the proviso to sub-s. (1).

56. Yards and passages to be paved and drained.—(1) If any court or yard appurtenant to, or any passage giving access to, a house is not so formed, flagged, asphalted, or paved, or is not provided with such works on, above, or below its surface, as to allow of the satisfactory drainage of its surface or subsoil to a proper outfall, the local authority may by notice require the owner of the house to execute all such works as may be necessary to remedy the defect.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.

(2) The foregoing provisions of this section shall apply in relation to any court, yard or passage which is used in common by the occupiers of two or more houses, but is not a highway repairable by the inhabitants at large.

(3) Any byelaws made by a local authority, whether under section twenty-three of the Public Health Acts Amendment Act, 1890, or under a local Act, with respect to the paving of yards and open spaces in connection with houses shall cease to have effect, and so much of any local Act as authorises the making of such byelaws is hereby repealed.

NOTES TO SECTION 56.

Definitions—

"house," s. 343 (1).
"local authority," s. 1 (2).
"owner," s. 343 (1).
"local Act," s. 343 (1).

General note. This section in effect reproduces P.H.A.A. 1907, s. 25 (13 Halsbury's Statutes 920), as amended by P.H.A. 1925, s. 20 (13 Halsbury's Statutes 1121).

For provisions of Part XII as to notices requiring execution of works, see s. 290, *post*.

57. Entrances to certain courts not to be closed or narrowed.—(1) Except with the consent of the local authority, no entrance to any court or yard on which two or more houses front or abut shall be closed, narrowed, reduced in height or otherwise altered so as to impede the free circulation of air through the entrance, nor, except with such consent, shall any permanent structure be erected so as to impede the free circulation of air through any entrance to any such court or yard.

(2) A local authority in giving a consent under this section may impose such conditions as they think fit with respect to the provision of other openings or means of access, or other means for securing free circulation of air throughout the court or yard.

(3) Any person aggrieved by the refusal of a local authority to give a consent under this section, or by any conditions imposed by them, may appeal to a court of summary jurisdiction.

(4) Any person who contravenes the provisions of this section shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

NOTES TO SECTION 57.

Definitions—

"local authority," s. 1 (2).
"house," s. 343 (1).

General note. This section in effect reproduces P.H.A.A. 1907, s. 26 (13 Halsbury's Statutes 920), but omits the second paragraph of that section, on the ground (see Second Interim Report, p. 90 and p. 398, *post*, sub "clause 56") that the language of that paragraph is so vague as to be almost impossible to apply.

The words "on which any two or more houses front or abut" are new.

S. 26 was only operative when applied by an Order of the Minister. The present section is of general application.

Note s. 300 (3) as to notifying the right of appeal.

58. Dangerous or dilapidated buildings and structures.—(1) If it appears to a local authority that any building or structure, or part of a building or structure—

(*a*) is in such a condition, or is used to carry such loads, as to be dangerous to persons in the building or any adjoining building, or on the premises on which the building or structure stands or any adjoining premises; or

(*b*) is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood,

the authority may apply to a court of summary jurisdiction, and the court may—

(i) in the first mentioned case—

(*a*) where danger arises from the condition of the building or structure, make an order requiring the owner thereof to execute such work as may be necessary to obviate the danger or, if he so elects, to demolish the building or structure, or any dangerous part thereof, and remove any rubbish resulting from the demolition;

(*b*) where danger arises from overloading of the building or structure, make an order restricting the use thereof

until a court of summary jurisdiction, being satisfied that any necessary works have been executed, withdraws or modifies the restriction;

(ii) in the second mentioned case, make an order requiring the owner of the building or structure to execute such works of repair or restoration or, if he so elects, to take such steps by demolishing the building or structure or any part thereof and removing any rubbish resulting from the demolition, as may be necessary for remedying the cause of complaint.

(2) If the person on whom an order is made under subsection (1) of this section for the execution of works, or the demolition of a building or structure or of any part of a building or structure, and the removal of any rubbish resulting from the demolition, fails to comply with the order within the time therein specified, the local authority may execute the order in such manner as they think fit and may recover the expenses reasonably incurred by them in so doing from the person in default, and without prejudice to the right of the authority to exercise those powers, he shall be liable to a fine not exceeding ten pounds.

(3) If a local authority are satisfied that any building or structure, or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous to persons in the building or any adjoining building, or on the premises on which the building or structure stands or any adjoining premises, and that immediate action should be taken for the protection of those persons or any of them, the authority may shore up or fence off the building or structure, and may recover from the owner thereof the expenses of any action reasonably taken by them under this subsection.

NOTES TO SECTION 58.

Definitions—

"local authority," s. 1 (2).
"premises," s. 343 (1).
"owner," s. 343 (1).

Persons in the building, etc. This section is designed to deal with dangerous structures, and not with structures dangerous to persons in the street but not in themselves in a dangerous condition. The section is intended to reproduce in modern form the effect of the Towns Improvement Clauses Act, 1847, ss. 75–8 (13 Halsbury's Statutes 544–546), which were applied to urban districts by P.H.A. 1875, s. 160 (13 Halsbury's Statutes 691), together with certain provisions which have been granted in Local Acts, *e.g.* sub-s. (1) (*b*).

Procedure. The local authority apply to a court of summary jurisdiction for an order. There is an appeal to quarter sessions under s. 301, *post*. In cases where work is ordered to be done the owner is given the option of demolishing the premises.

59. Exits, entrances, etc., in the case of certain public, and other buildings.—(1) Where plans of a building or of an extension of a building are, in accordance with building byelaws, deposited with a local authority, and the building or, as the case may be, the building as extended will be a building to which this section applies, the authority shall reject the plans unless they show that the building, or, as the case may be, the building as extended, will be provided with such means of ingress and egress and passages or gangways as the authority deem satisfactory, regard being had by them to the purposes for which the building is intended to be, or is, used and the number of persons likely to resort thereto at any one time:

Provided that any question arising under this subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the means of ingress or egress or passages

or gangways already existing, or proposed to be provided, ought to be accepted by the authority as satisfactory may on the application of that person be determined by a court of summary jurisdiction.

(2) If it appears to a local authority that any building to which this section applies is not provided with such means of ingress and egress and passages or gangways as the authority deem satisfactory, regard being had by them to the purposes for which the building is used and the number of persons likely to resort thereto at any one time, the authority shall by notice require the owner of the building to execute such work and make such provision in regard to the matters aforesaid as may be necessary.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.

(3) If the authority are satisfied that the safety of the public requires that immediate action should be taken in the case of any building as respects which they have given a notice under the last preceding subsection, they may apply to a court of summary jurisdiction and the court may make such temporary order as it thinks fit for the closing of the building to, or for restricting its use by, the public.

(4) The person having the control of any building to which this section applies shall take steps to secure that the means of ingress and egress and the passages and gangways shall, while persons are assembled in the building, be kept free and unobstructed, except in so far as the local authority may otherwise approve, and, if he fails to do so, shall be liable to a fine not exceeding twenty pounds.

(5) This section applies to—

(*a*) any theatre, and any hall or other building which is used as a place of public resort;

(*b*) any restaurant, shop, store or warehouse to which members of the public are admitted and in which more than twenty persons are employed;

(*c*) any club required to be registered under the provisions of the Licensing (Consolidation) Act, 1910;

(*d*) any school not exempted from the operation of building byelaws; and

(*e*) subject as hereinafter provided, any church, chapel or other place of public worship:

Provided that this section does not apply to a private house to which members of the public are admitted occasionally or exceptionally, or to a building which was used as a church, chapel or other place of public worship immediately before the date when section thirty-six of the Public Health Acts Amendment Act, 1890, or a corresponding provision in a local Act, came into operation in the district or contributory place, or which in a district or contributory place where neither that section, nor any such corresponding provision, ever came into operation was so used immediately before the commencement of this Act.

NOTES TO SECTION 59.

Definitions—

"plans," s. 90 (3).
"building byelaws, s. 343 (1).
"local authority," s. 1 (2).
"house," s. 343 (1).
"contributory place," s. 343 (1).
"school," s. 343 (1).
"local Act," s. 343 (1).

General note. This section in effect reproduces P.H.A.A. 1890, s. 36 (13 Halsbury's Statutes 838), as extended by numerous Local Acts.

For provisions of Part XII as to notices requiring the execution of works, see s. 290, *post*.

Clubs. Clubs required to be registered under the Licensing (Consolidation) Act, 1910, s. 91 (9 Halsbury's Statutes 1036), are—

"every club which occupies a house or part of a house which is habitually used for the purposes of a club, and in which any intoxicating liquor is supplied to members or their guests, or any other premises which are habitually so used, and in which any intoxicating liquor is so supplied."

"Club" is not defined.

Schools. Schools erected by local education authorities, the plans of which are approved by the Board of Education, are exempted from building byelaws (Education Act, 1921, s. 166 (7 Halsbury's Statutes 211)).

Concurrent jurisdiction. In addition to this power to require such means of ingress and egress as the local authority, on consideration of plans, deem satisfactory having regard to the purpose of the building and the number of persons "likely" to resort to it, other powers exist in respect of some of the buildings mentioned. For example, theatres, cinematograph theatres, and premises used for public music and dancing must be licensed, and the licensing authority properly considers ingress and egress before deciding the number of persons to be permitted to resort to it at any one time. The licensing authorities are—

Theatres—The county or county borough council, with power to delegate, Theatres Act, 1843 (19 Halsbury's Statutes 335–341), L.G.A. 1888, s. 7 (10 Halsbury's Statutes 691).

Cinematograph Theatres—the county or county borough council, Cinematograph Act, 1909 (19 Halsbury's Statutes 352–355).

Music and Dancing—Within 20 miles of London or Westminster, the county or county borough council (Music and Dancing Licences (Middlesex) Act, 1894, 19 Halsbury's Statutes 349, Home Counties (Music and Dancing) Licensing Act, 1926, 19 Halsbury's Statutes 363; elsewhere, if P.H.A.A. 1890, s. 51 (13 Halsbury's Statutes 843), has been adopted, the licensing justices.

In addition some authorities, principally county and county borough councils, have power by Local Act to control premises used for boxing entertainments.

60. Means of escape from fire in the case of certain high buildings.—(1) If it appears to a local authority that any building or proposed building which is, or will be, a building to which this section applies is not, or will not be, provided with such means of escape in case of fire as the local authority deem necessary from each storey of which the floor is more than twenty feet above the surface of the street or ground on any side of the building, the authority shall by notice require the owner of the building, or, as the case may be, the person proposing to erect the building, to execute such work or make such other provision in regard to the matters aforesaid as may be necessary.

(2) In so far as a notice under the preceding subsection requires a person to execute works, the provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to that notice.

(3) In so far as such a notice requires a person to make provision otherwise than by the execution of works, he shall, if he fails to comply with the notice, be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements.

(4) This section applies to any building which exceeds two storeys in height and in which the floor of any upper storey is more than twenty feet above the surface of the street or ground on any side of the building and which—

(*a*) is let in flats or tenement dwellings; or

(*b*) is used as an inn, hotel, boarding house, hospital, nursing home, boarding school, children's home or similar institution; or

(*c*) is used as a restaurant, shop, store or warehouse and has on any upper floor sleeping accommodation for persons employed on the premises.

NOTES TO SECTION 60.

Definitions—

"local authority," s. 1 (2).
"owner," s. 343 (1).
"erection of a building," s. 90 (2).
"street," s. 343 (1).
"hospital," s. 343 (1).

General note. This section is new, but is based on provisions which have been granted in Local Acts.

For provisions of Part XII as to notices requiring execution of works, see s. 290, *post*.

Byelaws with respect to buildings and sanitation.

61. Byelaws as to buildings and sanitation.—(1) Every local authority may and, if required by the Minister, shall make byelaws for regulating all or any of the following matters:—

(i) as regards buildings—

(*a*) the construction of buildings, and the materials to be used in the construction of buildings;

(*b*) the space about buildings, the lighting and ventilation of buildings, and the dimensions of rooms intended for human habitation;

(*c*) the height of buildings; the height of chimneys, not being separate buildings, above the roof of the building of which they form part;

(ii) as regards works and fittings—

(*d*) sanitary conveniences in connection with buildings; the drainage of buildings, including the means for conveying refuse water and water from roofs and from yards appurtenant to buildings; cesspools and other means for the reception or disposal of foul matter in connection with buildings;

(*e*) ashpits in connection with buildings;

(*f*) wells, tanks and cisterns for the supply of water for human consumption in connection with buildings;

(*g*) stoves and other fittings in buildings (not being electric stoves or fittings), in so far as byelaws with respect to such matters are required for the purposes of health and the prevention of fire;

(*h*) private sewers; communications between drains and sewers and between sewers.

(2) Byelaws made under this section may include provisions as to—

(*a*) the giving of notices and the deposit of plans, sections, specifications and written particulars; and

(*b*) the inspection of work; the testing of drains and sewers, and the taking by the local authority of samples of materials to be used in the construction of buildings, or in the execution of other works.

(3) A local authority who propose to apply to the Minister for confirmation of any byelaws made under this section shall, in addition to complying with the requirements of section two hundred and fifty of the Local Government Act, 1933, publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation.

NOTES TO SECTION 61.

Definitions—

"local authority," s. 1 (2).
"sanitary conveniences," s. 90 (1).
"cesspool," s. 90 (1).
"private sewer," s. 343 (1).
"drain," "sewer," s. 343 (1).
"plans," s. 90 (3).

Duty of local authority. Under P.H.A. 1875, s. 157 (13 Halsbury's Statutes 689), every urban authority was empowered to make certain byelaws. This provision has been extended to rural authorities and the scope of the power has been widened but there are still authorities without byelaws. In this section for the first time the element of duty is introduced. Every local authority, if required by the Minister, must make byelaws, and as will appear later, when once made, byelaws must be kept up to date.

Previous legislation. This section revises and brings up to date the following provisions:

P.H.A. 1875, s. 157 (13 Halsbury's Statutes 689);
P.H.A.A. 1890, s. 23 (13 Halsbury's Statutes 833);
P.H.A.A. 1907, s. 24 (13 Halsbury's Statutes 919);
Housing, etc., Act, 1919, s. 24 (13 Halsbury's Statutes 959);
Education Act, 1921, s. 166 (7 Halsbury's Statutes 211);
S. R. & O., 1931, No. 580 (24 Halsbury's Statutes 262).

Buildings. The scope of building byelaws is defined in more general language, in particular by the omission of the words limiting the purpose for which byelaws as to particular matters may be made. The expression "construction of buildings" is not defined in the Act, but is evidently intended to include a variety of matters which were set out in detail in the former Acts. "Materials" were not mentioned in the former Acts.

Subject to these observations it will be found that sub-s. (1) (i) reproduces provisions of former Acts as follows:

Sub-s. (1) (i) (*a*) P.H.A. 1875, s. 157 (2); P.H.A.A. 1890, s. 23 (1) (in part).
Sub-s. (1) (i) (*b*) and (*c*) P.H.A. 1875, s. 157 (3); P.H.A.A. 1907, s. 24. The provisions as to dimensions (other than height) of rooms and as to lighting of buildings are new, though byelaws as to window area are common enough.

Works and fittings. The scope of this provision (sub-s. (1) (ii)) also differs from that of the existing law. So far as it reproduces the existing law it corresponds with P.H.A. 1875, s. 157 (4) (*supra*).

The power to regulate wells by byelaw is new.

Para. (*g*) is new in Public Legislation. It is the only provision in the section in which the matter to be dealt with by byelaw is limited by the expression of a purpose.

Para. (*h*) is also new. The matter was previously dealt with partly by "regulations" of the local authority under P.H.A. 1875, s. 21 (13 Halsbury's Statutes 634), such regulations not being subject to the Minister's approval, and partly by the uncontrolled authority of the surveyor under P.H.A.A. 1907, s. 38 (13 Halsbury's Statutes 924).

Local Government Act, 1933, s. 250. This section (26 Halsbury's Statutes 440) is in the following terms:

"**250. Procedure, etc., for making byelaws.**—(1) The following provisions of this section shall apply to byelaws to be made by a local authority by virtue of—

(*a*) this Act; or

(*b*) the Public Health Acts, 1875 to 1932 (not being byelaws made under section thirteen of the Public Health Acts Amendment Act, 1890); or

(*c*) any enactment in force at the date of the commencement of this Act and incorporating or applying sections one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875, or any of those sections, or section twenty-three of the Municipal Corporations Act, 1882, or section sixteen of the Local Government Act, 1888; or

(*d*) any local Act passed before the eleventh day of August, eighteen hundred and seventy-five, being byelaws made for any purpose for which, or for a purpose similar to which, byelaws may be made under the Public Health Acts, 1875 to 1932; or

(*e*) any enactment passed after the commencement of this Act and conferring on any local authority a power to make byelaws.

(2) The byelaws shall be made under the common seal of the authority, or, in the case of byelaws made by a parish council, under the hands and seals of two members of the council, and shall not have effect until they are confirmed by the confirming authority.

(3) At least one month before application for confirmation of the byelaws is made, notice of the intention to apply for confirmation shall be given in one or more local newspapers circulating in the area to which the byelaws apply.

(4) For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the authority by whom the byelaws are made, and shall at all reasonable hours be open to public inspection without payment.

(5) The authority by whom the byelaws are made shall on application, furnish to any person a copy of the byelaws, or of any part thereof, on payment of such sum, not exceeding sixpence for every hundred words contained in the copy, as the authority may determine.

(6) The confirming authority may confirm, or refuse to confirm, any byelaw submitted under this section for confirmation, and may fix the date on which the byelaw is to come into operation, and if no date is so fixed the byelaw shall come into operation at the expiration of one month from the date of its confirmation.

(7) A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the authority by whom the byelaws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum, not exceeding one shilling for every copy, as the authority may determine.

(8) The clerk of a rural district council shall send a copy of every byelaw made by the council, and confirmed, to the clerk of the parish council of every parish to which they apply, or in the case of a parish not having a separate parish council to the chairman of the parish meeting of the parish, and the clerk of the parish council or chairman of the parish meeting, as the case may be, shall cause the copy to be deposited with the public documents of the parish.

The copy so deposited shall at all reasonable hours be open to public inspection without payment.

(9) The clerk of a county council shall send a copy of every byelaw made by the council, and confirmed, to the council of every county district situate wholly or in part in the county, and the clerk of the council of a county district shall send a copy of every byelaw made by the council, and confirmed, to the council of the county in which the district is wholly or in part situate.

(10) In this section the expression "the confirming authority" means the authority or person, if any, specified in the enactment (including any enactment in this Act) under which the byelaws are made, or in any enactment incorporated therein or applied thereby, as the authority or person by whom the byelaws are to be confirmed, and in the case of byelaws made under any enactment incorporating or applying section twenty-three of the Municipal Corporations Act, 1882, or section sixteen of the Local Government Act, 1888, means the Secretary of State or, if the subject-matter of the byelaws is such that the Minister would have been the confirming authority had they been made under the last preceding section, the Minister:

Provided that, where under or by virtue of any enactment, the power of an authority or person specified as aforesaid to confirm byelaws has been transferred, the authority or person to whom that power has been transferred shall be deemed to be the authority or person specified as aforesaid."

Fitness for human habitation. The provisions of P.H.A. 1875, s. 157 (4) (13 Halsbury's Statutes 689), as to this matter are not reproduced. The subject is now adequately dealt with under the Housing Acts.

62. Application of certain byelaws to existing buildings.—(1) Byelaws under sub-paragraphs (*a*), (*b*) and (*c*) of subsection (1) of the last preceding section may be made with respect to—

(*a*) structural alterations or extensions of buildings, and buildings so far as affected by alterations or extensions;

(*b*) buildings or parts of buildings in cases where any material change, within the meaning of this section, takes place in the purposes for which a building or, as the case may be, a part of a building is used,

and, so far as they relate to the matters mentioned in this subsection, may be made to apply to buildings erected before the date on which the byelaws came into force, but, save as aforesaid, shall not apply to buildings erected before that date.

(2) For the purposes of this section, there shall be deemed to be a material change in the purposes for which a building, or a part of a building, is used if—

(*a*) a building, or a part of a building, being a building or part which was not originally constructed for occupation as a house, or which though so constructed has been appropriated to other purposes, becomes used as a house; or

(*b*) a building, or a part of a building, being a building or part which was originally constructed for occupation as a house by one family only, becomes occupied by two or more families; or

(*c*) where byelaws contain special provisions with respect to buildings used for any particular purpose, a building or a part of a building, being a building or part not previously used for that purpose, becomes so used.

NOTES TO SECTION 62.

Definition—

" house," s. 343 (1).

Retrospective effect of byelaws. The existing law as to the application of byelaws to buildings erected before the byelaw comes into operation is confused. See Second Interim Report, p. 91 and p. 400, *post*. Protection was given to some buildings by the Proviso to P.H.A. 1875, s. 157 (13 Halsbury's Statutes 689), and taken away by P.H.A.A. 1890, s. 23 (2) (13 Halsbury's Statutes 833), but byelaws under P.H.A. 1875, s. 175 (2), could only be made with respect to new buildings. The principle that byelaws relating to the structure of a building, as opposed to works and fittings, ought not to affect a building erected before the byelaw comes into operation has not previously been stated in the Acts, and the general law as to reasonableness of byelaws (see, *e.g. Kruse* v. *Johnson*, [1898] 2 Q. B. 91; 13 Digest 326, *631*; *Parker* v. *Bournemouth Corporation* (1902), 66 J. P. 440; 38 Digest 165, *107*), has not been considered to apply. The principle is here stated with certain exceptions, which are clearly reasonable.

Alterations or extensions. Cf. the meaning given by s. 90 (2), *post*, to the expression " erection of a building."

Material change. Cf. the provisions of the Town and Country Planning Act, 1932, s. 21 (25 Halsbury's Statutes 497), as to " change of use."

63. Power of local authority with consent of Minister to relax requirements of byelaws.—Where a local authority consider that the operation of any building byelaw in force in their district would be unreasonable in relation to any particular case, they may with the consent of the Minister relax the requirements of the byelaw or dispense with compliance therewith:

Provided that the authority shall give notice of any such proposed relaxation or dispensation in such manner and to such persons, if any, as the Minister may direct, and the Minister shall not give his consent before the expiration of one month from the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him.

NOTES TO SECTION 63.

Definitions—

" local authority," s. 1 (2).
" building byelaw," s. 343 (1).
" district," s. 1 (2).

General note. Under a number of Statutes the application of byelaws to particular buildings is excluded. See Lumley, 10th Edn., pp. 348–9. Cf. s. 71 of this Act, *post*.

A general power to relax is given by the Ancient Monuments Consolidation and Amendment Act, 1913, s. 18 (12 Halsbury's Statutes 400), in the circumstances stated in that section.

See also s. 132, *post*.

Apart from express statutory power a local authority had hitherto no power to relax or dispense with its byelaws (*R.* v. *Newcastle-upon-Tyne* (*Mayor, etc., of*) (1889), 53 J. P. 788; 38 Digest 191, *294*; *A.-G.* v. *Folkestone Corporation* (1873), W. N. 127; 26 Digest 558, *2528*. No doubt it would have been lawful to make a byelaw which in itself contained a power to relax or dispense, subject to the rule that a byelaw must be certain in its terms (*Kruse* v. *Johnson*, [1898] 2 Q. B. 91; 13 Digest 326, *631*; *Scott* v. *Pilliner*, [1904] 2 K. B. 855; 25 Digest 436, *333*); but the Ministry have discouraged the making of any such byelaw owing, no doubt, to the difficulty of reconciling it with the rule. Under the present section the consent of the Minister is required. This provision will both assist to secure uniformity and protect the local authority from suggestions that individuals are unduly favoured.

64. Passing or rejection of plans, and power to retain plans, etc.—(1) Where plans of any proposed work are, in accordance with building byelaws, deposited with a local authority, the local authority shall, subject to the provisions of any other section of this Act which expressly requires or authorises them in certain cases to reject plans, pass the plans unless they either are defective, or show that the proposed work would contravene any of those byelaws, and, if the plans are defective or show that the proposed work would contravene any of those byelaws, they shall reject the plans.

(2) The authority shall within the prescribed period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether or not they are passed, and—

(i) a notice of rejection shall specify the defects on account of which, or the byelaw or section of this Act for non-conformity with which, or under the authority of which, the plans have been rejected; and

(ii) a notice that plans have been passed shall state that the passing of the plans operates as an approval thereof only for the purposes of the requirements of the byelaws and of any such section of this Act as is referred to in the preceding subsection.

(3) Any question arising under this section between a local authority and the person by whom or on whose behalf plans are deposited as to whether the plans are defective, or whether the proposed work would contravene any of the byelaws, may on the application of that person, be determined by a court of summary jurisdiction:

Provided that no such application shall be entertained unless it is made before the proposed work has been substantially commenced.

(4) For the purposes of this Part of this Act, the expression " the prescribed period " in relation to the passing or rejection of plans means one month, but building byelaws made by an authority whose meetings are normally held not more frequently than once a month may provide that in the case of plans deposited less than three clear days before a meeting of the authority the prescribed period shall be five weeks.

(5) Building byelaws may require that plans and other documents to be deposited in pursuance of the byelaws shall be deposited in duplicate and, if the byelaws contain such a requirement, the local authority may retain one copy of any plans or other documents so deposited, whether or not the plans are passed.

NOTES TO SECTION 64.

Definitions—

" plans," s. 90 (3).
" building byelaws," s. 343 (1).
" local authority," s. 1 (2).

General note. This section substantially reproduces P.H.A. 1875, s. 158 (13 Halsbury's Statutes 690), so far as that section deals with approval of plans and P.H.A.A. 1907, s. 16 (13 Halsbury's Statutes 916). The duty of the local authority to pass plans which conform with the byelaws is clearly stated, though this has been held to be the law notwithstanding the ambiguous language of P.H.A. 1875, s. 158 (*supra*) (*R.* v. *Preston Corporation* (1887), 3 T. L. R. 665; 38 Digest 192, *298*; *R.* v. *Newcastle-upon-Tyne* (*Mayor, etc., of*) (1889), 53 J. P. 788; 38 Digest 191, *294*).

The local authority are now required by law (sub-s. (2) (ii)) to state that their approval of plans is limited to the purposes of the Act. This has been a usual practice, but it is well that it should be recognised that plans may need approval under—

The Public Health Act.
The Town and Country Planning Act, 1932.
The Restriction of Ribbon Development Act, 1935.

It is the duty of the local authority to approve building plans if the byelaws or statutory provisions (see ss. 25, 37, 43, 53, 54, 55, 59, 137) are not contravened, even if they refuse permission to develop under the General Interim Development Order. Conversely, it is obviously wrong to refuse permission to develop under the last-mentioned Order merely because, for example, there are no sufficient details of the construction of proposed streets, or no building plans.

Such practices place an unnecessary burden on appellate tribunals.

Note that the local authority, if they reject plans, must give their reasons; cf. the Town and Country Planning Act, 1932, s. 10 (3) (25 Halsbury's Statutes 482).

A right of appeal against the decision of the local authority is clearly stated, and a further appeal lies to quarter sessions (s. 301, *post*). See also s. 67 as to reference to the Minister. Note s. 300 (3) as to notifying right of appeal.

There is no authority for the proposition that under the existing law there is a direct appeal to quarter sessions from the refusal of a local authority to approve building plans which conform with the byelaws, but it seems clear that this is the law, and the fact that such appeals have not been brought merely illustrates the obscurity in which the rights of individuals are wrapped.

The P.H.A.A. 1907, s. 7 (1) (13 Halsbury's Statutes 913), gives a right of appeal to quarter sessions against (*inter alia*) "the withholding of any . . . approval which may be . . . given by a local authority under this Act."

S. 2 (1) of the same Act provides that the Act is to be construed as one with the Public Health Acts.

Hart v. *Hudson Bros., Ltd.*, [1928] 2 K. B. 629 (44 Digest 133, *26*), is authority for the proposition that the right of appeal extends to the earlier Acts.

The usual remedy has been by mandamus (*R.* v. *Newcastle-upon-Tyne* (*Mayor, etc. of*), *supra*, etc., but the established practice of the Court is that the writ of mandamus will not be granted if there is an "alternative remedy equally appropriate, beneficial and convenient," see *R.* v. *Poplar Borough Council* (No. 1), [1922] 1 K. B. 72; 16 Digest 293, *1066*, and cases cited in the judgments in that case.

The writ of mandamus has been granted in several cases since 1907, see, *e.g. R.* v. *Bexhill Corporation* (1911), 75 J. P. 385; 38 Digest 192, *295*; *R.* v. *Preston R.D.C.* (1912), 76 J. P. 65; 38 Digest 192, *296*; *R.* v. *Foots Cray U.D.C.*, [1916] 1 K. B. 246; 38 Digest 181, *221*; *R.* v. *Cambridge* (*Mayor, etc. of*), [1922] 1 K. B. 250; 38 Digest 188, *267*. In none of these cases does the view that there was "an alternative remedy equally appropriate, beneficial and convenient" appear to have been presented to the Court, and it is impossible to say whether or not the Court would have refused the writ if the point had been raised.

Under the present section the alternative remedy is not an appeal but the determination by the Court of certain questions of fact, and it is submitted that mandamus is the appropriate remedy if plans are rejected after, but not before, such a determination.

65. Power to require removal or alteration of work not in conformity with byelaws, or executed notwithstanding rejection of plans, etc.—(1) If any work to which building byelaws are applicable contravenes any of those byelaws, the authority, without prejudice to their right to take proceedings for a fine in respect of the contravention, may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alterations therein as may be necessary to make it comply with the byelaws.

(2) If, in a case where the local authority are by any section of this Act other than the last preceding section expressly required or authorised to reject plans, any work to which building byelaws are applicable is executed either without plans having been deposited, or notwithstanding the rejection of the plans, or otherwise than in accordance with any requirements subject to which the authority passed the plans,

the authority may by notice to the owner either require him to pull down or remove the work, or require him either to pull down or remove the work or, if he so elects, to comply with any other requirements specified in the notice, being requirements which they might have made under the section in question as a condition of passing plans.

(3) If a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiration of twenty-eight days, or such longer period as a court of summary jurisdiction may on his application allow, the local authority may pull down or remove the work in question, or effect such alterations therein as they deem necessary, and may recover from him the expenses reasonably incurred by them in so doing.

(4) No such notice as is mentioned in subsection (1) or subsection (2) of this section shall be given after the expiration of twelve months from the date of the completion of the work in question, and, in any case where plans were deposited, it shall not be open to the authority to give such a notice on the ground that the work contravenes any building byelaw or, as the case may be, does not comply with their requirements under any such section of this Act as aforesaid, if either the plans were passed by the authority, or notice of their rejection was not given within the prescribed period from the deposit thereof, and if the work has been executed in accordance with the plans and of any requirement made by the local authority as a condition of passing the plans.

(5) Nothing in this section shall affect the right of a local authority, or of the Attorney-General, or any other person, to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any byelaw or any enactment in this Act, but if the work is one in respect of which plans were deposited and the plans were passed by the local authority, or notice of their rejection was not given within the prescribed period after the deposit thereof, and if the work has been executed in accordance with the plans, the court on granting an injunction shall have power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall in accordance with rules of court cause the local authority, if not a party to the proceedings, to be joined as a party thereto.

NOTES TO SECTION 65.

Definitions—

"building byelaws," s. 343 (1).
"local authority," s. 1 (2).
"owner," s. 343 (1).
"plans," s. 90 (3).
"prescribed period," s. 64 (4).

Notice. This section substantially reproduces P.H.A. 1875, s. 158 (13 Halsbury's Statutes 690), as to removal of works contrary to byelaws, which was extended to rural districts by S. R. & O., 1931, No. 580 (24 Halsbury's Statutes 262). That section had serious defects, which the present section is designed to remedy. Provision is made for notice to the owner to pull down or remove, or to make the necessary alterations. There was no such provision in s. 158, and a local authority were liable to an action for trespass if they pulled down a building which in fact complied with the byelaws.

Scope of section. Under sub-ss. (1) and (2) a notice to pull down, etc., may be given in the following circumstances:

(*a*) If any work to which building byelaws apply contravenes those byelaws.
(*b*) If any such work is executed without plans having been deposited.
(*c*) If any such work is executed notwithstanding the rejection of plans.
(*d*) If any such work is executed otherwise than in accordance with requirements subject to which plans were passed.

Remedy for non-compliance. Under sub-s. (3) the local authority may themselves pull down, remove or alter if a notice is not complied with after twenty-eight days or such further time as a court may allow. The right to act thus depends on non-compliance and not on the fact of contravention, but since a notice is *ultra vires* the local authority if in fact the grounds on which it is based do not exist it is not clear that any substantial protection is given to local authorities. An owner, however, has the right to test the matter either under s. 64, *ante*, or under s. 67, *post*, before the local authority act.

Period of limitation. By sub-s. (4) no notice under the section may be given after the expiration of twelve months from the date of the commencement of the work in question.

A further protection is given to owners who have deposited plans. A notice under the section cannot be given when the authority have either—

(*a*) passed the plans; or

(*b*) not given notice of rejection within the prescribed period (see s. 64 (4)),

on the ground that the work contravenes a building byelaw, or, in case (*a*), on the ground that the work does not comply with their requirements, if in fact it does comply with those requirements. The second of these points appears to be an unnecessary elaboration of the language of the subsection.

Injunction. Sub-s. (4) preserves the right of the local authority, the Attorney-General or any other person to apply for an injunction. The limit of twelve months is not applied to this remedy.

66. Deposit of plans to be of no effect after certain interval.—(1) Where plans of any proposed work have, in accordance with building byelaws, been deposited with a local authority, and either the plans have been passed by the authority or notice of rejection of the plans has not been given within the prescribed period from the deposit thereof, and the work to which the plans relate has not been commenced—

(*a*) in the case of plans deposited before the date of the commencement of this Act, within three years from that date; and

(*b*) in the case of plans deposited on or after that date, within three years from the deposit of the plans;

the local authority may, at any time before the work is commenced, by notice to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the land to which the plans relate, declare that the deposit of the plans shall be of no effect, and when such a notice is given, this Act and the byelaws made thereunder shall as respects the proposed work have effect as if no plans had been deposited.

(2) Nothing in this Act or in any repeal effected thereby shall affect the operation of section fifteen of the Public Health Acts Amendment Act, 1907, or of any corresponding provision in a local Act, as regards plans deposited before the commencement of this Act.

(3) Where plans of any proposed work have been passed by a local authority before the date of the commencement of this Act, but the work has not been commenced before that date, the authority shall before the expiration of six months from that date give notice of the provisions of this section to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the lands to which the plans relate.

NOTES TO SECTION 66.

Definitions—

" plans," s. 90 (3).
" building byelaws," s. 343 (1).
" local authority," s. 1 (2).
" prescribed period," s. 64 (4).
" local Act," s. 343 (1).
" owner," s. 343 (1).

General note. This section reproduces P.H.A.A. 1907, s. 15 (13 Halsbury's Statutes 916).

Note the obligation of the local authority, where plans have been deposited before 1st October, 1937, but the work has not been commenced before that date, to give notice of the provisions of this section before 1st April, 1938. If the work has been commenced before this notice is given a declaration cannot take effect. Where P.H.A.A. 1907, s. 15 (*supra*), was not in force it will be necessary to act promptly after 1st October, 1937.

67. Power to refer questions arising under building byelaws to the Minister.—If any question arises between a local authority and a person who has executed, or proposes to execute, any work—

(*a*) as to the application to that work of any building byelaws; or

(*b*) whether the plans of the work are in conformity with those byelaws; or

(*c*) whether the work has been executed in accordance with the plans as passed by the authority,

the question may, on an application made jointly by him and the local authority, be referred to the Minister for determination and, the Minister's decision shall be final:

Provided that the Minister may at any stage of the proceedings on the reference and shall, if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in those proceedings.

NOTES TO SECTION 67.

Definitions—

" local authority," s. 1 (2).
" building byelaws," s. 343 (1).
" plans," s. 90 (3).

General note. This section is new. In some cases it is an alternative to the remedy by appeal. It provides a convenient and expeditious method of determining technical questions by a skilled tribunal and should prove of the utmost service in the administration of the Act.

68. Temporary operation of building byelaws.—Subject as hereinafter provided—

(*a*) any building byelaw made by a local authority under this Part of this Act shall cease to have effect on the expiration of ten years from the date on which it was made;

(*b*) any building byelaw made by a local authority under the corresponding provisions of any enactment repealed by this Act, or under any such enactment as amended or extended by a local Act, shall cease to have effect on the expiration of three years from the passing of this Act:

Provided that the Minister may by order extend the period during which any byelaw mentioned in this section is to remain in force.

NOTES TO SECTION 68.

Definitions—

" building byelaw," s. 343.
" local authority," s. 1 (2).
" enactment," s. 343.

General note. This is an important new provision. The purpose of the section is to ensure that building byelaws do not become obsolete. All existing building byelaws will automatically cease to be effective on 31st July, 1939, and in future new byelaws must be made at least once in every ten years. Cf. s. 132 (6), *post*.

It becomes incumbent on local authorities to consider their building byelaws and to submit new ones for confirmation as soon as possible after 1st October, 1937. This is the more necessary as powers will lapse in some instances until new byelaws are made. See, for example, s. 53 (7), and note thereto.

69. Power of the Minister to make building byelaws in case of default, and to revoke unreasonable byelaws.—(1) If a local authority, when required by the Minister to make building byelaws in relation to any of the matters with respect to which they are by this Part of this Act empowered to make such byelaws, do not within three months after such requisition make in relation to that matter byelaws satisfactory to him, the Minister may himself make byelaws in relation thereto.

(2) If the Minister is satisfied that the erection of any buildings is, or is likely to be, unreasonably impeded in consequence of any building byelaws, he may for the purpose of removing the impediment require the local authority to revoke those byelaws and to make such new byelaws as he may consider necessary, and, if the authority do not within three months after such requisition comply therewith, the Minister may himself for that purpose revoke the byelaws, and make such new byelaws as he may consider necessary.

(3) Any byelaws made by the Minister under this section shall have effect as if they had been made by the local authority and confirmed by the Minister.

NOTES TO SECTION 69.

Definitions—

" local authority," s. 1 (2).
" building byelaws," s. 343 (1).
" erection of a building," s. 90 (2).

General note. This section extends to building byelaws the provisions of the Housing Act, 1925, s. 101 (13 Halsbury's Statutes 1058). The Minister may himself make building byelaws in default of the local authority.

70. Certain information, and copies of certain local enactments, to be appended to printed copies of building byelaws.—(1) The printed copies of building byelaws which are required by subsection (7) of section two hundred and fifty of the Local Government Act, 1933, to be kept open to public inspection and furnished to applicants therefor shall have appended thereto—

(*a*) in a rural district, information as to the urban powers, if any, which the rural authority enjoy under any section of this Act by reason of some corresponding provision of an earlier Act having been in operation within their district immediately before the commencement of this Act, and as to the urban powers, if any, with which they have been invested by order of the Minister under section thirteen of this Act, and the date when any such order took effect;

(*b*) in any rural district in which, or in any part of which, section twenty-six of the Public Health Act, 1875, was in operation before the first day of September nineteen hundred and thirty-one, and in any district in which, or in any part of which, section thirty-six of the Public Health Acts Amendment Act, 1890, or section fifteen of the Public Health Acts Amendment Act, 1907, was in operation immediately before the commencement of this Act, information as to the date on which the section in question came into operation in the district or part of the district; and

(*c*) in a district in which there is in force a local Act containing provisions with respect to any matter with respect to which a local authority can under this Act make building byelaws, a copy of those provisions of the local Act.

(2) Any question as to what provisions of a local Act are provisions of which a copy is to be so appended shall on the application of the local authority be determined by the Minister.

NOTES TO SECTION 70.

Definitions—

" building byelaws," s. 343 (1).
" rural authority," s. 1 (2).
" local Act," s. 343 (1).

General note. L.G.A. 1933, s. 250 (7) (26 Halsbury's Statutes 440), provides—

" (7) A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the authority by whom the byelaws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum, not exceeding one shilling for every copy, as the authority may determine."

The present section extends the obligation by requiring the authority to print all information necessary to enable owners to understand their obligations.

For P.H.A. 1875, s. 26, see 16 Halsbury's Statutes 637. See now s. 25 of this Act.

For P.H.A.A. 1890, s. 36, see 13 Halsbury's Statutes 838. See now s. 59 of this Act.

For P.H.A.A. 1907, s. 15, see 13 Halsbury's Statutes 916. See now s. 66 of this Act.

71. Exemption of certain buildings from building byelaws.—Subject as hereinafter provided, nothing in the foregoing provisions of this Part of this Act with respect to building byelaws, or in any building byelaws made thereunder, shall apply in relation to—

(*a*) any buildings, being school premises, erected or to be erected according to plans which are under any regulations relating to the payment of grants required to be, and have been, approved by the Board of Education; or

(*b*) any buildings constructed by a county council or local authority in accordance with plans approved by the Minister of Agriculture and Fisheries under the Small Holdings and Allotments Acts, 1908 to 1931, or any Act amending those Acts or any of them; or

(*c*) any buildings belonging to any statutory undertakers and held or used by them for the purposes of their undertaking:

Provided that the exemption conferred by paragraph (*c*) of this section shall not extend to houses, or to buildings used as offices or showrooms, other than buildings so used which form part of a railway station.

NOTES TO SECTION 71.

Definitions—

" building byelaws," s. 343 (1).
" school," s. 343 (1).
" premises," s. 343 (1).
" local authority," s. 1 (2).
" statutory undertakers," s. 343 (1).
" house," s. 343 (1).

General note. This section extends to all statutory undertakers the exemption given to railway companies by the proviso to P.H.A. 1875, s. 157 (13 Halsbury's Statutes 689), and by P.H.A.A. 1907, s. 33 (13 Halsbury's Statutes 923), with a slight modification. It also repeats the exemption given to schools by the Education Act, 1921, s. 166 (7 Halsbury's Statutes 211).

For the Small Holdings and Allotments Acts, 1908 to 1931, see 1 Halsbury's Statutes 257, 322, and 24 Halsbury's Statutes 46.

Building byelaws do not bind the Crown (*Gorton Local Board* v. *Prison Commissioners* (1887), [1904] 2 K. B. 165, n.; 68 J. P. 27; 42 Digest 690, *1050*).

Removal of refuse, scavenging, keeping of animals, etc.

72. Removal of house refuse, cleansing of ashpits, etc.—(1) A local authority may, and if required by the Minister shall, undertake the performance of all or any of the following services, that is to say—

(*a*) the removal of house refuse ;

(*b*) the cleansing of earthclosets, privies, ashpits and cesspools or any of them,

in either case, as respects either the whole or any part of their district.

(2) If a local authority who, as respects their district or any part thereof, have undertaken the removal of house refuse, or the cleansing of earthclosets, privies, ashpits or cesspools, receive notice from the occupier of any premises within the district or, as the case may be, within that part of the district, requiring them to remove any house refuse from those premises or, as the case may be, to cleanse any earthcloset, privy, ashpit or cesspool belonging to or used by the occupants of those premises, and, without reasonable excuse, fail to comply with the notice within seven days, the occupier of the premises may recover summarily as a civil debt from the authority the sum of five shillings for every day during which the default continues after the expiration of the said period.

(3) A local authority who as respects their district or any part thereof have undertaken the removal of house refuse may make byelaws for the area to which their undertaking may for the time being extend—

(*a*) imposing on the occupiers of premises duties in connection with the removal in order to facilitate the work which the authority have undertaken ;

(*b*) where a local authority themselves provide dustbins, requiring that those dustbins shall be used ;

(*c*) prohibiting the deposit of liquid matter in dustbins ;

(*d*) regulating the deposit of refuse in ashpits or dustbins ; and

(*e*) prohibiting any person from removing any matter which the authority have undertaken to remove, not being matter produced on his own premises which he intends to remove for sale, or for his own use, and which is kept in the meantime so as not to be a nuisance.

(4) A local authority who as respects any part of their district have not undertaken the performance of the service in question may make byelaws requiring the occupiers of premises in that part of the district to remove at specified intervals their house refuse or, as the case may be, to cleanse at specified intervals their earthclosets, privies, ashpits and cesspools.

(5) A local authority who have under this section resolved to undertake the performance of any service shall not, if their resolution was passed in compliance with a requirement of the Minister, rescind it without his consent.

NOTES TO SECTION 72.

Definitions—

" local authority," s. 1 (2).
" earthcloset," s. 90 (1).
" cesspool," s. 90 (1).
" district," s. 1 (2).
" dustbin," s. 343 (1).

General note. This section in effect reproduces P.H.A. 1875, ss. 42, 43, 44 (13 Halsbury's Statutes 643, 644), and P.H.A.A. 1890, s. 26 (13 Halsbury's Statutes 835), so far as those sections apply to house refuse, etc., and extends them by the incorporation of certain provisions based on Local Acts.

As to sale of refuse, see ss. 76, 276, *post*.

A local authority may rescind a resolution undertaking duties under this section (with the Minister's consent if the resolution was passed on his requirement), and thereby relieve themselves of the liability undertaken, see *Leck* v. *Epsom R.D.C.*, [1922] 1 K. B. 383 ; 38 Digest 237, *660*, *per* Avory, J., at p. 390. As to " house refuse," see note to next section.

73. Removal of trade refuse and other matters.—(1) A local authority may undertake the removal of trade refuse, or any kind of trade refuse, from premises within their district or from premises within any part of their district, and an authority who have so undertaken shall at the request of the occupier of any premises within the district, or, as the case may be, within that part of the district, remove from his premises any trade refuse to which their undertaking relates and, if without reasonable excuse they fail to do so within seven days after the request, the occupier may recover from them summarily as a civil debt the sum of five shillings for every day during which the default continues after the expiration of the said period.

(2) A local authority shall make reasonable charges for removing trade refuse under this section.

(3) Any question arising under this section as to what is to be considered as trade refuse, or trade refuse to which the authority's undertaking relates, or as to the reasonableness of any charges made by them, may, on the application of either party, be determined by a court of summary jurisdiction.

NOTES TO SECTION 73.

Definitions—

" local authority," s. 1 (2).
" premises," s. 343 (1).

General note. This section replaces P.H.A.A. 1907, s. 48 (13 Halsbury's Statutes 929). There is no definition in the Act of " house refuse " or " trade refuse." See paragraphs 77 and 78 of the Second Interim Report, *infra*, p. 365. Both terms were defined in the Public Health (London) Act, 1891, but neither under that Act, nor under Local Acts which have attempted definitions, has difficulty been avoided. Whether the solution adopted in sub-s. (3) will assist is doubtful. Courts of summary jurisdiction, and, on appeal, quarter sessions, will determine the question as a question of fact, and it is difficult to see on what grounds the High Court will interfere. The result may well be confusion. The local authority should draw the occupier's attention to sub-s. (3) if they contend that his refuse is trade refuse.

74. Power of local authority in certain cases to remove refuse or cleanse cesspools, etc., on behalf of owner or occupier.—(1) A local authority may at the request of the owner or occupier of any premises remove therefrom any refuse or cleanse any earthcloset, privy, ashpit or cesspool belonging thereto, which they are under no obligation to remove or cleanse, or may carry out such removal or cleansing more frequently than they are under any obligation to do, and in either case may make such charge, if any, as they think fit :

Provided that nothing in this subsection shall be construed as empowering a local authority to undertake thereunder a general collection of trade refuse, or of any kind of trade refuse, from premises within their district, or from premises within any part of their district.

(2) A local authority may at the request of the owner or occupier of any premises undertake to dispose of any refuse which he may deliver at a place appointed by them, and may make such charge, if any, for so doing as they think fit.

NOTES TO SECTION 74.

Definitions—

" local authority," s. 1 (2).
" owner," s. 343 (1).
" premises," s. 343 (1).
" earthcloset," s. 90 (1).
" cesspool," s. 90 (1).

General note. This section authorises the local authority to undertake by agreement in particular cases obligations in excess of those, if any, which they have undertaken generally, and to make a reasonable charge.

75. Regulation dustbins.—(1) A local authority who, as respects their district or any part thereof, have undertaken the removal of house refuse may by notice require the owner or occupier of any building within the district, or, as the case may be, within that part of the district, to provide such number of covered dustbins for the reception of house refuse of such material, size and construction as the authority may approve:

Provided that this subsection shall not entitle an authority to require the replacement of any dustbin in use at the commencement of this Act so long as it is of suitable material, size and construction and properly covered and in proper condition.

Any person aggrieved by a requirement of the local authority under this subsection may appeal to a court of summary jurisdiction.

(2) If a person fails to comply with a notice under the preceding subsection, or fails to maintain in good order and condition any dustbin which under that subsection he has been required to provide, or fails to replace any such dustbin when worn out by a new dustbin of a material, size and construction approved by the local authority, the authority may provide such dustbin, or such new dustbin, as may be required and may recover the expenses reasonably incurred by them in so doing from the person in default, and, without prejudice to the right of the authority to exercise that power, he shall be liable to a fine not exceeding twenty shillings.

(3) A local authority may, as respects their district or any part thereof, in lieu of requiring the owners or occupiers of buildings to provide and maintain dustbins for the reception of house refuse, undertake themselves to provide and maintain such dustbins as may be necessary and, so long as such an undertaking is in force, the authority may make in respect of each dustbin provided by them such annual charge not exceeding two shillings and sixpence as they think proper.

Any such charge shall become due on the first day of April in each year and may be recovered as part of the general rate in respect of the premises for which the dustbin has been provided, but without prejudice to the rights of any person under any tenancy agreement:

Provided that, if on the first day of April the premises are unoccupied, the charge shall not be recoverable until they become occupied

and, if they remain unoccupied during the whole of the local financial year, the charge shall be treated as irrecoverable.

NOTES TO SECTION 75.

Definitions—

" local authority," s. 1 (2).
" dustbin," s. 343 (1).
" owner," s. 343 (1).

General note. This section is based on provisions in Local Acts. The local authority may require owners or occupiers to provide regulation dustbins or may themselves provide them and make a charge therefor.

76. Provisions as to deposit and disposal of refuse, and for prohibiting interference with dustbins and refuse tips.—(1) A local authority may provide—

(*a*) receptacles for refuse in streets and public places;

(*b*) places for the deposit of refuse;

(*c*) plant or apparatus for treating or disposing of refuse.

(2) A local authority may sell refuse removed by them from any premises, including any street, under this Part of this Act.

(3) It shall not be lawful for any person, other than a person employed by the local authority in connection with the removal and disposal of refuse—

(*a*) to sort over or disturb the contents of any dustbin when placed in any street or forecourt for the purpose of its contents being removed by the local authority; or

(*b*) to sort over or disturb the material deposited in any place provided by the authority for the deposit of refuse;

and a person who contravenes any of the provisions of this subsection shall be liable to a penalty not exceeding five pounds.

NOTES TO SECTION 76.

Definitions—

" local authority," s. 1 (2).
" premises," s. 343 (1).

General note. This section reproduces and extends P.H.A. 1875, s. 45 (13 Halsbury's Statutes 645). The power to provide plant (*e.g.* dust destructors) is clearly stated.

77. Sweeping and watering of streets.—(1) A local authority may, and if required by the Minister shall, undertake the cleansing, and may undertake the watering, of streets, as respects either the whole or any part of their district.

(2) Where a local authority have under this section undertaken the cleansing or watering of any streets with respect to which they are not the highway authority—

(*a*) the local authority may arrange with the highway authority for that authority to carry out the work on such terms as may be agreed;

(*b*) if the local authority carry out the work, the highway authority shall make towards the expenses of the local authority such reasonable contribution, regard being had to the extent to which the work is or was necessary for the maintenance of the street and the safety of traffic thereon, as may be agreed or, in case of dispute, may be determined by the Minister.

(3) A local authority who have under this section resolved to undertake the cleansing of streets shall not, if their resolution was passed in compliance with a requirement of the Minister, rescind it without his consent.

NOTES TO SECTION 77.

Definitions—

"local authority," s. 1 (2).
"street," s. 343 (1).
"highway authority," s. 343 (1).

General note. This section in effect reproduces the provisions of P.H.A. 1875, ss. 42, 44 (13 Halsbury's Statutes 643, 644), relative to the cleansing of streets. Sub-ss. (2) and (3) are new. Highway authorities other than the local authority must in future contribute to this service to the extent to which the work is necessary for the maintenance of the street and the safety of traffic.

In rural districts the county council is the highway authority (L.G.A. 1929, s. 30; 10 Halsbury's Statutes 904), and the section will apply to every "street" in the rural district. In urban districts the county council is the highway authority in respect of county roads (L.G.A. 1929, ss. 29, 31; 10 Halsbury's Statutes 903, 905).

In either an urban or a rural district there may be a "street" in respect of which the Minister of Transport is the highway authority (see Road Traffic Act, 1930, s. 57 (1); 23 Halsbury's Statutes 652). The definition of "highway authority" in s. 343 does not include the Minister of Transport, and it is therefore important to consider the effect of the word "means" in the definition. Is the word used in a restrictive sense, so as to exclude the Minister of Transport? See *R.* v. *Kershaw* (1856), 6 El. & Bl. 999, *per* Erle, J., at p. 1007, and notes in Lumley, 10th edn., pp. 7, 8. The use of the words "in the case of a highway repairable by the inhabitants at large" appears to limit the restrictive effect of the word "means" to such highways, and it is submitted that the Minister of Transport is liable to contribute under this section to the cleansing and watering of "streets" in respect of which he is the highway authority.

It may be that this and other difficulties connected with the position of the Minister of Transport as a highway authority will be determined in legislation, which has already been announced, under which the Minister is to take over trunk roads (*a*).

78. Scavenging of common courts and passages.—(1) If any court, yard or passage which is used in common by the occupants of two or more buildings, but is not a highway repairable by the inhabitants at large, is not regularly swept and kept clean and free from rubbish or other accumulation to the satisfaction of the local authority, the authority may cause it to be swept and cleansed.

(2) The local authority may recover any expenses reasonably incurred by them under this section from the occupiers of the buildings which front or abut on the court or yard, or to which the passage affords access, in such proportions as may be determined by the authority, or, in case of dispute, by a court of summary jurisdiction.

NOTES TO SECTION 78.

Definition—

"local authority," s. 1 (2).

General note. This section in effect reproduces P.H.A.A. 1890, s. 27 (13 Halsbury's Statutes 835), as extended to rural districts by S. R. & O. 1931, No. 580 (24 Halsbury's Statutes 262).

79. Power to require removal of noxious matter by occupier of premises in urban district.—(1) If in a borough or urban district, or in a rural district or contributory place in which section forty-nine of the Public Health Act, 1875, was in force immediately before the commencement of this Act, it appears to the sanitary inspector that any accumulation of noxious matter ought to be removed, he shall serve notice on the owner thereof, or on the occupier of the premises on which it is found, requiring him to remove it, and, if the notice is not complied with within twenty-four hours after service thereof, the inspector may remove the matter referred to.

(*a*) The Trunk Roads Bill was introduced on 4th November, 1936, while this book was in the press. By Cl. 2 it is proposed that the Minister shall be the highway authority in respect of trunk roads. If the Bill becomes law in its present form the note above as to the position of the Minister of Transport will become obsolete, but it has been thought advisable to insert it as originally written.

(2) A local authority may recover the expenses of any action reasonably taken by their inspector under the preceding subsection from the owner or occupier in default.

NOTES TO SECTION 79.

Definitions—

"contributory place," s. 343 (1).
"local authority," s. 1 (2).
"owner," s. 343 (1), but the context requires a meaning other than that in the definition. The word is not used in connection with premises, and there can be no rack-rent of an accumulation of noxious matter.

General note. This section generally reproduces P.H.A. 1875, s. 49 (13 Halsbury's Statutes 646). Manure, etc., may now be sold under s. 276, *post*.

80. Power to require periodical removal of manure, etc., from stables, etc., in urban district.—(1) In a borough or urban district, and in a rural district or contributory place in which section fifty of the Public Health Act, 1875, was in force immediately before the commencement of this Act, the local authority may by public or other notice require the periodical removal, at such intervals as may be specified in the notice, of manure or refuse from mews, stables or other premises.

(2) If a person on whom a notice has been served under this section fails to comply therewith, he shall be liable to a fine not exceeding twenty shillings.

NOTES TO SECTION 80.

Definitions—

"contributory place," s. 343 (1).
"local authority," s. 1 (2).
"premises," s. 343 (1).

General note. This section substantially reproduces P.H.A. 1875, s. 50 (13 Halsbury's Statutes 647).

81. Byelaws for the prevention of certain nuisances.—A local authority may make byelaws for preventing—

(*a*) the occurrence of nuisances from snow, filth, dust, ashes and rubbish;

(*b*) the keeping of animals so as to be prejudicial to health.

NOTES TO SECTION 81.

Definitions—

"local authority," s. 1 (2).
"prejudicial to health," s. 343 (1).

General note. This section reproduces the final paragraph of P.H.A. 1875, s. 44 (13 Halsbury's Statutes 644), as extended to rural districts by S. R. & O. 1931, No. 580 (24 Halsbury's Statutes 262).

See also s. 92, and Part III generally, *post*.

82. Byelaws as to removal through streets of offensive matter or liquid.—(1) A local authority may make byelaws—

(*a*) prescribing the times for the removal, or carriage through the streets, of any fæcal or offensive or noxious matter or liquid, whether that matter or liquid is in course of removal or carriage from within, or from without, or through, their district;

(*b*) requiring that the receptacle or vehicle used for the removal or carriage of any such matter or liquid shall be properly constructed and covered so as to prevent the escape of any such matter or liquid;

(*c*) requiring the cleansing of any place whereon any such matter or liquid has been dropped or spilt in the course of removal or carriage.

(2) If and so far as a byelaw made under the preceding subsection is inconsistent with a regulation made under section ten of the London Traffic Act, 1924, the regulation shall prevail.

NOTES TO SECTION 82.

Definitions—

" local authority," s. 1 (2).
" street," s. 343 (1).
" district," s. 1 (2).

General note. This section reproduces P.H.A.A. 1890, s. 26 (1) (13 Halsbury's Statutes 835), as extended to rural districts by S. R. & O. 1931, No. 580 (24 Halsbury's Statutes 262).

For the London Traffic Act, 1924, s. 10, see 19 Halsbury's Statutes 183.

Filthy or verminous premises or articles, and verminous persons.

83. Cleansing of filthy or verminous premises.—(1) Where it appears to a local authority upon a certificate of the medical officer of health or the sanitary inspector that any premises used for human habitation—

(*a*) are in such a filthy or unwholesome condition as to be prejudicial to health; or

(*b*) are verminous,

the authority shall give notice to the owner or occupier of the premises requiring him to take such steps to remedy the condition of the premises by cleansing, disinfecting and whitewashing them, as may be specified in the notice, and in the case of verminous premises the notice may require, among other things, the removal of the wallpaper or other covering on the walls, and the taking of such other steps as may be necessary for the purpose of destroying or removing vermin.

(2) If a person on whom a notice under this section is served fails to comply with the requirements thereof, the authority may themselves carry out the requirements and recover from him the expenses reasonably incurred by them in so doing, and, without prejudice to the right of the authority to exercise that power, he shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the premises.

(3) Where a local authority take action under paragraph (*b*) of subsection (1) of this section, their notice may require that they shall be allowed to employ gas for the purpose of destroying vermin on the premises, but in that case the notice shall be served both on the owner and on the occupier of the premises, and the authority shall bear the cost of their operations and may provide temporary shelter or house accommodation for any person compelled to leave the premises by reason of their operations.

NOTES TO SECTION 83.

Definitions—

" local authority," s. 1 (2).
" premises," s. 343 (1).
" prejudicial to health," s. 343 (1)
" vermin," " verminous," s. 90 (1).
" owner," s. 343 (1).

General note. This section in effect reproduces P.H.A. 1875, s. 46 (13 Halsbury's Statutes 645), and P.H.A. 1925, s. 46 (13 Halsbury's Statutes 1135). Similar powers in the Metropolitan Police Courts Act, 1839, s. 41 (13 Halsbury's Statutes 516), are repealed by the Act to avoid overlapping (see 3rd Sched. Part V), and it is the intention that this repeal shall not extend to London, because the Act does not so extend except as otherwise provided.

This section is applied to ships and boats, and to tents, vans, sheds, etc., by ss. 267, 268, *post*.

84. Cleansing or destruction of filthy or verminous articles.—Where it appears to a local authority upon a certificate of the medical officer of health or the sanitary inspector that any article in any premises—

(*a*) is in so filthy a condition as to render its cleansing, purification or destruction necessary in order to prevent injury, or danger of injury, to the health of any person in the premises; or

(*b*) is verminous, or by reason of its having been used by, or having been in contact with, any verminous person is likely to be verminous,

the local authority shall cause that article to be cleansed, purified, disinfected or destroyed, as the case may require, at their expense and, if necessary for that purpose, to be removed from the premises.

NOTES TO SECTION 84.

Definitions—

" local authority," s. 1 (2).
" premises," s. 343 (1).
" verminous," s. 90 (1).

General note. This section in effect reproduces P.H.A.A. 1907, s. 56 (13 Halsbury's Statutes 932); and P.H.A. 1925, s. 45 (13 Halsbury's Statutes 1134).

This section is applied to ships and boats, and to tents, vans, sheds, etc., by ss. 267, 268, *post*.

85. Cleansing of verminous persons and their clothing.—(1) Upon the application of any person, a county council or a local authority may take such measures as are, in their opinion, necessary to free him and his clothing from vermin.

(2) Where it appears to a county council or a local authority, upon a report from their medical officer of health or, in the case of a local authority, from their sanitary inspector, that any person, or the clothing of any person, is verminous, then, if that person consents to be removed to a cleansing station, they may cause him to be removed to such a station, and, if he does not so consent, they may apply to a court of summary jurisdiction, and the court, if satisfied that it is necessary that he or his clothing should be cleansed, may make an order for his removal to such a station and for his detention therein for such period and subject to such conditions as may be specified in the order.

(3) Where a person has been removed to a cleansing station in pursuance of the last preceding subsection, the county council or local authority shall take such measures as may, in their opinion, be necessary to free him and his clothing from vermin.

(4) The cleansing of females under this section shall be carried out only by a registered medical practitioner, or by a woman duly authorised by the medical officer of health.

(5) Any consent required to be given for the purposes of this section may, in the case of a person under the age of sixteen years, be given on his behalf by his parent or guardian.

(6) No charge shall be made in respect of the cleansing of a person or his clothing, or in respect of his removal to, or maintenance in, a cleansing station under this section.

(7) The powers conferred on a county council or local authority by this section shall be in addition to, and not in derogation of, any

power in relation to the cleansing of children which may be exercisable by them as a local education authority.

NOTES TO SECTION 85.

Definitions—

"local authority," s. 1 (2).
"vermin," s. 90 (1).

General note. This section in effect reproduces P.H.A. 1925, s. 48 (13 Halsbury's Statutes 1136). The powers of that section are extended to county councils, who had hitherto exercised similar powers under the Cleansing of Persons Act, 1897 (13 Halsbury's Statutes 874), transferred to them by L.G.A. 1929, s. 1 (10 Halsbury's Statutes 883). The dual code is now unnecessary and the Act of 1897 is repealed.

This section is applied to ships and boats, and to tents, vans, sheds, etc., by ss. 267, 268, *post*.

86. Provision of cleansing stations.—A county council or local authority may provide such cleansing stations as may be necessary for the discharge of their functions under any of the three last preceding sections.

NOTES TO SECTION 86.

Definitions—

"local authority," s. 1 (2).
"functions," s. 343 (1).

General note. This section is a necessary corollary to the preceding. It reproduces P.H.A. 1925, s. 49 (13 Halsbury's Statutes 1136), and is also applied to county councils.

Public sanitary conveniences.

87. Provision of public conveniences.—(1) A local authority may provide public sanitary conveniences in proper and convenient situations:

Provided that they shall not without the consent of the county council, which may be given upon such terms as the council think fit, provide such conveniences in or under any highway, or on or under any land forming the site of a proposed new highway, if that highway or new highway is, or is intended to be, a highway with respect to which the county council are, or will be, the highway authority.

(2) A county council may themselves provide public sanitary conveniences in any situation in which such conveniences could not be provided by a local authority except with the consent of the county council.

(3) A county council or local authority who provide any public sanitary conveniences, may—

(*a*) make byelaws as to the conduct of persons using or entering them;

(*b*) let them for such term, at such rent, and subject to such conditions as they think fit;

(*c*) charge such fees for the use of any such conveniences, other than urinals, as they think fit.

(4) In this section the expression "sanitary conveniences" includes lavatories.

NOTES TO SECTION 87.

Definitions—

"local authority," s. 1 (2).
"sanitary conveniences," s. 90 (1).
"highway authority," s. 343 (1).

General note. This section reproduces P.H.A. 1875, s. 39 (13 Halsbury's Statutes 642); P.H.A.A. 1890, s. 20 (1) (13 Halsbury's Statutes 831), and P.H.A.A. 1907, s. 47 (13 Halsbury's Statutes 929).

The powers of P.H.A.A. 1907, s. 47 (not those of P.H.A.A. 1890, s. 20 (1), as stated in the Second Interim Report, p. 96, and p. 405, *post*, sub "clause 86"), were extended to county councils by L.G.A. 1929, ss. 30, 31, 1st Sched. Parts II, V (10 Halsbury's Statutes 904, 905, 975).

88. Control over conveniences in, or accessible from, streets.—(1) No person shall erect any public sanitary convenience in, or so as to be accessible from, any street without the consent of the local authority, who may give their consent upon such terms as to the use of the convenience or its removal at any time, if required by them, as they think fit, and, if any person contravenes the provisions of this subsection, he shall be liable to a fine not exceeding five pounds, without prejudice to the right of the authority under subsection (3) of this section to require the convenience to be removed:

Provided that this subsection shall not apply to any sanitary convenience erected by a railway company within their railway station, or the yard thereof, or the approaches thereto, or erected by dock undertakers in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

(2) Any person aggrieved by the refusal of a local authority to give a consent under the preceding subsection, or by any terms imposed by them, may appeal to a court of summary jurisdiction.

(3) The local authority may by notice require—

(*a*) the owner of a sanitary convenience which has been erected in contravention of subsection (1) of this section, or the removal of which they are by virtue of the terms of a consent given under that subsection entitled to require, to remove it;

(*b*) the owner of a sanitary convenience which opens on a street and is so placed or constructed as to be a nuisance or offensive to public decency, to remove or permanently to close it.

(4) The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this section.

(5) Nothing in this section affects the powers of a county council under the last preceding section.

NOTES TO SECTION 88.

Definitions—

"sanitary convenience," s. 90 (1).
"street," s. 343 (1).
"local authority," s. 1 (2).
"railway company," s. 343 (1).
"dock undertakers," s. 343 (1).
"owner," s. 343 (1), but the context does not accord with this definition. It is unlikely that a convenience has a rack-rent.

General note. This section in effect reproduces P.H.A.A. 1890, s. 20 (2), (3) and (4) (13 Halsbury's Statutes 832); and P.H.A.A. 1907, s. 43 (13 Halsbury's Statutes 927); but the exemption of railway companies is extended to dock undertakers.

For provisions of Part XII as to notices requiring the execution of works, see s. 290, *post*.

89. Power to require sanitary conveniences to be provided at inns, refreshment houses, etc.—(1) A local authority may by notice require the owner or occupier of any inn, public-house, beer-house, refreshment-house or place of public entertainment to provide and maintain in a suitable position such number of sanitary conveniences for the use of persons frequenting the premises as may be reasonable.

(2) If any person fails to comply with a notice served upon him under this section, he shall be liable to a fine not exceeding five pounds

and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor :

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements, or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the premises.

NOTES TO SECTION 89.

Definitions—

" local authority," s. 1 (2).
" owner," s. 343 (1).
" sanitary conveniences," s. 90 (1).

General note. This section in effect reproduces P.H.A.A. 1907, s. 44 (13 Halsbury's Statutes 927).

General.

90. Interpretation of Part II.—(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say—

" cesspool " includes a settlement tank or other tank for the reception or disposal of foul matter from buildings ;

" closet " includes privy ;

" earthcloset " means a closet having a moveable receptacle for the reception of fæcal matter and its deodorisation by the use of earth, ashes or chemicals, or by other methods ;

" joint sewerage board " includes any authority or committee constituted for the purpose of collecting and dealing with the contents of sewers from the districts of two or more local authorities ;

" sanitary conveniences " means closets and urinals ;

" sewerage authority " means a local authority, the council of a metropolitan borough, a county council (including the London County Council) and a joint sewerage board ;

" surface water " includes water from roofs ;

" vermin," in its application to insects and parasites, includes their eggs, larvæ and pupæ, and the expression " verminous " shall be construed accordingly ; and

" watercloset " means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action.

(2) For the purposes of this Part of this Act and, so far as byelaws made thereunder may provide, for the purposes of those byelaws, any of the following operations shall be deemed to be the erection of a building, that is to say—

(i) the re-erection of any building or part of a building when an outer wall of that building or, as the case may be, that part of a building has been pulled down, or burnt down, to within ten feet of the surface of the ground adjoining the lowest storey of the building or of that part of the building ;

(ii) the re-erection of any frame building or part of a frame building when that building or part of a building has been so far pulled down, or burnt down, as to leave only the framework

of the lowest storey of the building or of that part of the building ;

(iii) the roofing over of any open space between walls or buildings ;

and the word " erect " shall be construed accordingly.

(3) Any reference in this Part of this Act to plans deposited in accordance with building byelaws shall be construed as including a reference to any sections, specifications and written particulars deposited with the plans in accordance with the byelaws.

(4) Any reference in this Part of this Act to a drain or to a sewer shall be construed as including a reference to any manholes, ventilating shafts, pumps or other accessories belonging to that drain or sewer, and any reference in this Part of this Act to sewage disposal works shall be construed as including a reference to the machinery and equipment of those works and any necessary pumping stations and outfall pipes.

(5) Any reference in this Part of this Act to the construction of a sewer or sewage disposal works shall be construed as including a reference to the extension of an existing sewer or of existing works.

(6) For the purposes of this Part of this Act, a building or proposed building shall not be deemed to have a sewer available unless—

(*a*) there is within one hundred feet of the site of the building or proposed building, and at a level which makes it reasonably practicable to construct a drain to communicate therewith, a public sewer or other sewer which the owner of the building or proposed building is, or will be, entitled to use, and

(*b*) the intervening land is land through which he is entitled to construct a drain ;

and shall not be deemed to have a sufficient water supply available unless it has a sufficient supply of water laid on, or unless such a supply can be laid on to it from a point within one hundred feet of the site of the building or proposed building, and the intervening land is land through which the owner of the building or proposed building is, or will be, entitled to lay a communication pipe :

Provided that, for the purposes of this definition, the limit of one hundred feet shall not apply, if the local authority undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, a drain to communicate with a sewer or, as the case may be, in laying, and in maintaining and repairing, a pipe for the purpose of obtaining a supply of water, as may be attributable to the fact that the distance of the sewer, or of the point from which a supply of water can be laid on, exceeds one hundred feet.

NOTES TO SECTION 90.

Cesspool. This definition is new. " Includes " is a word extending, and not limiting, the meaning (*R.* v. *Kershaw* (1856), 6 El. & Bl., 999, and see note to s. 77, *ante*).

Earthcloset. This definition is less extensive than that in P.H.A. 1875, s. 37 (13 Halsbury's Statutes 641), in that it assumes a moveable receptacle. See note to s. 343, *post*, as to spelling of " moveable " in this Act.

Sanitary conveniences. This expression was defined in P.H.A.A. 1890, s. 11 (3) (13 Halsbury's Statutes 827), and P.H.A. 1925, s. 72 (7) (13 Halsbury's Statutes 1149), to include urinals, waterclosets, earthclosets, privies, ashpits, and any similar convenience.

Vermin. The definition is identical with that in P.H.A. 1925, s. 50 (13 Halsbury's Statutes 1137).

Watercloset. This definition is new. The word has been used since P.H.A. 1875, and no doubt before that. Its meaning could be gathered from the context,

but an earthcloset constructed with the approval of the local authority satisfied any requirement to provide a watercloset (P.H.A. 1875, s. 37; 13 Halsbury's Statutes 641, repealed by this Act).

Erection of a building. Sub-s. (2) substantially reproduces P.H.A.A. 1907, s. 23 (*a*) and (*e*) (13 Halsbury's Statutes 919). See also P.H.A. 1875, s. 159 (13 Halsbury's Statutes 691). The definition does not extend to byelaws unless the byelaws so provide.

Sewer, etc., available. Sub-s. (6) is applicable to ss. 43 (1) (i); 44 (1); 47 (1).

INTRODUCTORY NOTE TO PART III.

This Part of the Act, which deals with nuisances and offensive trades, contains little new law, but the grouping of the Sections will no doubt render this Part a convenient and workable code in itself. The new provisions are indicated in the notes to Sections. As to application of this Part to ships and boats, see s. 267, *post*, and to tents, vans, sheds, etc., see s. 268, *post*.

PART III.

NUISANCES AND OFFENSIVE TRADES.

General duty of local authority.

91. Duty of local authority to inspect district for detection of nuisances.—It shall be the duty of every local authority to cause their district to be inspected from time to time for the detection of matters requiring to be dealt with under the provisions of this Part of this Act as being statutory nuisances within the meaning of the next succeeding section.

NOTES TO SECTION 91

Definitions—

"local authority," s. 1 (2).
"district," s. 1 (2).
"statutory nuisances," s. 92 (1).

General note. This section in effect reproduces P.H.A. 1875, s. 92 (13 Halsbury's Statutes 662).

For power of entry, see s. 287 (1), *post*.

For power of individuals to take proceedings, see s. 99, *post*.

Under L.G.A. 1929, s. 57 (3) (10 Halsbury's Statutes 922), the Minister could transfer public health functions to the county council if the local authority made default in discharging those functions. This power is no longer applicable to functions under this Act (3rd Sched. Part V, *post*), but see ss. 321, 322, *post*.

Nuisances which may be dealt with summarily.

92. Statutory nuisances.—(1) Without prejudice to the exercise by a local authority of any other powers vested in them by or under this Act, the following matters may, subject to the provisions of this Part of this Act, be dealt with summarily, and are in this Part of this Act referred to as "statutory nuisances," that is to say:—

(*a*) any premises in such a state as to be prejudicial to health or a nuisance;

(*b*) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;

(*c*) any accumulation or deposit which is prejudicial to health or a nuisance;

(*d*) any dust or effluvia caused by any trade, business, manufacture or process and being prejudicial to the health of, or a nuisance to, the inhabitants of the neighbourhood;

(*e*) any factory (not being a factory to which section one of the Factory and Workshop Act, 1901, applies) workshop, or workplace, which is not provided with sufficient means of ventilation, or in which sufficient ventilation is not maintained, or which is not kept clean or not kept free from noxious effluvia, or which is so overcrowded while work is carried on as to be prejudicial to the health of those employed therein;

(*f*) any other matter declared by any provision of this Act to be a statutory nuisance.

(2) A local authority shall not without the consent of the Minister institute summary proceedings under this Part of this Act in respect of any such nuisance as is mentioned in paragraph (*c*) or paragraph (*d*) of the preceding subsection if proceedings in respect thereof might be instituted under the Alkali, etc., Works Regulation Act, 1906.

(3) So much of paragraph (*e*) of subsection (1) of this section as relates to the provision of means of ventilation and the maintenance of ventilation shall not apply to a shop to which the Shops Act, 1934, applies.

(4) In determining for the purposes of the said paragraph (*e*) whether any factory or workshop is provided with sufficient means of ventilation or whether sufficient ventilation is maintained therein, or whether any factory or workshop is so overcrowded as to be prejudicial to health, regard shall be had to the requirements of the Factory and Workshop Act, 1901, and of any order made by the Secretary of State thereunder, with respect to ventilation or overcrowding in factories and workshops.

NOTES TO SECTION 92.

Definitions—

"local authority," s. 1 (2).
"premises," s. 343 (1).
"prejudicial to health," s. 343 (1).
"dust," s. 110 (1).
"factory," s. 343 (1).
"workshop," s. 343 (1).
"workplace," s. 343 (1).

Statutory nuisances. This section, which defines the statutory nuisances, is based on P.H.A. 1875, ss. 91, 114 (13 Halsbury's Statutes 661, 671), omitting certain matters which are dealt with elsewhere in the Act. See, generally, Lumley, 10th edn., pp. 175–186.

Premises. Para. (*a*) reproduces P.H.A. 1875, s. 91 (1) (13 Halsbury's Statutes 661). "Premises" has the same wide meaning in this Act as in P.H.A. 1875 (see s. 4 of that Act, 13 Halsbury's Statutes 624), and P.H.A. 1907, s. 13 (13 Halsbury's Statutes 915). It does not include sewage disposal works or public sewers (*R.* v. *Parlby* (1889), 22 Q. B. D. 520; 36 Digest 178, *234*; *Fulham Vestry* v. *L.C.C.*, [1897] 2 Q. B. 76; 36 Digest 179, *236*).

The words of para. (*a*) apply only to premises which are a nuisance because of their condition, and not to premises which are a nuisance because of their use.

Animal. Para. (*b*) reproduces P.H.A. 1875, s. 91 (3) (*supra*). See also s. 81 (*b*), *ante*.

Accumulation. Para. (*c*) reproduces P.H.A. 1875, s. 91 (4) (*supra*).

The first proviso to s. 91 is omitted, but it is reproduced in substance in s. 94 (4), *post*. See the provisions of the Act as to offensive trades, ss. 107, 108, *post*.

Dust and effluvia. These provisions are based on P.H.A. 1875, s. 114 (13 Halsbury's Statutes 671). The saving for using "the best practicable means" is reproduced in s. 94 (5), *post*.

Note that the former provisions have been extended to include dust as well as effluvia.

Factory. Para. (*e*) is based on P.H.A. 1875, s. 91 (6) (13 Halsbury's Statutes 661) and the Factory and Workshop Act, 1901, ss. 1 (2), and 2 (1) and (2) (8 Halsbury's Statutes 517, 518).

As to factories to which s. 1 of that Act applies, s. 140 (8 Halsbury's Statutes 593), provides—

"**149. Factories and workshops to which Act applies.**—(1) Subject to the provisions of this section, the following expressions have in this Act the meanings hereby assigned to them; that is to say:—

The expression "textile factory" means any premises wherein or within the close or curtilage of which steam, water or other mechanical power is used to move or work any machinery employed in preparing, manufacturing or finishing or in any process incident to the manufacture of cotton, wool, hair, silk, flax, hemp, jute, tow, china-grass, cocoa-nut fibre or other like material, either separately or mixed together or mixed with any other material, or any fabric made thereof:

Provided that print works, bleaching and dyeing works, lace warehouses, paper mills, flax scutch mills, rope works and hat works shall not be deemed to be textile factories:

The expression "non-textile factory" means—

(*a*) any works, warehouses, furnaces, mills, foundries or places named in Part One of the Sixth Schedule to this Act; and

(*b*) any premises or places named in Part Two of the said schedule wherein or within the close or curtilage or precincts of which steam, water or other mechanical power is used in aid of the manufacturing process carried on there; and

(*c*) any premises wherein or within the close or curtilage or precincts of which any manual labour is exercised by way of trade or for purposes of gain in or incidental to any of the following purposes, namely—

(i) the making of any article or of part of any article; or
(ii) the altering, repairing, ornamenting or finishing of any article; or
(iii) the adapting for sale of any article,

and wherein or within the close or curtilage or precincts of which steam, water or other mechanical power is used in aid of the manufacturing process carried on there:

The expression "factory" means textile factory and non-textile factory or either of those descriptions of factories:"

S. 1 of that Act applies to every factory as defined by the Act, except a domestic factory. A "domestic factory" is defined by s. 115 (8 Halsbury's Statutes 577), as follows:

"**115. Definitions of "domestic factory" and "domestic workshop."**—The expressions "domestic factory" and "domestic workshop" mean a private house, room or place which, though used as a dwelling, is by reason of the work carried on there a factory or a workshop, as the case may be, within the meaning of this Act and in which neither steam, water nor other mechanical power is used in aid of the manufacturing process carried on there and in which the only persons employed are members of the same family dwelling there."

As to ventilation, see also sub-s. (3) of this section.

See Second Interim Report, p. 97, and p. 406, *post*.

For the Alkali, etc., Works Regulation Act, 1906, see 13 Halsbury's Statutes 894.

For the Shops Act, 1934, see 27 Halsbury's Statutes 226.

93. Service of abatement notice.—Where a local authority are satisfied of the existence of a statutory nuisance, they shall serve a notice (hereafter in this Act referred to as "an abatement notice") on the person by whose act, default or sufferance the nuisance arises or continues, or, if that person cannot be found, on the owner or occupier of the premises on which the nuisance arises, requiring him to abate the nuisance and to execute such works and take such steps as may be necessary for that purpose:

Provided that—

(*a*) where the nuisance arises from any defect of a structural character, the notice shall be served on the owner of the premises;

(*b*) where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act, default or sufferance of the owner or the occupier

of the premises, the local authority may themselves do forthwith what they consider necessary to abate the nuisance and to prevent a recurrence thereof.

NOTES TO SECTION 93.

Definitions—

"local authority," s. 1 (2).
"statutory nuisance," s. 92 (1).
"owner," s. 343 (1).
"premises," s. 343 (1).

General note. This section substantially reproduces P.H.A. 1875, s. 94 (13 Halsbury's Statutes 663). Schedule IV of that Act, Form A, or a form "to the like effect" (s. 317) was required to be used. These statutory provisions as to forms are now repealed and, following modern precedents, the Minister is empowered to prescribe forms. See s. 283 (2), *post*. Note that a notice *must* be served if the local authority are satisfied as to the existence of a statutory nuisance.

94. Power of court to make nuisance order if abatement notice disregarded.—(1) If the person on whom an abatement notice has been served makes default in complying with any of the requirements of the notice, or if the nuisance, although abated since the service of the notice, is, in the opinion of the local authority, likely to recur on the same premises, the authority shall cause a complaint to be made to a justice of the peace, and the justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before a court of summary jurisdiction.

(2) If on the hearing of the complaint it is proved that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, then, subject to the provisions of subsections (4) and (5) of this section the court shall make an order (hereafter in this Act referred to as "a nuisance order") for either, or both, of the following purposes—

(*a*) requiring the defendant to comply with all or any of the requirements of the abatement notice, or otherwise to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose;

(*b*) prohibiting a recurrence of the nuisance, and requiring the defendant, within a time specified in the order, to execute any works necessary to prevent a recurrence;

and may also impose on the defendant a fine not exceeding five pounds

Where a nuisance proved to exist is such as to render a building, in the opinion of the court, unfit for human habitation, the nuisance order may prohibit the use of the building for that purpose until a court of summary jurisdiction, being satisfied that it has been rendered fit for human habitation, withdraws the prohibition.

(3) Where on the hearing of a complaint under this section it is proved that the alleged nuisance existed at the date of the service of the abatement notice and that at the date of the making of the complaint it either still existed or was likely to recur, then, whether or not at the date of the hearing it still exists or is likely to recur, the court shall order the defendant to pay to the local authority such reasonable sum as the court may determine in respect of the expenses incurred by the authority in, or in connection with, the making of the complaint and the proceedings before the court.

(4) Where proceedings are brought under this section in respect of a nuisance under paragraph (*c*) of subsection (1) of section ninety-two of this Act (which relates to certain accumulations or deposits) it shall

be a defence for the defendant to prove that the accumulation or deposit complained of was necessary for the effectual carrying on of a business or manufacture and has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best practicable means have been taken for preventing it from being prejudicial to the health of, or a nuisance to, the inhabitants of the neighbourhood.

(5) Where proceedings are brought under this section in respect of a nuisance under paragraph (*d*) of subsection (1) of section ninety-two of this Act (which relates to dust or effluvia caused by any trade, business, manufacture or process), it shall be a defence for the defendant to prove that the best practicable means have been taken for preventing, or counteracting the effect of, the dust or effluvia.

(6) If it appears to the court that the person by whose act or default the nuisance arises, or the owner or occupier of the premises, cannot be found, the nuisance order may be addressed to, and executed by, the local authority.

NOTES TO SECTION 94.

Definitions—

" abatement notice," s. 93.
" local authority," s. 1 (2).
" premises," s. 343 (1).
" dust," s. 110 (1).
" prejudicial to health," s. 343 (1).
" owner," s. 343 (1).

General note. The corresponding provisions of P.H.A. 1875 will be found in ss. 95, 96, 97, 100, 114 (13 Halsbury's Statutes 663, 664, 665, 671). The first Proviso to P.H.A. 1875, s. 91 (13 Halsbury's Statutes 661), is reproduced in sub-s. (4).

Sub-s. (3) extends P.H.A. 1875, s. 96 (*supra*), under which it did not appear that the Court could order the payment of costs if the nuisance were abated before the hearing and were not likely to recur. Those who have made a practice of waiting until the last possible moment before complying with abatement notices will be wise to mend their ways in future.

Sub-s. (5) reproduces a provision of P.H.A. 1875, s. 114 (*supra*).

95. Penalty for contravention of nuisance order, and abatement of nuisance by local authority.—(1) Any person who fails without reasonable excuse to comply with, or knowingly contravenes, a nuisance order shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

(2) Without prejudice to the foregoing provisions of this section, where a nuisance order has not been complied with, the local authority may abate the nuisance, and do whatever may be necessary in execution of the order.

NOTES TO SECTION 95.

Definitions—

" nuisance order," s. 94 (2).
" local authority," s. 1 (2).

General note. This section reproduces P.H.A. 1875, s. 98 (13 Halsbury's Statutes 664), with an alteration in the amount of the penalty.

96. Costs of local authority in abating, or preventing recurrence of, nuisance.—(1) Any expenses reasonably incurred by a local authority under this Part of this Act in abating, or preventing the recurrence of, a statutory nuisance in respect of which a nuisance order has been made may be recovered by them—

(*a*) where the order was made on some person other than the local authority, from that person ;

(*b*) where the order was made on the local authority, from the person by whose act or default the nuisance was caused,

and, in either case, if the person in question is the owner of the premises, from any person who is for the time being the owner thereof.

(2) In proceedings to recover any such expenses as aforesaid, the court shall have power to apportion the expenses between persons by whose acts or defaults the nuisance is caused in such manner as the court may deem fair and reasonable.

NOTES TO SECTION 96.

Definitions—

" local authority," s. 1 (2).
" statutory nuisance," s. 92 (1).
" nuisance order," s. 94 (2).
" owner," s. 343 (1).

General note. This section substantially reproduces the first two paragraphs of P.H.A. 1875, s. 104 (13 Halsbury's Statutes 666), omitting the proviso that the expenses are not to exceed one year's rack-rent.

97. Proceedings where nuisance caused by acts or default of more than one person.—(1) Where a statutory nuisance appears to be wholly or partly caused by the acts or defaults of two or more persons, proceedings may be instituted under the foregoing provisions of this Part of this Act against any one of them, or all or any two or more of them may be included in the same proceedings ; and, subject to those provisions, any one or more of the persons proceeded against may be ordered to abate the nuisance, so far as it appears to the court to be caused by his or their acts or defaults, or may be prohibited from continuing any acts or defaults which, in the opinion of the court, contribute to the nuisance, or may be fined or otherwise punished, notwithstanding that the acts or defaults of any one of those persons would not separately have caused a nuisance, and the costs may be apportioned as the court may deem fair and reasonable.

(2) Proceedings against several persons included in one complaint shall not abate by reason of the death of any of the persons so included, but may be carried on as if the deceased person had not been so included.

(3) Where some only of the persons by whose acts or defaults a nuisance has been caused have been proceeded against under this Act, they may, without prejudice to any other remedy, recover in a summary manner from the other persons who were not proceeded against a proportionate part of the costs of, and incidental to, the proceedings and the abatement of the nuisance, and of any fine or costs ordered to be paid in the proceedings.

NOTES TO SECTION 97.

Definition—

" statutory nuisance," s. 92 (1).

General note. This section substantially reproduces P.H.A. 1875, s. 255 (13 Halsbury's Statutes 731). The provision contained in the last paragraph of s. 255 is now stated in affirmative, instead of in negative form.

98. Power to proceed where cause of nuisance arises outside district.—(1) Where a nuisance within, or affecting any part of, the district of a local authority appears to be wholly or partly caused by some act or default committed or taking place outside their district, the authority may take, or cause to be taken, against any person in respect of that act or default any proceedings in relation to nuisances by this Act

authorised in the like cases, and with the like incidents and consequences, as if the act or default were committed or took place wholly within their district, so however that summary proceedings shall only be taken before a court having jurisdiction in the place where the act or default is alleged to be committed or to take place.

(2) This section shall extend to London so far as to authorise proceedings to be taken under it in respect of any nuisance within, or affecting any part of, the district of a local authority, where that nuisance is wholly or partly caused by some act or default committed or taking place in London.

NOTES TO SECTION 98.

Definitions—

" district," s. 1 (2).
" local authority," s. 1 (2).
" London," s. 343 (1).

General note. This section substantially reproduces P.H.A. 1875, s. 108 (13 Halsbury's Statutes 668). The power of metropolitan authorities to take proceedings in respect of acts or defaults outside London causing a nuisance in London is not reproduced. See P.H. (London) A. 1936, s. 282 and 5th Schedule, Art. 22, reproducing P.H. (London) A. 1891, s. 14 (11 Halsbury's Statutes 1034).

99. Power of individual to make complaint as to statutory nuisance.—Complaint of the existence of a statutory nuisance under this Act may be made to a justice of the peace by any person aggrieved by the nuisance, and thereupon the like proceedings shall be had, with the like incidents and consequences as to the making of orders, penalties for disobedience of orders and otherwise, as in the case of a complaint by the local authority, but any order made in such proceedings may, if the court after giving the local authority an opportunity of being heard thinks fit, direct the authority to abate the nuisance.

NOTES TO SECTION 99.

Definitions—

" statutory nuisance," s. 92 (1).
" local authority," s. 1 (2).

General note. It is not necessary for a person aggrieved to serve an abatement notice before making a complaint to a justice, nor indeed has he any power to do so. The section in effect reproduces P.H.A. 1875, s. 105 (13 Halsbury's Statutes 667), but the local authority, instead of a constable, may be directed to abate the nuisance. See s. 96, *ante*, as to recovery of expenses when the local authority are directed to act.

100. Local authority may take proceedings in High Court for abatement of statutory nuisance.—If in the case of any statutory nuisance the local authority are of opinion that summary proceedings would afford an inadequate remedy, they may in their own name take proceedings in the High Court for the purpose of securing the abatement or prohibition of that nuisance, and such proceedings shall be maintainable notwithstanding that the authority have suffered no damage from the nuisance.

NOTES TO SECTION 100.

Definitions—

" statutory nuisance," s. 92 (1).
" local authority," s. 1 (2).

General note. This section replaces P.H.A. 1875, s. 107 (13 Halsbury's Statutes 668). The present section contains two new provisions, (*a*) the power to sue " in their own name," (*b*) the provision that proceedings are to be maintainable notwithstanding that the authority have suffered no damage from the nuisance.

Under P.H.A. 1875, s. 107 (*supra*), proceedings could only be taken in the name of the Attorney-General at the relation of the local authority (*Devonport, Mayor of*, v. *Tozer*, [1903] 1 Ch. 759; 16 Digest 489, *3720*), unless some private proprietary

right of the authority were interfered with, when the authority could also maintain an action for damages (*A.-G. v. Logan*, [1891] 2 Q. B. 100; 36 Digest 182, *263*). The present section is intended to avoid the whole of this line of authority and to enable a local authority to sue without joining the Attorney-General, even when they sue solely in discharge of their statutory functions to establish a public right. Why this intention was not more clearly stated is not obvious.

Note that the local authority can only sue in respect of statutory nuisances under the Act. No doubt this was always the law, but it is now more precisely stated.

Smoke nuisances.

101. Smoke nuisances.—For the purposes of this Part of this Act—

(*a*) any installation for the combustion of fuel which is used in any manufacturing or trade process, or for working engines by steam, and which does not so far as practicable prevent the emission of smoke to the atmosphere; and

(*b*) any chimney (not being the chimney of a private house) emitting smoke in such quantity as to be a nuisance,

shall be statutory nuisances and are in this Act referred to as " smoke nuisances."

NOTES TO SECTION 101.

Definitions—

" chimney," s. 110 (1).
" house," s. 343 (1).
" smoke," s. 110 (1).

General note. This section reproduces the definitions in P.H.A. 1875, s. 91 (7) and (8) (13 Halsbury's Statutes 661), as amended by P.H. (Smoke Abatement) A. 1926, s. 1 (1) (*a*) (13 Halsbury's Statutes 1157). The language is clarified, so that it is clear that the mechanism for preventing the emission of smoke need not form part of the fireplace or furnace. See note to s. 103, *post*. Note the absence of the words " prejudicial to health."

102. Notice to occupier of existence of smoke nuisance.—Where in the opinion of an authorised officer of a local authority a smoke nuisance exists, he shall, as soon as practicable after he has become aware thereof, notify the occupier of the premises on which the nuisance exists, and, if that notification was not in writing, shall, within twenty-four hours after he became aware of the nuisance, confirm the notification in writing.

NOTES TO SECTION 102.

Definitions—

" authorised officer," s. 343 (1).
" local authority," s. 1 (2).
" smoke nuisance," s. 101.
" premises," s. 343 (1).

General note. This section reproduces P.H. (Smoke Abatement) A. 1926, s. 1 (4) (13 Halsbury's Statutes 1159).

The " notification " is not an " abatement notice." Cf. the following section.

Officers entrusted with duties under this section must be given the necessary authority, but when armed with authority it is their duty to act on their own initiative when they discover a smoke nuisance.

103. Procedure with respect to smoke nuisances.—(1) Subject to the provisions of this section, where a smoke nuisance exists on any premises, an abatement notice may be served and a complaint with respect to the nuisance may be made in like manner, and thereupon the like proceedings shall be had, with the like incidents and consequences as to the making of orders, penalties for disobedience of orders and otherwise, as in the case of any other statutory nuisance.

(2) Where proceedings are brought by virtue of this section in respect of such a nuisance as is mentioned in paragraph (*a*) of the last

but one preceding section, it shall be a defence for the defendant to prove that the installation complained of embodies the best practicable means for preventing the emission of smoke to the atmosphere, and that the installation has been carefully attended to by the person having the charge thereof.

(3) Where proceedings are brought by virtue of this section in respect of the emission from a chimney of smoke, other than black smoke, in such quantity as to be a nuisance, it shall be a defence for the defendant to prove that the best practicable means have been taken for preventing the nuisance.

For the purposes of this subsection, the expression " best practicable means " has reference not only to the provision and efficient maintenance of adequate and proper plant for preventing the creation and emission of smoke, but also to the manner in which that plant is used.

(4) Where byelaws made under the next succeeding section are in force for regulating the emission of smoke of such colour, density or content as may be prescribed by the byelaws, the emission of smoke of the character so prescribed for such period as may be so prescribed either from buildings generally to which the enactments relating to smoke nuisances apply, or from such classes of those buildings as may be so prescribed, shall, until the contrary is proved, be deemed to be a statutory nuisance and a smoke nuisance.

(5) In the case of a smoke nuisance, the fine which may be imposed by the court in respect of a failure to comply with an abatement notice shall be a fine not exceeding fifty pounds, and the fines which may be imposed by a court in respect of a failure to comply with, or a contravention of, a nuisance order shall be a fine not exceeding ten pounds and a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.

NOTES TO SECTION 103.

Definitions—

" smoke nuisance," s. 101.
" premises," s. 343 (1).
" abatement notice," s. 93.
" statutory nuisance," s. 92 (1).
" smoke," s. 110 (1).
" enactment," s. 343 (1).
" nuisance order," s. 94 (2).

General note. Definitions of words used in this section are to be found in six different sections. In addition another expression is explained in the section itself. The section generally reproduces the combined effect of P.H.A. 1875, s. 91, Second Proviso (13 Halsbury's Statutes 661), and P.H. (Smoke Abatement) A. 1926, ss. 1 (1) (3) and 2 (1) (13 Halsbury's Statutes 1157–1159).

Best practicable means. Cf. s. 101. If an installation " so far as practicable " prevents the emission of smoke there is no smoke nuisance within the meaning of the Act. Logically the defence given by this section is only required in relation to proceedings under para. (*b*) of s. 101. There is a further repetition in the last words of sub-ss. (2) and (3).

Premises. This word, having regard to the definition of " smoke nuisance," cannot apply to a " private house." In P.H.A. 1875, s. 91 (8) (*supra*), and P.H. (Smoke Abatement) A. 1926, s. 1 (1) (*a*) (*supra*), the expression used was " private dwelling house," see *Queen Anne's Mansions* v. *Westminster Corporation* (1901), 46 Sol. J. 70; 36 Digest 181, *260* (hotel); and *McNair* v. *Baker*, [1904] 1 K. B. 208; 36 Digest 181, *267* (club).

104. Byelaws as to smoke.—(1) A local authority may, and if so required by the Minister shall, make byelaws regulating the emission of smoke of such colour, density, or content as may be prescribed by the byelaws.

(2) Building byelaws may require the provision in new buildings, other than private houses, of such arrangements for heating or cooking as are calculated to prevent or reduce the emission of smoke.

(3) A local authority who propose to apply to the Minister for confirmation of any byelaws made under this section shall, in addition to complying with the requirements of section two hundred and fifty of the Local Government Act, 1933, publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation.

NOTES TO SECTION 104.

Definitions—

" local authority," s. 1 (2).
" smoke," s. 110 (1).
" house," s. 343 (1).

General note. This section substantially reproduces P.H. (Smoke Abatement) A. 1926, ss. 2 (1) and 5 (13 Halsbury's Statutes 1159, 1160).

For L.G.A. 1933, s. 250, see 26 Halsbury's Statutes 440, and note to s. 61 (3), *ante*, where the section is printed.

105. Power of local authority to investigate problems relating to atmospheric pollution.—Subject to such restrictions or conditions, if any, as the Minister may by regulations prescribe, a local authority may undertake investigations and research into problems relating to atmospheric pollution and the abatement of smoke nuisances, and may contribute towards the cost of similar investigations and research undertaken by other bodies or persons.

NOTES TO SECTION 105.

Definitions—

" local authority," s. 1 (2).
" smoke nuisances," s. 101.

General note. This section in effect reproduces P.H. (Smoke Abatement) A. 1926, s. 10 (13 Halsbury's Statutes 1161).

106. Application to Crown of provisions as to smoke nuisances.—If it appears to a local authority that a smoke nuisance within, or affecting any part of, their district exists on any premises occupied for the public service of the Crown, they shall report the circumstances to the appropriate Government department, and, if the Minister responsible for that department is satisfied after due inquiry that such a nuisance exists, he shall cause such steps to be taken as may be necessary to abate the nuisance and to prevent a recurrence thereof.

NOTES TO SECTION 106.

Definitions—

" local authority," s. 1 (2).
" smoke nuisance," s. 101.
" premises," s. 343 (1).

General note. This section reproduces P.H. (Smoke Abatement) A. 1926, s. 11 (13 Halsbury's Statutes 1161). The section does not mean that premises occupied for the public service of the Crown can be dealt with under the preceding sections, and there are no means of enforcing the abatement of the nuisance.

Offensive trades.

107. Restriction on establishment of offensive trade in urban district.—(1) Any person who on any premises within a borough or urban district, or a rural district or contributory place in which section

one hundred and twelve of the Public Health Act, 1875, was in force immediately before the commencement of this Act, establishes, without the consent of the local authority, any offensive trade as hereinafter defined shall be liable to a fine not exceeding fifty pounds.

For the purposes of this section, the expression " offensive trade " means any of the following trades, businesses or manufactures, that is to say—

(i) the trade or business of a blood boiler, blood drier, bone boiler, fat extractor, fat melter, fellmonger, glue maker, gut scraper, rag and bone dealer, size maker, soap boiler, tallow melter or tripe boiler ; or

(ii) any other trade, business or manufacture—

(*a*) which, by virtue of an order made and confirmed under section fifty-one of the Public Health Acts Amendment Act, 1907, was immediately before the commencement of this Act an offensive trade in the said borough, district or contributory place ; or

(*b*) which the local authority by order confirmed by the Minister, and published in such manner as he may direct, have after the commencement of this Act declared to be an offensive trade in the said borough, district or contributory place :

Provided that any order in force immediately before the date of commencement of this Act declaring the trade or business of fish frying to be an offensive trade shall at the expiration of three years from that date cease to have effect for the purposes of this Part of this Act (but not for the purposes of any planning scheme in operation at the said date) without prejudice, however, to the making and confirmation of a new order under this subsection.

(2) Any person who on any premises within a borough or urban district, or such a rural district or contributory place as aforesaid, carries on an offensive trade established without such consent, if any, as at the date of the establishment of the trade was required by subsection (1) of this section or by any corresponding enactment repealed by this Act or the Public Health Act, 1875, shall be liable to a fine not exceeding five pounds for every day on which he carries on the trade after having been convicted in respect of the establishment thereof or, where he has not been so convicted, after receiving notice from the local authority to discontinue the trade.

(3) Any consent of a local authority under this section to the establishment of an offensive trade may be given so as to authorise the carrying on of the trade for a limited period specified in the consent, and for such extension of that period as may from time to time be granted by the authority, and any person carrying on the trade after the expiration of the period so specified, or any such extension thereof, as the case may be, shall be liable to a fine not exceeding five pounds for each day on which he carries on the trade after notice from the local authority stating that the period, or, as the case may be, the period as extended, has expired.

(4) Any person aggrieved by the refusal of a local authority to consent under this section to the establishment of a trade, or by any time limit attached to their consent, or by their refusal to extend such a time limit, may appeal to a court of summary jurisdiction.

(5) An order made under sub-paragraph (*b*) of paragraph (ii) of subsection (1) of this section may declare a trade, business or manufacture to be an offensive trade if established or carried on in a specified part of a borough, district or contributory place and, where an order made under the said sub-paragraph, or made before the commencement of this Act under section fifty-one of the Public Health Amendment Act, 1907, is so limited, any reference in the foregoing provisions of this section to premises within a borough, district or contributory place shall, in relation to the trade, business or manufacture in question, be construed as a reference to premises within that part of the borough, district or contributory place.

(6) For the purposes of this section, a trade, business or manufacture shall be deemed to be established not only when it is established in the first instance, but also if and when—

(*a*) it is transferred or extended from the premises on which it is for the time being carried on to other premises ; or

(*b*) it is resumed on any premises on which it was previously carried on, after it has been discontinued for more than eighteen months ; or

(*c*) the buildings in which it is carried on are enlarged,

but a change in the ownership or occupation of the premises on which a trade, business or manufacture is carried on, or the rebuilding of the buildings in which it is carried on when they have been wholly or partially pulled down or burnt down, without any extension of the total floor space therein, shall not for those purposes be deemed to be an establishment of the trade, business or manufacture.

(7) A local authority who propose to apply to the Minister for confirmation of an order made under sub-paragraph (*b*) of paragraph (ii) of subsection (1) of this section shall publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation.

NOTES TO SECTION 107.

Definitions—

" premises," s. 343 (1).
" contributory place," s. 343 (1).
" district," s. 1 (2).
" local authority," s. 1 (2).
" planning scheme," s. 343 (1).
" enactment," s. 343 (1).

Offensive trade. The list of offensive trades reproduces that in P.H.A. 1875, s. 112 (13 Halsbury's Statutes 670), with the addition of blood drier, fat extractor, fat melter, glue maker, gut scraper, rag and bone dealer, and size maker. It was proposed by the Bill to include also leather dressers and tanners, but these trades were struck out of the list during the consideration of the Bill in Parliament. The added trades, and indeed leather dressing and tanning, have frequently been dealt with in orders under P.H.A. 1907, s. 51 (13 Halsbury's Statutes 930), and the operation of such orders is preserved. New orders may be made under sub-s. (1) (ii) (*b*).

Fish frying. This trade is intended to be controlled by byelaw under s. 108 (1), *post*. Existing orders under P.H.A. 1907, s. 51 (*supra*), dealing with this trade will remain in force for three years, but may be renewed.

Confirmation of Order. Cf. ss. 61, 104, 108.

Appeal. See s. 300 (3) as to notifying the right of appeal.

108. Byelaws as to certain trades in urban district.—(1) Every urban authority may, and if required by the Minister shall, make byelaws with respect to the trade or business of fish frying carried on on or in any premises or streets within their district, in order to prevent any noxious or injurious effects of the trade or business.

(2) Without prejudice to the provisions of the preceding subsection, an urban authority, in order to prevent or diminish any noxious or injurious effects of the trade, business or manufacture in question, may make byelaws—

(*a*) with respect to any trade, business or manufacture being a trade, business or manufacture which as respects their district or any part thereof is an offensive trade within the meaning of the last preceding section, established on premises within their district, or, as the case may be, that part thereof, either with or without their consent and either before or after the commencement of this Act;

(*b*) with respect to any trade or business carried on in streets within their district, or any part thereof, being a trade or business, which as respects their district, or, as the case may be, that part thereof, is an offensive trade within the meaning of the last preceding section.

(3) If immediately before the commencement of this Act section one hundred and thirteen of the Public Health Act, 1875, was in force in, or in any contributory place in, the district of a rural authority, the foregoing provisions of this section shall apply to that authority as regards their district, or, as the case may be, as regards that contributory place.

(4) Subject as hereinafter provided—

(*a*) any byelaw made by a local authority under this section shall cease to have effect on the expiration of ten years from the date on which it was made;

(*b*) any byelaw with respect to an offensive trade made by a local authority under the corresponding provisions of any enactment repealed by this Act, or of any such enactment as amended or extended by a local Act, shall cease to have effect on the expiration of three years from the passing of this Act:

Provided that the Minister may by order extend the period during which any byelaw mentioned in this subsection is to remain in force.

(5) A local authority who propose to apply to the Minister for confirmation of any byelaws made under this section shall, in addition to complying with the requirements of section two hundred and fifty of the Local Government Act, 1933, publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation.

NOTES TO SECTION 108.

Definitions—

"urban authority," s. 1 (2).
"district," s. 1 (2).
"offensive trade," s. 107 (1).
"premises," s. 343 (1).
"street," s. 343 (1).
"contributory place," s. 343 (1).
"rural authority," s. 343 (1).
"local authority," s. 1 (2).
"enactment," s. 343 (1).

General note. This section reproduces and extends P.H.A. 1875, s. 113 (13 Halsbury's Statutes 671); and P.H.A.A. 1907, s. 51 (2) (13 Halsbury's Statutes 930). Para. (*b*) of sub-s. (2) is new, as is sub-s. (1) giving a specific power to control the fried-fish trade.

For L.G.A. 1933, s. 250, see note to s. 61, *ante*, where the Section is printed.

General.

109. Saving for mines, smelting works, etc.—(1) Nothing in this Part of this Act shall be construed as extending to a mine of any description so as to interfere with, or obstruct the efficient working of, the mine, or as extending to the smelting of ores and minerals, to the calcining, puddling and rolling of iron and other metals, to the conversion of pig iron into wrought iron, or to the reheating, annealing, hardening, forging, converting and carburising of iron and other metals, so as to interfere with or obstruct any of those processes.

(2) The Minister may by order—

(*a*) extend the preceding subsection to any other industrial process specified in the order;

(*b*) exclude from the application of that subsection so far as smoke nuisances are concerned any process specified in the subsection;

and any order so made may contain conditions and limitations subject to which the inclusion or exclusion is to take effect:

Provided that an order made by the Minister under this subsection shall be provisional only and shall not have effect until it is confirmed by Parliament.

NOTES TO SECTION 109.

Definition—

"smoke nuisance," s. 101.

General note. This section in effect reproduces P.H.A. 1875, s. 334 (13 Halsbury's Statutes 762), as amended by P.H. (Smoke Abatement) A. 1926, s. 1 (1) (*c*) (13 Halsbury's Statutes 1157). Note that Orders under this section are Provisional, and require confirmation by Parliament.

110. Interpretation of Part III.—(1) In this Part of this Act—

the expression "dust" does not include dust emitted from a chimney as an ingredient of smoke;

the expression "smoke" includes soot, ash, grit and gritty particles; and

the expression "chimney" includes structures and openings of any kind from or through which smoke may be emitted.

(2) In determining for the purposes of this Part of this Act whether the best practicable means have been taken for preventing, or for counteracting the effect of, a nuisance, a court shall have regard to cost and to local conditions and circumstances.

NOTES TO SECTION 110.

Best practical means. Cf. s. 103 (3).

Smoke. See P.H. (Smoke Abatement) A. 1926, s. 1 (1) (*b*) (13 Halsbury's Statutes 1157).

Chimney. *Ibid.*, s. 3 (13 Halsbury's Statutes 1159).

INTRODUCTORY NOTE TO PART IV.

Part IV consolidates the provisions of a number of Acts dealing with the powers and duties of local authorities in relation to water supply. In addition the opportunity has been taken to incorporate in the general law a number of provisions which have become very frequent in local Acts and which are probably already in operation in the area of supply of the majority of water undertakers.

Power to make byelaws for preventing waste, etc., is given by s. 132, and the requirements of such byelaws, as in the case of building byelaws, may be relaxed by the local authority.

PART IV.

WATER SUPPLY.

General duties and powers of local authority.

111. Duty of local authority with respect to water supplies within their district.—It shall be the duty of every local authority—

(i) to take from time to time such steps as may be necessary for ascertaining the sufficiency and wholesomeness of the water supplies within their district; and

(ii) for the purpose of securing, so far as is reasonably practicable, that every house and school has available within a reasonable distance a sufficient supply of wholesome water for domestic purposes—

(*a*) to provide a supply of water to every part of their district in which danger to health arises from the insufficiency or unwholesomeness of the existing supply, and a general scheme of supply is required and can be carried out at a reasonable cost; and

(*b*) without prejudice to their obligations under the preceding sub-paragraph, to exercise their powers under this Part of this Act of requiring owners of houses to provide a supply of water thereto.

NOTES TO SECTION 111.

Definitions—

" local authority," s. 1 (2).
" district," s. 1 (2).
" house," s. 343 (1).
" school," s. 343 (1).
" owner," s. 343 (1).

General note. Under P.H. (Water) A. 1878, ss. 3, 7 (20 Halsbury's Statutes 241, 244), which are here reproduced in substance, the duties of this section were imposed upon rural authorities, but could be extended to urban authorities by order under s. 11 (20 Halsbury's Statutes 245). The duty is now imposed on all local authorities.

As to " domestic purposes," see Waterworks Clauses Acts, 1847, s. 53 (20 Halsbury's Statutes 204), and 1863, s. 12 (20 Halsbury's Statutes 223), and cases in 43 Digest, pp. 1080–1082. Many Local Acts contain provisions further restricting the meaning of the expression.

There is no authority as to what is a reasonable distance. The duty imposed on local authorities is enforceable under ss. 321–325, *post*, and the standard for the time being adopted by the Ministry of Health will be the criterion. See Lumley, 10th Edn., p. 725, note (*c*). L.G.A. 1929, s. 57 (3) (10 Halsbury's Statutes 922), is no longer applicable to functions under this Act (3rd Sched, Part V, *post*).

112. Power to supply water for non-domestic purposes.—A local authority who supply water under this Act for domestic purposes may supply water for any other purposes.

NOTES TO SECTION 112.

Definition—

" local authority," s. 1 (2).

General note. This section reproduces in principle P.H.A. 1875, s. 65 (13 Halsbury's Statutes 653), but is in wider, and simpler, terms.

113. Power of local authority in certain circumstances to supply water to premises outside their district.—If the Minister is satisfied that the owners or occupiers of premises in any area outside the district of a local authority who supply water under this Act desire to obtain a supply of water from that authority, and that the giving of the supply is not likely to interfere with the supply of water for domestic or other purposes within the district of that authority, he may, on the application of that authority, and with the consent of the local authority within whose district, and of any statutory water undertakers within whose limits of supply, the area is situate, by order authorise the applicants to supply water in that area, or any part thereof, on such conditions as may be specified in the order:

Provided that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to the Minister, whose decision shall be final.

NOTES TO SECTION 113.

Definitions—

" owner," s. 343 (1).
" premises," s. 343 (1).
" district," s. 1 (2).
" local authority," s. 1 (2).
" statutory water undertakers," s. 142.
" limits of supply," s. 142.

General note. This section is new to the Public Health Acts and is based on provisions in Local Acts. Cf. the provisions of the Electric Lighting Act, 1909 (7 Halsbury's Statutes 747), under which the Electricity Commissioners may make similar orders in relation to the supply of electricity. These orders are generally known as " fringe orders " and do not require confirmation by Parliament.

114. Power of local authority to supply water in bulk to adjoining authority.—A local authority who supply water under this Act may with the approval of the Minister furnish a supply of water in bulk to the local authority of an adjoining district on such terms as may be agreed:

Provided that the Minister shall not approve the furnishing of such a supply unless he is satisfied that it is not likely to interfere with the supply of water for domestic or other purposes within the district of the supplying authority.

NOTES TO SECTION 114.

Definitions—

" local authority," s. 1 (2).
" district," s. 1 (2).

General note. This section substantially reproduces P.H.A. 1875, s. 61 (13 Halsbury's Statutes 651), omitting the provision for the settlement of disputes as to terms by arbitration. This provision served no useful purpose as the section is permissive. Cf. s. 28, *ante*, where a similar provision has been omitted in similar circumstances.

115. Purity of water for domestic supply.—A local authority who supply water under this Act shall secure that the water in any waterworks belonging to them from which water is supplied for domestic purposes is wholesome.

NOTES TO SECTION 115.

Definitions—

" local authority," s. 1 (2).
" waterworks," s. 343 (1).

General note. This section reproduces the first part of P.H.A. 1875, s. 55 (13 Halsbury's Statutes 649). The provisions as to constant supply and pressure are omitted.

Cf. the provisions of the Waterworks Clauses Act, 1847, s. 35 (20 Halsbury's Statutes 198), as to constant supply by undertakers.

Waterworks and other sources of supply.

116. General powers of local authority for supplying district with water.—(1) For the purpose of providing their district, or any part thereof, with a supply of water, a local authority may, subject to the provisions of this section and to the provisions of Part XII of this Act with respect to the execution of works affecting water or water rights—

(i) construct, take on lease, or with the approval of the Minister purchase by agreement, waterworks ;

(ii) with the approval of the Minister purchase by agreement any water, or right to take or convey water, or other rights, powers and privileges in relation to the supply of water, and, in so far as it may be necessary for facilitating the supply of water, any water-mill, dam, or weir ;

(iii) with the approval of the Minister purchase by agreement the water undertaking of any statutory water undertakers whose limits of supply are coterminous with, or include the whole or any part of, the authority's district, and any water undertaking belonging to persons who are supplying water in any part of the authority's district, but are not statutory water undertakers ;

(iv) contract with any local authority or other person for a supply of water and, in particular, avail themselves of the provisions of the Supply of Water in Bulk Act, 1934 ;

(v) give any such guarantee in respect of a supply of water as is authorised by any subsequent provision of this Part of this Act.

(2) A local authority shall not take any steps for supplying water in any part of their district in which they are not already supplying water and which is within the limits of supply of any statutory water undertakers without the consent of those undertakers :

Provided that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to the Minister, whose decision shall be final.

(3) A local authority shall not, for the purpose of supplying water under this Act, construct any works for taking or intercepting water without the approval of the Minister.

(4) Where a rural authority propose to carry out works for a supply of water to any part of their district, they shall, before adopting plans

for the works, give notice of their proposals to the parish council of each parish to be served by the works, or, in the case of a parish not under a parish council, to the parish meeting.

(5) Where under this section a local authority propose to purchase the water undertaking of statutory water undertakers whose limits of supply extend beyond the authority's district, or the water undertaking of persons, not being statutory water undertakers, who are supplying water outside that district, they shall give notice in writing to the authority of every other district which is wholly or in part within the limits of supply of the statutory undertakers or, as the case may be, within the area in which the non-statutory undertakers are supplying water, and shall not proceed with their proposal unless the consent of each such authority has been obtained :

Provided that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to the Minister, whose decision shall be final.

(6) Where a local authority have under this Act, or under any Act repealed by this Act, acquired a water undertaking constituted or regulated by an order made under the Gas and Water Works Facilities Act, 1870, or any Act amending that Act, the provisions of section three hundred and three of the Public Health Act, 1875, with respect to the power of the Minister to make provisional orders for repealing or amending local Acts shall apply as if the order were a local Act which could be repealed or amended under that section.

NOTES TO SECTION 116.

Definitions—

" district," s. 1 (2).
" local authority," s. 1 (2).
" waterworks," s. 343 (1).
" statutory water undertakers," s. 142.
" limits of supply," s. 142.
" rural authority," s. 1 (2).
" parish," s. 1 (2).
" local Act," s. 343 (1).

General note. For provisions of Part XII with respect to the execution of works affecting water or water rights, see ss. 331, 332, *post*.

This section reproduces with amendments P.H.A. 1875, ss. 51, 52, 175 (13 Halsbury's Statutes 647, 648, 699) ; and L.G.A. 1894, s. 16 (3) (10 Halsbury's Statutes 788).

For the Supply of Water in Bulk Act, 1934, see 27 Halsbury's Statutes 728–730. This Statute extended the power of local authorities to give and take supplies in bulk (P.H.A. 1875, s. 61 (13 Halsbury's Statutes 651), now s. 114, *ante*) by empowering them to give and take supplies to and from undertakers who are not local authorities.

Sub-s. (2) in effect extends the principle of s. 113, *ante*, to premises within the district.

Sub-s. (3) is new.

As to sub-s. (4) cf. s. 15 (4), *ante*, and note thereto. Similar observations apply.

Sub-s. (5) is designed to meet the difficulty which has existed when limits of supply extend beyond the district and the neighbouring authority or authorities do not wish to join in the purchase. See Second Interim Report, p. 100, and p. 409, *post*.

For the Gas and Water Works Facilities Act, 1870, see 8 Halsbury's Statutes 1254.

P.H.A. 1875, s. 303 (13 Halsbury's Statutes 752), which remains in force, provides as follows :

" **303. Power to repeal and alter local Acts.**—The Local Government Board may, on the application of the local authority of any district, by provisional order, wholly or partially repeal alter or amend any local Act, other than an Act for the conservancy of rivers, which is in force in any area comprising the whole or part of any such district, and not conferring powers or privileges on any persons or person for their or his own pecuniary benefit, which relates to the same subject matters as this Act.

Any such provisional order may provide for the extension of the provisions of the local Act referred to therein beyond the district or districts within the limits

of such Act, or for the exclusion of the whole or a portion of any such district from the application of such Act; and may provide what local authority shall have jurisdiction for the purposes of this Act in any area which is by such order included in or excluded from such district."

117. Rights of statutory undertakers where local authority supply water with their consent.—(1) Where a local authority are supplying water to any premises within the limits of supply of statutory water undertakers by virtue of a consent given by those undertakers, whether voluntarily or in compliance with a decision of the Minister, under any of the foregoing provisions of this Part of this Act, those undertakers may, in the absence of any agreement to the contrary, at any time give not less than one month's notice to the supplying authority that they are able and intend to give a supply of water to the premises in question.

(2) When a notice has been given under this section, then, so soon as, after the expiration of one month, the statutory undertakers commence to supply water to the premises in question, the rights and duties of the local authority in respect of a supply thereto shall cease, but the statutory undertakers shall pay to the local authority such portion of any expenses reasonably incurred by the authority for the purpose of giving a supply to those premises as may be agreed or, failing agreement, determined by arbitration.

NOTES TO SECTION 117.

Definitions—
" local authority," s. 1 (2).
" premises," s. 343 (1).
" limits of supply," s. 142.
" statutory water undertakers," s. 142.
" statutory undertakers," s. 343 (1).

General note. This section is new, and is consequential on ss. 113 and 116 (2), *ante*. As to the word " able," see *Richmond Waterworks Co., etc.* v. *Richmond Vestry* (1876), 3 Ch. D. 82; 43 Digest 1060, *77*. Both power to supply and water must be available (cf. P.H.A. 1875, s. 52; 13 Halsbury's Statutes 648). Under the present section the question of ability to supply in fact does not arise, as the local authority continue to supply until a supply is in fact given by the undertakers.

118. Notices to be given before constructing reservoir.—(1) A local authority who propose to construct under the provisions of this Act a reservoir, other than a service reservoir or tank which will not contain more than one hundred thousand gallons, shall—

(*a*) publish by advertisement in a local newspaper circulating in the district in which the proposed reservoir is to be constructed a notice describing the nature of the proposals and specifying the land in or on which they propose to execute any work, and naming a place where a plan illustrative of their proposals may be inspected at all reasonable hours by any person free of charge; and

(*b*) if the site of the proposed reservoir is in the district of another local authority, serve a copy of the notice on that authority.

(2) If, within twenty-eight days after the publication of the notice referred to in the preceding subsection, notice of objection to their proposals is served on the local authority by any owner or occupier of land affected by the proposals, or by such other local authority, if any, as aforesaid, they shall not proceed with their proposals unless all such objections so made are withdrawn, or the Minister, after a

local inquiry, has approved the proposals, either with or without modification.

NOTES TO SECTION 118.

Definitions—
" local authority," s. 1 (2).
" land," s. 343 (1).
" owner," s. 343 (1).

General note. This section substantially reproduces P.H.A. 1875, s. 53 (13 Halsbury's Statutes 648), as amended by P.H.A. 1925, s. 78 (13 Halsbury's Statutes 1151), but the period during which notice is to be given (6 weeks) is omitted. The effect is to reduce this period to the 28 days during which notice of objection may be served.

119. Powers and duties of local authority in respect of laying and maintaining water mains.—A local authority who supply, or are about to supply, water under this Act shall have the like powers and duties and be subject to the like restrictions in respect of the laying and maintenance of water mains within or without their district, as, under the provisions of Part II of this Act, they have and are subject to in respect of the construction and maintenance of public sewers within or without their district, as the case may be.

NOTES TO SECTION 119.

Definitions—
" local authority," s. 1 (2).
" public sewer," s. 20 (2).

General note. This section replaces P.H.A. 1875, s. 54 (13 Halsbury's Statutes 649), and the repealed part of P.H.A. 1925, s. 80 (13 Halsbury's Statutes 1152). For the relevant provisions of Part II, see ss. 15, 16, 22, 23, *ante*.

120. Incorporation of certain provisions of Waterworks Clauses Acts.—For the purpose of enabling a local authority to supply water under this Act, there shall be incorporated with this Act the Waterworks Clauses Act, 1863, except section fifteen thereof, and the following provisions of the Waterworks Clauses Act, 1847 :—

sections forty-four to forty-seven, with respect to the communication pipes to be laid by the undertakers;

sections forty-eight to fifty-one and fifty-three, with respect to the communication pipes to be laid by the inhabitants;

sections fifty-four to sixty, with respect to waste or misuse of the water supplied by the undertakers;

sections sixty-one to sixty-seven, with respect to the provision for guarding against fouling the water of the undertakers; and

sections sixty-eight to seventy-one, seventy-three and seventy-four, with respect to the payment and recovery of the water rates :

Provided that—

(*a*) the provisions with respect to the communication pipes to be laid by the undertakers and the inhabitants respectively shall apply only in districts, or parts of districts, where the local authority lay any pipes for the supply of any of the inhabitants thereof;

(*b*) the provisions with respect to the communication pipes to be laid by the inhabitants shall have effect subject to the provisions of the next succeeding section;

(*c*) any dispute authorised, or directed, by any of the said incorporated provisions to be settled by an inspector, or two justices, shall be settled by a court of summary jurisdiction;

(*d*) section forty-four of the Waterworks Clauses Act, 1847, shall for the purposes of this Act have effect as if the words "with the consent in writing of the owner or reputed owner "of any such house, or of the agent of such owner" were omitted therefrom, and any rent for pipes and works paid by an occupier under that section may be deducted by him from any rent from time to time due from him to such owner;

(*e*) section forty-eight of the said Act shall for the purposes of this Act have effect as if after the words "having first obtained" there were inserted the words "as respects any ground not forming part of a street";

(*f*) section fifty-seven of the said Act shall for the purposes of this Act have effect as if after the word "afternoon" there were inserted the words "on producing, if required, evidence of his authority", and as if after the words "and if" there were inserted the words "after production of his authority"; and

(*g*) the provisions with respect to the payment and recovery of water rates shall have effect subject to the subsequent provisions of this Part of this Act with respect to charges for water.

NOTES TO SECTION 120.

Definitions—

"local authority," s. 1 (2).
"owner," s. 343 (1).
"street," s. 343 (1).

General note. This section replaces P.H.A. 1875, s. 57 (13 Halsbury's Statutes 649). Certain provisions incorporated by that section are here omitted as they form the subject of substantive provisions of the Act. See Second Interim Report, p. 100, and p. 410, *post*. See ss. 129, 279, and 287, *post*.

For the Waterworks Clauses Acts, 1847 and 1863, see 20 Halsbury's Statutes 186, 220.

As to interpretation of the incorporated provisions, see s. 343 (2), *post*.

121. Power of owner or occupier to break open streets for laying pipes, subject, in certain cases, to right of local authority to execute the work.—(1) Subject to the provisions of Part XII of this Act with respect to the breaking open of streets, and to the following provisions of this section, any owner or occupier of premises entitled under this Act to take a supply of water from the mains of a local authority may break open any street for the purpose of laying any necessary communication pipe and for the purpose of inspecting, repairing and renewing any communication pipe serving his premises.

(2) A person who proposes to lay a pipe from his premises to communicate with a main of the local authority shall give to the authority notice of his proposals and they may, within twenty-one days after the receipt thereof, give notice to him that they intend themselves to make the communication and if, after such a notice has been given to him, he proceeds himself to make the communication, he shall be liable to a fine not exceeding fifty pounds.

(3) Where a local authority have given such a notice as aforesaid, they shall have all such rights in respect of the making of the communication as the person desiring it to be made would have, but it shall not be obligatory on them to make the communication until the cost of the work as estimated by their surveyor has been paid to them, or security for payment has been given to their satisfaction.

(4) If any payment so made to the local authority exceeds the expenses reasonably incurred by them in the execution of the work, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, if any, made to them, they may recover the expenses, or the balance thereof, from the person for whom the work was done.

(5) For the purposes of this section, the making of the communication with a main includes all such work as involves the breaking open of a street.

NOTES TO SECTION 121.

Definitions—

"owner," s. 343 (1).
"premises," s. 343 (1).
"local authority," s. 1 (2).
"street," s. 343 (1).

General note. This section is new as a substantive provision of the Public Health Acts. Cf. Waterworks Clauses Act, 1847, s. 52 (20 Halsbury's Statutes 204), which relates to the initial communication, and s. 34 (2) (3) (4) and (5), *ante*, as to sewers.

For provisions of Part XII as to breaking open streets, see s. 279, *post*.

122. Power of water undertakers to supply water, or sell or lease waterworks, to local authority.—Any person supplying water, whether under statutory powers or not, may—

(i) contract to supply water to a local authority; or

(ii) subject to the provisions of this section, sell or lease to a local authority all or any of his waterworks and all his rights, powers and privileges attaching thereto, but subject to all liabilities attaching thereto:

Provided that a sale by a company under this section must be authorised, if the company is a company within the meaning of the Companies Act, 1929, by a special resolution of the members passed in the manner provided in Part IV of that Act, and if the company is not such a company, by a resolution passed by three-fourths in number and value of the members present, either personally or by proxy, at a meeting specially convened for the purpose with notice of the business to be transacted.

NOTES TO SECTION 122.

Definitions—

"local authority," s. 1 (2).
"waterworks," s. 343 (1).

General note. This section reproduces in modern form P.H.A. 1875, s. 63 (13 Halsbury's Statutes 652).

For similar provisions relating to gas and market companies, see P.H.A. 1875, ss. 162, 168 (13 Halsbury's Statutes 693, 695).

For the Companies Act, 1929, Part IV, see 2 Halsbury's Statutes 832 *et seq*.

123. Power of local authority to give guarantees to water companies, etc.—A local authority may undertake to pay to any person supplying water, or guarantee payment to any such person of, such periodical or other sums as may be agreed as a consideration for that person giving a supply of water, so far as he can lawfully do so, within any part of the authority's district and executing any works necessary for that purpose.

NOTES TO SECTION 123.

Definitions—

"local authority," s. 1 (2).
"district," s. 1 (2).

General note. This section is new in the Public Health Acts, but follows precedents in a number of Local Acts.

As to terms on which occupiers may demand a supply, see Waterworks Clauses Act, 1847, ss. 44, 48, 52, 53 (20 Halsbury's Statutes 203, 204).

Public wells, pumps, etc.

124. Certain public pumps, wells, cisterns, etc., vested in local authority.—(1) All public pumps, wells, cisterns, reservoirs, conduits, and other works used for the gratuitous supply of water to the inhabitants of any part of the district of a local authority shall vest in and be under the control of the authority, and the authority may cause the works to be maintained and supplied with wholesome water, or may substitute, maintain and supply with wholesome water other such works equally convenient.

(2) If the local authority are satisfied that any such works are no longer required, or that the water obtained from any such works is polluted and that it is not reasonably practicable to remedy the cause of the pollution, they may close those works or restrict the use of the water obtained therefrom.

(3) Subject to the provisions of this Act, a local authority may construct any works for supplying water for the gratuitous use of any inhabitants who desire to take it not for sale but for domestic purposes.

NOTES TO SECTION 124.

Definitions—

" district," s. 1 (2).
" local authority," s. 1 (2).

General note. This section reproduces P.H.A. 1875, ss. 64, 70 (13 Halsbury's Statutes 652, 654), omitting the word " existing " in s. 64. The power to close polluted wells, etc., under P.H.A. 1875, s. 70 (*supra*), required (*a*) a representation from some person that the well, etc., was polluted, (*b*) application to a court of summary jurisdiction.

125. Power of parish council to utilise wells, springs or streams for obtaining water.—(1) A parish council may utilise any well, spring or stream within their parish and provide facilities for obtaining water therefrom, and may execute any works, including works of maintenance or improvement, incidental to, or consequential on, any exercise of that power :

Provided that nothing in this subsection shall be construed as authorising them to interfere with the rights of any person, or as restricting, in the case of a public well or other works, any powers of the local authority under the last preceding section.

(2) A parish council may contribute towards the expenses incurred by any other parish council, or by any other person, in doing anything authorised by the preceding subsection.

(3) Nothing in this section shall derogate from any obligation of a district council with respect to the supply of water.

NOTES TO SECTION 125.

Definitions—

" parish," s. 1 (2).
" local authority," s. 1 (2).

General note. This section reproduces L.G.A. 1894, s. 8 (1) (*e*) (*i*) (*k*), and (3) (10 Halsbury's Statutes 780, 781). The proviso to sub-s. (1) is new.

Charges for water.

126. General power of local authority to make charges for water.—(1) Subject to the provisions of this Part of this Act, a local authority who supply water under this Act to any premises for domestic purposes

may charge in respect thereof a water rate, which shall be assessed on the net annual value of the premises as appearing in the valuation list for the time being in force or, if that value does not appear in the valuation list, on the net annual value of the premises as determined, in the event of dispute, by a court of summary jurisdiction :

Provided that the authority may fix a minimum charge applicable in all cases to premises supplied with water.

(2) The local authority may also enter into agreements for supplying water by meter, or otherwise, on such terms as may be agreed between them and the persons receiving the supply, and shall have the like powers for recovering water charges under such agreements as they have for recovering water rates.

(3) Where the local authority charge a water rate in respect of water supplied by them for domestic purposes, they may make, in addition, a reasonable charge in respect of the use of that water—

(*a*) in any fixed bath having a capacity (measured to the centre line of the overflow pipe, or in such other manner as the Minister may by regulations prescribe) in excess of fifty gallons ; or

(*b*) by means of a hose-pipe or similar apparatus, either for horses or for washing vehicles.

A charge made under this subsection may be recovered as part of the water rate and, if any question arises as to whether any such charge is reasonable or not, that question shall be referred to the Minister, whose decision shall be final.

(4) Any ten persons rated to the general rate in a borough or urban district, or any five persons rated to the general rate in a contributory place in a rural district, if aggrieved by the refusal of the local authority to make charges in respect of all water supplied by them under this Act in that borough, district or contributory place, or by their refusal to make such charges as those ratepayers deem reasonable and adequate, may appeal to the Minister, and the Minister may make such order in the matter as he thinks fit.

NOTES TO SECTION 126.

Definitions—

" local authority," s. 1 (2).
" premises," s. 343 (1).

General note. This section consolidates a number of provisions relating to water rates and adds new ones.

Sub-ss. (1) and (2) reproduce P.H.A. 1875, s. 56 (13 Halsbury's Statutes 649).

Sub-s. (3) incorporates provisions which are common in Local Acts but are new in the Public Health Acts, cf. P.H. (Water) A. 1878, s. 8 (20 Halsbury's Statutes 245).

Sub-s. (4) reproduces P.H. (Water) A. 1878, s. 10 (20 Halsbury's Statutes 245).

As to " domestic purposes," see note to s. 111, *ante*.

127. Power to charge by meter for supply to certain premises and for certain purposes.—(1) The Minister, on an application made to him by a local authority who are supplying water under this Act for domestic purposes, may fix a maximum charge per thousand gallons for a supply of water by meter, subject to the right of the authority to make such minimum charge, if any, as he may fix, and, where a maximum charge has been so fixed, the provisions of the two next succeeding subsections shall have effect.

(2) The local authority may require that all water supplied by them to—

(*a*) any premises used as a house whereof a part is used by the same occupier for any business, trade or manufacturing purpose for which water is required;

(*b*) any public institution;

(*c*) any hospital, sanatorium, school, club, hostel, assembly hall, place of public entertainment, restaurant, hotel, or licensed premises, within the meaning of that expression as used in the Licensing (Consolidation) Act, 1910; or

(*d*) any boarding-house capable of accommodating twelve or more persons, including the persons usually resident therein,

shall be taken by meter.

(3) If a person who takes a supply of water for domestic purposes from the local authority otherwise than by meter desires to use any of the water so supplied for operating—

(*a*) a water-cooled refrigerating apparatus;

(*b*) any apparatus depending while in use upon a supply of continuously running water; or

(*c*) any apparatus used for softening water which requires water for cleaning, regenerating, motive power or similar purposes,

the authority may require that all water so used shall be taken by meter:

Provided that nothing in this subsection shall apply to an apparatus used for softening water, if one such apparatus only is used, and the water softened thereby can be drawn off into a receptacle at one point only and is used solely for domestic purposes.

(4) A local authority who propose to make an application to the Minister under this section shall give notice of their proposal in such manner and to such persons, if any, as the Minister may direct, and the Minister shall not decide the application before the expiration of one month from the giving of the notice, and before giving his decision shall take into consideration any representations which may have been received by him.

NOTES TO SECTION 127.

Definitions—

"local authority," s. 1 (2).
"premises," s. 343 (1).
"house," s. 343 (1).
"hospital," s. 343 (1).
"school," s. 343 (1).

General note. This section is new to the Public Health Acts but is based on provisions common in Water Acts, both of local authorities and of statutory water undertakers.

The meaning of "licensed premises" in the Licensing (Consolidation) Act, 1910, is (s. 110, 9 Halsbury's Statutes 1042):—

"premises in respect of which a justices' licence has been granted and is in force."

As to domestic purposes, see note to s. 111, *ante*.

The provisions as to water-softeners are in accordance with precedent, but it is difficult to interpret them. Under sub-s. (3) (*c*), for example, it is submitted that it is only the water used for regenerating the water-softener, not the general supply which passes through the apparatus, that is to be taken by meter.

The proviso to sub-s. (3) is also ambiguous. Most domestic water-softeners permit of the drawing off of water by means of a tap (into a "receptacle") or by means of a service pipe which passes to the cistern, whence the water is distributed over the house to numerous taps, from any one of which "the water softened thereby" can be drawn off into a receptacle. The proviso apparently exempts only the smallest instruments operating, *e.g.* in a bathroom.

128. Power to charge for water supplied by stand-pipes, etc.—(1) Where a local authority who supply water under this Act have provided a stand-pipe or constructed a well or cistern, from which persons may obtain water, the authority may recover water rates from the owner or occupier of every house within two hundred feet of that stand-pipe, well or cistern, in the like manner as if a supply had been given on the premises:

Provided that, if any such house has, from other sources and within a reasonable distance, a supply of wholesome water sufficient for the domestic purposes of the inmates, no water rate shall be recoverable from the owner or occupier of the house, unless and until water from the stand-pipe, well or cistern is used by inmates of the house.

(2) Nothing in this section applies to a stand-pipe, well or cistern which is vested in the local authority by virtue of subsection (1) of section one hundred and twenty-four of this Act, or which has been constructed by them under subsection (3) of that section.

NOTES TO SECTION 128.

Definitions—

"local authority," s. 1 (2).
"owner," s. 343 (1).

General note. This section reproduces P.H. (Water) A. 1878, ss. 9, 11 (20 Halsbury's Statutes 245), which was, however, limited to stand-pipes.

As to meaning of "house within 200 feet," cf. *Hunter District Water Supply and Sewerage Board* v. *Newcastle Wallsend Coal Co.*, [1896] A. C. 82; 43 Digest 1087, note *g*, but that case was on the word "lands" in a local Act.

Reasonable distance. See note to s. 111, *ante*.

129. Water rates on small tenements may be demanded from the owners.—(1) Where a local authority supply water under this Act to a house, or to a part of a house occupied as a separate tenement, and the owner thereof is, under subsection (1) of section eleven of the Rating and Valuation Act, 1925, as amended by any subsequent enactment, rated instead of the occupier, the owner instead of the occupier shall, if the authority so determine, pay the rate for the supply of water, but nevertheless the rate may be demanded and recovered by them from the occupier and, if it is so recovered, the occupier shall, unless as between himself and the owner he is liable to pay the rate, be entitled to deduct the amount so paid from his rent:

Provided that an occupier shall not be required to pay at any one time any sum in excess of the amount which was due from him on account of rent at, or has become due from him on account of rent since, the date on which he received a demand from the local authority together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.

(2) An owner of premises to which a determination of the local authority under this section applies shall, if he pays the amount due by him in respect of a water rate before the expiration of one-half of the period in respect of which the rate is payable, or before such later date as may be specified by the authority, be entitled to an allowance calculated at the same rate per cent. as the allowance which is made to him in respect of a general rate under paragraph (*a*) of subsection (1)

of section eleven of the Rating and Valuation Act, 1925, as amended by any subsequent enactment.

NOTES TO SECTION 129.

Definitions—

"local authority," s. 1 (2).
"house," s. 343 (1)
"owner," s. 343 (1).
"enactment," s. 343 (1).
"premises," s. 343 (1).

General note. This section is based on the Waterworks Clauses Act, 1847, s. 72 (20 Halsbury's Statutes 209), with variations based on Local Acts.

S. 72 is omitted from the general incorporation of the Act of 1847 under s. 120, *ante*.

For the Rating and Valuation Act, 1925, s. 11 (1), see 14 Halsbury's Statutes 632.

130. Water rates may be made recoverable half-yearly.—(1) If a local authority who supply water under this Act so resolve, the water rates shall, notwithstanding anything in the Waterworks Clauses Act, 1847, be payable in advance by half-yearly instalments in respect of the half-years commencing on the first day of April and the first day of October, but no proceedings shall be commenced for the recovery of any such instalment until the expiration of two months from the first day of the half-year in respect of which it has been demanded.

(2) While such a resolution is in operation, if the person who is, or who but for the provisions of the last preceding section would be, liable to pay the water rate payable in respect of any premises is in occupation of those premises during a portion only of a half-year, he, or, as the case may be, the owner of the premises, shall be liable to pay so much only of the half-yearly instalment as bears to the whole instalment the same proportion as the number of days within the half-year during which the first-mentioned person is in occupation bears to the number of days in the half-year, and, if either of them has paid any greater proportion of the instalment, he shall be entitled to recover the excess from the local authority, except in so far as he has previously recovered it from an incoming occupier.

NOTES TO SECTION 130:

Definitions—

"local authority," s. 1 (2).
"owner," s. 343 (1).
"premises," s. 343 (1).

General note. This section is new to the Public Health Acts, but is based on provisions common in local Acts.

Under the Waterworks Clauses Act, 1847, s. 70 (20 Halsbury's Statutes 209), water rates are payable quarterly in advance. The present section will enable them to be collected with the general rate.

131. Adjustment in respect of water rate where net annual value of premises is altered.—(1) Where under section thirty-seven of the Rating and Valuation Act, 1925, an amendment is made in the valuation list for the time being in force, the amendment shall for the purpose of calculating the amount due in respect of any water rate payable under this Act have effect retrospectively as from the date as from which under the said section it has effect for the purpose of calculating the amount due in respect of any general rate.

(2) If it is found that, by reason of the foregoing provisions, too much or too little has been paid in respect of any water rate, the difference shall be repaid or allowed or, as the case may be, shall be paid and may be recovered as if it were arrears of the rate.

NOTE TO SECTION 131:

This section is new. The Rating and Valuation Act, 1925, s. 37 (14 Halsbury's Statutes 664), provides for the amendment of a current valuation list by means of a "proposal" made by any person aggrieved (including the county valuation committee).

Byelaws for preventing waste, etc., of water: provisions as to meters and other fittings.

132. Byelaws for preventing waste, misuse or contamination of water, etc.—(1) A local authority who supply water under this Act may make byelaws for preventing the waste, undue consumption, misuse or contamination of water supplied by them.

(2) Byelaws under this section may include provisions prescribing the size, nature, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair, of the water fittings to be used, and forbidding any arrangements and the use of any water fittings which permit, or are likely to permit, waste, undue consumption, misuse, erroneous measurement or contamination of water.

(3) If a person contravenes, or fails to comply with, the provisions of any byelaw made under this section, the authority may, without prejudice to their right to take proceedings for a fine, cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws to be repaired, replaced or altered, and shall have the like powers for recovering the expenses properly incurred by them in so doing as they have for recovering water rates.

(4) Nothing in this section or in any byelaw made thereunder shall apply to any fittings used on premises which belong to a railway company and are held or used by them for the purposes of their railway, so long as those fittings do not cause waste, undue consumption, misuse or contamination of water supplied by the local authority:

Provided that the exemption conferred by this subsection shall not extend to fittings used in hotels or other houses, or used in offices not forming part of a railway station.

(5) The provisions of Part II of this Act with respect to the power of a local authority with the consent of the Minister to relax the requirements of building byelaws shall apply in relation to byelaws made under this section as they apply in relation to building byelaws.

(6) Subject as hereinafter provided—

(*a*) any byelaw made by a local authority under this section shall cease to have effect on the expiration of ten years from the date on which it was made; and

(*b*) any byelaw made by a local authority under any other enactment which confers power to make byelaws for purposes similar to the purposes of this section shall, if made more than nine years before the date of commencement of this Act, cease to have effect at the expiration of one year from that date and, if made not more than nine years before that date, cease to have effect at the expiration of ten years from the date on which it was made:

Provided that the Minister may by order extend the period during which any such byelaw is to remain in force.

(7) A local authority who propose to apply to the Minister for confirmation of any byelaws made under this section shall, in addition to complying with the requirements of section two hundred and fifty of the Local Government Act, 1933—

(*a*) publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation; and

(*b*) if they supply water outside their district, send at least one month before the application is made a copy of the byelaws to the local authority of every district in which any premises to which the byelaws will apply are situate.

NOTES TO SECTION 132.

Definitions—

"local authority," s. 1 (2).
"premises," s. 343 (1).
"railway company," s. 343 (1).
"enactment," s. 343 (1).
"building byelaws," s. 343 (1).
"water fittings," s. 142.
"district," s. 1 (2).

General note. This section is new, but is based on provisions common in local Acts.

As to sub-s. (5), for provisions of Part II as to relaxation of byelaws, see s. 63, *ante*.

As to sub-s. (6), cf. s. 68, *ante*, and note to that section.

For L.G.A. 1933, s. 250, see 26 Halsbury's Statutes 440, and note to s. 61, *ante*, where the section is printed.

133. Power to inspect and test water fittings.—A local authority who supply water under this Act may examine and test any water fittings used in connection with water so supplied by them.

NOTES TO SECTION 133.

Definitions—

"local authority," s. 1 (2).
"water fittings," s. 142.

General note. This section reproduces part of P.H.A. 1875, s. 58 (13 Halsbury's Statutes 650).

For power of entry see s. 287, *post*.

134. Charges for hire of, and repairs to, meters.—(1) A local authority who supply water under this Act may make a charge for any meter provided by them, and shall have the like powers for recovering any such charges as they have for recovering water rates.

(2) The local authority shall at their own expense keep any meter let on hire by them to any person in proper order for correctly registering the supply of water and, if they fail so to do, that person shall not be liable to pay rent for the meter while the default continues.

NOTES TO SECTION 134.

Definition—

"local authority," s. 1 (2)

General note. This section is also based on P.H.A. 1875, s. 58 (13 Halsbury's Statutes 650).

135. Penalty for injuring water fittings, etc., or for fraudulent use of water.—(1) If any person wilfully or by culpable negligence injures, or suffers to be injured, any water fittings belonging to a local authority who supply water under this Act, or fraudulently alters the index of

any meter for measuring the water supplied by such an authority, or prevents any such meter from registering correctly the quantity of water supplied, or fraudulently abstracts or uses water of the authority, he shall, without prejudice to any other right or remedy of the authority, be liable to a fine not exceeding five pounds, and the authority may do all such work as is necessary for repairing any injury done, or for securing the proper working of the meter, and may recover the expenses reasonably incurred by them in so doing from the offender.

(2) For the purposes of this section, if it is proved that a consumer has altered the index of a meter, it shall rest upon him to prove that he did not alter it fraudulently, and the existence of any artificial means under the control of a consumer for preventing a meter from registering correctly, or enabling him fraudulently to abstract or use water, shall be prima facie evidence that he has fraudulently prevented the meter from registering correctly or, as the case may be, has fraudulently abstracted or used water.

NOTES TO SECTION 135.

Definitions—

"water-fittings," s. 142.
"local authority," s. 1 (2).

General note. This section is based on P.H.A. 1875, s. 60 (13 Halsbury's Statutes 651).

136. Register of meter to be evidence.—(1) Where a local authority supply water under this Act by meter, the register of the meter shall be prima facie evidence of the quantity of water consumed.

(2) Any question arising between the authority and a consumer with respect to the quantity of water consumed, may, on the application of either party, be determined by a court of summary jurisdiction.

(3) If the meter on being tested is proved to register incorrectly to any material degree—

(*a*) the meter shall be deemed to have registered incorrectly to that degree since the last occasion but one before the date of the test on which a reading of the index of the meter was taken by the authority, unless it is proved to have begun to register incorrectly to that degree on some later date; and

(*b*) the amount of any refund to be made to, or of any extra payment to be made by, the consumer shall be paid or allowed by the authority or paid by the consumer, as the case may be, and, in the case of an extra payment, may be recovered in the like manner as a water rate.

NOTES TO SECTION 136.

Definition—

"local authority," s. 1 (2).

General note. This section reproduces P.H.A. 1875, s. 59 (13 Halsbury's Statutes 650), but sub-s. (3) is new. Cf. Gas Undertakings Act, 1934, s. 23 (27 Halsbury's Statutes 321).

Power of local authority to require houses to be supplied with water.

137. New houses to be provided with sufficient water supply.—(1) Where plans of a house are, in accordance with building byelaws,

deposited with a local authority, the authority shall reject the plans unless—

(i) there is put before them a proposal which appears to them to be satisfactory for providing in, or within a reasonable distance of, the house a supply of wholesome water sufficient for the domestic purposes of the inmates; and

(ii) they are satisfied that the proposal can and will be carried into effect.

Any question arising under this subsection between a local authority and the person by whom or on whose behalf plans are deposited as to whether the local authority ought to pass the plans may on the application of that person be determined by a court of summary jurisdiction.

(2) If, after any such plans as aforesaid have been passed, it appears to the local authority that the proposal for providing a supply of water has not been carried into effect, or has not resulted in a supply of wholesome water sufficient for the domestic purposes of the inmates being provided in, or within a reasonable distance of, the house, the authority shall give notice to the owner of the house, prohibiting him from occupying it, or permitting it to be occupied, until the authority, being satisfied that such a supply has been provided, have granted him a certificate to that effect and, until such a certificate has been granted, he shall not occupy the house or permit it to be occupied:

Provided that any person aggrieved by the refusal of the authority to grant such a certificate may apply to a court of summary jurisdiction for an order authorising the occupation of the house and, if the court is of opinion that a certificate ought to have been granted, the court may make an order authorising the occupation of the house, and such an order shall have the like effect as a certificate of the local authority.

(3) Any person who contravenes the provisions of the last preceding subsection shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

NOTES TO SECTION 137.

Definitions—

"plans," cf. s. 90 (3).
"house," s. 343 (1).
"building byelaws," s. 343 (1).
"local authority," s. 1 (2).

General note. Plans deposited in accordance with building byelaws are defined in s. 90 (3), *ante*, for the purposes of Part II. Sub-s. (1) of this section might conveniently have been placed in Part II with other sections requiring a local authority to reject plans for specific reasons.

This section is based on P.H. (Water) A. 1878, s. 6 (20 Halsbury's Statutes 244), but extends to urban, as well as rural areas.

An appeal lies from a court of summary jurisdiction to quarter sessions under s. 301, *post*. The applicant must be informed of his right of appeal.

Reasonable distance, Domestic purposes. See notes to s. 111, *ante*.

138. Power of local authority to require any occupied house to be provided with sufficient water supply.—(1) Where a local authority are satisfied—

(*a*) that any occupied house has not, either in the house or within a reasonable distance thereof, a supply of wholesome water sufficient for the domestic purposes of the inmates; and

(*b*) that such a supply ought to be provided by the owner of the house; and

(*c*) that, if such a supply is afforded by the authority or other water undertakers, there will not be payable by the consumer in respect of water supplied any charge in excess of the ordinary charge made in respect of a supply of water for domestic purposes to houses in the area to which such a supply is given,

the authority may give notice to the owner requiring him within a time specified therein to provide, or secure the provision of, such a supply.

(2) Where the local authority are so satisfied as aforesaid with respect to each of two or more houses, and are further satisfied that the needs of those houses can most conveniently be met by means of a joint supply, they may give notice accordingly under the preceding subsection to the owners of all those houses.

(3) Subject to the provisions of the next succeeding section with respect to appeals, if such a notice as aforesaid is not complied with, the local authority may themselves provide, or secure the provision of, a supply of water to the house or houses in question and may recover any expenses reasonably incurred by them in so doing from the owner of the house, or, where two or more houses are concerned, from the owners of those houses in such proportions as may be determined by the authority or, in case of dispute, by a court of summary jurisdiction:

Provided that an owner shall not be required to pay more than twenty pounds in respect of any one house.

(4) Where any houses with respect to which the local authority are, by reason of notices not having been complied with, in a position to take action under the last preceding subsection are situate within the limits of supply of statutory water undertakers, and the aggregate amount of the water rates which would be payable annually by owners or occupiers of those houses at the rates charged by the undertakers is such that a requisition could be made by those owners or occupiers under section thirty-five of the Waterworks Clauses Act, 1847, or under that section as modified by any enactment regulating the undertaking, the local authority may themselves make such a requisition, and the undertakers shall comply therewith as if it had been made by the owners or occupiers of the houses, and those owners or occupiers shall be deemed to have made the requisition and to have entered into an agreement with the undertakers to take a supply of water for the minimum period mentioned in the said section, or in the said section as so modified.

(5) Where under this section a supply of water is furnished to a house by the local authority or other statutory water undertakers, water rates may be made on the premises and recovered as if the owner or occupier of the house had demanded and agreed to pay water rates for a supply.

(6) Where under this section two or more houses in the occupation of different persons are supplied with water by a common pipe belonging to the owners or occupiers of those houses or parts of houses, or to some of them, the local authority may, when necessary, repair or renew the pipe and recover any expenses reasonably incurred by them in so doing from the owners or occupiers of the houses in such proportions as may

be determined by the authority or, in case of dispute, by a court of summary jurisdiction.

NOTES TO SECTION 138.

Definitions—

" local authority," s. 1 (2).
" house," s. 343 (1).
" owner," s. 343 (1).
" statutory water undertakers," s. 142.
" enactment," s. 343 (1).

Reasonable distance. See note to s. 111, *ante*.

General note. This section is based on P.H.A. 1875, s. 62 (13 Halsbury's Statutes 651), and P.H. (Water) A. 1878, s. 3 (20 Halsbury's Statutes 241). The power of a local authority under the former section is based on the possibility of supply at a rate not exceeding the water rate or, if there is no local Act in force, twopence a week. Under the latter section a rural authority had to consider the capital cost, which was expressed, no doubt to correspond with the previous section, as " a capital sum the interest on which at 5 per cent. per annum would amount to twopence per week," *i.e.* as the Second Interim Report, para. 87, points out, a sum of £8 13*s.* 4*d.* By the proviso to sub-s. (3) this capital sum is increased to £20.

Sub-s. (4) is based on provisions in a number of Local Acts.

For the Waterworks Clauses Act, 1847, s. 35, see 20 Halsbury's Statutes 198.

An appeal lies from a court of summary jurisdiction to quarter sessions under s. 301, *post*.

See the following section as to appeals to the Minister.

139. Appeal by owner against requirement to provide water supply.—(1) If a person on whom a notice has been served under subsection (1) of the last preceding section objects to the requirement of the local authority on any of the following grounds, that is to say that :—

(*a*) the supply is not required ;

(*b*) the time allowed to him for providing the supply is insufficient ;

(*c*) the authority ought themselves to provide a supply of water for the district, or part of the district, in which the house is situate, or to render the existing supply of water wholesome ; or

(*d*) part of the expenses of providing the supply, or of rendering the existing supply wholesome, ought to be borne by the authority,

he may, within twenty-eight days after service on him of the notice, appeal to the Minister and, if he so appeals, the authority shall not take any further steps under the notice until they have been authorised so to do by the Minister.

(2) Upon an appeal to him under this section the Minister may either disallow the requirement of the local authority or allow it with or without modifications, and, if he allows it, shall order the authority to proceed with the proposed works, or those works as varied by the order, either forthwith or in the event of the works not being executed by the owner or owners within a time limited by the order.

(3) The Minister may by his order, if he thinks it equitable so to do, apportion the expenses of providing the supply between the owner or owners concerned and the local authority, or may vary any such apportionment which the authority propose to make, so, however, that in no case shall any owner be required to pay more than twenty pounds in respect of any one house.

NOTES TO SECTION 139.

Definitions—

" local authority," s. 1 (2).
" district," s. 1 (2).
" owner," s. 343 (1).

General note. See note to previous section.

This section is based on P.H. (Water) A. 1878, s. 4 (20 Halsbury's Statutes 242), but an appeal may be taken to the Minister on all the grounds stated.

Provisions for the protection of public from polluted water.

140. Power to close, or restrict use of water from, polluted source of supply.—(1) If a local authority are of opinion that the water in or obtained from any well, tank or other source of supply not vested in them, being water which is, or is likely to be, used for domestic purposes, or in the preparation of food or drink for human consumption, is, or is likely to become, so polluted as to be prejudicial to health, the authority may apply to a court of summary jurisdiction and thereupon a summons may be issued to the owner or occupier of the premises to which the source of supply belongs, or to any other person alleged in the application to have control thereof.

(2) Upon the hearing of the summons, the court may make an order directing the source of supply to be permanently or temporarily closed or cut off, or the water therefrom to be used for certain purposes only, or such other order as appears to the court to be necessary to prevent injury or danger to the health of persons using the water, or consuming food or drink prepared therewith or therefrom.

The court shall hear any user of the water who claims to be heard, and may cause the water to be analysed at the cost of the local authority.

(3) If a person on whom an order is made under this section fails to comply therewith, the court may, on the application of the local authority, authorise them to do whatever may be necessary for giving effect to the order, and any expenses reasonably incurred by the authority in so doing may be recovered by them from the person in default.

NOTES TO SECTION 140.

Definitions—

" local authority," s. 1 (2).
" prejudicial to health," s. 343 (1).
" owner," s. 343 (1).
" premises," s. 343 (1).

General note. This section reproduces P.H.A. 1875, s. 70 (13 Halsbury's Statutes 654). The words " not vested in them " are new. " Public " pumps, wells, etc., which are vested in the local authority may be closed by the decision of the local authority under s. 124, *ante*, without application to the Court.

The original section applied only when the water was used for drinking or domestic purposes, or for manufacturing drinks for the use of man, or was polluted. The corresponding words in the present section are rather wider.

141. Power to deal with insanitary cisterns, etc.—Any well, tank, cistern, or water-butt used for the supply of water for domestic purposes which is so placed, constructed or kept as to render the water therein liable to contamination prejudicial to health, shall be a statutory nuisance for the purposes of Part III of this Act.

NOTES TO SECTION 141.

Definitions—

" prejudicial to health," s. 343 (1).
" statutory nuisance," s. 92 (1).

General note. This section in effect reproduces P.H.A.A. 1907, s. 35 (1) (13 Halsbury's Statutes 924). For powers relating to statutory nuisances generally, see ss. 92–100, *ante*.

General.

142. Interpretation of Part IV.—In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them :—

" limits of supply " means, in relation to any statutory water undertakers, the limits within which they are for the time

being authorised by or under this or any other Act to supply water;

"statutory water undertakers" means water undertakers being either—

(*a*) a local authority; or

(*b*) a company, board, committee or person empowered by or under any Act to supply water;

"water-fittings" includes pipes, meters, cocks, ferrules, valves, soil-pans, waterclosets, baths, cisterns and other similar apparatus used in connection with the supply and use of water.

NOTE TO SECTION 142.

For definition of "local authority," see s. 1 (2).

INTRODUCTORY NOTE TO PART V.

This Part establishes a single uniform code of law relating to the prevention, notification and treatment of disease. The law will be simplified by the use of the term "notifiable disease" in place of the variety of terms used in the former Acts. It is to be noted that in this Part, as throughout the Act, the old system of bringing provisions into operation by a Ministerial Order, or by a resolution of adoption, is abolished. Attention is directed elsewhere to certain powers which are limited to urban districts, but with these exceptions the provisions of the Bill are of general application. In certain instances, *e.g.* s. 177, *post*, Ministerial sanction is required before a power is exercised. See ss. 267, 268, *post*, as to application of this Part to ships and boats, and to tents, vans, sheds, etc.

PART V.

PREVENTION, NOTIFICATION AND TREATMENT OF DISEASE.

Regulations for the prevention and treatment of infectious disease, etc.

143. Power of Minister to make regulations with a view to the treatment of certain diseases, and for preventing the spread of such diseases.—(1) Subject to the provisions of this section, the Minister may, as respects the whole or any part of England and Wales, including the coastal waters thereof, make regulations—

(*a*) with a view to the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases;

(*b*) for preventing danger to public health from vessels or aircraft arriving at any place; and

(*c*) for preventing the spread of infection by means of any vessel or aircraft leaving any place, so far as may be necessary or expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any other country;

and without prejudice to the generality of the foregoing words, may by any such regulations apply, with or without modifications, to any disease to which the regulations relate any enactment (including any

enactment in this Act) relating to the notification of disease or to notifiable diseases:

Provided that, before making regulations under paragraph (*b*) or paragraph (*c*) of this subsection, the Minister shall consult, in the case of vessels, the Board of Trade and, in the case of aircraft, the Secretary of State.

(2) Regulations made under this section may provide for—

(*a*) the signals to be displayed by vessels or aircraft having on board any case of epidemic, endemic or infectious disease;

(*b*) the questions to be answered by masters, pilots and other persons on board any vessel or aircraft as to cases of such disease on board during the voyage or on arrival;

(*c*) the detention of vessels or aircraft and of persons on board them;

(*d*) the duties to be performed in cases of such diseases by masters, pilots, and other persons on board vessels or aircraft;

and may authorise the making of charges and provide for the recovery of such charges and of any expenses incurred in disinfection.

(3) Regulations made under this section shall specify the authorities, whether county councils, local authorities or port health authorities, by whom they are to be enforced and executed, and may also provide for their enforcement and execution by officers of customs and excise and officers and men employed in the coast-guard:

Provided that regulations so made shall require—

(i) so far as they apply to officers of customs and excise, the consent of the Commissioners of Customs and Excise;

(ii) so far as they apply to officers or men employed in the coast-guard, the consent of the Admiralty and the Board of Trade;

(iii) so far as they apply to signals, in the case of vessels, the consent of the Board of Trade and, in the case of aircraft, the consent of the Secretary of State.

(4) Authorised officers of any such authority, officers of customs and excise and officers and men employed in the coast-guard shall have power to enter any premises, vessel, or aircraft for the purpose of executing, or superintending the execution of, any such regulations as aforesaid.

(5) Any person who wilfully neglects or refuses to obey or carry out, or obstructs the execution of, any regulations made by the Minister under this section shall, in a case where no provision is made by the regulations for his punishment, be liable to a fine not exceeding one hundred pounds, and in the case of a continuing offence to a further fine not exceeding fifty pounds for every day on which the offence continues after conviction therefor.

(6) Any expenses incurred by a county council under this section shall, if the Minister by order so directs, be defrayed as expenses for special county purposes charged on such part of the county as may be provided by the order, but any such order may be revoked or varied by a subsequent order.

(7) Regulations made under this section shall be laid before Parliament.

(8) This section extends to London.

(9) His Majesty may by Order in Council direct that the provisions of subsections (1) to (7) of this section, so far as they relate to regulations (including regulations as to quarantine) with respect to matters with respect to which the Parliament of Northern Ireland has no power to make laws, shall extend to Northern Ireland, subject to such exceptions, modifications and adaptations as may be specified in the Order.

(10) His Majesty may by Order in Council direct that regulations made under this section, other than regulations for purposes mentioned in paragraph (*a*) of subsection (1) which will be operative on land, shall extend to the Isle of Man and the Channel Islands with such exceptions, modifications and adaptations as may be specified in the Order, and for the purposes of any such Order the provisions of subsections (4) and (5) of this section shall be deemed to form part of the regulations.

NOTES TO SECTION 143.

Definitions—

" coastal waters," s. 343 (1).
" local authority," s. 1 (2).
" port health authority," s. 2 (2).
" officer," s. 343 (1).
" authorised officer," s. 343 (1).
" premises," s. 343 (1).
" vessel," s. 343 (1).
" London," s. 343 (1).
" enactment," s. 343 (1).

General note. " Infectious disease " is not defined in this Act, following the precedent of P.H.A. 1875. Attempts have been made in other Acts to achieve a definition, but have proved unsatisfactory, see Second Interim Report, paras. 94, 95.

The section is based on P.H.A. 1875, s. 130 (13 Halsbury's Statutes 678), as extended by P.H.A. 1896, s. 1 (13 Halsbury's Statutes 871); P.H.A. 1904, s. 1 (13 Halsbury's Statutes 893); P.H. (Prevention and Treatment of Disease) A. 1913, ss. 2, 4 (13 Halsbury's Statutes 953, 954); and P.H.A. 1925, s. 61 (1) (13 Halsbury's Statutes 1141). The powers of control are extended to travel by air.

A doubt in the interpretation of P.H.A. 1904, s. 1 (*supra*), is resolved by dealing with the arrival and departure of vessels and aircraft in paras. (*b*) and (*c*) respectively of sub-s. (1).

The section extends to London.

Cf. s. 180, *post*, as to requirement that the Regulations be laid before Parliament.

As to expenses for special county purposes, see L.G.A. 1933, s. 180 (26 Halsbury's Statutes 404).

Notification of disease.

144. Obligation to notify certain diseases.—(1) When an inmate of any building used for human habitation, not being a hospital in which persons suffering from an infectious disease are received, is suffering from a notifiable disease—

(*a*) the head of the family to which that inmate (in this section referred to as " the patient ") belongs and, in his default, the nearest relatives of the patient present in the building or in attendance on the patient, and, in default of such relatives, every person in charge of or in attendance on the patient, and, in default of any such person, the occupier of the building, shall, as soon as he becomes aware that the patient is suffering from a notifiable disease, send notice thereof to the medical officer of health of the district in which the building is situate;

(*b*) every medical practitioner attending on, or called in to visit, the patient shall, as soon as he becomes aware that the patient is suffering from a notifiable disease, send to the medical officer of health of the district in which the building is situate a certificate stating the name of the patient, the situation of the building, and the disease from which, in the opinion of that medical practitioner, the patient is suffering.

(2) Any person who fails to send a notice or certificate which he is required by this section to send shall be liable to a fine not exceeding forty shillings:

Provided that a person who is required to send notice only in default of some other person shall not be liable to a fine, if he satisfies the court that he believed, and had reasonable grounds for believing, that the notice had been duly sent.

(3) In this section the expression " occupier " includes a person having the charge, management, or control of the building, or of the part of a building, in which the patient is, and in the case of a building the whole of which is ordinarily let out in separate tenements, or in the case of a lodging-house the whole of which is ordinarily let to lodgers, the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person.

NOTES TO SECTION 144.

Definitions—

" hospital," s. 343 (1).
" notifiable disease," s. 343 (1).
" district," s. 1 (2).

General note. This section replaces the Infectious Disease (Notification) Act, 1889, ss. 3 and 16 (13 Halsbury's Statutes 812 and 816).

" Building " is not defined in the Act (see Second Interim Report, paras. 47, 48). It was not defined in P.H.A. 1875, and has never been defined for the purposes of the Public Health Acts. Under the Infectious Disease, etc., Act, 1889, s. 13 (13 Halsbury's Statutes 815), the provisions of the Act were to apply to every ship, vessel, boat, tent, van, shed, or similar structure used for human habitation in like manner as nearly as may be as if it were a building. This quasi-definition is not reproduced in the present Act, but the provisions of the whole of this Part of the Act are applied to ships, boats, tents, vans, sheds, etc., by ss. 267, 268, *post*, and it is therefore no longer necessary to speculate as to possible differences in interpretation in the application of the provisions to tents, for example. Cf. s. 15 of the Act of 1889 (13 Halsbury's Statutes 815).

As to method of giving notice, see s. 283, *post*.

Occupier. This definition is taken from s. 16 of the Act of 1889 (*supra*), but is not free from ambiguity, *e.g.* when the manager of a tenement or lodging-house himself occupies a tenement or rooms.

145. Supply of forms of certificate, and fees for certificates.—(1) A local authority shall, upon application, supply forms of certificate for use under the last preceding section free of charge to any medical practitioner practising in their district, and shall pay to a medical practitioner for each certificate duly sent by him under that section a fee of two shillings and sixpence if the case occurs in his private practice, and a fee of one shilling if the case occurs in his practice as medical officer of any public body or institution.

(2) Where the medical practitioner attending a patient is himself the medical officer of health of the district, he shall be entitled to the fee to which, if he were not the medical officer of health, he would have been entitled in respect of a certificate sent by him to the medical officer.

NOTES TO SECTION 145.

Definitions—

" local authority," s. 1 (2).
" district," s. 1 (2).

General note. This section replaces the Infectious Disease (Notification) Act, 1889, ss. 4 (2) and 11 (13 Halsbury's Statutes 813, 815). The provision against

disqualification in s. 11 of the 1889 Act is no longer necessary as such payments do not now disqualify (see L.G.A. 1933, s. 59 (26 Halsbury's Statutes 334).

146. Notification of cases occurring in buildings occupied for purposes of the defence services.—(1) Where a case of a notifiable disease occurs in a building in the occupation of any of His Majesty's forces, or of any person employed by or under the Admiralty, the Army Council, or the Air Council, it shall be the duty of the medical practitioner attending the patient to certify the case to the medical officer of health of the district, if it would have been his duty so to certify it had it occurred in a building in private occupation.

(2) Unless the medical practitioner is a medical officer holding a commission in His Majesty's forces, the local authority shall pay to him for the certificate a fee of one shilling, whether the case occurs in his private practice or not.

NOTES TO SECTION 146.

Definitions—

" notifiable disease," s. 343 (1).
" district," s. 1 (2).

General note. By the Infectious Disease (Notification) Act, 1889, s. 15 (13 Halsbury's Statutes 815), buildings, ships, boats, tents, vans, sheds or similar structures belonging to H.M. the Queen, and inmates thereof, were excluded from the provisions of the Act, but they were included by the L.G. (Emergency Provisions) A. 1916, s. 5 (6) (10 Halsbury's Statutes 854).
As to " building," see note to s. 144, *ante*.

147. Power of local authority to declare further diseases to be notifiable.—(1) A local authority may order that the provisions of this Part of this Act relating to the notification of disease shall apply in their district to an infectious disease not being a disease specifically mentioned in the definition of " notifiable disease " contained in this Act, and, while such an order is in operation, an infectious disease mentioned therein shall, within the district of the authority, be a notifiable disease to which the provisions of this Act relating to notifiable diseases apply :

Provided that, subject to the provisions of this section with respect to a temporary order made in a case of an emergency, an order made under this section shall have no effect until it has been approved by the Minister and duly advertised.

(2) When any such order has been approved by the Minister, the local authority shall give notice of the order by advertisement in a local newspaper circulating in the district and in such other manner as they think sufficient for informing persons interested, and shall also send a copy to each registered medical practitioner who after due inquiry is ascertained to be practising in their district, and the order shall come into operation on such date, not being earlier than one week after the date of the publication of the advertisement of the order in a local newspaper, as the local authority may fix.

(3) If, in a case which appears to a local authority to be one of emergency, the authority resolve under this section to make a temporary order and declare in their resolution the nature of the emergency, the order may be advertised at once in accordance with the provisions of the last preceding subsection and shall come into operation at the expiration of one week from the date of the publication of the advertisement :

Provided that a copy of the resolution shall be transmitted to the

Minister so soon as it is passed, and the order shall, unless previously approved by the Minister, cease to be in force at the expiration of one month after it is made, and may be revoked by the Minister at any earlier date.

Any such temporary order shall specify the period during which it is to continue in operation.

(4) An order made under this section may be varied or revoked by an order made and approved in like manner as the original order.

NOTES TO SECTION 147.

Definitions—

" local authority," s. 1 (2).
" notifiable disease," s. 343 (1).
" district," s. 1 (2).

General note. This section reproduces the Infectious Disease (Notification) Act, 1889, s. 7 (13 Halsbury's Statutes 814). The provision for fourteen days' notice is omitted. (See L.G.A. 1933, 3rd Sched. Parts II and III (26 Halsbury's Statutes 497, 498), for the general law as to notice.)
In sub-s. (2) the requirement that notices shall be sent to medical practitioners residing, but not practising, in the district, is omitted.

Provisions for preventing spread of infection.

148. Penalty on exposure of persons and articles liable to convey notifiable disease.—A person who—

(*a*) knowing that he is suffering from a notifiable disease, exposes other persons to the risk of infection by his presence or conduct in any street, public place, place of entertainment or assembly, club, hotel, inn or shop ;

(*b*) having the care of a person whom he knows to be suffering from a notifiable disease, causes or permits that person to expose other persons to the risk of infection by his presence or conduct in any such place as aforesaid ; or

(*c*) gives, lends, sells, transmits or exposes, without previous disinfection, any clothing, bedding or rags which he knows to have been exposed to infection from any such disease, or any other article which he knows to have been so exposed and which is liable to carry such infection,

shall be liable to a fine not exceeding five pounds :

Provided that a person shall not incur any liability under this section by transmitting with proper precautions any article for the purpose of having it disinfected.

NOTES TO SECTION 148.

Definitions—

" notifiable disease," s. 343 (1).
" street," s. 343 (1).

General note. This section substantially reproduces P.H.A. 1875, s. 126 (13 Halsbury's Statutes 676), as amended by P.H.A.A. 1907, s. 62 (13 Halsbury's Statutes 934). The expression " notifiable disease " is substituted for " dangerous infectious disorder " in the 1875 Act, which was not defined, although the 1907 Act defined " dangerous infectious disease." The provisions of the former Acts relating to public conveyances are reproduced in s. 159, *post*.
See *Tunbridge Wells L. B.* v. *Bisshopp* (1877), 2 C. P. D. 187 ; 38 Digest 200, *362*.

149. Person suffering from notifiable disease not to carry on occupation to danger of others.—A person who, knowing that he is suffering from a notifiable disease, engages in or carries on any trade, business

or occupation which he cannot engage in or carry on without risk of spreading the disease shall be liable to a fine not exceeding five pounds.

NOTES TO SECTION 149.

" notifiable disease " is defined, s. 343 (1), *post*.
This section reproduces P.H.A.A. 1907, s. 52 (13 Halsbury's Statutes 930), but is of general application.

150. Child liable to convey notifiable disease may be ordered not to attend school.—(1) A person having the care of a child who is, or has been, suffering from, or has been exposed to infection of, a notifiable disease, shall not, after receiving notice from the medical officer of health of the district that the child is not to be sent to school, permit the child to attend school, until he has obtained from the medical officer of health a certificate, for which no charge shall be made, that in his opinion the child may attend school without undue risk of communicating the disease to others.

(2) A person who contravenes the provisions of this section shall be liable to a fine not exceeding five pounds.

NOTES TO SECTION 150.

Definitions—
" notifiable disease," s. 343 (1).
" district," s. 1 (2).
" school," s. 343 (1).

General note. This section reproduces P.H.A.A. 1907, s. 57 (13 Halsbury's Statutes 932). The power extends to all schools, not merely those provided or maintained by the local education authority, and, as appears from the definition in s. 343, *post*, to Sunday schools.

151. Local authority may require list of day-scholars at school where notifiable disease exists.—(1) The principal of a school in which any scholar is suffering from a notifiable disease shall, if required by the medical officer of health of the district, furnish to him within a reasonable time fixed by him a complete list of the names and addresses of the scholars, not being boarders, in or attending the school, or any specified department of the school.

(2) The local authority shall pay to the principal of a school for every list furnished by him under this section the sum of sixpence, and, if the list contains more than twenty-five names, a further sum of sixpence for every twenty-five names (including the first twenty-five names) contained in the list.

(3) If the principal of a school fails to comply with the provisions of this section, he shall be liable to a fine not exceeding five pounds.

(4) In this section the expression " the principal " means the person in charge of a school, and includes, where the school is divided into departments and no one person is in charge of the whole school, the head of any department.

NOTES TO SECTION 151.

Definitions—
" school," s. 343 (1).
" notifiable disease," s. 343 (1).
" district," s. 1 (2).
" local authority," s. 1 (2).

General note. This section reproduces P.H.A.A. 1907, s. 58 (13 Halsbury's Statutes 932). " Infectious disease " in the P.H.A.A. 1907, had in effect the same meaning as " notifiable disease " in this Act, see P.H.A.A. 1907, s. 13 (13 Halsbury's Statutes 915).

152. Restrictions on sending or taking infected articles to laundry or public washhouse, or to cleaners.—(1) A person shall not send or take to any laundry or public washhouse for the purpose of being washed, or to any place for the purpose of being cleaned, any article which he knows to have been exposed to infection from a notifiable disease, unless that article has been disinfected by, or to the satisfaction of, the medical officer of health of the district or some other registered medical practitioner, or is sent with proper precautions to a laundry for the purpose of disinfection, with notice that it has been exposed to infection.

(2) The local authority may pay the expenses of the disinfection of any such article as aforesaid if carried out by them or under their direction.

(3) The occupier of any building in which a person is suffering from a notifiable disease shall, if required by the local authority, furnish to them the address of any laundry, washhouse or other place to which articles from the house have been, or will be, sent during the continuance of the disease for the purpose of being washed or cleaned.

(4) A person who contravenes, or fails to comply with, any provision of this section shall be liable to a fine not exceeding five pounds.

NOTES TO SECTION 152.

Definitions—
" notifiable disease," s. 343 (1).
" district," s. 1 (2).

General note. This section reproduces P.H.A.A. 1907, s. 55 (13 Halsbury's Statutes 931). Sub-s. (3) is new, but is based on provisions for which precedents exist in many Local Acts.

153. Power to prohibit home work on premises where notifiable disease exists.—(1) If a case of a notifiable disease occurs on any premises, then, whether the person suffering from the disease has been removed from the premises or not, the local authority may make an order forbidding any work to which this section applies to be given out to any person living or working on those premises, or on such part thereof as may be specified in the order, and any order so made may be served on the occupier of any factory or other place from which work is given out, or on any contractor employed by any such occupier.

(2) An order under this section may be expressed to operate for a specified time or until the premises or any part thereof specified in the order have been disinfected to the satisfaction of the medical officer of health, or may be expressed to be inoperative so long as any other reasonable precautions specified in the order are taken.

(3) If any occupier or contractor on whom an order under this section has been served contravenes the provisions of the order, he shall be liable to a fine not exceeding ten pounds.

(4) This section applies to the making, cleaning, washing, altering, ornamenting, finishing or repairing of wearing apparel and any work incidental thereto, and to such other classes of work as may from time to time be specified by order of the Minister.

NOTES TO SECTION 153.

Definitions—
" notifiable disease," s. 343 (1).
" premises," s. 343 (1).
" local authority," s. 1 (2).
" factory," s. 343 (1).

General note. This section reproduces the Factory and Workshop Act, 1901, s. 110 (8 Halsbury's Statutes 574). By the Ministry of Health (Factories and

Workshops Transfer of Powers) Order, 1921 (S. R. & O. 1921, No. 958), the powers and duties of the Secretary of State as to the supervision and enforcement of (*inter alia*) s. 110 of the Act of 1901 were transferred to the Minister of Health, and the statutory provisions are now transferred to the Public Health Acts.

Sub-s. (3) of s. 110 of the Act of 1901 is omitted. See L.G.A. 1933, s. 85 (1) (26 Halsbury's Statutes 352), and s. 273 of this Act, *post*.

Cf. s. 205, *post*.

154. Restrictions on sales, etc., by persons collecting, or dealing in, rags, old clothes or similar articles.—(1) No person who collects or deals in rags, old clothes or similar articles, and no person assisting, or acting on behalf of, any such person as aforesaid, shall—

(*a*) in or from any shop or premises used for, or in connection with, the business of a dealer in any such articles as aforesaid; or

(*b*) while engaged in collecting any such articles as aforesaid,

sell or deliver, whether gratuitously or not, any article of food or drink to any person, or any article whatsoever to a person under the age of fourteen years.

(2) A person who contravenes any of the provisions of this section shall be liable to a fine not exceeding five pounds.

NOTES TO SECTION 154.

Definition—

" premises," s. 343 (1).

General note. This section substantially reproduces P.H.A. 1925, s. 73 (13 Halsbury's Statutes 1149), but the language of that section has been extended so as to avoid the limitation on distribution in the street to distribution from a vehicle, and to make the prohibition of gifts to children absolute. A similar extension of s. 73 has been allowed in Local Acts.

155. Provisions as to library books.—(1) A person who knows that he is suffering from a notifiable disease shall not take any book, or cause any book to be taken for his use, or use any book taken, from any public or circulating library.

(2) A person shall not permit any book which has been taken from a public or circulating library, and is under his control, to be used by any person whom he knows to be suffering from a notifiable disease.

(3) A person shall not return to any public or circulating library a book which he knows to have been exposed to infection from a notifiable disease, or permit any such book which is under his control to be so returned, but shall give notice to the local authority, or, in the case of a library provided by a county council, to that council, that the book has been so exposed to infection.

(4) A person who contravenes any of the foregoing provisions of this section shall be liable to a fine not exceeding five pounds.

(5) A local authority or, as the case may be, a county council on receiving such a notice as aforesaid shall cause the book to be disinfected and returned to the library, or shall cause it to be destroyed.

NOTES TO SECTION 155.

Definitions—

" notifiable disease," s. 343 (1).
" local authority," s. 1 (2).

General note. This section reproduces P.H.A.A. 1907, s. 59 (13 Halsbury's Statutes 933). Sub-ss. (4) and (5) have been reversed in order to make it clear that the responsible authority is not to be liable to be fined for neglect of duty. The compensation provisions of s. 59 are not reproduced, but see s. 278, *post*.

156. Infectious matter not to be placed in dustbins.—(1) A person who places, or causes or permits to be placed, in a dustbin or ashpit any matter which he knows to have been exposed to infection from a notifiable disease, and which has not been disinfected, shall be liable to a fine not exceeding five pounds.

(2) The local authority shall give notice of the provisions of this section to the occupier of any house in which they are aware that there is a person suffering from a notifiable disease.

NOTES TO SECTION 156.

Definitions—

" dustbin," s. 343 (1).
" notifiable disease," s. 343 (1).
" local authority," s. 1 (2).
" house," s. 343 (1).

General note. This section in effect reproduces the Infectious Disease (Prevention) Act, 1890, ss. 13, 14, 16 (13 Halsbury's Statutes 822). The expression "infectious rubbish," which was not defined, is abandoned. It is difficult to see how rubbish could be proved to be infectious without calling evidence based on a bacteriological examination. As the present section is limited to notifiable disease the giving of a notice under sub-s. (2) can become a routine matter.

157. Provisions as to the letting of houses, or rooms in hotels, after recent case of notifiable disease.—(1) If any person who—

(*a*) is concerned in the letting of a house or part of a house, or in showing a house or part of a house with a view to its being let; or

(*b*) has recently ceased to occupy a house or part of a house,

is questioned by any person negotiating for the hire of the house, or any part thereof, as to whether there is, or has been within the preceding six weeks, in any part of the house a person suffering from a notifiable disease, and knowingly makes a false answer to that question, he shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding one month.

(2) A person who lets any house or part of a house in which a person has to his knowledge, been suffering from a notifiable disease without having the house, or the part of the house, and all articles therein liable to retain infection, disinfected to the satisfaction of the medical officer of health of the district or of some other registered medical practitioner, as testified by a certificate signed by him, shall be liable to a fine not exceeding twenty pounds.

(3) The keeper of an hotel or inn who allows a room therein in which any person has to his knowledge been suffering from a notifiable disease to be occupied by any other person before the room and all articles therein liable to retain infection have been disinfected to the satisfaction of the medical officer of health of the district or of some other registered medical practitioner, as testified by a certificate signed by him, shall be liable to a fine not exceeding twenty pounds.

NOTES TO SECTION 157.

Definitions—

" house," s. 343 (1).
" notifiable disease," s. 343 (1).

General note. This section reproduces P.H.A. 1875, ss. 128, 129 (13 Halsbury's Statutes 677), and part of the Infectious Disease (Prevention) Act, 1890, s. 7 (13 Halsbury's Statutes 820). See also s. 158, *post*.

There may be a civil remedy against the person who enters a lodging-house while suffering from a notifiable disease. The law recognises no implied warranty that a

person is a fit and proper person to occupy lodgings, but it seems that actual injury by infection gives a cause of action. See, *e.g. Best* v. *Stapp* (1872), 2 C. P. D. 191, n. (38 Digest 200, *360*, *361*; 201, *363*); *Gwynne* v. *Clark* (1913), 77 J. P. N. 172; *Humphreys* v. *Miller*, [1917] 2 K. B. 122 (38 Digest 201, *364*).

158. Persons ceasing to occupy house to disclose to owner any recent case of notifiable disease, and to disinfect.—(1) If a person ceases to occupy a house or part of a house in which to his knowledge a person has within six weeks previously been suffering from a notifiable disease and either—

(*a*) fails to have the house, or the part of the house, and all articles therein liable to retain infection, disinfected to the satisfaction of the medical officer of health of the district or some other registered medical practitioner, as testified by a certificate signed by him; or

(*b*) fails to give to the owner of the house, or the part of the house, notice of the previous existence of the disease; or

(*c*) on being questioned by the owner as to whether within the preceding six weeks there has been therein any person suffering from any notifiable disease, makes a false answer to such question,

he shall be liable, in the case of an offence under paragraph (*a*) or paragraph (*b*) of this subsection, to a fine not exceeding twenty pounds and, in the case of an offence under paragraph (*c*), to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding one month.

(2) The local authority shall give notice of the provisions of this section to the occupier and also to the owner of any house in which they are aware that there is a person suffering from a notifiable disease.

NOTES TO SECTION 158.

Definitions—

" house," s. 343 (1).
" notifiable disease," s. 343 (1).
" district," s. 1 (2).
" owner," s. 343 (1).

General note. This section reproduces further provisions of the Infectious Disease (Prevention) Act, 1890, s. 7 (13 Halsbury's Statutes 820), and s. 14 (13 Halsbury's Statutes 822).

159. Provisions as to use of public conveyances by persons suffering from notifiable disease.—(1) No person who knows that he is suffering from a notifiable disease shall—

(*a*) enter any public conveyance used for the conveyance of persons at separate fares; or

(*b*) enter any other public conveyance without previously notifying the owner or driver thereof that he is so suffering.

(2) No person having the care of a person whom he knows to be suffering from a notifiable disease shall permit that person to be carried—

(*a*) in any public conveyance used for the conveyance of persons at separate fares; or

(*b*) in any other public conveyance without previously informing the owner or driver thereof that that person is so suffering.

(3) A person who contravenes any provision of this section shall be liable to a fine not exceeding five pounds and, in addition to any fine

imposed, shall be ordered by the court to pay to any person concerned with the conveyance as owner, driver or conductor thereof a sum sufficient to cover any loss and expense incurred by him in connection with the disinfection of the conveyance under the provisions in that behalf contained in the next succeeding section.

NOTES TO SECTION 159.

For definition of notifiable disease, see s. 343 (1).
" owner " here is not used in the special meaning given by s. 343 (1).
This section completes the incorporation of P.H.A. 1875, s. 126 (13 Halsbury's Statutes 676), and P.H.A.A. 1907, s. 62 (13 Halsbury's Statutes 934). See also s. 148, *ante*.

160. Duty of owner, etc., of public conveyance in regard to cases of notifiable disease.—(1) The owner, driver or conductor of a public conveyance used for the conveyance of passengers at separate fares, shall not convey therein a person whom he knows to be suffering from a notifiable disease.

(2) The owner or driver of any other public conveyance may refuse to convey therein any person suffering from a notifiable disease, until he has been paid a sum sufficient to cover any loss and expense which will be incurred by reason of the provisions of the next succeeding subsection.

(3) If a person suffering from a notifiable disease is conveyed in a public conveyance, the person in charge thereof shall, as soon as practicable, give notice to the medical officer of health of the district in which the conveyance is usually kept, and, before permitting any other person to enter the conveyance, shall cause it to be disinfected, and any person concerned with the conveyance as owner, driver or conductor thereof may recover in a summary manner from the person so conveyed, or from the person causing that person to be so conveyed, a sufficient sum to cover any loss and expense incurred by him.

(4) A person who contravenes any of the foregoing provisions of this section shall be liable to a fine not exceeding five pounds.

(5) The local authority, when so requested by the person in charge of a public conveyance in which a person suffering from a notifiable disease has been conveyed, shall provide for its disinfection, and shall make no charge in respect thereof except in a case where the owner, driver or conductor conveyed a person knowing that he was suffering from a notifiable disease.

NOTES TO SECTION 160.

Definitions—

" notifiable disease," s. 343 (1).
" local authority," s. 1 (2).
" district," s. 1 (2).

General note. This section substantially reproduces P.H.A. 1875, s. 127 (13 Halsbury's Statutes 677), and P.H.A.A. 1907, ss. 63, 64 (13 Halsbury's Statutes 934).

161. Power of Minister to make regulations as to disposal of dead bodies.—The Minister, with the concurrence of the Secretary of State, may make regulations imposing any conditions and restrictions with respect to means of disposal of dead bodies otherwise than by burial or cremation, as to the period of time a body may be retained after death on any premises, or with respect to embalming or preservation, which may appear to be desirable in the interests of public health or public safety.

NOTES TO SECTION 161.

For definition of " premises," see s. 343 (1).
This section reproduces the Births and Deaths Registration Act, 1926, s. 9 (*b*) (15 Halsbury's Statutes 771). The power is more appropriate to the Public Health Acts. No Regulations have been made under s. 9 (*b*) of the Act of 1926.

162. Power of justice to order dead body to be removed to mortuary, or buried forthwith.—(1) If a justice of the peace (acting, if he deems it necessary, ex parte) is satisfied, on a certificate of the medical officer of health of the district in which a dead body lies, or on a certificate of any other registered medical practitioner on the staff of the local authority of that district, that the retention of the body in any building would endanger the health of the inmates of that building, or of any adjoining or neighbouring building, he may order that the body be removed by, and at the cost of, the local authority to a mortuary, and that the necessary steps be taken to secure that it is buried within a time limited by the order or, if he considers immediate burial necessary, immediately :

Provided that relatives or friends of the deceased person shall be deemed to comply with an order so made if they cause the body to be cremated within the time limited by the order, or, as the case may be, immediately.

(2) Unless relatives or friends of the deceased person undertake to, and do, cause the body to be buried or cremated within the time limited by the order or, as the case may be, immediately, it shall be the duty of the relieving officer of the district within which the body was lying at the time of the application to the justice to cause the body to be buried, and any expenses reasonably incurred by him in so doing may be recovered summarily by the council whose officer he is from any person legally liable to pay the expenses of the burial.

(3) An order under this section shall be an authority to any officer named therein to do all acts necessary for giving effect to the order.

NOTES TO SECTION 162.

Definitions—

" district," s. 1 (2).
" officer," s. 343 (1).
" local authority," s. 1 (2).

General note. This section generally reproduces the Infectious Diseases (Prevention) Act, 1890, s. 10 (13 Halsbury's Statutes 821). That section referred specifically to cases of death from infectious disease, but the present section contains no such reference, the reference to danger to health being wide enough. The alternative of cremation is new.

Person legally liable to pay the expenses of the burial. The following persons appear to be legally liable to pay these expenses :

The person in whose house the dead body lies, by the common law (*R.* v. *Price* (1884), 12 Q. B. D. 247, at p. 252 (7 Digest 563, *380*), as, for example, the governing body of a public hospital (*R.* v. *Stewart* (1841), 10 L. J. M. C. 40 ; 7 Digest 522, *70, 13*).
The executor (*Rogers* v. *Price* (1829), 3 Y. & J. 28 ; 7 Digest 522, *15*).
The husband of a deceased woman (*Ambrose* v. *Kerrison* (1851), 20 L. J. C. P. 135 ; 7 Digest 524, *38*).
The parent of a child, if he has the means, but not otherwise (*R.* v. *Vann* (1851), 21 L. J. M. C. 39 ; 7 Digest 522, *14*).

163. Restrictions in certain cases on removal of bodies of persons dying in hospital.—(1) If a person dies in a hospital while suffering from a notifiable disease and the medical officer of health of the district, or some other registered medical practitioner, certifies that in his opinion it is desirable, in order to prevent the spread of infection, that the body should not be removed from the hospital except for the purpose of being taken direct to a mortuary or being forthwith buried or cremated, it shall not be lawful for any person to remove the body from the hospital except for such a purpose.

(2) In any such case as aforesaid, when the body is removed for the purpose of burial or cremation from the hospital or any mortuary

to which it has been taken, it shall forthwith be taken direct to some place of burial or crematorium, and there buried or cremated.

(3) A person who contravenes any provision of this section shall be liable to a fine not exceeding five pounds.

NOTES TO SECTION 163.

Definitions—

" hospital," s. 343 (1).
" notifiable disease," s. 343 (1).

General note. The operative part of this section reproduces the Infectious Diseases (Prevention) Act, 1890, s. 9 (13 Halsbury's Statutes 820), with the addition of a reference to cremation.

164. Avoidance of contact with body of person who suffered from notifiable disease.—Every person having the charge or control of premises in which is lying the body of a person who has died while suffering from a notifiable disease shall take such steps as may be reasonably practicable to prevent persons coming unnecessarily into contact with, or proximity to, the body, and, if he fails to do so, shall be liable to a fine not exceeding five pounds.

NOTES TO SECTION 164.

Definitions—

" premises," s. 343 (1).
" notifiable disease," s. 343 (1).

General note. This section generally reproduces P.H.A. 1925, s. 57 (13 Halsbury's Statutes 1140), but that section referred only to the bodies of persons who died from " any dangerous infectious disease." Under the present section the immediate cause of death, if a person dies while suffering from a notifiable disease, is immaterial.

The words " or proximity to " are inserted to make the meaning of the Act clear to the lay mind. The effect of the previous section was the same (*Kitchen* v. *Douglas*, [1915] 85 L. J. K. B. 462 ; 38 Digest 201, *365*).

165. Wake not to be held over body of person who suffered from notifiable disease.—It shall not be lawful to hold a wake over the body of a person who has died while suffering from a notifiable disease, and the occupier of any premises who permits or suffers any such wake to take place thereon, and every person who takes part in the wake, shall be liable to a fine not exceeding five pounds.

NOTES TO SECTION 165.

Definitions—

" notifiable disease," s. 343 (1).
" premises," s. 343 (1).

General note. This section reproduces P.H.A.A. 1907, s. 68 (13 Halsbury's Statutes 936), which becomes of general application.

Provisions as to disinfection of premises and articles, and the removal of infected persons.

166. Power of local authority to provide disinfecting station.—A local authority may provide a disinfecting station and may cause any article brought thereto to be disinfected free of charge.

NOTES TO SECTION 166.

Definitions—

" local authority," s. 1 (2).
" provide," s. 271.

General note. This section reproduces P.H.A. 1875, s. 122 (13 Halsbury's Statutes 675). The reference to apparatus is rendered unnecessary by the statutory meaning now given to " provide," and staff may be appointed under L.G.A. 1933, ss. 106, 107 (26 Halsbury's Statutes 361, 362).

167. Cleansing and disinfection of premises and articles therein.—(1) If a local authority are satisfied upon a certificate of the medical officer of health of the district that the cleansing and disinfection of any premises, and the disinfection or destruction of any articles therein likely to retain infection, would tend to prevent the spread of any infectious disease, the authority shall give notice to the occupier of the premises that they will at his cost cleanse and disinfect the premises and disinfect or, as the case may require, destroy any such articles therein, unless, within twenty-four hours after the receipt of the notice, he informs them that within a time to be fixed by the notice he will take such steps as are specified therein.

(2) If within twenty-four hours after receipt of the notice the person to whom it is given does not inform the authority as aforesaid, or if, having so informed the authority, he fails to take such steps as aforesaid to the satisfaction of the medical officer of health within the time fixed by the notice, the authority may cause the premises to be cleansed and disinfected and the articles to be disinfected or destroyed, as the case may require, and may, if they think fit, recover from him the expenses reasonably incurred by them in so doing.

(3) Where the occupier of any premises is in the opinion of the local authority unable effectually to take such steps as they consider necessary, they may, without giving such notice as aforesaid but with his consent, take the necessary steps at their own cost.

(4) Where a local authority have under this section disinfected any premises or article, or destroyed any article, they may, if they think fit, pay compensation to any person who has suffered damage by their action.

(5) For the purposes of this section, the owner of unoccupied premises shall be deemed to be in occupation thereof.

NOTES TO SECTION 167.

Definitions—

" local authority," s. 1 (2).
" district," s. 1 (2).
" premises," s. 343 (1).
" owner," s. 343 (1).

General note. This section consolidates a rather complicated series of enactments—

P.H.A. 1875, s. 46 (13 Halsbury's Statutes 645), so far as it is not reproduced in s. 83, *ante*.

P.H.A. 1875, s. 120 (13 Halsbury's Statutes 674), or the Infectious Diseases (Prevention) Act, 1890, s. 5 (13 Halsbury's Statutes 818), whichever may be in force in the district.

P.H.A. 1875, s. 121 (13 Halsbury's Statutes 675); The Act of 1890, s. 6 (13 Halsbury's Statutes 819); and P.H.A.A. 1907, s. 66 (13 Halsbury's Statutes 935).

Compensation. The law appears to be altered. Under P.H.A. 1875, s. 121 (*supra*), it was provided that the local authority *may* give compensation, leaving the authority an option perhaps more apparent than real, while under the Act of 1890, s. 6, the local authority were required to compensate for " unnecessary damage," but apparently were under no such obligation as regards damage (if any) necessarily resulting from the disinfection. Under P.H.A.A. 1907, s. 66 (*supra*), there was an obligation to compensate for unnecessary damage to houses, or for the destruction of any article. There was also a general right to compensation under P.H.A. 1875, s. 308 (13 Halsbury's Statutes 755), for the exercise of any of the powers of the Public Health Acts in relation to any matter as to which the claimant was not in default. The general effect was that compensation should have been paid for damage in disinfection.

Now, however, the word " may " has been strengthened by the addition of the words " if they think fit," and in the general compensation section (s. 278, *post*) there is a complete exclusion of all claims based on any action of a local authority in respect of which the authority are authorised to pay compensation if they think fit.

This appears to be a remarkable result of a consolidation measure, and one not likely to encourage the co-operation of the public in preventing the spread of such infectious diseases as may not be notifiable. It is interesting to contrast the provisions of s. 84, *ante*, as to the destruction of verminous or filthy articles, for which compensation must be paid if the claimant is not " in default."

Note that this section extends to any infectious disease and is not limited to notifiable diseases.

168. Power of local authority to remove temporarily inmates of infected house.—(1) When any infectious disease occurs in a house, or the local authority deem it necessary to disinfect any house, the authority may, on a certificate of the medical officer of health of the district—

(*a*) cause any person who is not himself sick and who consents to leave the house, or whose parent or guardian, where the person is a child, consents to his leaving the house, to be removed therefrom to any temporary shelter or house accommodation provided by the authority;

(*b*) cause any such person to be so removed without any consent, if a justice of the peace (acting, if he deems it necessary, ex parte) is satisfied, on the application of the authority, of the the necessity for the removal and makes an order for the removal, subject to such conditions, if any, as may be specified in the order.

(2) The local authority shall in every case cause the removal to be effected and the conditions of any order to be satisfied without charge to the person removed, or to the parent or guardian of that person.

(3) A local authority may provide temporary shelter or house accommodation for the purposes of this section.

NOTES TO SECTION 168.

Definitions—

" house," s. 343 (1).
" local authority," s. 1 (2).
" district," s. 1 (2).
" provide," s. 271.

General note. This section reproduces the Infectious Diseases (Prevention) Act, 1890, s. 15 (13 Halsbury's Statutes 822), as extended by P.H.A.A. 1907, s. 61 (13 Halsbury's Statutes 933).

This section, also, extends to any infectious disease.

169. Provision for removal to hospital of persons suffering from notifiable disease where serious risk of infection being spread.—(1) Where a justice of the peace (acting, if he deems it necessary, ex parte) is satisfied, on the application of the local authority, that a person is suffering from a notifiable disease and—

(*a*) that his circumstances are such that proper precautions to prevent the spread of infection cannot be taken, or that such precautions are not being taken; and

(*b*) that serious risk of infection is thereby caused to other persons; and

(*c*) that accommodation for him is available in a suitable hospital or institution,

the justice may, with the consent of the superintending body of the hospital or institution, order him to be removed thereto and maintained therein at the cost of the authority.

(2) An order under this section may be addressed to such officer of the local authority as the justice may think expedient, and that officer and any officer of the hospital or institution may do all acts necessary for giving effect to the order.

NOTES TO SECTION 169.

Definitions—

" notifiable disease," s. 343 (1).
" hospital," s. 343 (1).
" officer," s. 343 (1).
" local authority," s. 1 (2).

General note. This section reproduces P.H.A. 1875, s. 124 (13 Halsbury's Statutes 675), as extended by P.H.A.A. 1907, s. 65 (13 Halsbury's Statutes 935). Cf. s. 172 (*post*), as to tuberculosis, which has been treated as an " infectious disease " under P.H.A. 1875. See Second Interim Report, p. 106, and p. 417, *post*, for the reason for the distinction in this Act. The present section does not prescribe a maximum period of detention.

Proper precautions. See Lumley, 10th Edn., p. 247, note (*c*).

170. Power of justice to order detention in hospital of infected person without proper lodging to return to.—(1) Where a justice of the peace acting (if he deems it necessary, ex parte) in and for the place in which a hospital for infectious diseases is situate is satisfied, on the application of any local authority, that an inmate of the hospital who is suffering from a notifiable disease would not, on leaving the hospital, be provided with lodging or accommodation in which proper precautions could be taken to prevent the spread of the disease by him, the justice may order him to be detained in the hospital at the cost of the authority:

Provided that the making of such an order shall not affect the liability of any council who by virtue of any contract or order, or otherwise, are under an obligation to defray the cost of his maintenance whilst in the hospital.

(2) An order made under the preceding subsection may direct detention for a period specified in the order, but any justice of the peace acting in and for the same place may extend a period so specified as often as it appears to him to be necessary so to do.

(3) Any person who leaves a hospital contrary to an order made under this section for his detention therein shall be liable to a fine not exceeding five pounds, and the court may order him to be taken back to the hospital.

(4) An order under this section may be addressed, in the case of an order for a person's detention, to such officer of the hospital and, in the case of an order made under the last preceding subsection, to such officer of the local authority on whose application the order for detention was made, as the justice may think expedient, and that officer and any officer of the hospital may do all acts necessary for giving effect to the order.

NOTES TO SECTION 170.

Definitions—

" hospital," s. 343 (1).
" local authority," s. 1 (2).
" notifiable disease," s. 343 (1).
" officer," s. 343 (1).

General note. This section reproduces the Infectious Diseases (Prevention) Act, 1890, ss. 12, 16 (13 Halsbury's Statutes 821, 822).

Provisions as to treatment of tuberculosis.

171. Institutional treatment of tuberculosis.—(1) It shall be the duty of the council of every county and county borough to make

adequate arrangements for the treatment of persons in their county or borough, who are suffering from tuberculosis, at or in dispensaries, sanatoria and other institutions approved by the Minister.

(2) The Minister may under this section approve an institution for such time, and subject to such conditions, as he thinks fit, and may withdraw any such approval.

NOTES TO SECTION 171.

For definition of " county," see s. 343 (1).
This section in effect reproduces P.H. (Tuberculosis) A. 1921, ss. 1, 3 (13 Halsbury's Statutes 971, 972). The default powers are now to be found in s. 322, *post*, as the powers of L.G.A. 1929, s. 57 (3) (10 Halsbury's Statutes 922), are not applicable to functions under this Act (3rd Sched. Pt. V, *post*).

172. Removal to hospital of infectious persons suffering from tuberculosis of the respiratory tract.—(1) Where a court of summary jurisdiction is satisfied, on the application of a county council or local authority, that a person suffering from tuberculosis of the respiratory tract (in this section referred to as " the patient ") is in an infectious state, and—

(*a*) that his circumstances are such that proper precautions to prevent the spread of infection cannot be taken, or that such precautions are not being taken; and

(*b*) that serious risk of infection is thereby caused to other persons; and

(*c*) that accommodation for him is available in a suitable hospital or institution,

the court may, with the consent of the superintending body of the hospital or institution, order him to be removed thereto and to be detained and maintained therein for such period not exceeding three months as the court thinks fit.

(2) Where, before the expiration of any period for which a patient has been ordered to be detained under this section, a court of summary jurisdiction acting for the same petty sessional division or place is satisfied, upon the application of the county council or local authority, that the conditions which led to his detention being ordered will again exist if he is not detained for a further period, the court may, subject to the like consent, order his detention for a further period, not exceeding three months.

(3) Before making an application for an order under this section, the county council or local authority shall give to the patient, or to some person having the care of him, not less than three clear days' notice of the time and place at which the application will be made.

(4) On the hearing of any application under this section, the court may, if it thinks it necessary so to do, require the patient to be examined by such registered medical practitioner as it may direct.

(5) The county council or local authority on whose application an order has been made under this section shall, if so directed by the court—

(i) pay the whole, or such part as the court may direct, of the cost of the patient's removal to and maintenance in the hospital or institution;

(ii) make towards the maintenance of any of his dependants such contribution as the court may direct;

and, in the absence of any direction by the court, may pay the whole or such part, if any, as they think fit of the said cost and make such contribution, if any, as they think fit.

(6) At any time after the expiration of six weeks from the date of an order made under subsection (1) of this section, application for the rescission of that order, if it is still in force, or of any further order made under subsection (2) of this section, may, upon not less than three clear days' notice to the county council or local authority concerned, be made to a court of summary jurisdiction acting for the same petty sessional division or place, and upon the hearing of any such application the court may rescind the order.

(7) An order under this section may be addressed to such officer of the county council or local authority as the court may think expedient, and that officer and any officer of the hospital or institution may do all acts necessary for giving effect to the order.

NOTES TO SECTION 172.

Definitions—

"local authority," s. 1 (2).
"hospital," s. 343 (1).
"officer," s. 343 (1).

Tuberculosis of the respiratory tract. This section reproduces P.H.A. 1925, s. 62 (13 Halsbury's Statutes 1142), in which section the disease is described as pulmonary tuberculosis. The phrase used in the present section is taken from the Public Health (Prevention of Tuberculosis) Regulations, 1925 (S. R. & O. 1925, No. 757).

Proper precautions. See note (*c*) in Lumley, 10th Edn., p. 247.

General note. Cf. s. 169 (*ante*) as to removal to hospital in cases of notifiable disease. Note the duties of the county council under the preceding section. The provisions as to the payment by the authority of the cost of removal and maintenance were peremptory in the 1907 Act. See s. 184, *post*, as to recovery of expenses.

173. General provisions as to treatment of tuberculosis and after-care.—(1) Without prejudice to the foregoing provisions of this Part of this Act with respect to institutional treatment, a county council or a local authority may make such arrangements as they think desirable for the treatment of tuberculosis.

(2) The council of a county or county borough may make such arrangements as they think desirable for the after-care of persons who have suffered from tuberculosis.

NOTES TO SECTION 173.

Definitions—

"local authority," s. 1 (2).
"county," s. 343 (1).

General note. This section reproduces in effect P.H. (Prevention, etc.) A. 1913, s. 3 (13 Halsbury's Statutes 953), the P.H. (Tuberculosis) A. 1921, s. 2, and part of s. 1 (13 Halsbury's Statutes 972).

174. Expenses of county councils in connection with tuberculosis.—Any expenses incurred under the three last preceding sections by a county council shall, if the Minister by order so directs, be defrayed as expenses for special county purposes charged on such part of the county as may be provided by the order, but any such order may be revoked or varied by a subsequent order.

NOTES TO SECTION 174.

This section reproduces P.H. (Tuberculosis) A. 1921, s. 8 (1).
As to expenses for special county purposes, see L.G.A. 1933, s. 180 (26 Halsbury's Statutes 404).

175. Special provisions with respect to treatment of tuberculous seamen.—(1) The Minister may, by order, constitute an advisory committee for the purpose of assisting the councils of counties and county boroughs in making arrangements for the treatment of persons suffering from tuberculosis who are masters, seamen, or apprentices in or to the sea service or the sea-fishing service.

(2) An order under this section may provide for the advisory committee including representatives—

(*a*) of the council of any county or county borough within whose area a substantial number of persons who are masters, seamen or apprentices in or to the sea service or the sea-fishing service are resident; and

(*b*) of the governing body of the Seamen's Special Fund for which provision is made, by section one hundred and thirty-eight of the National Health Insurance Act, 1936, so long as that body contribute out of their funds towards the expenses of the committee; and

(*c*) if the said governing body cease at any time so to contribute, of societies approved under the National Health Insurance Act, 1936, more than three-fourths of whose members are persons who are such masters, seamen or apprentices as aforesaid,

and may contain such incidental, consequential and supplemental provisions as appear to the Minister to be necessary or appropriate for giving full effect to the order.

(3) An order made under this section may be varied or revoked by another order so made.

(4) This section extends to London.

NOTES TO SECTION 175.

Definitions—

"county," s. 343 (1).
"London," s. 343 (1).

General note. This section replaces P.H. (Tuberculosis) A. 1921, s. 7 (13 Halsbury's Statutes 973). As the repeal of that section extends to London (3rd Sched., Part VI, *post*) the present section is made applicable. Note that the 1921 Act extended to London and remains in force there, but see P.H. (London) A. 1936, ss. 221–223.

The National Health Insurance Act, 1936, s. 138, provides:

138. Seamen's Special Fund.—(1) For the purposes of this Act, there shall be a special fund, called the Seamen's Special Fund, which shall be vested in and administered by a body or bodies constituted in accordance with a scheme to be prepared by the Joint Committee, after consultation with the Board of Trade, and comprising persons representing shipowners and masters and seamen:

Provided that at least one-half of the governing body shall be representative of all classes of persons entitled to benefits out of the fund.

(2) The accounts of the Seamen's Special Fund shall be subject to audit, and the Fund shall be subject to the provisions of this Act relating to valuations, surpluses and deficiencies, subject to the prescribed modifications, as if it were an approved society.

(3) The governing body of the Seamen's Special Fund shall, subject to the approval of the Board of Trade and of the Joint Committee, prepare a scheme for the provision out of the sums credited to the Seamen's Special Fund of such benefits for masters and seamen, as are specified in the scheme (including pensions for masters and seamen with long sea service), and the scheme may provide for preference being given to masters and seamen who have served in foreign-going ships over those who have served in coasting and home trade ships, and for such preference being proportionate to the length of time spent in the first-mentioned service.

(4) The costs of any benefits under the said scheme and the expenses of administering those benefits shall be paid out of the Seamen's Special Fund and no part thereof shall be paid out of moneys provided by Parliament.

Provisions with respect to blindness.

176. Power of county councils and local authorities in respect of the prevention and treatment of blindness.—(1) A county council or local authority may make such arrangements as they think desirable for assisting in the prevention of blindness, and in particular for the treatment of persons ordinarily resident within their area who are suffering from any disease of, or injury to, the eyes.

(2) Any expenses incurred under this section by a county council shall, if the Minister by order so directs, be defrayed as expenses for special county purposes charged on such part of the county as maybe provided by the order, but any such order may be revoked or varied by a subsequent order.

(3) For the purposes of this section, a person who becomes an inmate of a hospital or institution shall be deemed to continue to be ordinarily resident within the area within which he was ordinarily resident before he became an inmate of the hospital or institution.

NOTES TO SECTION 176.

Definitions— "local authority," s. 1 (2).
"hospital," s. 343 (1).

General note. This section replaces P.H.A. 1925, s. 66 (13 Halsbury's Statutes 1144).
As to expenses for special county purposes, see L.G.A. 1933, s. 180 (26 Halsbury's Statutes 101).

Miscellaneous.

177. Power of local authority to provide temporary supply of medicine and medical assistance, and to provide nursing attendance in certain cases.—(1) A local authority may, with the approval of the Minister, provide a temporary supply of medicine and medical assistance for the poorer inhabitants of their district.

(2) A local authority may provide nurses for attendance on patients suffering from any infectious disease in their district in cases where suitable hospital accommodation is not available, or removal to hospital is likely to endanger the patient's health, and may make charges for the services of nurses so provided.

NOTES TO SECTION 177.

Definitions— "local authority," s. 1 (2).
"hospital," s. 343 (1).

General note. This section reproduces P.H.A. 1875, s. 133 (13 Halsbury's Statutes 679), and P.H.A.A. 1907, s. 67 (13 Halsbury's Statutes 936). There is no guide as to what is a "temporary supply" of medicine or as to the circumstances when such a supply is appropriate. Action requires the approval of the Minister, which has hitherto been given in certain cases of epidemic or endemic disease.

178. Power of county councils and local authorities to subscribe to nursing associations.—A county council or local authority may contribute by way of an annual subscription towards the support and maintenance of any association for providing nurses.

NOTES TO SECTION 178.

For definition of "county," see s. 343 (1).
This section reproduces the Poor Law Act, 1930, s. 67, para. (*c*) (12 Halsbury's Statutes, pp. 1001–2).

179. Instruction, lectures, etc., on questions relating to health or disease.—Subject to such conditions and restrictions, if any, as the Minister may by regulations prescribe, a county council or local authority may arrange for the publication within their area of information on questions relating to health or disease, and for the delivery of lectures and the display of pictures or cinematograph films in which such questions are dealt with, and may defray the whole or a part of the expenses incurred for any of the purposes of this section.

NOTES TO SECTION 179.

For definition of "local authority," see s. 1 (2).
This section reproduces P.H.A. 1925, s. 67 (13 Halsbury's Statutes 1145), with the addition of the reference to cinematograph films. See also s. 226, *post*, as to exhibition of films at public baths.

180. Qualifications for certain appointments in connection with tuberculosis and venereal disease.—(1) The Minister may make regulations prescribing the qualifications of medical officers and health visitors appointed by a county council or local authority in pursuance of arrangements made under—

(*a*) the provisions of this Part of this Act which relate to tuberculosis; or

(*b*) regulations made under this Part of this Act for the treatment of venereal disease;

and no person shall be appointed as such a medical officer or health visitor unless his qualifications are in accordance with the regulations.

(2) Regulations made under this section shall be laid before Parliament.

(3) This section, except in so far as it relates to appointments in connection with the treatment of tuberculosis, shall extend to London.

NOTES TO SECTION 180.

For definition of "local authority," see s. 1 (2).
This section corresponds to L.G.A. 1929, s. 59, but Regulations under that section do not require to be laid before Parliament. Cf. s. 143, *ante*. See s. 319, *post*, as to the procedure.

INTRODUCTORY NOTE TO PART VI.

This Part of the Act reproduces the Nursing Homes Registration Act, 1927, substantially without alteration, and also the various provisions of the Public Health Acts relating to the provision of hospitals, and the recovery of expenses.

Specific power to provide laboratories for purposes connected with the diagnosis and treatment of disease is conferred on local authorities for the first time.

See s. 267, *post*, as to application of this Part to ships and boats.

PART VI.

HOSPITALS, NURSING HOMES, &c.

Hospitals.

181. Provision of hospital accommodation by county councils and local authorities.—(1) A county council or a local authority may provide hospital accommodation for persons in their county or district who are sick.

(2) The power of a county council or local authority under this section to provide hospital accommodation for persons who are sick includes power to provide—

(*a*) clinics, dispensaries and out-patient departments; and

(*b*) in the case of the council of a county or county borough, and in the case of any other council who are a welfare authority for the purposes of Part VII of this Act, maternity homes.

(3) A county council or a local authority may give reasonable donations or subscriptions to a voluntary hospital or institution, but the expenses incurred by them under this subsection shall not in any year exceed an amount equal to the produce (calculated in accordance with rules made under section nine of the Rating and Valuation Act, 1925) of a rate of one and one-third pence in the pound, or of such higher rate-poundage as the Minister may in any particular case from time to time approve, levied in the area chargeable with the expenses.

NOTES TO SECTION 181.

Definitions—

"local authority," s. 1 (2).
"provide," s. 271.
"hospital," s. 343 (1).
"county," s. 343 (1).
"district," s. 1 (2).
"maternity home," s. 199 (1).

General note. This section replaces P.H.A. 1875, s. 131 (13 Halsbury's Statutes 678), as amended and extended by P.H.A. 1925, s. 64 (13 Halsbury's Statutes 1143), and L.G.A. 1929, ss. 14 (1) (2), 75 (10 Halsbury's Statutes 891, 932).

The expression "persons in their county or district" is used instead of "inhabitants," in order to avoid possible doubts.

For the Rating and Valuation Act, 1925, s. 9, see 14 Halsbury's Statutes 627. For the present rules governing the calculation of the product of a penny rate, see the Rating and Valuation Act (Products of Rates and Precepts) Rules, 1929, S. R. & O. 1929, No. 12, Rule 3 (14 Halsbury's Statutes 821).

182. Consultation with voluntary hospitals as to accommodation to be provided.—A county council or local authority, when making provision for hospital accommodation under this Part of this Act, other than hospital accommodation for persons suffering from an infectious disease, shall consult such committee or other body as they consider to represent both the governing bodies and the medical and surgical staffs of the voluntary hospitals providing services in, or for the benefit of, their county or district as to the accommodation to be provided and as to the purposes for which it is to be used.

NOTES TO SECTION 182.

Definitions—

"local authority," s. 1 (2).
"hospital," s. 343 (1).

General note. This section is based on L.G.A. 1929, s. 13 (10 Halsbury's Statutes 891); the principle involved thus becomes of general application.

183. Power to provide houses for officers of a hospital.—A county council or local authority who provide a hospital may provide houses for officers employed by them at the hospital, and any expenses incurred by them in so doing shall be defrayed as expenses incurred in the provision of the hospital.

NOTES TO SECTION 183.

Definitions—

"local authority," s. 1 (2).
"provide," s. 271.
"hospital," s. 343 (1).
"house," s. 343 (1).
"officer," s. 343 (1).

General note. This section reproduces P.H.A. 1925, s. 65 (13 Halsbury's Statutes 1144), and extends it to county councils, who had similar powers under the Housing Act, 1925, s. 72 (13 Halsbury's Statutes 1041).

184. Recovery of expenses of maintenance in certain institutions.—(1) In the case of a patient who has become an inmate of an institution for the purpose of receiving treatment for infectious disease, a county council or local authority may, and in the case of any other patient maintained by them in an institution shall, recover from the patient, or from any person legally liable to maintain him, or from the patient's estate, if he has died, any expenses incurred by the council or authority in providing for his maintenance in the institution, not being expenses recoverable from any other source, or, if the council or authority are satisfied that the persons from whom the expenses are under this subsection recoverable cannot reasonably, having regard to their financial circumstances, be required to pay the whole of those expenses, such part, if any, of the expenses as those persons are in the opinion of the council or authority able to pay:

Provided that any such council or authority may, by agreement with the governing body of any association or fund established for the purpose of providing benefits to members or other beneficiaries thereof, accept from the association or fund, in respect of the expenses incurred by the council or authority in the maintenance of any member or beneficiary of the association or fund, payment of such sums as may be provided by the agreement in lieu of recovering the whole or any part of the said expenses from, or from the estate of, the member or beneficiary, or from any person legally liable to maintain him.

(2) For the purposes of this section—

(*a*) the expression "institution" means any hospital, maternity home or other residential institution wherein accommodation is provided by a county council or local authority under this Act; and

(*b*) the expenses incurred by a county council or local authority in providing for the maintenance of a patient in an institution shall, in respect of each day of maintenance therein, be taken to be a sum representing the average daily cost per patient of the maintenance of the institution and the staff thereof and the maintenance and treatment of the patients therein, and may include a reasonable charge for the patient's removal to or from the institution.

(3) Expenses recoverable under this section may be recovered as a civil debt, either summarily or otherwise, in proceedings commenced within twelve months from the date of the patient's discharge from

the institution or, if he dies in the institution, from the date of his death.

(4) Nothing in this section affects the provisions of this Act relating to the removal to hospital of infectious persons suffering from tuberculosis of the respiratory tract.

NOTES TO SECTION 184.

Definitions—

"local authority," s. 1 (2).
"hospital," s. 343 (1).
"maternity home," s. 199 (1).
"provide," s. 271.

Previous enactments. See P.H.A. 1875, s. 132 (13 Halsbury's Statutes 679); P.H.A.A. 1907, s. 60 (13 Halsbury's Statutes 933); P.H.A. 1925, s. 63 (2) (13 Halsbury's Statutes 1143); and L.G.A. 1929, s. 16 (10 Halsbury's Statutes 893).

Recovery from patient. This principle dates from P.H.A. 1875, s. 132 (*supra*), a section which was very ambiguously worded. Expenses of maintenance became a debt due from the patient (if not a pauper) to the authority, and the section provided that such expenses "may" be recovered, within a period of six months.

The Ministry of Health took the view that the section was permissive and that borough and district councils were not required to take steps to recover the debt due to them. No liability was imposed on any person other than the patient, even on the father of a child, except upon a contract express or implied (*Farquhar* v. *Isle of Thanet Hospital Board* (1904), 68 J. P. 319; 38 Digest 199, *357*). By P.H.A.A. 1907, s. 60 (*supra*), it was specifically provided that nothing in P.H.A. 1875, s. 132 (*supra*), should require the local authority to recover the "cost of maintenance" (presumably the same thing as the "expenses" mentioned in P.H.A. 1875, s. 132), from a patient not a pauper "where the local authority have satisfied themselves that the circumstances of the case are such as to justify the remission of the debt." S. 60 seems merely to have defined the discretion assumed to exist under P.H.A. 1875, s. 132. Note that the law has now returned to the word "expenses."

P.H.A. 1925, s. 63 (2) (*supra*), gave a permissive power to recover cost of transport. Cf. sub-s. 2 (*b*) of this section.

L.G.A. 1929, s. 16 (*supra*), made the recovery of the cost of maintenance in an "institution" (defined substantially as in this section) a duty, but gave specific power to remit if the patient could not reasonably be required to pay.

The present section replaces L.G.A. 1929, s. 16 (*supra*), which is now repealed.

Legally liable to maintain. The power of recovery from persons other than the patient dates only from 1929. The draughtsmen of the present Act have been at pains to remove certain anomalies in the previous enactments, but have left untouched this exceedingly difficult expression. It is submitted that the expression refers to any person who is liable, either at common law or under the terms of a statute, to maintain the patient. In many cases legal liability to maintain is conditional on the patient being a poor person, see Poor Law Act, 1930, s. 14 (12 Halsbury's Statutes 976), cf. s. 163 (1) of that Act (*ibid.* 1047), and, it has been suggested, also upon an order being made by Justices. See *Coldingham Parish Council* v. *Smith*, [1918] 2 K. B. 90; 33 Digest 259, *1798*; 37 Digest 232, *238*, a case which it is not easy to apply, and which possibly does not apply to the provisions now under consideration.

The patient's estate. There seems to be no reason why the authority should not recover from time to time, leaving a balance recoverable after death. In other words, the provisions of sub-s. (3) appear to prevent recovery after a certain time but do not prevent recovery before discharge or death. The remedy is not exclusive of other remedies the authority may have, *e.g.* by action.

Recoverable from any other source. These words are new. If, for example, the A County Council take patients into their hospital from the county of B, on a contract providing for payment, they cannot recover from the patient, etc., but the B County Council must do so. If patients are admitted under a contract recovery must be made under that contract.

Subject to this provision there is nothing in the section to compel the authority to have recourse to the patient before recovering from any person legally liable to maintain, and they may apparently select among such persons at their discretion.

Benefit associations. An agreement under this proviso is alternative, and not supplementary, to recovery under sub-s. (1). When such an agreement exists the "duty" of the council appears to be satisfied.

Provision of accommodation. For the meaning of this expression, see s. 271, *post*. Accommodation may be provided by agreement with any other council or any person.

Infectious disease. L.G.A. 1929, s. 16 (*supra*), did not apply to expenses of maintenance in a hospital for infectious diseases, and the law applicable to recovery from patients before that Act no doubt continued to apply. There is now power, but no duty, to recover either from the patient or from persons legally liable to maintain, and this power is given to county councils as well as to local authorities. There is no definition of "infectious disease."

Period of limitation. L.G.A. 1929, s. 16, *supra*, contained no time limit for recovery of expenses. P.H.A. 1875, s. 132, *supra*, prescribed 6 months from death or discharge. It has been doubted whether or not a limit of six months applied to s. 132, or to L.G.A. 1929, s. 16, and these doubts are set at rest by sub-s. (3).

185. County schemes for provision of hospital accommodation for infectious disease.—(1) Where as respects any county such a scheme as is mentioned in section sixty-three of the Local Government Act, 1929, has not been prepared before the commencement of this Act, the county council shall, for the purpose of securing the provision of suitable means for the proper isolation and treatment of persons suffering from infectious disease, make a survey of the hospital accommodation for the treatment of infectious disease provided by the council and by any of the councils of county districts within the county.

(2) Upon the completion of the survey, the county council shall prepare, in consultation with the councils of all county districts in the county, and, if they deem it desirable, with the council of any county borough adjoining the county, and submit to the Minister for his approval, a scheme for the provision of adequate hospital accommodation for the treatment of persons suffering from infectious disease within the county.

(3) The scheme may provide—

(*a*) for the arrangements under which, and the terms upon which, accommodation in any existing hospital belonging to the council of a county district shall be made available for the use of persons resident in any part of the county outside that district;

(*b*) for the provision by the county council, or by the council of any county district, of new accommodation for the treatment of persons suffering from infectious disease;

(*c*) for embodying arrangements made between the county council, or the council of any county district, and the council of any adjoining county borough for the reception of persons residing in the county borough into hospitals provided by the county council or the council of the county district, or for the reception of persons residing within the county into hospitals provided by the council of the county borough;

(*d*) for any expenses incurred by the county council for the purposes of the scheme being defrayed as expenses for special county purposes chargeable on a part only of the county.

(4) When a scheme has been submitted to the Minister under this section, the Minister, after considering any representations with respect to the scheme which may be submitted to him by any council affected, may approve the scheme with or without modifications, but until so approved no such scheme shall be of any effect.

(5) If a county council fail to submit to the Minister a scheme under this section within six months after being required by him so

to do, the Minister may, after consulting the county council and the councils of all county districts within the county, himself make a scheme for the purpose, and any scheme so made shall have effect as if it were a scheme submitted by the county council and approved by the Minister.

(6) A scheme made under this section, or under section sixty-three of the Local Government Act, 1929, may be varied or revoked by a scheme made in the like manner and subject to the like provisions as the original scheme:

Provided that, if the original scheme was made by the Minister, it may be varied or revoked either by a scheme made in the like manner, or by a scheme submitted by the county council and approved by the Minister.

(7) In this section—

(*a*) references to councils of county districts shall be construed as including references to combinations of such councils; and

(*b*) the expression "infectious disease" does not include tuberculosis or venereal disease.

NOTES TO SECTION 185.

Definitions—

"hospital," s. 343 (1).
"provide," s. 271.
"county district," s. 343 (1).

General note. This section reproduces L.G.A. 1929, s. 63 (10 Halsbury's Statutes 925), with administrative provisions taken from ss. 128 (1) and 131 of that Act (*ibid.* 967, 969). S. 63 is repealed by this Act, and the object is to bring the provisions into a single code.

186. Expenses of county councils in making provision for the treatment of infectious disease.—A county council may direct that the expenses incurred by them in providing hospital accommodation for persons suffering from infectious disease, whether defrayable as expenses for general county purposes or for special county purposes, shall be assessed on the parishes liable to contribute thereto in proportion to the use made of that accommodation by persons in those parishes respectively and, while any such direction is in force, any precept for county contributions may include as a separate item any contributions, whether for general or special county purposes, which are so assessed.

NOTES TO SECTION 186.

Definitions—

"provide," s. 271.
"hospital," s. 343 (1).

General note. This section is based on P.H.A. 1925, s. 61 (2) (13 Halsbury's Statutes 1141), but the power of determination is vested in the county council and not in the Minister by Regulation.

As to general and special county expenses, see L.G.A. 1933, s. 180 (26 Halsbury's Statutes 404).

Nursing homes.

187. Registration of nursing homes.—(1) If any person carries on a nursing home without being registered under this Part of this Act in respect thereof, he shall be liable to a fine not exceeding fifty pounds or, in the case of a second or subsequent offence, to imprisonment for a

term not exceeding three months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine:

Provided that a person who immediately before the commencement of this Act was registered in respect of a nursing home under the corresponding enactments repealed by this Act shall be deemed to have been registered in respect of that home under this Part of this Act.

(2) An application for registration shall be made to the council of the county or county borough in which the home is situate, and shall be accompanied by a fee of five shillings.

(3) Subject as provided in this Part of this Act, the council of the county or county borough shall, on the receipt of an application for registration, register the applicant in respect of the nursing home named in the application and issue to him a certificate of registration:

Provided that the council may by order refuse to register the applicant if they are satisfied—

(*a*) that he or any person employed, or proposed to be employed, by him at the home is not a fit person, whether by reason of age or otherwise, to carry on or to be employed at a nursing home of such a description as the nursing home named in the application; or

(*b*) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the home or any premises used in connection therewith are not fit to be used for a nursing home of such a description as the nursing home named in the application, or that the home or premises are used or proposed to be used for purposes which are in any way improper or undesirable in the case of such a nursing home; or

(*c*) in the case of a nursing home not being a maternity home, that the home is not, or will not be, under the charge of a person who is either a registered medical practitioner or a qualified nurse and is or will be resident in the home, or that there is not, or will not be, a proper proportion of qualified nurses among the persons having the superintendence of, or employed in the nursing of the patients in, the home; or

(*d*) in the case of a maternity home, that the person who has, or will have, the superintendence of the nursing of the patients in the home is not either a qualified nurse or a certified midwife, or that any person employed, or proposed to be employed, in attending any woman in the home in childbirth, or in nursing any patient in the home, is not either a registered medical practitioner, a certified midwife, a pupil midwife, or a qualified nurse.

(4) The certificate of registration issued in respect of a nursing home shall be kept affixed in a conspicuous place in the home and, if default is made in complying with this subsection, the person carrying on the home shall be liable to a fine not exceeding five pounds and to a

further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

NOTES TO SECTION 187.

Definitions—

" nursing home," s. 199 (1).
" county," s. 343 (1).
" premises," s. 343 (1).
" maternity home," s. 199 (1).
" qualified nurse," s. 199 (1) and (2).
" pupil midwife," s. 199 (1).
" enactment," s. 343 (1).

General note. This section reproduces the Nursing Homes Registration Act, 1927, s. 1 (11 Halsbury's Statutes 785). See s. 189, *post*, as to appeal against refusal to register.

188. Cancellation of registration.—(1) Subject to the provisions of this Part of this Act, the council of a county or county borough may by order at any time cancel the registration of a person in respect of a nursing home on any ground which would entitle them to refuse an application for the registration of that person in respect of that home, or on the ground that that person has been convicted of an offence against the provisions of this Part of this Act relating to nursing homes or against any byelaw made under those provisions, or on the ground that any other person has been convicted of such an offence in respect of that home :

Provided that, in the case of a nursing home which was in existence on the first day of July, nineteen hundred and twenty-eight, the registration of a person in respect of that home shall not be cancelled on the ground that the provisions of paragraph (*c*) or paragraph (*d*) of subsection (3) of the last preceding section are not complied with unless, in the case of a nursing home not being a maternity home, the nursing of the patients in the home is not under the superintendence of a qualified nurse who is resident in the home.

(2) For the purpose of this section, a nursing home shall not be deemed to be a home which was in existence on the first day of July, nineteen hundred and twenty-eight if, in the case of a home which was carried on at that date by an individual, it has ceased since that date or ceases to be carried on by that individual solely, or, in the case of a home which was carried on at that date by a body corporate, it has ceased since that date or ceases to be under the charge of the individual under whose charge it was at that date.

NOTES TO SECTION 188.

Definitions—

" county," s. 343 (1).
" nursing home," s. 199 (1).
" maternity home," s. 199 (1).
" qualified nurse," s. 199 (1) and (2).

General note. This section reproduces the Nursing Homes Registration Act, 1927, s. 2 (11 Halsbury's Statutes 786), with additions designed to preserve the protection given by that Act to nursing homes in existence on 1 July 1928. See next section as to appeal.

189. Procedure and right of appeal, where registration refused or cancelled.—(1) Before making under the provisions of this Part of this Act relating to nursing homes an order refusing an application for registration or an order cancelling any registration, the council of the county or county borough shall give to the applicant or to the person registered, as the case may be, not less than fourteen days notice of their intention to make such an order, and every such notice shall state the grounds on which the council intend to make the order and shall

contain an intimation that, if within fourteen days after the receipt of the notice the applicant or person registered informs the council in writing that he desires so to do, the council will, before making the order, give him an opportunity of showing cause, in person or by a representative, why the order should not be made.

(2) If the council, after giving to the applicant or to the person registered an opportunity of being heard by them, decide to refuse the application for registration or to cancel the registration, they shall make an order to that effect and shall send a copy of the order to the applicant or the person registered.

(3) A person aggrieved by an order refusing an application for registration or cancelling any registration may appeal to a court of summary jurisdiction.

NOTES TO SECTION 189.

Definitions—

" nursing home," s. 199 (1).
" county," s. 343 (1).

General note. This section reproduces the Nursing Homes Registration Act, 1927, s. 3 (11 Halsbury's Statutes 786), omitting the right of appeal to quarter sessions, which is given by s. 301, *post*. See s. 300 (3), *post*, as to notifying the right of appeal.

190. Byelaws as to nursing homes.—The council of a county or county borough may make byelaws prescribing—

(*a*) the records to be kept of the patients received into a nursing home, and, in the case of a maternity home, of any miscarriages occurring in the home, and of the children born therein, and of the children so born who are removed from the home otherwise than to the custody or care of a parent, guardian, or relative ;

(*b*) the notices to be given when any death occurs in a nursing home.

NOTES TO SECTION 190.

Definitions—

" county," s. 343 (1).
" nursing home," s. 199 (1).
" maternity home," s. 199 (1).

General note. This section reproduces the Nursing Homes Registration Act, 1927, s. 4 (11 Halsbury's Statutes 787).

191. Inspection of nursing homes.—The medical officer of health of a county or county borough, or a qualified nurse or other authorised officer of the council thereof, may, subject to such conditions, if any, as may be laid down by the council, at all reasonable times enter and inspect any premises which are used, or which that officer has reasonable cause to believe to be used, for the purposes of a nursing home, and inspect any records required to be kept in accordance with the provisions of this Part of this Act :

Provided that nothing in this Part of this Act shall be deemed to authorise any such officer to inspect any medical record relating to a patient in a nursing home.

NOTES TO SECTION 191.

Definitions—

" county," s. 343 (1).
" qualified nurse," s. 199 (1) and (2).
" authorised officer," s. 343 (1).
" premises," s. 343 (1).
" nursing home," s. 199 (1).

General note. This section reproduces the Nursing Homes Registration Act, 1927, s. 5 (11 Halsbury's Statutes 787), including the ambiguous opening phrase.

It is quite clear that the qualified nurse must also be an authorised officer, but under the Act of 1927 it was not so clear that the medical officer was included in the requirement. It is now clear from the definition of authorised officer, that he may enter and inspect by virtue of his office without any written authority.

The special power of entry under this section is in wider terms than the general power under s. 287, *post*.

192. Power of registration authority to exempt certain institutions.—(1) The council of a county or county borough may grant exemption from the operation of the provisions of this Part of this Act relating to nursing homes in respect of any hospital or institution not carried on for profit, and may attach conditions to any exemption granted by them.

(2) An exemption granted under this section, or under any enactment repealed by this Act, in respect of any hospital or institution may be withdrawn at any time and, unless previously withdrawn, shall cease to have effect on the expiration of one year from the date on which it is granted, without prejudice, however, to the power of the council to grant a further exemption:

Provided that, if a council deem it convenient that all such exemptions should expire on the same date in any year, they may, for the purpose of securing that object, grant exemptions for any period not being less than six months and not exceeding eighteen months.

(3) Any person aggrieved by the refusal of a council to grant an exemption under this section, or by any conditions attached by them to an exemption, or by their withdrawal of an exemption, may appeal to the Minister, and the Minister, after considering the matter, shall give such directions as he thinks proper, and the council shall comply with any directions so given.

NOTES TO SECTION 192.

Definitions—

" county," s. 343 (1).
" nursing home," s. 199 (1).
" hospital," s. 343 (1).
" enactment," s. 343 (1).

General note. This section reproduces the Nursing Homes Registration Act, 1927, s. 6 (11 Halsbury's Statutes 787). The Proviso to sub-s. (2) is new and will be of convenience in administration.

Exemption means that there can be no inspection under s. 191, *ante*, and that byelaws under s. 190 cannot apply. Note that an appeal lies to the Minister.

193. Power of Minister to exempt Christian Science nursing homes.—(1) The Minister may grant exemption from the operation of the provisions of this Part of this Act relating to nursing homes in respect of any nursing home as respects which he is satisfied that it is being, or will be, carried on in accordance with the practice and principles of the body known as the Church of Christ Scientist.

(2) It shall be a condition of any exemption granted in respect of a nursing home under this section that the nursing home shall adopt and use the name of Christian Science house.

(3) An exemption granted under this section in respect of a nursing home may at any time be withdrawn by the Minister, if it appears to him that that home is no longer being carried on in accordance with the said practice and principles.

NOTES TO SECTION 193.

For definition of " nursing home," see s. 199 (1).

This section reproduces the Nursing Homes Registration Act, 1927, s. 7 (11 Halsbury's Statutes 788).

194. Delegation of powers as to nursing homes by county council to council of county district.—(1) A county council may, on the application of the council of any county district within the county, by agreement delegate to the council of that district, either with or without restrictions or conditions, any of the functions of the county council under the provisions of this Part of this Act relating to nursing homes.

(2) If the council of a county district who have made an application under the preceding subsection are aggrieved by the refusal of the county council to delegate functions, or by any conditions or restrictions which the county council propose to impose, the council of the county district may make a representation to the Minister, and the Minister, after consultation with the county council, may by order direct the county council to delegate to the council of the county district, either with or without restrictions or conditions, such functions under this Part of this Act relating to nursing homes as the Minister thinks proper, and the county council shall comply with any direction so given.

The Minister may at any time by order revoke an order previously made by him under this subsection.

(3) Where any functions of a county council are delegated under this section to the council of a county district, the references in the last but two preceding section to the medical officer of health of the county and to officers of the county council shall as respects those functions be construed as references to the medical officer of health of the county district and to officers of the council thereof.

(4) Any expenses incurred by the council of a county district in the discharge of functions delegated to them under this section shall, up to an amount not exceeding such sum as may be fixed by the county council, or, on an appeal, by the Minister, be repaid to the council of the county district by the county council.

(5) Any fees received under this Part of this Act in respect of the registration of nursing homes by the council of a county district shall, as the county council may direct, either be paid to that council or be applied in reduction of the sum to be repaid under this section by that council to the council of the county district.

NOTES TO SECTION 194.

Definitions—

" county district," s. 343 (1).
" county," s. 343 (1).
" functions," s. 343 (1).
" nursing home," s. 199 (1).

General note. This section reproduces the Nursing Homes Registration Act, 1927, s. 9 (11 Halsbury's Statutes 788). Sub-s. (3) is new and repairs an omission in the Act of 1927.

195. Offences by companies under provisions of Part VI relating to nursing homes.—Where a person convicted of an offence against any of the provisions of this Part of this Act relating to nursing homes, or against any byelaw made thereunder, is a company, the chairman and every director of the company and every officer of the company concerned in its management shall be guilty of the like offence, unless

he proves that the act constituting the offence took place without his knowledge or consent.

NOTES TO SECTION 195.

Definitions—
" nursing home," s. 199 (1).
" officer," s. 343 (1).

General note. This section reproduces the Nursing Homes Registration Act, 1927, s. 8 (2) (11 Halsbury's Statutes 787).

Laboratories, ambulances, mortuaries, etc.

196. Provision of laboratories.—(1) A county council or a local authority may provide a laboratory for purposes connected with the diagnosis and treatment of diseases and for the making of such bacteriological, chemical and other examinations as may assist them in the performance of their functions under this Act.

(2) A county council or a local authority who provide a laboratory under this section may allow any person to make use thereof on such terms as they think fit.

NOTES TO SECTION 196.

Definitions—
" local authority," s. 1 (2).
" functions," s. 343 (1).
" provide," s. 271.

General note. This power is new. Local authorities had a general power to provide for the bacteriological examination of milk under the Milk and Dairies (Consolidation) Act, 1915, s. 10 (8 Halsbury's Statutes 870), and certain specific powers have been given by Regulation.

197. Provision of ambulances.—(1) A county council or a local authority may provide ambulances and may make charges for the use thereof.

(2) Where an ambulance is used for the conveyance of a person suffering from an infectious disease, the county council or local authority, as the case may be, shall not allow the ambulance to be again used until proper steps have been taken to prevent the communication of the disease to any other person.

NOTES TO SECTION 197:

" Local authority " defined s. 1 (2).

General note. This section combines the provisions of P.H.A. 1875, s. 123 (13 Halsbury's Statutes 675); P.H.A.A. 1907, s. 50 (13 Halsbury's Statutes 930); and P.H.A. 1925, s. 63 (13 Halsbury's Statutes 1143).
See also Isolation Hospitals Act, 1893, s. 13 (13 Halsbury's Statutes 865), and P.H.A. 1925, s. 63 (13 Halsbury's Statutes 1143).

198. Provision of mortuaries and post-mortem rooms.—(1) A local authority or a parish council may, and if required by the Minister shall, provide—

(*a*) a mortuary for the reception of dead bodies before interment;

(*b*) a post-mortem room for the reception of dead bodies during the time required to conduct any post-mortem examination ordered by a coroner or other duly authorised authority;

and may make byelaws with respect to the management, and charges for the use, of any such place provided by them.

(2) A local authority or parish council may provide for the interment of any dead body which may be received into their mortuary.

NOTES TO SECTION 198.

" Local authority " defined s. 1 (2).

General note. This section combines the provisions of P.H.A. 1875, ss. 141, 143 (13 Halsbury's Statutes 682, 683), with those of the Burial Acts, 1852, s. 42 (2 Halsbury's Statutes 204), and 1853, s. 7 (2 Halsbury's Statutes 213).

General.

199. Interpretation of Part VI.—(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

" nursing home " means any premises used or intended to be used for the reception of, and the providing of nursing for, persons suffering from any sickness, injury, or infirmity, and includes a maternity home, but does not include—

(i) any hospital or other premises maintained or controlled by a Government department, county council (including the London County Council), local authority or metropolitan borough council, or any other authority or body constituted by special Act of Parliament or incorporated by Royal Charter;

(ii) any institution for persons of unsound mind within the meaning of the Lunacy and Mental Treatment Acts, 1890 to 1930;

(iii) any institution, house or home certified or approved by the Board of Control under the Mental Deficiency Acts, 1913 to 1927;

" maternity home " means any premises used or intended to be used for the reception of pregnant women, or of women immediately after childbirth;

" qualified nurse " means, subject to the provisions of the next succeeding subsection, a person registered in the general part of the register of nurses required to be kept under the Nurses Registration Act, 1919, or a person who had before the first day of July, nineteen hundred and twenty-eight, completed a three years course of training in a hospital which was during the period of her training, or subsequently became, a training school approved by the General Nursing Council for England and Wales, or the General Nursing Council for Scotland, or the General Nursing Council for Northern Ireland, for the purpose of admission to the general part of the said register;

" pupil midwife " means a person who is undergoing training with a view to becoming a certified midwife, and for that purpose attending women in childbirth, as part of a course of practical instruction in midwifery recognised by the Central Midwives Board.

(2) In relation to any premises used or intended to be used solely for the reception of, and the provision of nursing for, a class of patients in whose case the requisite nursing can be suitably and adequately provided by nurses of a class whose names are contained in some

part of the register of nurses required to be kept under the Nurses Registration Act, 1919, other than the general part of that register, references in the definition of "qualified nurse" contained in subsection (1) of this section to the general part of the register shall be construed as including references to that other part of the register.

NOTES TO SECTION 199.

Definitions—

"premises," s. 343 (1).
"hospital," s. 343 (1).
"local authority," s. 1 (2).

Nursing Home—Maternity Home—Qualified Nurse—Pupil Midwife. These definitions are the same as those in the Nursing Homes Registration Act, 1927, s. 10 (1) (11 Halsbury's Statutes 789).

For the Lunacy and Mental Treatment Acts, 1890 to 1930, see 11 Halsbury's Statutes 17 *et seq.*

For the Mental Deficiency Acts, 1913 to 1927, see 11 Halsbury's Statutes 160 *et seq.*

For the Nurses Registration Act, 1919, see 11 Halsbury's Statutes 748.

INTRODUCTORY NOTE TO PART VII.

This Part of the Act replaces the Notification of Births Acts, 1907 and 1915, the Maternity and Child Welfare Act, 1918, and Part I of the Children Act, 1908, as amended by the Children and Young Persons Act, 1932.

As in other Parts of the Act the procedure by adoption has been abandoned. The transfer of the functions of infant life protection under the Children Act, 1908, from Boards of Guardians to county councils by the Local Government Act, 1929, reduced the number of authorities responsible for this range of services, and it is understood that in almost every instance the three services of notification of births, maternity and child welfare, and infant life protection are now administered by the same authority.

See s. 268, *post*, as to application of this Part to tents, vans, sheds, etc.

PART VII.

NOTIFICATION OF BIRTHS; MATERNITY AND CHILD WELFARE, AND CHILD LIFE PROTECTION.

Welfare authorities.

200. Welfare authorities.—(1) Subject to the provisions of this section, it shall be the duty of the following authorities to carry this Part of this Act into execution, that is to say—

(i) in a county borough, the council of the borough;

(ii) in a county district, the council, whether of the county or of the district, who immediately before the commencement of this Act were in that district the local authority for the purposes of the Notification of Births Acts, 1907 and 1915.

Any such council are, in relation to their duties under this Part of this Act, hereinafter referred to as a "welfare authority," and the county borough, county, or part of a county, for which they act is referred to as their "area."

(2) Where in any county district the welfare authority are not the local education authority for elementary education, and the Minister, on a representation made to him by the council who are in the district the local education authority for elementary education, is satisfied that the transfer of functions under this Part of this Act to the last mentioned council would conduce to the more efficient administration in the district of the functions relating to public health and education, the Minister may by order declare that that council shall be the welfare authority in the district in lieu of the council theretofore acting as such.

(3) The Minister may at any time by order revoke an order previously made by him under this section, and thereupon the council of the county, or the council of the county district, as the case may be, shall again become the welfare authority.

(4) An order of the Minister under this section may contain such provisions with respect to the transfer of property and liabilities as he thinks fit.

(5) References in any other Act to a council who have established a maternity and child welfare committee shall be construed as references to a council who are a welfare authority under this Act.

NOTES TO SECTION 200:

Definitions—

"county district," s. 343 (1).
"county," s. 343 (1).
"district," s. 1 (2).
"functions," s. 343 (1).

General note. See Introductory Note to this Part. This section is based on the Notification of Births Act, 1907, s. 2 (4) (13 Halsbury's Statutes 911), the Notification of Births (Extension) Act, 1915, ss. 1, 2 (15 Halsbury's Statutes 767), and L.G.A. 1929, ss. 2, 60, 61 (10 Halsbury's Statutes 883, 924, 925). The Act of 1907 could be adopted either by county, or by county district, councils, and the Minister had power to transfer the functions from one authority to another. If not adopted the Acts (1915, s. 1, *supra*) took effect as if adopted by the county district council. For power of transfer in case of default, see ss. 321, 322, *post*, replacing L.G.A. 1929, s. 57 (3) (10 Halsbury's Statutes 922).

201. Maternity and child welfare committee of welfare authority.—(1) Every welfare authority shall appoint a maternity and child welfare committee, which may, if the authority think fit, be a committee of the authority appointed for other purposes, or a sub-committee of such a committee.

(2) All matters relating to the discharge of the functions of the authority under this Part of this Act except the power of levying, or issuing a precept for, a rate, or of borrowing money, shall stand referred to the maternity and child welfare committee, and the authority, before exercising any such powers, shall, unless in their opinion the matter in question is urgent, receive and consider the report of the committee with respect to that matter.

(3) The authority may also delegate to the maternity and child welfare committee, with or without restrictions or conditions, any of their functions under this Part of this Act, but the committee shall not have any power of levying, or issuing a precept for, a rate, or of borrowing money.

(4) The authority may appoint as members of the maternity and child welfare committee persons who are not members of the authority, but are specially qualified by training or experience in subjects relating to health and maternity, so, however, that two-thirds at least of the members of the committee shall be members of the authority:

Provided that, where the duties of a maternity and child welfare

committee are discharged by a committee appointed for other purposes or by a sub-committee of such a committee, any members appointed under this subsection who are not members of the authority shall act only in connection with matters relating to the functions of the authority under this Part of this Act.

(5) Two members, at least, of the maternity and child welfare committee shall be women.

NOTES TO SECTION 201.

Definitions—

" welfare authority," s. 200 (1).
" functions," s. 343 (1).

General note. This section reproduces the Maternity and Child Welfare Act, 1918, s. 2 (11 Halsbury's Statutes 743). It will continue to be a duty of welfare authorities to appoint this committee.

The Statutory reference is a usual provision in such circumstances (cf. Education Act, 1921, s. 4 (2) (7 Halsbury's Statutes 132); L.G.A. 1929, s. 6 (2) (10 Halsbury's Statutes 887) (Public Assistance Committee).

Sub-s. (3) appears to add nothing to the provisions of L.G.A. 1933, s. 85 (1) (26 Halsbury's Statutes 352).

202. Expenses of county council as welfare authority.—Where a county council are not the welfare authority for all county districts within their county, the expenses incurred by them under this Part of this Act shall be defrayed as expenses for special county purposes chargeable upon those county districts for which they are the welfare authority.

NOTES TO SECTION 202.

Definitions—

" county district," s. 343 (1).
" county," s. 343 (1).
" welfare authority," s. 200 (1).

General note. This section replaces the Proviso to the Maternity and Child Welfare Act, 1918, s. 3 (11 Halsbury's Statutes 743).

As to special county purposes, see L.G.A. 1933, s. 180 (26 Halsbury's Statutes 404).

Notification of births.

203. Provision for early notification of births.—(1) In the case of every child born it shall be the duty of the father of the child, if at the time of the birth he is actually residing on the premises where the birth takes place, and of any person in attendance upon the mother at the time of, or within six hours after, the birth, to give notice of the birth in manner provided by this section to the medical officer of health of the council who are the welfare authority for the area in which the birth takes place.

(2) Notice under this section shall be given either by posting within thirty-six hours after the birth a pre-paid letter or postcard addressed to the medical officer of health at his office or residence and containing the required information, or by delivering within the said period at that officer's office or residence a written notice containing the required information, and a welfare authority shall, upon application being made to them, supply without charge to any medical practitioner or midwife residing or practising within their area addressed and stamped postcards containing the form of notice.

(3) Any person who fails to give notice of a birth in accordance with this section shall be liable to a fine not exceeding twenty shillings, unless he satisfies the court that he believed, and had reasonable

grounds for believing, that notice had been duly given by some other person.

(4) The medical officer of health of a county district shall send duplicates of any notices received by him under this section to the medical officer of health of the county as soon as may be after they are received:

Provided that this subsection shall not apply to the medical officer of health of a county district the council of which, in addition to being the welfare authority, are also the local supervising authority under the Midwives Acts, 1902 to 1926.

(5) The requirements of this section with respect to the notification of births shall be in addition to, and not in substitution for, the requirements of any Act relating to the registration of births.

(6) A registrar of births and deaths shall, for the purpose of obtaining information concerning births which have occurred in his sub-district, have access at all reasonable times to notices of births received by a medical officer of health under this section, or to any book in which those notices may be recorded.

(7) This section shall apply to any child which has issued forth from its mother after the expiration of the twenty-eighth week of pregnancy, whether alive or dead.

NOTES TO SECTION 203.

Definitions—

" premises," s. 343 (1).
" welfare authority," s. 200 (1).
" area," s. 200 (1).
" county district," s. 343 (1).

General note. This section replaces the Notification of Births Acts, 1907, ss. 1, 2 (4) (15 Halsbury's Statutes 765, 766), and 1915, s. 1 (2) (15 Halsbury's Statutes 767). The duty of the district M.O.H. to send duplicate notices to the county M.O.H. now depends on the distribution of functions and not on the date of adoption of the Act of 1907.

Maternity and child welfare.

204. Powers of welfare authority with respect to maternity and child welfare.—(1) A welfare authority may, subject to the general approval of the Minister, make arrangements for the care of expectant and nursing mothers and of children who have not attained the age of five years and are not being educated in schools recognised by the Board of Education:

Provided that nothing in this section shall authorise the establishment by such an authority of a general domiciliary service by medical practitioners.

(2) The Minister may make regulations prescribing the qualifications of medical officers and health visitors appointed in pursuance of arrangements made under this section, and no person shall be appointed as such a medical officer or health visitor unless he is qualified in accordance with the regulations.

(3) Regulations made under the last preceding subsection shall be laid before Parliament.

NOTES TO SECTION 204.

Definition—

" welfare authority," s. 200 (1).

General note. This section replaces the Maternity and Child Welfare Act, 1918, s. 1 (11 Halsbury's Statutes 742), the Notification of Births (Extension) Act, 1915,

s. 2 (1) (15 Halsbury's Statutes 767), and L.G.A. 1929, s. 59 (10 Halsbury's Statutes 924). It is now required that regulations prescribing the qualifications of medical officers, etc., be laid before Parliament.
See Second Interim Report, p. 112, and *post*, pp. 422, 423.

205. Women not to be employed in factories or workshops within four weeks after birth of a child.—If the occupier of a factory or workshop knowingly allows a woman to be employed therein within four weeks after she has given birth to a child, he shall be liable to a fine not exceeding five pounds or, if he has been previously convicted of a like offence within two years, to a fine not exceeding ten pounds.

NOTES TO SECTION 205.

Definitions—
"factory," s. 343 (1).
"workshop," s. 343 (1).

General note. This section replaces the Factory and Workshop Act, 1901, s. 61 (8 Halsbury's Statutes 551). The functions of the Home Office as to the administration of that section were transferred to the Minister by S. R. & O. 1921, No. 958, and the provisions are now transferred to the public health code.
By the Factory and Workshop Act, 1901, s. 137 (8 Halsbury's Statutes 588), distinct penalties were imposed in respect of offences committed by day or by night. By the present section this distinction is abolished and the penalty increased.
Cf. s. 153, *ante*.

Child life protection.

206. Notices to be given by persons receiving children for reward.—(1) A person who undertakes for reward the nursing and maintenance of a child under the age of nine years apart from his parents, or having no parents, shall give notice thereof to the welfare authority—

(*a*) in the case of a child not already in his care, being the first child under the age of nine years proposed to be received by him for reward in the premises occupied, or proposed to be occupied, for the purpose, not less than seven days before he receives the child;

(*b*) in the case of any other child not already in his care, not less than forty-eight hours before he receives the child; and

(*c*) in the case of a child already in his care without reward, within forty-eight hours after entering into the undertaking:

Provided that, in proceedings in respect of a failure to give such notice as aforesaid, it shall be a defence for the defendant to prove that he received the child upon an emergency and gave notice within twenty-four hours thereafter.

For the purposes of this subsection, an undertaking shall be deemed to be an undertaking for reward if there is any payment or gift of money or money's worth, or any promise to pay or give money or money's worth, irrespective of whether there is any intention of making profit.

(2) The notice required by the preceding subsection shall state the name and sex of the child, the date and place of his birth, the name of the person undertaking his nursing and maintenance, any premises in which he is to be, or is being, kept, whether in the daytime or at night, and the name and address of the person from whom he is to be, or was, received.

(3) In the following provisions of this Part of this Act a child under the age of nine years in respect of whom a notice has been or ought to have been given under this section, or under subsection (2) of the next succeeding section, or under section one of the Children Act, 1908, and

who is still living apart from his parents, if any, with the person by whom the notice was, or ought to have been, given, is referred to as a "foster child."

NOTES TO SECTION 206:

Definition—
"welfare authority," s. 200 (1).

General note. This section replaces the Children Act, 1908, s. 1 (9 Halsbury's Statutes 795), as amended by the Children and Young Persons Act, 1932, s. 65 (25 Halsbury's Statutes 252).
See s. 219, *post*, as to exemptions from ss. 206–218 of the Act.

207. Notices to be given if residence is changed, or if foster child dies, or is removed.—(1) If a person who is maintaining a foster child changes his residence, he shall at least seven days before so doing give to the welfare authority notice of the change, and, where the residence to which he moves is situate in the area of another welfare authority, he shall at least seven days before so moving give to that welfare authority the like notice as respects each foster child in his care as he is required to give on the first reception of a foster child:

Provided that, where an immediate change of residence is necessitated by any emergency, a notice under this subsection may be given at any time within forty-eight hours after the change of residence.

(2) If a person who in London, or in any place outside England and Wales, is nursing and maintaining for reward a child under the age of nine years apart from his parents or having no parents, comes to reside in the area of a welfare authority, he shall, within forty-eight hours give to that authority the like notice in respect of every such child in his care as he is required to give on the first reception of a foster child.

(3) If a foster child dies, or is removed from the care of the person who has undertaken his nursing and maintenance, that person shall, within twenty-four hours thereof, give to the welfare authority and to the person from whom the child was received notice in writing of the death or removal and, in a case of removal, the notice shall also state the name and address of the person to whose care the child has been transferred.

NOTES TO SECTION 207.

Definitions—
"foster child," s. 206 (3).
"welfare authority," s. 200 (1).
"London," s. 343 (1).

General note. This section replaces parts of the Children Act, 1908, s. 1 (9 Halsbury's Statutes 795), as amended by the Children and Young Persons Act, 1932, s. 65, and 2nd Schedule (25 Halsbury's Statutes 252, 270).
As to notice of death, see also s. 213, *post*.

208. Penalties for failure to give notices.—(1) If any person required to give a notice under either of the two last preceding sections fails to give the notice before the latest time specified for giving the notice, he shall be guilty of an offence and, if the consideration for the nursing and maintenance of the child in respect of whom notice ought to have been given consisted in whole or in part of a lump sum, the person failing to give the notice shall, in addition to any other penalty under this Part of this Act, be liable to forfeit that sum, or such less sum as the court having cognizance of the case may deem just, and the sum for-

feited shall be applied for the benefit of the child in such manner as the court may direct.

(2) Where under this section any such sum as aforesaid is ordered to be forfeited, the order may be enforced as if it were an order for the payment of a civil debt recoverable summarily.

(3) For the purposes of any enactment by which the time for taking proceedings is limited, an offence under this section shall be deemed to continue so long as the child in respect of whom a notice ought to have been given remains in the care of the offender without any notice having been given.

NOTES TO SECTION 208.

For definition of "enactment," see s. 343 (1).
See note to previous section.

209. Appointment and powers of child protection visitors.—(1) Every welfare authority shall from time to time make inquiry whether there are any persons residing within their area who undertake the nursing and maintenance of foster children.

(2) If any such persons are found, the welfare authority shall appoint one or more persons to be child protection visitors, whose duty it shall be to visit from time to time any foster children and the premises in which they are kept in order to satisfy themselves as to the health and well-being of the children and to give any necessary advice or directions as to the care of their health and their maintenance:

Provided that the authority may, either in addition to or in lieu of appointing child protection visitors, authorise one or more suitable persons to exercise the powers of such visitors, subject to such terms and conditions as may be stated in the authorisation, and, where any children have been placed out to nurse in the area of the authority by any philanthropic society, may, if satisfied that the interests of the children are properly safeguarded, so authorise the society to exercise those powers as respects those children, subject, however, to the obligation to furnish periodical reports to the welfare authority.

Where a welfare authority appoint or authorise one person only to act under this subsection, that person, and where they so appoint or authorise two or more persons, one at least of those persons, shall be a woman.

(3) If a person who undertakes the nursing and maintenance of a foster child refuses to allow any such visitor or other person to visit or examine the child or the premises in which the child is kept, he shall be guilty of an offence.

(4) If any such visitor or other person is refused admission to any premises in contravention of this Part of this Act, or has reason to believe that a child under the age of nine years is being kept in any premises in contravention of this Part of this Act, he may apply to a justice of the peace, and the justice, if satisfied on sworn information in writing that admission has been so refused, or that there is reasonable ground for believing that an offence under this Part of this Act has been committed, may grant a warrant authorising the visitor or other person to enter the premises for the purpose of ascertaining whether any such offence as aforesaid has been committed, and, if any person

obstructs any visitor or other person acting in pursuance of such a warrant, he shall be guilty of an offence.

NOTES TO SECTION 209.

Definitions—
"welfare authority," s. 200 (1).
"foster child," s. 206 (3).
"premises," s. 343 (1).

General note. This section replaces the Children Act, 1908, s. 2 (9 Halsbury's Statutes 796), as amended by the Children and Young Persons Act, 1932, 2nd Schedule (25 Halsbury's Statutes 270). Sub-s. (3) of s. 2 of the Act of 1908 is replaced by the general provisions of s. 272, *post*, and L.G.A. 1933, ss. 91, 93 (26 Halsbury's Statutes 355, 356).

210. Persons prohibited from receiving foster children.—A foster child shall not without the consent of the welfare authority be kept—

(*a*) by any person from whose care any child or infant has been removed under this Part of this Act, Part I of the Children Act, 1908, or the Infant Life Protection Act, 1897; or

(*b*) in any premises from which any child or infant has been removed under this Part of this Act or Part I of the Children Act, 1908, by reason of the premises being dangerous or insanitary, or under the Infant Life Protection Act, 1897, by reason of the premises being so unfit as to endanger the health of the child or infant; or

(*c*) by any person who has been convicted of any offence under Part I of the Children and Young Persons Act, 1933, or Part II of the Children Act, 1908, or any offence of cruelty under the Prevention of Cruelty to Children Act, 1904,

and any person keeping a foster child contrary to this section, or causing a foster child to be so kept, shall be guilty of an offence.

NOTES TO SECTION 210.

Definitions—
"foster child," s. 206 (3).
"welfare authority," s. 200 (1).
"premises," s. 343 (1).

General note. This section replaces the Children Act, 1908, s. 3 (9 Halsbury's Statutes 797), as amended by the Children and Young Persons Act, 1932, 2nd Schedule (25 Halsbury's Statutes 270).

For Part I of the Children Act, 1908, see 9 Halsbury's Statutes 795–799. See s. 5 (*ibid.* p. 797), as to removal. The Infant Life Protection Act, 1897, was repealed by the Children Act, 1908, and is not printed in Halsbury's Statutes.

211. Power of welfare authority to prevent overcrowding where foster children kept.—(1) The welfare authority may fix the maximum number of children under the age of nine years who may be kept in any premises in which a foster child is kept, and may also impose conditions to be complied with so long as the number of children kept in the premises exceeds a specified number.

(2) If the maximum number so fixed is exceeded, or if any condition so imposed is not complied with, a person who keeps a foster child in those premises shall be guilty of an offence.

NOTES TO SECTION 211.

Definitions—
"welfare authority," s. 200 (1).
"premises," s. 343 (1).
"foster child," s. 206 (3).

General note. This section reproduces the Children and Young Persons Act, 1932, s. 66 (25 Halsbury's Statutes 253). As to overcrowding, see also the

provisions of the Housing Act, 1935, ss. 1–12 (28 Halsbury's Statutes 204–210), and, now, Housing Act, 1936, ss. 57–68 and 157.

212. Removal of foster children kept in unsuitable premises, or by unsuitable persons.—(1) If a foster child is about to be received, or is being kept—

(*a*) in any premises which are overcrowded, insanitary or dangerous ; or

(*b*) by any person who, by reason of old age, infirmity, ill health, ignorance, negligence, inebriety, immorality or criminal conduct, or for any other reason, is unfit to have care of the child ; or

(*c*) in any premises, or by any person, in contravention of any of the provisions of this Part of this Act ; or

(*d*) in an environment which is detrimental to the child,

a court of summary jurisdiction may, on the application of the welfare authority, make an order for the removal of the child to a place of safety until he can be restored to his relatives, or until other arrangements can be made with respect to him ; and, upon proof that there is imminent danger to the health or well-being of the child concerned, a justice (acting, if he deems it necessary, ex parte) may exercise the like power on the application of a visitor, or other person appointed or authorised to execute the provisions of this Part of this Act.

(2) An order made under the foregoing subsection may be enforced by a visitor or other person appointed or authorised as aforesaid ; and any person who refuses to comply with such an order upon its being produced, or who obstructs any such visitor or person as aforesaid in the enforcement of the order, shall be guilty of an offence.

NOTES TO SECTION 212.

Definitions— " foster child," s. 206 (3).
" premises," s. 343 (1).
" welfare authority," s. 200 (1).
" place of safety," s. 220.
" relative," s. 220.

General note. This section reproduces the Children and Young Persons Act, 1932, s. 67 (25 Halsbury's Statutes 253), which replaced the Children Act, 1908, s. 5 (9 Halsbury's Statutes 797).

213. Death of foster child to be notified to coroner.—(1) In the case of the death of a foster child, the person who had the care of the child shall within twenty-four hours of the death give notice in writing thereof to the coroner of the district within which the body of the child lies, and the coroner shall hold an inquest thereon, unless there is produced to him a certificate of a registered medical practitioner certifying that that practitioner has personally attended the child during his last illness and certifying also the cause of death, and the coroner is satisfied that there is no ground for holding an inquest.

(2) If the person required to give notice under this section fails to give notice within the time specified for the purpose, he shall be guilty of an offence.

NOTES TO SECTION 213.

For definition of " foster child," see s. 206 (3).
This section replaces the Children Act, 1908, s. 6 (9 Halsbury's Statutes 798). The notice required under this section is in addition to that required under s. 207 (3), *ante*.

214. Avoidance of insurances on lives of foster children.—A person who keeps a foster child shall be deemed to have no interest in the life of the child for the purposes of the Life Assurance Act, 1774, and, if any such person directly or indirectly insures or attempts to insure the life of a foster child, he shall be guilty of an offence and, if any company, society, or person knowingly issues, or procures or attempts to procure to be issued, to or for the benefit of such a person as aforesaid or to any person on his behalf, a policy on the life of a foster child, the company, society, or person shall be guilty of an offence.

NOTES TO SECTION 214.

For definition of " foster child," see s. 206 (3).
This section reproduces the Children Act, 1908, s. 7 (9 Halsbury's Statutes 798).
For the Life Assurance Act, 1774, see 9 Halsbury's Statutes 846–7.

215. Prohibition of anonymous advertisements offering to undertake care of children.—(1) No advertisement indicating that a person or society will undertake, or will arrange for, the nursing and maintenance of a child shall be published, unless that person's name and residence, or, as the case may be, that society's name and office, are truly stated in the advertisement.

(2) Any person who causes to be published, or knowingly publishes, an advertisement in contravention of the provisions of this section shall be guilty of an offence.

NOTE TO SECTION 215.

This section replaces the Children and Young Persons Act, 1932, s. 68 (25 Halsbury's Statutes 254). The section is no longer confined to advertisements relating to infants under nine years of age.

216. Offences in connection with notices under this Part of Act.—If any person required to give any notice under the foregoing provisions of this Part of this Act relating to child life protection knowingly makes, or causes or procures any other person to make, any false or misleading statement in any such notice, he shall be guilty of an offence.

NOTE TO SECTION 216.

This section reproduces the Children Act, 1908, s. 8 (9 Halsbury's Statutes 798). As to method of giving notice, see now L.G.A. 1933, s. 286 (26 Halsbury's Statutes 457).

217. Other offences under this Part of Act.—Any person guilty of an offence under the foregoing provisions of this Part of this Act relating to child life protection shall be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty-five pounds, or to both such imprisonment and such fine, and the court may order any child in respect of which the offence was committed to be removed to a place of safety.

NOTES TO SECTION 217.

For definition of " place of safety," see s. 220.
This section replaces the Children Act, 1908, s. 9 (9 Halsbury's Statutes 799).
Cf. the Children and Young Persons Act, 1933, s. 98 (26 Halsbury's Statutes 234). The reference to proceedings by a poor law authority is here omitted.

218. Welfare authority may maintain child in place of safety.—Where a child is removed under this Part of this Act to a place of safety,

the welfare authority may defray the expenses of his maintenance therein.

NOTES TO SECTION 218:

Definitions—

" place of safety," s. 220.
" welfare authority," s. 200 (1).

General note. This section is new. It is necessary to provide for payment of these expenses, and cases occur in which there is no person chargeable who is able to pay them.

219. Exemptions from this Part of Act.—(1) The foregoing provisions of this Part of this Act relating to child life protection shall not extend to any relative or legal guardian of a child who undertakes the nursing and maintenance of the child, or to any person who undertakes the nursing or maintenance of a child under the provisions of any Act for the relief of the poor or of any order made under any such Act, or undertakes the nursing and maintenance of a child boarded out under subsection (3) of section eighty-four of the Children and Young Persons Act, 1933, or to any school, hospital, convalescent home, voluntary home within the meaning of the Children and Young Persons Act, 1933, or other institution, being a school, hospital, home or institution—

(*a*) which is maintained by a Government department, county council (including the London County Council), local authority or metropolitan borough council, or any other authority or body constituted by special Act of Parliament or incorporated by Royal Charter; or

(*b*) in respect of which a certificate of exemption from the said provisions granted by the welfare authority is in force; or

(*c*) which is an institution, house, or home certified or approved by the Board of Control under the Mental Deficiency Acts, 1913 to 1927, and in which no children or young persons who are not mental defectives within the meaning of those Acts are received;

nor shall the said provisions apply in relation to any mental defective who is under care elsewhere than in a certified institution, certified house or approved home, if he is so under care with the consent of the Board of Control, or if notice with respect to him has been given to the Board in accordance with subsection (2) of section fifty-one of the Mental Deficiency Act, 1913.

(2) Where a person undertakes the nursing and maintenance of children who are boarded out with that person in succession for short holidays only by a bona fide charitable organisation, the welfare authority may exempt that person from the obligation to give notice under this Part of this Act in respect of each individual child received, on condition that notice is given in respect of the first such child received by that person in each year, but for the purposes of the other provisions of this Part of this Act a child in respect of whom notice ought, but for such exemption, to have been given shall be deemed to be a foster child.

(3) A welfare authority may exempt from being visited, either unconditionally or subject to such conditions as they think fit, any particular premises within their area which appear to them to be so conducted that it is unnecessary that they should be visited by child protection visitors.

(4) An exemption granted under this section, or under any corresponding enactment repealed by this Act, may at any time be withdrawn by the welfare authority.

NOTES TO SECTION 219.

Definitions—

" relative," s. 220.
" legal guardian," s. 220.
" school," s. 343 (1).
" hospital," s. 343 (1).
" local authority," s. 1 (2).
" welfare authority," s. 200 (1).
" house," s. 343 (1).
" foster child," s. 206 (3).

General note. This section replaces the Children Act, 1908, s. 11 (9 Halsbury's Statutes 799), as amended by the Children and Young Persons Act, 1932, s. 69 (25 Halsbury's Statutes 254).

For s. 84 (3) of the Children and Young Persons Act, 1933, see 26 Halsbury's Statutes 222.

Interpretation. The meaning of the expression " voluntary home " in the Act of 1933 is " any home or other institution for the boarding, care, and maintenance of poor children or young persons, being a home or other institution supported wholly or partly by voluntary contributions, but does not include any institution, house or home certified by the Board of Control under the Mental Deficiency Acts, 1913 to 1927, unless children or young persons who are not mental defectives within the meaning of those Acts are received therein " (s. 92, 26 Halsbury's Statutes 230). Under that Act a child means a person under the age of fourteen years, and a young person a person who has attained the age of fourteen years and is under the age of seventeen years.

220. Interpretation of Part VII.—In this Part of this Act—

the expression " relative " means a grandparent, brother, sister, uncle, or aunt, whether by consanguinity or affinity, or in consequence of adoption, and, in the case of an illegitimate child, a person who would be so related if the child were legitimate;

the expression " adoption " means adoption under the Adoption of Children Act, 1926, or any corresponding enactment applicable to Scotland or Northern Ireland;

the expression " legal guardian " means a person appointed according to law to be the guardian of a child, either by deed or will, or by order of a court of competent jurisdiction; and

the expression " place of safety " means a remand home, public assistance institution, or police station, or any hospital, surgery or other suitable place, the occupier of which is willing temporarily to receive a child.

NOTES TO SECTION 220:

relative. Cf. the Children Act, 1908, s. 11 (2) (9 Halsbury's Statutes 799). The words " or in consequence of adoption " are new. See definition of " adoption."

adoption. See the Adoption of Children Act, 1926, 9 Halsbury's Statutes 827–833.

legal guardian, place of safety. Cf. the Children Act, 1908, s. 131 (9 Halsbury's Statutes 815–6), as amended by the Children and Young Persons Act, 1932, 2nd Schedule (25 Halsbury's Statutes 275), and now by the Children and Young Persons Act, 1933, s. 107 (26 Halsbury's Statutes 239).

INTRODUCTORY NOTE TO PART VIII.

This Part of the Act reproduces, in a condensed and simplified form, the Baths and Washhouses Acts, 1846 to 1899, together with some supplementary provisions of the Public Health Acts. The Baths and Washhouses Acts were adoptive, but the formality of adoption is abolished, as in the other Parts of the Act, and the powers are now conferred on all local authorities. Further new powers, based on Local Acts, are also conferred on local authorities.

New powers include, *inter alia*, the control of swimming pools provided otherwise than by the local authority.

PART VIII.

BATHS, WASHHOUSES, BATHING PLACES, &c.

Provision of baths, etc.

221. Power of local authority to provide baths, bathing places and washhouses.—A local authority may provide—

(*a*) public baths and washhouses, either open or covered, and with or without drying grounds;

(*b*) public swimming baths and bathing places, either open or covered,

or any of those conveniences.

NOTES TO SECTION 221.

Definitions—

"local authority," s. 1 (2).
"provide," s. 271.

General note. This section replaces the Baths and Washhouses Act, 1846, ss. 25, 27 (13 Halsbury's Statutes 526, 527), as amended by the Baths and Washhouses Acts, 1878, s. 3 (13 Halsbury's Statutes 794), and 1882, s. 3 (13 Halsbury's Statutes 797), and by P.H.A. 1925, 5th Schedule (13 Halsbury's Statutes 1156), and L.G.A. 1933, 11th Schedule (26 Halsbury's Statutes 516). The provisions of the Act of 1882, s. 3 (*supra*), enabling a local authority to establish public baths and washhouses "in the immediate neighbourhood" of their district, are replaced by the wider general power in s. 274, *post*.

The law is extended to apply to all local authorities, including rural district councils. See para. 111 of the Second Interim Report, *infra*, p. 378, as to difficulties in rural districts under the former Acts.

222. Charges for use of baths, etc.—(1) Subject to the provisions of this section, a local authority may make such charges for the use of, or for admission to, any baths, washhouse, swimming bath or bathing place under their management as they think fit.

(2) One month at least before fixing any charges to be made under this section, the local authority shall publish by advertisement in a local newspaper circulating in their district a notice stating their intention to consider a proposed table of charges and naming a place where a copy of the proposed table may be inspected at all reasonable hours by any person free of charge.

NOTES TO SECTION 222.

For definition of "local authority," see s. 1 (2).

This section replaces the Baths and Washhouses Act, 1878, s. 4 (13 Halsbury's Statutes 794), as amended by P.H.A. 1925, ss. 9, 85, and 5th Schedule (13 Halsbury's Statutes 1118, 1153, 1156). Details of the proposed charges need not be advertised.

223. Byelaws for regulation of baths, etc.—(1) A local authority may make byelaws for the regulation of any baths, washhouses, swimming baths and bathing places under their management, and for the regulation of persons resorting thereto, including the exclusion therefrom of undesirable persons.

Any such byelaws may, in addition to providing for the imposition of penalties, empower any officer of the local authority to exclude or remove from any baths, washhouse, swimming bath or bathing place under the management of the authority any person contravening any of the byelaws applicable to the premises in question.

(2) A printed copy, or abstract, of the byelaws relating to any baths, washhouse, swimming bath or bathing place shall be exhibited in a conspicuous place therein.

NOTES TO SECTION 223.

For definition of "local authority," see s. 1 (2).

This section replaces the Baths and Washhouses Acts, 1846, ss. 34, 35 (13 Halsbury's Statutes 529, 530), and 1878, s. 10 (13 Halsbury's Statutes 794), as amended by P.H.A. 1925, s. 86 (13 Halsbury's Statutes 1154). Power is given to provide by byelaw for the exclusion of undesirable persons. See also ss. 231, 233, *post*.

224. Baths, etc., to be public places for certain purposes.—Any baths, washhouse, swimming bath or bathing place under the management of a local authority shall be deemed to be a public and open place for the purposes of any enactment relating to offences against decency.

NOTES TO SECTION 224.

Definitions—

"local authority," s. 1 (2).
"enactment," s. 343 (1).

General note. This section reproduces the second part of the Baths and Washhouses Act, 1878, s. 10 (13 Halsbury's Statutes 794).

225. Use of baths and bathing places for swimming contests, etc., or by schools or clubs.—(1) A local authority may close temporarily to the public any swimming bath or bathing place under their management and may—

(*a*) grant, either gratuitously or for payment, the exclusive use thereof to a school or club, or to persons organising swimming practices or contests, aquatic sports or similar entertainments; or,

(*b*) themselves use it for such practices, contests, sports or entertainments.

(2) The authority may make, or authorise the making of, charges for admission to, or for the use of, any swimming bath or bathing place while it is closed to the public under this section.

NOTES TO SECTION 225.

Definitions—

"local authority," s. 1 (2).
"school," s. 343 (1).

General note. This section is based on provisions in numerous local Acts.

226. Closing of baths and bathing places during winter months, and use for other purposes.—(1) A local authority may, during any period between the first day of October and the last day of the following April,

close any swimming bath or bathing place under their management, and may, at any time when it is closed, use it, or allow it to be used, or let it, for such purposes, and upon such conditions, as they think fit, and may adapt it for the purpose of being so used or let :

Provided that the following restrictions shall have effect with respect to any entertainment provided by the local authority themselves under this section, that is to say—

(*a*) no stage play shall be performed ;

(*b*) the entertainment shall not include any performance in the nature of a variety entertainment ;

(*c*) no cinematograph film, other than a film relating to the functions of county councils or local authorities, shall be shown ;

(*d*) no scenery, theatrical costumes or scenic or theatrical accessories shall be used.

(2) The power of the local authority to make byelaws under the foregoing provisions of this Part of this Act shall extend to the making of byelaws with respect to a swimming bath or bathing place when used for any purpose authorised by this section.

(3) Nothing in this section shall authorise the use of a swimming bath or bathing place for the public performance of stage plays, for public music, public music and dancing, or other public entertainment of the like kind, or for cinematograph exhibitions, unless such licence as may be required for the use of a place for the purpose in question has been obtained, or such notices as may be required by subsection (2) of section seven of the Cinematograph Act, 1909, have been duly given, and any terms, conditions or restrictions attached to the grant of such licence, or any regulations or conditions made or imposed under the said subsection (2), shall apply, notwithstanding anything in any byelaw made by virtue of this section.

(4) The local authority shall be responsible for any breach of any such conditions as aforesaid which may occur during any entertainment given on the premises by their permission.

NOTES TO SECTION 226.

Definitions—

" local authority," s. 1 (2).
" functions," s. 343 (1).

General note. By the Baths and Washhouses Act, 1899, s. 2 (13 Halsbury's Statutes 880), the use of swimming baths, when closed for their primary purpose, for music and dancing was authorised, subject to the necessary licence and to a further proviso (now sub-s. (4) of this section), making the local authority responsible for the breach of the conditions of a licence. The power was extended by P.H.A. 1925, s. 87 (13 Halsbury's Statutes 1154), upon which the present section is based. The 1925 Act in effect avoided the decision in *A.-G.* v. *Shoreditch Borough Council*, [1915] 2 Ch. 154 ; 38 Digest 207, *427*.

The restrictions on the type of entertainment which a local authority may themselves provide are very slightly relaxed, being extended to the showing of films relating to the whole range of their functions, though it may perhaps be doubted whether the whole range is suitable as the subject of a film, whether entertaining or instructive.

For the Cinematograph Act, 1909, s. 7 (2), see 19 Halsbury's Statutes 354.

See also s. 179, *ante*, as to the display of cinematograph films relating to health or disease.

Licences. See Cinematograph Act, 1909, ss. 1 and 2 (19 Halsbury's Statutes 352) (exhibition of inflammable films) ; Theatres Act, 1843, s. 2 (19 Halsbury's Statutes 336) (theatres for the performance of stage plays) ; P.H.A.A. 1890, s. 51 (13 Halsbury's Statutes 843), Home Counties (Music and Dancing) Licensing Act, 1926 (19 Halsbury's Statutes 363), Music and Dancing Licences (Middlesex) Act, 1894 (*ibid.* 349), Surrey County Council Act, 1925, Part VI (Music and Dancing).

Certain Local Acts require the licensing of boxing entertainments.

Responsibility of local authority. The effect of sub-s. (4) appears to be that proceedings may be taken against the local authority in respect of the breach of any condition imposed by the licensing authority whether committed by the authority or by their lessees.

227. Power of local authority to lay pipes for purposes connected with baths, etc.—Subject to the provisions of Part XII of this Act with respect to the breaking open of streets, a local authority may provide, lay down and maintain such pipes and apparatus as may be necessary for conducting water to or from any baths, washhouse, swimming bath or bathing place which is under their management, or which they propose to provide.

NOTES TO SECTION 227.

Definitions—

" street," s. 343 (1).
" local authority," s. 1 (2).
" provide," s. 271 (not applicable to pipes).

General note. This section is based on Local Acts.

For provisions of Part XII with respect to breaking open streets, see ss. 279–282, *post*.

228. Power of trustees to sell existing baths, etc., to local authority.—The trustees of any public baths, washhouse, swimming bath or bathing place may, with the consent of the committee of management, if any, sell or lease the baths, washhouse, swimming bath or bathing place to a local authority.

NOTES TO SECTION 228.

For definition of " local authority," see s. 1 (2).

This section replaces the Baths and Washhouses Act, 1846, s. 27 (13 Halsbury's Statutes 527).

229. Power of statutory undertakers to supply water, gas or electricity to baths, etc., on favourable terms.—Any statutory undertakers supplying water, gas or electricity may supply water, gas or electricity to any public baths, washhouse, swimming bath or bathing place, either without charge or on such other favourable terms as they think fit.

NOTES TO SECTION 229.

For definition of " statutory undertakers," see s. 343 (1).

This section replaces the Baths and Washhouses Act, 1846, s. 28 (13 Halsbury's Statutes 528), and extends it to electricity undertakers who are, by the general law, prohibited from giving an undue preference (Electric Lighting Act, 1882, s. 20 (7 Halsbury's Statutes 695)).

230. Power of parish council to provide baths, bathing places and washhouses.—(1) A parish council may provide baths, washhouses, swimming baths and bathing places, or any of them, either within or without their parish, and for that purpose shall have the like powers as the local authority of the district have under the foregoing provisions of this Part of this Act, and accordingly in those provisions any reference to a local authority or their district shall be construed as including a reference to a parish council or their parish.

(2) For the purposes of section one hundred and ninety-three of the Local Government Act, 1933 (which relates to the expenses of parish councils and parish meetings), the expression " the Adoptive Acts "

shall be deemed to include the foregoing provisions of this Part of this Act.

NOTES TO SECTION 230.

Definitions—

"parish," s. 1 (2).
"local authority," s. 1 (2).

General note. For L.G.A. 1933, s. 193, see 26 Halsbury's Statutes 411. The section is intended to give parish councils powers to provide baths and washhouses, etc., similar to those of local authorities.

Public bathing.

231. Byelaws with respect to public bathing.—(1) A local authority may make byelaws with respect to public bathing, and may by such byelaws—

(*a*) regulate the areas in which, and the hours during which, public bathing shall be permitted;

(*b*) fix the places at which bathing-machines may be stationed, or bathing huts or tents may be erected;

(*c*) regulate the manner in which bathing-machines, huts or tents may be used, and the charges which may be made for the use thereof;

(*d*) regulate, so far as decency requires, the costumes to be worn by bathers;

(*e*) require persons providing accommodation for bathing to provide and maintain life-saving appliances, or other means of protecting bathers from danger; and

(*f*) regulate, for preventing danger to bathers, the navigation of vessels used for pleasure purposes within any area allotted for public bathing during the hours allowed for bathing.

(2) If and so far as a byelaw made under the preceding subsection is inconsistent with a byelaw made by dock undertakers, the latter shall prevail.

NOTES TO SECTION 231.

For definition of "local authority," see s. 1 (2).
This section replaces the Town Police Clauses Act, 1847, s. 69 (13 Halsbury's Statutes 604), P.H.A. 1875, s. 10 (13 Halsbury's Statutes 630), and P.H.A.A. 1907, s. 92, para. (*a*) (13 Halsbury's Statutes 946). The references to bathing huts or tents are new. See also s. 223, *ante*, and s. 233, *post*.

232. Provision of bathing huts, etc.—A local authority may provide huts or other conveniences for bathing on any land belonging to them or under their control, and may make charges for the use thereof.

NOTES TO SECTION 232.

Definitions—

"local authority," s. 1 (2).
"land," s. 343 (1).

General note. This section reproduces P.H.A.A. 1907, s. 92, para. (*b*).

233. Byelaws with respect to swimming baths and bathing pools not under the management of a local authority.—(1) A local authority may make byelaws with respect to swimming baths and bathing pools,

whether open or covered, which are not under their management for—

(*a*) securing the purity of the water therein;

(*b*) ensuring the adequacy and cleanliness of the accommodation thereat;

(*c*) regulating the conduct of persons resorting thereto; and

(*d*) the prevention of accidents:

Provided that this section shall not apply to any swimming bath or bathing pool which is not open to the public and for, or in connection with, the use of which no charge is made.

(2) Byelaws made under this section may require the person responsible for any swimming bath or bathing pool to which the byelaws apply to keep a printed copy of the byelaws exhibited in a conspicuous place on the premises.

NOTES TO SECTION 233.

For definition of "local authority," see s. 1 (2).
This section is new, and is supplementary to ss. 223 and 231, *ante*. S. 223 relates (*inter alia*) to swimming baths provided by the local authority; s. 231 to public bathing places where no charge is made for the bathing itself, and the present section to bathing pools and swimming baths for admission to which a charge is made.

Life-saving appliances.

234. Provision of life-saving appliances.—A local authority may provide life-saving appliances at such places, whether places used for bathing or not, as they think fit.

NOTES TO SECTION 234.

For definition of "local authority," see s. 1 (2).
This section replaces P.H.A.A. 1907, s. 93.

INTRODUCTORY NOTE TO PART IX.

This Part of the Act replaces the provisions of the Acts of 1875, 1907 and 1925, dealing with common lodging-houses, with the exception of such matters as have since been considered to be appropriate to the Housing Acts.

An important innovation is the definition of the term "common lodging-house" in s. 235. The reasons for the adoption of this course are discussed at length in the Second Interim Report, paras. 114–117. This definition substantially states the law as laid down in *Logsdon* v. *Booth*, [1900] 1 Q. B. 401; 38 Digest 210, *449*; *Logsdon* v. *Trotter*, [1900] 1 Q. B. 617; 38 Digest 211, *451*; and *London County Council* v. *Hankins*, [1914] 1 K. B. 490; 38 Digest 210, *442*. Similar definitions have been inserted in Local Acts.

The provisions as to registration of common lodging-houses and their keepers are simplified by the adoption of the system of combined registration and a right of appeal is given when registration is refused.

PART IX.

COMMON LODGING-HOUSES.

235. Definition of "common lodging-house."—In this Part of this Act the expression "common lodging-house" means a house (other than a public assistance institution) provided for the purpose of accommodating by night poor persons, not being members of the same family, who resort thereto and are allowed to occupy one common room for the purpose of sleeping or eating, and includes, where part only of a house is so used, the part so used.

NOTES TO SECTION 235.

For definition of "house," see s. 343 (1).
See Introductory Note to this Part and Second Interim Report, paras. 114–117, *infra*, pp. 379–380.
Note that this definition does not refer to any payment for the accommodation.
As to "family," see note to s. 236, *post*. See also s. 248, *post*.

236. No person to keep a common lodging-house unless registered in respect thereof.—No person shall keep a common lodging-house, or receive a lodger therein, unless he is registered as the keeper thereof under this Part of this Act:

Provided that—

(*a*) a person who immediately before the commencement of this Act was registered under any enactment repealed by this Act as the keeper of a common lodging-house shall for a period of three months after the commencement of this Act be deemed to be registered under this Act as the keeper of that house; and

(*b*) when the registered keeper of a common lodging-house dies, his widow or any other member of his family may for a period not exceeding four weeks from his death, or such longer period as the local authority may sanction, keep the house as a common lodging-house without being registered as the keeper thereof.

NOTES TO SECTION 236.

Definitions—
"common lodging-house," s. 235.
"enactment," s. 343 (1).
"local authority," s. 1 (2).

General note. This section replaces P.H.A. 1875, s. 77 (13 Halsbury's Statutes 657).
Persons registered as keepers of common lodging-houses under P.H.A. 1875 will need to make a fresh application for registration under this Act within 3 months from 1st October, 1937. During that period any registration before 1st October, 1937, will remain effective by virtue of proviso (*a*) to the section.
The month's grace on the death of the keeper of a common lodging-house may now be extended by the local authority. The word "family" has not been defined, and as the word is now material to the definition of a common lodging-house, it is of greater importance than in P.H.A. 1875, s. 77 (*supra*). It seems clear that the meaning of the word is not confined in s. 235 to a husband and wife and their children, or in the present section to the children of the deceased lodging-house keeper. To what other relatives it extends is a most difficult question, but it is suggested that a brother or sister is clearly within the meaning of the word. The provisions of s. 248 (1), *post*, seem to be of very little assistance.

237. Register of common lodging-house keepers and their houses.—Every local authority shall keep a register in which shall be entered—

(*a*) the full names and the place of residence of every person registered as the keeper of a common lodging-house;

(*b*) the situation of every such lodging-house;

(*c*) the number of persons authorised to be received in the lodging-house; and

(*d*) the full names and the places of residence of any persons who are to act as deputies of the keeper of the lodging-house.

NOTES TO SECTION 237.

Definitions—
"local authority," s. 1 (2).
"common lodging-house," s. 235.

General note. This section reproduces the first part of P.H.A. 1875, s. 76 (13 Halsbury's Statutes 656), as extended by P.H.A.A. 1907, s. 71 (13 Halsbury's Statutes 937), where that section was in force.
See note (*c*) in Lumley, 10th Edn., p. 163, as to the meaning of the word "keeper."

238. Provisions with respect to registration.—(1) Subject as hereinafter provided, a local authority on receiving from any person an application for registration, or for the renewal of his registration, as a keeper of a common lodging-house, shall register the applicant in respect of the common lodging-house named in the application, or renew his registration in respect thereof, and issue to him a certificate of registration, or of renewal of registration:

Provided that the authority—

(*a*) shall not register an applicant, until an officer of the authority has inspected the premises named in the application and has made a report thereon; and

(*b*) may refuse to register, or to renew the registration of, an applicant, if they are satisfied that—

(i) he, or any person employed, or proposed to be employed, by him at the common lodging-house as a deputy or otherwise, is not a fit person, whether by reason of age or otherwise, to keep, or to be employed at, a common lodging-house; or

(ii) the premises are not suitable for use as a common lodging-house, or are not, as regards sanitation and water supply and in other respects, including means of escape in case of fire, suitably equipped for use as such; or

(iii) the use of the premises as a common lodging-house is likely to occasion inconvenience or annoyance to persons residing in the neighbourhood.

(2) The registration of a person as a keeper of a common lodging-house shall remain in force for such period, not exceeding thirteen months, as may be fixed by the authority, but may from time to time be renewed by them for a period not exceeding thirteen months at any one time.

(3) If a local authority refuse to grant or to renew registration under this section, they shall, if required by the applicant, deliver to him a statement in writing of the grounds on which his application is refused.

(4) A local authority shall at any time, on the application of a person registered as the keeper of a common lodging-house, remove from the register the name of any person entered therein as a deputy of the keeper, or insert therein the name of any other person, being a person approved by the authority, whom the keeper proposes to employ as a

deputy, and shall make any consequential alterations in the certificate of registration.

NOTES TO SECTION 238.

Definitions—

" local authority," s. 1 (2).
" common lodging-house," s. 235.
" officer," s. 343 (1).
" premises," s. 343 (1).

General note. This section replaces P.H.A. 1875, ss. 78, 81, 82 (13 Halsbury's Statutes 657, 658), and P.H.A.A. 1907, ss. 69, 74 (13 Halsbury's Statutes 936, 937). The section extends the principle of annual registration to all keepers of common lodging-houses, whether first registered after P.H.A. 1907, s. 69 (*supra*), was applied to the district or not.

Under the former Acts there was a distinct registration of the house and of the keeper, and a house once registered remained registered without any renewal and could not be removed from the register without statutory authority. The section follows precedents in Local Acts by abolishing the distinction, and combines the two registrations in one.

The requirements as to sanitation, water supply, etc., are stated in more general terms.

239. Appeals against refusal of registration.—A person aggrieved by the refusal of a local authority to grant or renew registration under the preceding section may appeal to a court of summary jurisdiction.

NOTES TO SECTION 239.

For definition of " local authority," see s. 1 (2).

This section is new.

Under the former Acts it is doubtful whether there was a right of appeal to quarter sessions under P.H.A.A. 1907, s. 7 (13 Halsbury's Statutes 913). The learned editors of Lumley (10th Edn., p. 1145) doubted whether there was an appeal. The Second Interim Report (p. 116, sub " clause 238 ") indicates that the committee have taken the view that there was an appeal in respect of provisions contained in P.H.A.A. 1907, but not in P.H.A. 1875. This latter view is difficult to reconcile with the decision in *Hart* v. *Hudson Bros., Ltd.*, [1928] 2 K. B. 629; 44 Digest 133, *26*, and it is submitted that the doubts expressed in Lumley were well founded. These doubts are set at rest by the present section. An appeal lies to quarter sessions under s. 301, *post*.

Note s. 300 (3), *post*, as to notifying the right of appeal.

240. Byelaws as to common lodging-houses.—Every local authority may and, if so required by the Minister, shall make byelaws—

(*a*) for fixing the number of persons who may be received into a common lodging-house, and for the separation of the sexes therein;

(*b*) for promoting cleanliness and ventilation in such lodging-houses, and requiring the walls and ceilings thereof to be lime-washed, or treated with some other suitable preparation, at specified intervals;

(*c*) with respect to the taking of precautions when any case of infectious disease occurs in such a lodging-house; and

(*d*) generally for the well-ordering of such lodging-houses.

NOTES TO SECTION 240.

Definitions—

" local authority," s. 1 (2).
" common lodging-house," s. 235.

General note. This section replaces P.H.A. 1875, s. 80 (13 Halsbury's Statutes 658), and brings within the scope of byelaws the provisions as to lime-washing formerly contained in P.H.A. 1875, s. 82 (13 Halsbury's Statutes 658). The section differs from the repealed provisions in that there is no absolute duty to make byelaws. The specific power to provide by byelaw for varying the fixed number of lodgers from time to time has been abandoned. See note (*b*) in Lumley, 10th Edn., p. 166, on this point.

Cf. s. 242, *post*, as to notification of infectious disease.

241. Management and control of common lodging-houses.—(1) The keeper of a common lodging-house shall, if required by the local authority so to do, affix, and keep affixed and undefaced and legible, a notice with the words " Registered Common Lodging-house " in some conspicuous place on the outside of the house.

(2) Either the keeper of the lodging-house, or a deputy registered under this Part of this Act, shall manage the lodging-house and exercise supervision over persons using it, and either the keeper or a deputy so registered shall be at the lodging-house continuously between the hours of nine o'clock in the evening and six o'clock in the morning of the following day.

(3) The local authority may by notice require the keeper of a common lodging-house in which beggars or vagrants are received to report daily to them, or to such person as they may direct, every lodger who resorted to the house during the preceding day or night, but an authority who require such reports to be made shall supply to the keeper of the lodging-house schedules to be filled up by him with the information required and to be transmitted by him in accordance with their notice.

(4) The keeper of a common lodging-house, and every other person having the care or taking part in the management thereof, shall at all times, if required by an authorised officer of the local authority, allow him to have free access to all parts of the house.

NOTES TO SECTION 241.

Definitions—

" common lodging-house," s. 235.
" local authority," s. 1 (2).
" house," s. 343 (1).
" authorised officer," s. 343 (1).

General note. This section reproduces P.H.A. 1875, ss. 79, 83, 85 (13 Halsbury's Statutes 658, 659), and P.H.A.A. 1907, s. 70 (13 Halsbury's Statutes 936). The words " Registered Common Lodging-House " are the same as those required by P.H.A. 1875, s. 79 (*supra*), notwithstanding that under this Act there is no separate registration of lodging-houses. See s. 237, *ante*. As to examination of persons in the lodging-house, see s. 243, *post*.

The special power of entry under sub-s. (4) is in wider terms than the general power under s. 287, *post*.

242. Duty of keeper of common lodging-house to notify cases of infectious disease.—When a person in a common lodging-house is suffering from any infectious disease, the keeper of the lodging-house shall immediately give notice of the case to the medical officer of health of the district, and also to the relieving officer within whose district the lodging-house is situate.

NOTES TO SECTION 242.

Definitions—

" common lodging-house," s. 235.
" district," s. 1 (2).

General note. This section reproduces P.H.A. 1875, s. 84 (13 Halsbury's Statutes 659), as amended by L.G.A. 1929, 10th Schedule (10 Halsbury's Statutes 995). The penalty imposed by P.H.A.A. 1890, s. 32 (13 Halsbury's Statutes 836), is now provided for by s. 246, *post*.

243. Power of justice to order medical examination of inmates of common lodging-house.—If a medical officer of health has reasonable grounds for believing that there is in a common lodging-house a person who is suffering, or has recently suffered, from a notifiable disease, he may make complaint thereof upon oath to a justice of the peace, and thereupon the justice may by warrant authorise him to enter the

lodging-house and examine any person found therein with a view to ascertaining whether he is suffering, or has recently suffered, from such a disease.

NOTES TO SECTION 243.

Definitions—

" common lodging-house," s. 235.
" notifiable disease," s. 343 (1).

General note. This section replaces P.H.A. 1925, s. 58 (13 Halsbury's Statutes 1140). Note that the medical officer, who is by virtue of his office an " authorised officer," may require the keeper to allow him free access to the house at any time. A warrant is required for the compulsory examination of persons therein.

244. Power to remove to hospital inmate of common lodging-house suffering from a notifiable disease.—(1) If a local authority are satisfied that a person lodging in a common lodging-house is suffering from a notifiable disease and that serious risk of infection is thereby caused to other persons, and that accommodation for him is available in a suitable hospital or institution, they may, with the consent of the superintending body of the hospital or institution, order him to be removed thereto and maintained therein at their cost.

(2) The officer of the local authority to whom an order under this section is addressed and any officer of the hospital or institution in question may do all acts necessary for giving effect to the order.

NOTES TO SECTION 244.

Definitions—

" local authority," s. 1 (2).
" common lodging-house," s. 235.
" notifiable disease," s. 343 (1).
" hospital," s. 343 (1).
" officer," s. 343 (1).

General note. This section reproduces the provisions of P.H.A. 1875, s. 124 (13 Halsbury's Statutes 675), relating to persons in common lodging-houses.

245. Power of court to order closing of common lodging-house on account of notifiable disease.—If, on the application of a local authority, a court of summary jurisdiction is satisfied that it is necessary in the interests of the public health that a common lodging-house should be closed on account of the existence, or recent occurrence, therein of a case of notifiable disease, the court may make an order directing the lodging-house to be closed until it is certified by the medical officer of health of the district to be free from infection.

NOTES TO SECTION 245.

Definitions—

" local authority," s. 1 (2).
" common lodging-house," s. 235.
" notifiable disease," s. 343 (1).
" district," s. 1 (2).

General note. This section reproduces P.H.A. 1925, s. 59 (1) (13 Halsbury's Statutes 1140). Sub-ss. (2) and (3) are replaced by ss. 246, 278 of this Act, *post*.
Note that an order of the court is required to close a common lodging-house, but once closed it cannot be re-opened without the medical officer's certificate.

246. Offences in connection with common lodging-houses.—Any person who—

(*a*) contravenes, or fails to comply with, any of the provisions of this Part of this Act, or any order made under the last preceding section; or

(*b*) being the registered keeper of a common lodging-house, fails to keep the premises suitably equipped for use as such; or

(*c*) applies to be registered as the keeper of a common lodging-house at a time when he is, under the next succeeding section, disqualified for being so registered; or

(*d*) in an application for registration, or for the renewal of his registration, as a keeper of a common lodging-house makes any statement which he knows to be false,

shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

NOTES TO SECTION 246.

Definitions—

" common lodging-house," s. 235.
" premises," s. 343 (1).

General note. This section replaces the penalty provisions of P.H.A. 1875, ss. 79, 86 (13 Halsbury's Statutes 658, 659), P.H.A.A. 1890, s. 32 (13 Halsbury's Statutes 836), P.H.A.A. 1907, s. 73 (13 Halsbury's Statutes 937), P.H.A. 1925, s. 59 (13 Halsbury's Statutes 1140).

247. Power of court on conviction to cancel registration and to disqualify for re-registration.—Where the registered keeper of a common lodging-house is convicted of any offence under this Part of this Act or a byclaw made thereunder, the court by which he is convicted may cancel his registration as a common lodging-house keeper and may order that he be disqualified for such period as the court thinks fit for being again registered as such a keeper.

NOTES TO SECTION 247.

For definition of " common lodging-house," see s. 235.
This section replaces P.H.A.A. 1907, s. 72 (13 Halsbury's Statutes 937). The power to disqualify for a specified period is new. Under the former law the local authority could re-register at their discretion.

248. Evidence in legal proceedings under Part IX.—(1) If in any proceedings under this Part of this Act it is alleged that the inmates of any house or part of a house are members of the same family, the burden of proving that allegation shall rest upon the person by whom it is made.

(2) In any such proceedings as aforesaid a document purporting to be a copy of an entry in the register of common lodging-houses and purporting to be certified as such by the clerk of the local authority shall be prima facie evidence of the matters recorded in the entry.

(3) The clerk of a local authority shall supply such a certified copy as aforesaid free of charge to any person who applies for such a copy at a reasonable hour.

NOTES TO SECTION 248.

Definitions—

" house," s. 343 (1).
" common lodging-house," s. 235.
" clerk," s. 343 (1).
" local authority," s. 1 (2).

General note. This section reproduces P.H.A. 1875, ss. 76, 87 (13 Halsbury's Statutes 656, 660). See note to s. 236 (*ante*), as to the meaning of the word " family." P.H.A. 1875, s. 87 (*supra*), placed the onus of proof on inmates of a house making such an allegation, and it seems that the question could only be material if a lodging-house keeper died and some person kept the house for four weeks whom the local authority did not consider to be a member of the deceased's family. Under this Act the question is also material to the definition of a common lodging-house under s. 235, *ante*, and in a prosecution under either provision presumably the statutory

onus of proof under this section will not arise until the prosecution have discharged the onus of proof which must rest upon them under the general law. In such a case it must be part of the evidence for the prosecution that persons *not* members of the same family resort thereto, etc., or are keeping the house.

It is difficult to see what burden is placed upon any person by sub-s. (1) which would not have rested upon him under the general law, and the sub-s. may be actively misleading as it might be supposed on a casual reading to place the onus of proof on the defendant in such prosecutions as have been referred to. It does nothing of the sort. The position contemplated can never arise until evidence to the contrary has already been given.

INTRODUCTORY NOTE TO PART X.

This Part of the Act reproduces with some minor amendments the Canal Boats Acts, 1877 and 1884, with the exception of the provisions relating to the education of children, as to which see Education Act, 1921, s. 50 (7 Halsbury's Statutes 158). The law as to registration authorities is simplified, indeed it may be said to be brought into existence for the first time, for although for nearly 60 years it has been an offence to use a canal boat as a dwelling unless it was registered under the Act of 1877 there has never been a legally constituted registration authority to whom the owner of a canal boat could apply for registration or by whom the Acts could lawfully be enforced.

This Part of the Act extends to London.

PART X.

CANAL BOATS.

249. Authorities for registering, and enforcing provisions as to, canal boats.—(1) For the purpose of the registration of canal boats under this Part of this Act, the registration authorities for any canal shall be the local authorities and port health authorities whose districts include, or abut on, some part of the canal:

Provided that a local authority shall not as such be a registration authority for a canal if they are, or are represented on, a port health authority who are a registration authority for that canal.

(2) It shall be the duty of every registration authority, and of every local authority within whose district any part of a canal is situate, to carry into effect the provisions of this Part of this Act and the regulations made thereunder.

(3) Every registration authority shall, within twenty-one days after the end of each calendar year, make a report to the Minister as to the steps taken by them during that year to carry into effect the said provisions and regulations.

NOTES TO SECTION 249.

Definitions—

"canal boat," s. 258.
"canal," s. 258.
"local authority," s. 1 (2), s. 342 (1).

General note. This section replaces the Canal Boats Acts, 1877, s. 7 (13 Halsbury's Statutes 791), and 1884, s. 3 (13 Halsbury's Statutes 803). The Act of 1877, s. 7, provided that the registration authority should be such one or more of the sanitary authorities having districts abutting on a canal as might from time to time be prescribed by regulations of the L.G.B. By a General Order of 20th March, 1878, the L.G.B. (Art. 1) ordered that every owner of a canal boat who might desire to register the boat as a dwelling should apply to a registration authority having a district abutting on the canal on which the boat was accustomed or intended to ply. This Article remained unaltered by the Amending Order of 9th June, 1925 (see the original order, as amended, in Lumley, 10th Edn., p. 3088), and did not in fact prescribe any registration authorities. It does not appear to have been observed that the greater part of the law relating to Canal Boats has for this reason been ineffective for some 60 years or that much of the action of local authorities under the Acts has for the same reason been *ultra vires*, and the position is now corrected by this Act.

250. Canal boats used as dwellings to be registered.—A canal boat shall not be used as a dwelling—

(*a*) unless it is duly registered under this Part of this Act by some registration authority for the canal on which the boat is accustomed or intended to ply;

(*b*) for a greater number of persons, or a greater number of persons of either sex or any particular age, than is permitted by the certificate of registration:

Provided that a canal boat which immediately before the commencement of this Act was registered under the corresponding enactments repealed by this Act shall be deemed to have been registered under this Part of this Act, and the certificate of registration shall have effect accordingly.

NOTES TO SECTION 250.

Definitions—

"canal," s. 258.
"canal boat," s. 258.
"enactment," s. 343 (1).

General note. This section reproduces parts of ss. 1 and 7 of the Canal Boats Act, 1877 (13 Halsbury's Statutes 788, 791). As to registration authorities, see s. 249, *ante*. The validity of certificates of registration granted before this Act comes into operation is more than doubtful (see Introductory Note to this Part and note to previous section), but holders of such certificates have done as much as was possible to comply with the law.

251. Regulations as to canal boats.—(1) It shall be the duty of the Minister to make regulations—

(*a*) with respect to the registration of canal boats, certificates of registration and the fees to be charged in connection with registration;

(*b*) with respect to the lettering, marking and numbering of canal boats;

(*c*) for fixing the number, age and sex of the persons who may be permitted to dwell in canal boats, regard being had to cubic space, ventilation, provision for the separation of the sexes, general healthiness and convenience of accommodation;

(*d*) for promoting cleanliness in, and ensuring the habitable condition of, canal boats; and

(*e*) for preventing the spread of infectious disease by canal boats.

(2) Regulations made under this section shall be laid before Parliament.

NOTES TO SECTION 251.

For definition of "canal boat," see s. 258.

This section replaces the Canal Boats Acts, 1877, ss. 2 (part), and 9 (13 Halsbury's Statutes 789, 791), and 1884, s. 7 (13 Halsbury's Statutes 804). In the case of the last-mentioned section the method of lettering, etc., will in future be prescribed by Regulation.

See the Rules Publication Act, 1893, s. 1 (18 Halsbury's Statutes 1016).

252. Registration of canal boats and certificates of registration.—(1) If a canal boat conforms to the conditions of registration prescribed by the regulations, any registration authority for the canal on which the boat is accustomed or intended to ply shall, upon payment of the prescribed fee, register the boat.

(2) Upon registering a canal boat, the registration authority shall give to the owner of the boat a certificate of registration in duplicate, identifying the owner and the boat and stating the place to which the boat is registered as belonging, the number, age and sex of the persons permitted to dwell in the boat, and such other particulars as may be required by the regulations, or as the authority think desirable.

(3) The master of a canal boat shall have the custody of one of the duplicate certificates of registration, but, on his ceasing to be the master of the boat, or on the boat ceasing to be registered, he shall deliver that certificate to the owner of the boat, or to such person as the owner may direct, and, if he unlawfully detains it, he shall be liable to a fine not exceeding forty shillings, and the court may order him to deliver up the certificate.

(4) A certificate of registration of a canal boat shall cease to be in force, if any structural alterations which affect the conditions upon which the certificate was obtained are made in the boat.

(5) A person aggrieved by the refusal of a registration authority to register a canal boat may appeal to a court of summary jurisdiction.

NOTES TO SECTION 252.

Definitions—

" canal boat," s. 258.
" canal," s. 258.
" owner," s. 258.
" master," s. 258.

General note. This section replaces the Canal Boats Acts, 1877, ss. 2 (final para.), 3, 10, and 11 (13 Halsbury's Statutes 789, 791, 792), and 1884, s. 1 (13 Halsbury's Statutes 803). The obligation of the master, on ceasing to be master, to deliver the certificate to the owner, is clearly stated. Under the Canal Boats Act, 1877, ss. 3, 10 (*supra*), it appeared to be his duty to deliver it to the new master.

Sub-s. (5) is new. There is a further appeal to quarter sessions under s. 301, *post*. Note s. 300 (3) as to notifying the right of appeal.

253. Penalties for use of unregistered canal boat as dwelling, and for breach of regulations.—If a canal boat is used as a dwelling in contravention of any of the foregoing provisions of this Part of this Act, or if any regulation made thereunder is not complied with as respects a canal boat, the master of the boat and also the owner thereof, if he is himself in default, shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which after conviction for the offence the boat is so used, or the non-compliance continues.

NOTES TO SECTION 253.

Definitions—

" canal boat," s. 258.
" master," s. 258.
" owner," s. 258.

General note. This section replaces the penalty provisions of the Canal Boats Acts, 1877, s. 1 (13 Halsbury's Statutes 788), and 1884, s. 2 (13 Halsbury's Statutes 803). The fines are substantially increased and a daily penalty is substituted for a penalty " for each occasion on which the boat is so used," an expression which was possibly difficult to apply.

As to daily penalties, see s. 297, *post*.

254. Infectious disease on canal boats.—A local authority or port health authority, on being informed that any person on a canal boat within their district is suffering from an infectious disease, shall cause such steps to be taken for preventing the spread of the disease as they consider to be necessary, and for that purpose may exercise any of the powers in relation to the prevention of infection conferred upon them by this Act or, as the case may be, by the Public Health (London) Act, 1891, including powers for procuring the removal to hospital of persons suffering from infectious disease, and may also, if need be, detain the boat, but not for any longer period than is necessary for cleansing and disinfecting it.

NOTES TO SECTION 254.

Definitions—

" local authority," s. 1 (2), s. 342 (1).
" canal boat," s. 258.
" hospital," s. 343 (1).

General note. This section replaces the Canal Boats Act, 1877, s. 4 (13 Halsbury's Statutes 790).

255.—Power to enter and inspect canal boat.—(1) An inspector appointed by the Minister may, on producing, if required, evidence of his authority, enter a canal boat at any time between six o'clock in the morning and nine o'clock in the evening and examine every part of the boat and may, if need be, detain the boat for the purpose of his examination, but not for any longer period than is necessary.

(2) If an authorised officer of a local authority or port health authority has reasonable ground for believing—

(*a*) that any provision of this Part of this Act, or any regulation made thereunder, is being contravened as respects a canal boat, or

(*b*) that there is on board a canal boat any person suffering from an infectious disease,

he shall, for the purpose of ascertaining whether there is any such contravention as aforesaid or any person on board suffering from an infectious disease, have the like rights of entering, examining and if necessary detaining the boat as an inspector of the Minister has under the last preceding subsection.

(3) The master of the canal boat shall, if required by such an inspector or officer as aforesaid so to do, produce to him the certificate of registration, if any, of the boat, and permit him to examine and copy the certificate, and shall furnish him with such assistance and means as he may require for the purpose of his entry on, and departure from, the boat and his examination thereof.

(4) Any person who refuses to comply with a requisition made under the preceding subsection shall be deemed to have obstructed the person by whom the requisition was made.

NOTES TO SECTION 255.

Definitions—

" canal boat," s. 258.
" authorised officer," s. 343 (1).
" local authority," s. 1 (2), s. 342 (1).
" master," s. 258.

General note. This section replaces the Canal Boats Acts, 1877, s. 5 (13 Halsbury's Statutes 790), and 1884, s. 9 (13 Halsbury's Statutes 804).

The special power of entry under this section is in wider terms than the general power under s. 287, *post*.

256. Prosecution of offences.—Proceedings in respect of an offence under this Part of this Act may be taken before a court of summary jurisdiction acting either in the place where the offence was committed,

or in the place where the alleged offender for the time being is, or in the place to which the boat in respect of which the offence was committed is registered as belonging.

NOTE TO SECTION 256.

This section replaces the Canal Boats Act, 1877, s. 13 (13 Halsbury's Statutes 792).

257. Application of Part X to London.—This Part of this Act shall extend to London.

NOTE TO SECTION 257.

In the application of the provisions of this Part to London, note that in place of the definition of "local authority" in s. 1 (2), *ante*, there should be read the definition in s. 342 (1), *post*. Cf. definition of "sanitary authority" in the Canal Boats Act, 1877, s. 14 (13 Halsbury's Statutes 792).

258. Interpretation of Part X.—In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

"canal" includes any river, inland navigation or lake, and any other waters situate wholly or in part within a county or county borough, whether those waters are or are not within the ebb and flow of the tide;

"canal boat" means any vessel, however propelled, which is used for the conveyance of goods along a canal, not being—

(*a*) a sailing barge which belongs to the class generally known as "Thames sailing barge" and is registered under the Merchant Shipping Acts, 1894 to 1928, either in the port of London or elsewhere; or

(*b*) a sea-going ship so registered; or

(*c*) a vessel used for pleasure purposes only;

"master," in relation to a canal boat, means the person having command or charge of the boat; and

"owner," in relation to a canal boat, includes a person who, though only the hirer of the boat, appoints the master and other persons working the boat.

NOTES TO SECTION 258.

Canal boat. This definition substantially reproduces that in the Canal Boats Act, 1877, s. 14 (13 Halsbury's Statutes 792), as varied, by virtue of the Canal Boats Act, 1884, s. 10 (13 Halsbury's Statutes 804), by S. R. & O. 1923, No. 451. Vessels used for pleasure purposes only, *e.g.* yachts and launches, are expressly excluded.

For the Merchant Shipping Acts, 1894 to 1928, see 18 Halsbury's Statutes 162 *et seq.*

Canal, master, owner. These definitions substantially reproduce those in the Canal Boats Act, 1877, s. 14 (*supra*). As to effect of "includes" and "means," see note to s. 77, *ante*.

INTRODUCTORY NOTE TO PART XI.

This Part of the Act deals with watercourses, etc., ships and boats, and tents, vans, sheds and similar structures.

The provisions relating to watercourses contained in the earlier Acts have been amended so as to co-ordinate the powers of local authorities under the Public Health Acts, with those of drainage boards established under the Land Drainage Act, 1930 (23 Halsbury's Statutes 529 *et seq.*).

P.H.A. 1925, ss. 52, 53 (13 Halsbury's Statutes 1137, 1138), are repealed and are replaced by ss. 263, 264 of this Act, which however are limited in their application to urban districts, and to rural districts in which the repealed sections were in force, and it will be necessary to consult the land drainage authority, and not to obtain their consent, as many authorities were required to do, before the powers are enforced. The powers of these two sections cannot in future be extended to districts in which they are not now in force.

The provisions of s. 331, *post*, as to consents required when works affect water rights, should be noted.

The application of public health provisions to ships and boats is stated in an improved form.

S. 269 is based to a large extent on a series of Local Acts passed during the last 10 years. It deals with a most difficult topic, and one which the Consolidation Committee felt (Second Interim Report, p. 119, and *post*, p. 430) to be too controversial for the present Act. It would have been unfortunate if this Act had been passed without making provision for the control of camping. The section merits, and will no doubt receive, the careful attention of local authorities.

PART XI.

MISCELLANEOUS.

Watercourses, ditches, ponds, etc.

259. Nuisances in connection with watercourses, ditches, ponds, etc.—(1) The following matters shall be statutory nuisances for the purposes of Part III of this Act, that is to say—

(*a*) any pond, pool, ditch, gutter or watercourse which is so foul or in such a state as to be prejudicial to health or a nuisance;

(*b*) any part of a watercourse, not being a part ordinarily navigated by vessels employed in the carriage of goods by water, which is so choked or silted up as to obstruct or impede the proper flow of water and thereby to cause a nuisance, or give rise to conditions prejudicial to health:

Provided that in the case of an alleged nuisance under paragraph (*b*) nothing in this subsection shall be deemed to impose any liability on any person other than the person by whose act or default the nuisance arises or continues.

(2) A person who throws or deposits any cinders, ashes, bricks, stone, rubbish, dust, filth or other matter likely to cause annoyance into or in any river, stream or watercourse, or who suffers any such act to be done, shall be liable to a penalty not exceeding forty shillings.

NOTES TO SECTION 259.

Definitions—

"prejudicial to health," s. 343 (1).
"vessel," s. 343 (1).

Statutory nuisance. Cf. the provisions of Part III, ss. 91–100, *ante*.

General note. This section substantially reproduces P.H.A. 1875, s. 91 (2) (13 Halsbury's Statutes 661), P.H.A.A. 1890, s. 47 (13 Halsbury's Statutes 842), and P.H.A. 1925, s. 54 (13 Halsbury's Statutes 1138). The references in P.H.A. 1875, s. 91 (2), to "privy, urinal, cesspool, drain or ashpit" is omitted. Similar nuisances in respect of these places can be dealt with under ss. 39, 44, or 92 (1), *ante*.

As to "watercourse," see note to s. 262, *post*.

260. Power of parish council, or local authority, to deal with ponds, ditches, etc.—(1) A parish council may—

(*a*) deal with any pond, pool, ditch, gutter or place containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing or covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right, or with any public drainage, sewerage or sewage disposal works;

(*b*) execute any works, including works of maintenance or improvement, incidental to or consequential on any exercise of the foregoing power;

(*c*) contribute towards the expenses incurred by any other person in doing anything mentioned in this subsection.

(2) Without prejudice to their right to take action in respect of any statutory nuisance, a local authority may exercise any powers which a parish council may exercise under this section.

NOTES TO SECTION 260.

Definitions—

" prejudicial to health," s. 343 (1).
" statutory nuisance," s. 92 (1), s. 259 (1).
" local authority," s. 1 (2).

General note. This section reproduces paras. (*f*), (*i*) and (*k*) of L.G.A. 1894, s. 8 (1) (10 Halsbury's Statutes 780), and extends those powers to all local authorities.

261. Provision for obtaining order for cleansing offensive ditches lying near to, or forming, boundary of district.—Upon a complaint by a local authority against the local authority of an adjoining district that a watercourse or ditch which forms the boundary between their districts, or which lies in the adjoining district but near to that boundary, is so foul and offensive as injuriously to affect the district of the complainants, a court of summary jurisdiction having jurisdiction in the place where the watercourse or ditch is situate may make such order as it deems reasonable with respect to the cleansing of the watercourse or ditch and the execution of any work appearing to the court to be necessary, and with respect to the persons by whom the work is to be executed, and the persons by whom, and the proportions in which, the costs of the work are to be paid.

NOTES TO SECTION 261.

Definitions—

" local authority," s. 1 (2).
" district," s. 1 (2).

General note. This section reproduces P.H.A. 1875, s. 48 (13 Halsbury's Statutes 646). It is open to the court to order the complainants to execute the work at their own cost if facts justify such a course (*Woburn Sanitary Authority* v. *Newport Pagnell Sanitary Authority* (1887), 51 J. P. 694; 41 Digest 45, *330*).

262. Power of local authority to require culverting of watercourses and ditches where building operations in prospect.—(1) If a local authority consider that any watercourse or ditch, situate upon land laid out for building, or on which any land laid out for building abuts, should be wholly or partially filled up or covered over, they may by notice require the owner of the land laid out for building, before any building operations are begun or while any such operations are in progress, wholly or partially to fill up the watercourse or ditch, or to substitute therefor a

pipe, drain or culvert with all necessary gullies and other means of conveying surface water into and through it.

(2) Any question arising under this section between a local authority and an owner as to the reasonableness of any works which the authority require to be executed may, on the application of either party, be determined by a court of summary jurisdiction.

(3) Any person who, on any land to which a notice given by a local authority under this section applies, begins or proceeds with any building operations before executing the works required by the notice, shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

(4) Nothing in this section shall empower an authority to require the execution of works upon the land of any person other than the owner of the land laid out for building, without the consent of that person, or prejudicially to affect the rights of any person not being the owner of the land so laid out.

NOTES TO SECTION 262.

Definitions—

" local authority," s. 1 (2).
" land," s. 343 (1).
" owner," s. 343 (1).
" drain," s. 343 (1).

Watercourse. In old law a distinction was drawn between rivers and watercourses, between *flumen* and *cursus aquæ*. This distinction no doubt still exists, but " watercourse " is not a word capable of precise definition. There must, however, be water flowing in a more or less defined channel, natural or artificial. See *R.* v. *Oxfordshire, Inhabitants of* (1830), 1 B. & Ad. 289 at p. 301; 26 Digest 572, *2645*, *per* Lord Tenterden, C.J.; *Smith* v. *Barnham* (1876), 1 Ex. D. 419; 44 Digest 43, *306*; *Pearce* v. *Croydon R.D.C.* (1910), 74 J. P. 429; 41 Digest 8, *53*.

Effect of notice. Note that the enforcement of these notices is provided for by a special procedure under the section, and not under the general provisions as to notices requiring the execution of works in s. 290, *post*, which are not applicable to these notices.

The section replaces P.H.A. 1925, s. 51 (13 Halsbury's Statutes 1137), but in a different form. That section imposed a penalty for failure to comply with a notice, and both the penalty and the operation of the section could be avoided by such devices as were illustrated in *A.-G.* v. *Rowley Bros.* (1911), 75 J. P. 81; 44 Digest 11, *39*. In its new form the penalty is imposed for building on the building land to which the notice relates before executing the works required by the notice. It has not been considered necessary to impose a penalty for non-compliance with the notice.

Appeal against notice. A further appeal lies to Quarter Sessions under s. 301, *post*. See note to s. 64, *ante*. Note the provisions of s. 300 (3), *post*.

263. Watercourses in urban district not to be culverted except in accordance with approved plans.—(1) It shall not be lawful within a borough or urban district, or a rural district or contributory place in which section fifty-two of the Public Health Act, 1925, was in force immediately before the commencement of this Act, to culvert or cover any stream or watercourse except in accordance with plans and sections to be submitted to and approved by the local authority, but such approval shall not be withheld unreasonably and, if the authority, within six weeks after plans and sections have been submitted to them, fail to notify their determination to the person by whom the plans and sections were submitted, they shall be deemed to have approved them.

(2) Any question arising under this section between a local authority and an owner as to the reasonableness of any works which the authority

require to be executed as a condition of their approval, or as to the reasonableness of their refusal to give approval, may, on the application of either party, be determined by a court of summary jurisdiction.

(3) A local authority shall not, as a condition of approving plans or sections under this section, require an owner to receive upon his land, or to make provision for the passage of, a greater quantity of water than he is otherwise obliged to receive or to permit to pass, and, if the owner at the request of the authority makes provision for the passage of a larger quantity of water than he is obliged to permit to pass at the time of the commencement of any work under this section, any additional cost reasonably incurred by him in complying with the request of the authority shall be borne by them.

(4) Any person who contravenes this section shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

NOTES TO SECTION 263.

Definitions—

" contributory place," s. 343 (1).
" local authority," s. 1 (2).
" owner," s. 343 (1).
" land," s. 343 (1).

General note. This section reproduces P.H.A. 1925, s. 52 (13 Halsbury's Statutes 1137). As to what is a watercourse, see note to last section. An appeal lies to Quarter Sessions from the determination by a court of summary jurisdiction of questions under sub-s. (2). See s. 301, *post*. Note the provisions of s. 300 (3), *post*.

See Introductory Note to this Part.

264. Urban authority may require repair and cleansing of culverts.—The owner or occupier of any land within a borough or urban district, or a rural district or contributory place in which section fifty-three of the Public Health Act, 1925, was in force immediately before the commencement of this Act, shall repair, maintain and cleanse any culvert in, on or under that land, and, if it appears to the local authority that any person has failed to fulfil his obligations under this section, they may by notice require him to execute such works of repair, maintenance or cleansing as may be necessary.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this section.

NOTES TO SECTION 264.

Definitions—

" owner," s. 343 (1).
" land," s. 343 (1).
" contributory place," s. 343 (1).

General note. This section reproduces P.H.A. 1925, s. 53 (13 Halsbury's Statutes 1138). As to what is a watercourse, see note to s. 262, *ante*. See Introductory Note to this Part. For provisions of Part XII as to notices requiring the execution of works, see s. 290, *post*.

265. Power of local authority to defray cost of, or execute, works relating to watercourses.—A local authority may, if they think fit, contribute the whole or a part of the expenses of the execution of works for any of the purposes mentioned in the foregoing provisions of this Part of this Act, or may by agreement with any owner or occupier

themselves execute any such works which he may be required, or is entitled, to execute.

NOTES TO SECTION 265.

Definitions—

" local authority," s. 1 (2).
" owner," s. 343 (1).

General note. This section reproduces P.H.A. 1925, s. 55 (13 Halsbury's Statutes 1138). Note that the local authority cannot by virtue of this section execute any works otherwise than by agreement with the owner or occupier.

266. Saving for land drainage authorities, the London County Council, railway companies and dock undertakers.—(1) The powers conferred by the foregoing provisions of this Part of this Act shall not be exercised—

(i) with respect to any stream, watercourse, ditch or culvert within the jurisdiction of a land drainage authority, except after consultation with that authority;

(ii) with respect to any stream, watercourse, ditch or culvert vested in the London County Council, without the consent of that council:

Provided that nothing in this subsection shall apply in relation to the taking of proceedings in respect of a statutory nuisance.

(2) Nothing in the foregoing provisions of this Part of this Act shall prejudice or affect the powers of any railway company or dock undertakers to culvert or cover in any stream or watercourse, or, without the consent of the railway company or dock undertakers concerned, extend to any culvert or covering of a stream or watercourse constructed by a railway company and used by them for the purposes of their railway, or constructed by dock undertakers and used by them for the purposes of their undertaking.

NOTES TO SECTION 266.

Definitions—

" land drainage authority," s. 343 (1).
" statutory nuisance," s. 92 (1), s. 259 (1).
" railway company," s. 343 (1).
" dock undertakers," s. 343 (1).

General note. This section replaces P.H.A. 1925, ss. 11, 12 (13 Halsbury's Statutes 1118, 1119). The reference to streams, etc., vested in the L.C.C. is no longer confined to those which are vested in that council as sewers. Certain streams, not entirely within the county of London, are " main sewers of the metropolis." See Metropolis Management Act, 1855, ss. 135, 137, 148, and Schedule D (11 Halsbury's Statutes 917, 919, 921, 951). Such streams are " vested " in the L.C.C., but their extent is in some instances not authoritatively settled. It may become important in disputed portions of these streams to consider what is meant by " vested " in para. (ii) of sub-s. (1) of this section.

Ships and boats.

267. Application to ships and boats of certain provisions of Act.—(1) For the purposes of such of the provisions of this Act specified in subsection (4) of this section as are provisions for the execution of which local authorities are responsible, a vessel lying in any inland or coastal waters shall—

(*a*) if those waters are within a port health district, be subject to the jurisdiction of the port health authority for that district;

(*b*) if those waters are within the district of a local authority but not within a port health district, be subject to the jurisdiction of that local authority;

(*c*) if those waters are not within the district of any local authority or any port health district, be subject to the jurisdiction of such local authority as the Minister may from time to time by order direct or, if no such direction is given, within the jurisdiction of the local authority whose district includes that point on land which is nearest to the spot where the vessel is lying.

(2) For the purposes of such of the said provisions as are provisions for the execution of which county councils are responsible, a vessel when lying in any inland or coastal waters not within a county shall be subject to the jurisdiction of the council of the county which includes that point on land which is nearest to the spot where the vessel is lying.

(3) In relation to any vessel the said provisions shall have effect as if—

(*a*) the vessel were a house, building or premises within the district, or, as the case may be, the county, of the local authority or county council to whose jurisdiction it is subject; and

(*b*) the master, or other officer or person in charge, of the vessel were the occupier.

(4) The provisions of this Act referred to in the preceding subsections are Parts III, V, VI and XII and, so far as regards boats used for human habitation, the provisions of Part II relating to filthy or verminous premises or articles and verminous persons:

Provided that the provisions of the said Part III with regard to smoke nuisances shall not apply in relation to any vessel habitually used as a sea-going vessel, except that a funnel of, or chimney on, any such ship sending forth black smoke in such quantity as to be a nuisance shall be a statutory nuisance.

(5) This section does not apply to any vessel belonging to His Majesty or under the command or charge of an officer holding His Majesty's commission, or to any vessel belonging to a foreign government.

NOTES TO SECTION 267.

Definitions—

"local authority," s. 1 (2).
"inland waters," s. 343 (1).
"coastal waters," s. 343 (1).
"district," s. 1 (2).
"vessel," s. 343 (1).
"county," s. 343 (1).
"house," s. 343 (1).
"premises," s. 343 (1).
"smoke nuisance," s. 101.
"statutory nuisance," s. 92 (1).

General note. This section reproduces P.H.A. 1875, s. 110 (13 Halsbury's Statutes 669); P.H. (Ships, etc.) A. 1885 (13 Halsbury's Statutes 806), and P.H.A. 1925, s. 50 (13 Halsbury's Statutes 1137). The law as now stated is not free from complexity, but it is nevertheless clearer than in the complicated series of references and adaptations in which it was hitherto concealed. It becomes clear, for example, that vessels at anchor at sea and within the three miles limit are subject to the control of the authority responsible for the public health.

Tents, vans, sheds, etc.

268. Nuisances arising from, and byelaws and other matters relating to, tents, vans, etc.—(1) The provisions of Parts III, V, VII and XII of this Act, and the provisions of Part II relating to filthy or verminous

premises or articles and verminous persons, shall apply in relation to tents, vans, sheds and similar structures used for human habitation as they apply in relation to other premises and as if a tent, van, shed or similar structure used for human habitation were a house or a building so used.

(2) For the purposes of the said Part III, a tent, van, shed or similar structure used for human habitation—

(*a*) which is in such a state, or so overcrowded, as to be prejudicial to the health of the inmates; or

(*b*) the use of which, by reason of the absence of proper sanitary accommodation or otherwise, gives rise, whether on the site or on other land, to a nuisance or to conditions prejudicial to health,

shall be a statutory nuisance, and the expression "occupier" in relation to a tent, van, shed or similar structure shall include any person for the time being in charge thereof.

(3) Where such a nuisance as is mentioned in paragraph (*b*) of the preceding subsection is alleged to arise, wholly or in part, from the use for human habitation of any tent, van, shed or similar structure, then, without prejudice to the liability of the occupants or other users thereof, an abatement notice may be served on, and proceedings under Part III of this Act may be taken against, the occupier of the land on which the tent, van, shed or other structure is erected or stationed:

Provided that it shall be a defence for him to prove that he did not authorise the tent, van, shed or other structure to be stationed or erected on the land.

(4) A local authority may make byelaws for promoting cleanliness in, and the habitable condition of, tents, vans, sheds and similar structures used for human habitation, for preventing the spread of infectious disease by the occupants or other users thereof and generally for the prevention of nuisances in connection therewith.

(5) The powers of a court before which proceedings are brought—

(*a*) in respect of a statutory nuisance caused by, or arising in connection with, a tent, van, shed or similar structure used for human habitation; or

(*b*) in respect of any contravention of byelaws made under this section,

shall include power to make an order prohibiting the use for human habitation of the tent, van, shed or other structure in question at such places, or within such area, as may be specified in the order.

NOTES TO SECTION 268.

Definitions—

"premises," s. 343 (1).
"house," s. 343 (1).
"prejudicial to health," s. 343 (1).
"statutory nuisance," s. 92 (1).
"abatement notice," s. 93.
"land," s. 343 (1).

General note. This section in effect reproduces the Housing of the Working Classes Act, 1885, s. 9 (13 Halsbury's Statutes 808), and P.H.A. 1925, ss. 43, 50 (13 Halsbury's Statutes 1133, 1137). Sub-s. (3) is new and will be exceedingly useful in the enforcement of these provisions.

The section extends the meaning of the word "occupier" for the purposes of Part III, in respect of which Part the word is not otherwise defined in the Act. It is defined for the purposes of s. 144, in Part V, and for the purposes of s. 269 in this Part.

269. Power of local authority to control use of moveable dwellings.—(1) For the purpose of regulating in accordance with the provisions of this section the use of moveable dwellings within their district, a local authority may grant—

(i) licences authorising persons to allow land occupied by them within the district to be used as sites for moveable dwellings ; and

(ii) licences authorising persons to erect or station, and use, such dwellings within the district ;

and may attach to any such licence such conditions as they think fit—

(*a*) in the case of a licence authorising the use of land, with respect to the number and classes of moveable dwellings which may be kept thereon at the same time, and the space to be kept free between any two such dwellings, with respect to water supply, and for securing sanitary conditions ;

(*b*) in the case of a licence authorising the use of a moveable dwelling, with respect to the use of that dwelling (including the space to be kept free between it and any other such dwelling) and its removal at the end of a specified period, and for securing sanitary conditions.

(2) Subject to the provisions of this section, a person shall not allow any land occupied by him to be used for camping purposes on more than forty-two consecutive days or more than sixty days in any twelve consecutive months, unless either he holds in respect of the land so used such a licence from the local authority of the district as is mentioned in paragraph (i) of the preceding subsection, or each person using the land as a site for a moveable dwelling holds in respect of that dwelling such a licence from that authority as is mentioned in paragraph (ii) of the said subsection.

For the purposes of this subsection, land which is in the occupation of the same person as, and within one hundred yards of, a site on which there is during any part of any day a moveable dwelling shall be regarded as being used for camping purposes on that day.

(3) Subject to the provisions of this section, a person shall not keep a moveable dwelling on any one site, or on two or more sites in succession, if any one of those sites is within one hundred yards of another of them, on more than forty-two consecutive days, or sixty days in any twelve consecutive months, unless either he holds in respect of that dwelling such a licence from the local authority of the district as is mentioned in paragraph (ii) of subsection (1) of this section, or the occupier of each piece of land on which the dwelling is kept holds in respect of that land such a licence from that authority as is mentioned in paragraph (i) of the said subsection.

(4) Where under this section an application for a licence is made to a local authority, the authority shall be deemed to have granted it unconditionally, unless within four weeks from the receipt thereof they give notice to the applicant stating that his application is refused, or stating the conditions subject to which a licence is granted, and, if an applicant is aggrieved by the refusal of the authority to grant him a licence, or by any condition attached to a licence granted, he may appeal to a court of summary jurisdiction.

(5) Nothing in this section applies—

(i) to a moveable dwelling which—

(*a*) is kept by its owner on land occupied by him in connection with his dwelling-house and is used for habitation only by him or by members of his household ; or

(*b*) is kept by its owner on agricultural land occupied by him and is used for habitation only at certain seasons and only by persons employed in farming operations on that land ; or

(ii) to a moveable dwelling which belongs to a person who is the proprietor of a travelling circus, roundabout, amusement fair, stall or store (not being a pedlar, hawker, or costermonger) and which is regularly used by him in the course of travelling for the purpose of his business ; or

(iii) to a moveable dwelling while it is not in use for human habitation and is being kept on premises the occupier of which permits no moveable dwellings to be kept thereon except such as are for the time being not in use for human habitation.

(6) If an organisation satisfies the Minister that it takes reasonable steps for securing—

(*a*) that camping sites belonging to or provided by it, or used by its members, are properly managed and kept in good sanitary condition ; and

(*b*) that moveable dwellings used by its members are so used as not to give rise to any nuisance,

the Minister may grant to that organisation a certificate of exemption.

A certificate so granted may be withdrawn at any time, but while in force shall for the purposes of this section have the effect of a licence—

(i) authorising the use as a site for moveable dwellings of any camping ground belonging to, provided by or used by members of, the organisation ;

(ii) authorising any member of the organisation to erect or station on any site, and use, a moveable dwelling.

In this subsection the expression " member " in relation to an organisation includes a member of any branch or unit of, or formed by, the organisation.

(7) A person who contravenes any of the provisions of this section, or fails to comply with any condition attached to a licence granted to him under this section, shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

(8) For the purposes of this section—

(i) the expression " moveable dwelling " includes any tent, any van or other conveyance whether on wheels or not, and, subject as hereinafter provided, any shed or similar structure, being a tent, conveyance or structure which is used either regularly, or at certain seasons only, or intermittently, for human habitation :

Provided that it does not include a structure to which the building byelaws of the local authority apply ;

(ii) the owner of land which is not let shall be deemed to be the occupier thereof;

(iii) if a moveable dwelling is removed from the site on which it it stands, but within forty-eight hours is brought back to the same site or to another site within one hundred yards thereof, then, for the purpose of reckoning any such period of forty-two consecutive days as is mentioned in subsection (2) or subsection (3) of this section, it shall be deemed not to have been removed or, as the case may be, to have been moved direct from the one site to the other.

(9) Subject as hereinafter provided, this section shall not apply to any district in which at the commencement of this Act there was in force a local Act containing provisions enabling the local authority to regulate, by means of byelaws or licences or otherwise, the use of moveable dwellings or camping grounds:

Provided that, on the application of the local authority, the Minister may declare this section to be in force in their district, and upon the declaration taking effect, such of the provisions of the local Act as may be specified in the declaration shall be repealed or, as the case may be, shall be repealed as respects the district of that authority.

NOTES TO SECTION 269.

Definitions—

"local authority," s. 1 (2).
"district," s. 1 (2).
"land," s. 343 (1).
"building byelaws," s. 343 (1).

General note. This section is new, though similar provisions are to be found in a number of Local Acts. The section will not apply where such Acts are in force unless and until a declaration by the Minister under sub-s. (9) takes effect. Sub-s. (9) is so worded as to provide for the application of the section to individual districts when the existing powers extend to more than one district, *e.g.* Surrey County Council Act, 1931, Part VII. See also s. 313, *post*.

The practice of exempting named organisations is abandoned and exemption may be granted by the Minister under sub-s. (6).

Note that in s. 343 (1) a dustbin is defined as a "movable" receptacle. Both spellings are given in the Oxford Dictionary, but it is surprising to find them both in the same Act of Parliament.

Hop-pickers, etc.

270. Byelaws as to hop-pickers and persons engaged in similar work.—A local authority may make byelaws for securing the decent lodging and accommodation of hop-pickers and other persons engaged temporarily in picking, gathering or lifting fruit, flowers, bulbs, roots or vegetables within their district.

NOTE TO SECTION 270.

This section reproduces P.H.A. 1875, s. 314 (13 Halsbury's Statutes 757), which applied to the lodging and accommodation of persons engaged in hop-picking, as extended to the accommodation of persons engaged in picking fruit and vegetables by P.H. (Fruit Pickers Lodgings) A. 1882, s. 2 (13 Halsbury's Statutes 797). The range of the activities of persons whose accommodation may be controlled by these byelaws is now further extended. The intention of the section might have been expressed with less ambiguity.

INTRODUCTORY NOTE TO PART XII.

This Part contains a variety of general and supplemental provisions, and it is very difficult to write an introductory note within reasonable limits. For convenience and as a possible way of directing attention to some of the important amendments of the law contained in this Part, the following points may be noted here.

There is now a general power of delegation by committees to sub-committees (s. 273) supplementing the general power of delegation by authorities to committees in L.G.A. 1933, s. 85. The increasing complexity of affairs has long rendered this provision desirable and it is overdue, though powers have existed in relation to particular services. Committees have been given "power to act" by various devices, *e.g.* L.G.A. 1888, s. 82 (2) (10 Halsbury's Statutes 753), but these are now of merely historical interest.

The power to sell certain materials in s. 276 is modified by the alteration of the provision for the payment of the proceeds, less expenses, to the person to whom they belonged. Payment no longer depends on demand, and it therefore becomes the duty of the authority to pay.

S. 278 replaces P.H.A. 1875, s. 308, which provides for the payment of compensation for damage done by reason of the exercise of the powers of the Act. The law on this subject has been amended and brought up to date, and s. 278 will need careful study.

A right to break open streets is conferred on local authorities in respect of their powers in connection with drains and sewers, water-pipes and supply of public baths. The provisions of the Waterworks Clauses Act, 1847, are applied uniformly to these operations, with certain modifications.

By s. 290 a new code is established in relation to notices by local authorities requiring the execution of works.

There are revised provisions as to the recovery of expenses, which merit careful study.

The direct appeal to Quarter Sessions is abolished, and appeals from decisions of local authorities lie to petty sessional courts, with a further appeal to Quarter Sessions.

See ss. 267, 268, *ante*, as to application of this Part to ships and boats, and to tents, vans, sheds, etc.

PART XII.

GENERAL.

Supplemental as to powers of councils.

271. Interpretation of "provide."—(1) Any power of a council under this Act to provide buildings or other premises for any purpose includes power to equip them with such furniture, apparatus and instruments as may be reasonably necessary to enable them to be used for that purpose.

(2) Any power of a council under this Act to provide buildings or other premises, accommodation, equipment, or vehicles for any purpose includes power to enter into agreements with any other council or any person for the use, upon such terms as may be agreed, of any suitable buildings, premises, accommodation, equipment or vehicles provided by, or under the control of, that other council or that person, and, if it appears convenient, for the services of any staff employed in connection therewith.

(3) A council who provide buildings or other premises, accommodation, equipment or vehicles for any of the purposes of this Act may, on such terms (including terms with respect to the services of any staff employed by them) as may be agreed, permit the use thereof by any other council authorised by or under this, or any other Act, to make such provision.

NOTES TO SECTION 271.

Definition—

" premises," s. 343 (1).

General note. This section is new. It serves to simplify the language of other Parts of the Act and to remove anomalies due to the diversity of the language in which earlier Acts have referred to the powers of local authorities to provide buildings. See Second Interim Report, p. 120, and *post*, p. 431, sub " clause 269."

The expression " a council " includes a county council.

272. Power of councils to combine for purposes of Act.—Without prejudice to the powers of combination conferred on local authorities by the Local Government Act, 1933, any two or more councils may by agreement combine for the purposes of any of their functions under this Act.

NOTES TO SECTION 272.

Definitions—

" local authority," s. 1 (2).
" functions," s. 343 (1).

General note. This section reproduces part of P.H.A. 1875, s. 285 (13 Halsbury's Statutes 744), see also s. 274, *post*.

See note to s. 6, *ante*, as to advantages of a joint board.

See L.G.A. 1933, ss. 91, 92, 93, 94 (26 Halsbury's Statutes 365–367).

273. Provisions as to sub-committees.—A committee appointed by a county council or local authority for any of the purposes of this Act may, subject to any directions of the council or authority, appoint such and so many sub-committees consisting either wholly or partly of members of the committee as the committee think fit and, subject as aforesaid, may delegate, with or without restrictions or conditions, any of their functions to a sub-committee so appointed :

Provided that a majority of the members of any such sub-committee shall be members of the county council or, as the case may be, of the local authority.

NOTES TO SECTION 273.

Definition—

" local authority," s. 1 (2).

General note. For powers of county councils and local authorities to appoint committees, see L.G.A. 1933, s. 85 (26 Halsbury's Statutes 352), which section empowers local authorities, including county councils, to delegate their powers to committees. By the present section committees may, subject to any directions of the county council or local authority, in their turn delegate to sub-committees.

Under particular Statutes such a power of sub-delegation has existed previously. See *e.g.* Ministry of Agriculture and Fisheries Act, 1919, s. 7 (3) (3 Halsbury's Statutes 453), as to the agricultural committee.

Apart from statutory provision the power of a committee having delegated powers to delegate those powers to a sub-committee has been doubted. *Delegatus non potest delegare.* See *Young* v. *Cuthbert*, [1906] 1 Ch. 451 ; 19 Digest 555, *73*.

A committee or sub-committee to whom functions are delegated may exercise those functions in the name of the authority.

It seems unfortunate that this power was not included in L.G.A. 1933, s. 85 (*supra*). It is now limited to the purposes of this Act.

274. Power of councils to execute works outside their county or district.—Subject to any express provisions of this Act with respect to the execution by a local authority of particular works outside their district, a council may execute outside their county or district any work which under this Act they may execute within their county or district.

NOTES TO SECTION 274.

Definitions—

" local authority," s. 1 (2).
" county," s. 343 (1).
" district," s. 1 (2).

General note. This section reproduces the first part of P.H.A. 1875, s. 285 (13 Halsbury's Statutes 744), as explained in *A.-G.* v. *Manchester Corporation*, [1893] 2 Ch. 87 (38 Digest 198, *339*), and *Withington L. B.* v. *Manchester Corporation*, [1893] 2 Ch. 19 ; 38 Digest 199, *346*.

As to express provisions, see *e.g.* s. 16, *ante*, as to construction of sewers and sewage disposal works outside the district. See also Second Interim Report, p. 120 (sub " clause 271 "), and p. 431, *post*.

275. Power of local authority to execute certain work on behalf of owners or occupiers.—A local authority may by agreement with the owner or occupier of any premises themselves execute at his expense any work which they have under this Act required him to execute, or any work in connection with the construction, laying, alteration or repair of a sewer, drain or communication pipe for water, which he is entitled to execute, and for that purpose they shall have all such rights as he would have.

NOTES TO SECTION 275.

Definitions—

" local authority," s. 1 (2).
" owner," s. 343 (1).
" premises," s. 343 (1).
" sewer," s. 343 (1).
" drain," s. 343 (1).

General note. This section is intended to replace P.H.A. 1925, s. 38 (5) (13 Halsbury's Statutes 1132), but is extended to apply to water communication pipes, as well as to sewers and drains. P.H.A. 1925, s. 38 (5) (*supra*), itself replaced P.H.A. 1890, s. 18 (3), when adopted by a local authority.

The section applies, as did the former sections, whether the work is done on a requirement of the local authority, or in pursuance of any right of the owner.

Note that the authority have such rights as the owner would have. They are not entitled to exercise statutory powers which they have for public purposes, but which the owner has not, *e.g.* entry on private land.

276. Power of local authority to sell certain materials.—(1) A local authority may sell any materials which have been removed by them from any premises, including any street, when executing works under, or otherwise carrying into effect the provisions of, this Act, and which are not before the expiration of three days from the date of their removal claimed by the owner and taken away by him.

(2) Where a local authority sell any materials under this section, they shall pay the proceeds to the person to whom the materials belonged after deducting the amount of any expenses recoverable by them from him.

(3) This section does not apply to refuse removed by a local authority.

NOTES TO SECTION 276.

Definitions—

" local authority," s. 1 (2).
" premises," s. 343 (1).
" street," s. 343 (1).
" owner," s. 343 (1).

General note. In sub-s. (1) the word " owner " is possibly used in a context which requires a different meaning from that given in s. 343 (1). Note however that the word is used in connection with " premises " (cf. definition of owner in s. 343 (1), *post*), and that in sub-s. (2) there is a reference to " the person to whom the materials belonged,"

The section is a reproduction in general terms of—
Towns Improvement Clauses Act, 1847, s. 78 (13 Halsbury's Statutes 556) (materials of houses pulled down).
P.H.A. 1875, s. 49 (13 Halsbury's Statutes 646) (manure, etc.).
P.H.A. 1875, s. 101 (13 Halsbury's Statutes 665) (things removed in the course of abating a nuisance).

Those sections provided for the payment to the owner of the proceeds, less expenses, on "demand." Demand is no longer necessary and it is therefore the duty of the local authority to keep proper accounts and to pay the surplus to the appropriate person without demand. It will no doubt be the duty of the district (or other) auditor to see that such payments have been duly made. Cf. Housing Act, 1930, s. 2 (4) (23 Halsbury's Statutes 399).

Note that the section does not apply to refuse, which may be sold under s. 76 (2), *ante*, without any payment to the householder.

277. Power of councils to require information as to ownership of premises.—A council may, for the purpose of enabling them to perform any of their functions under this Act, require the occupier of any premises, and any person who either directly or indirectly receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise, and any person who having been required by a council in pursuance of this section to give to them any information fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding five pounds.

NOTES TO SECTION 277.

Definitions—
"functions," s. 343 (1).
"premises," s. 343 (1).

General note. This section reproduces and extends P.H.A. 1875, s. 306 (third paragraph) (13 Halsbury's Statutes 754).

Cf. Housing Act, 1936, s. 168, corresponding to Housing Act, 1930, s. 42 (23 Halsbury's Statutes 427).

278. Compensation to individuals for damage resulting from exercise of powers under Act.—(1) Subject to the provisions of this section, a local authority shall make full compensation to any person who has sustained damage by reason of the exercise by the authority of any of their powers under this Act in relation to a matter as to which he has not himself been in default.

(2) Any dispute arising under this section as to the fact of damage, or as to the amount of compensation, shall be determined by arbitration:

Provided that, if the compensation claimed does not exceed fifty pounds, all questions as to the fact of damage, liability to pay compensation and the amount of compensation may on the application of either party be determined by, and any compensation awarded may be recovered before, a court of summary jurisdiction.

(3) No person shall be entitled by virtue of this section to claim compensation on the ground that a local authority have in the exercise of their powers under this Act declared any sewer or sewage disposal works, whether belonging to him or not, to be vested in them, or on the ground that he has sustained damage by reason of any action of a local authority in respect of which the authority are by this Act authorised to pay compensation if they think fit.

(4) Where an owner of land claims compensation in respect of damage sustained by reason of a local authority having, in the exercise of their powers under this Act, constructed a sewer or laid a water main in, on or over his land, the tribunal determining the amount of the compensation shall determine also by what amount, if any, the value to the claimant of any land belonging to him has been enhanced by the construction of the sewer or the laying of the water main, and the local authority shall be entitled to set off that amount against the amount of any compensation awarded.

NOTES TO SECTION 278.

Definitions—
"local authority," s. 1 (2).
"sewer," s. 343 (1).

General note. This section replaces P.H.A. 1875, s. 308 (13 Halsbury's Statutes 755), with important amendments. S. 308 extended to all the Public Health Acts which were to be read with the Act of 1875, and was extended to county councils, as respects some of their highway functions, for the benefit of public utility undertakings, by L.G.A. 1929, s. 39 (10 Halsbury's Statutes 913).

Local authority. This expression does not include a county council and the section does not, therefore, apply to the exercise by a county council of their powers under this Act. A joint board constituted under s. 6, *ante*, exercises the functions of a local authority and provision will no doubt be made in the order.

Not himself in default. This expression is taken from P.H.A. 1875, s. 308 (*supra*), and has been considered in a number of cases. See Lumley, 10th Edn., p. 650.

Assessment of compensation. Under P.H.A. 1875, s. 308, the limit of the jurisdiction of a court of summary jurisdiction was £20. This is now increased to £50, and within this limit a court of summary jurisdiction is given power to determine the question of liability to pay compensation. Either party may initiate the reference to a court of summary jurisdiction.

An arbitrator cannot decide the question of liability, but determination of liability is not a condition precedent to the claimant's right to proceed to arbitration (*Brierley Hill L.B.* v. *Pearsall* (1884), 9 A. C. 595; 38 Digest 57, *334*; and see *Re Walker and Beckenham L.B.* (1884), 48 J. P. 264; 11 Digest 198, *772*).

Vesting of Sewers. Compensation in respect of a declaration of vesting, under s. 17 (*ante*), whether of sewers or sewage disposal works, is expressly excluded from the present section, because if the making of a vesting declaration is opposed, the Minister, under s. 17 (3) (*ante*), may impose conditions as to the payment of compensation. See notes to that section, *ante*, p. 76.

Discretionary payments. See s. 167 (4), *ante*, and note thereto.

Betterment. This principle is new to this code but is in accordance with a great number of precedents. It will be wholly inapplicable in many instances, but is appropriate, for example, when a claim for compensation is made in respect of the construction of a public sewer under s. 15 (1) (i) (*b*), *ante*.

Appeal. There appears to be an appeal from a court of summary jurisdiction to Quarter Sessions under s. 301, *post*, notwithstanding the proviso to that section.

Breaking open of streets.

279. General provisions as to breaking open streets.—(1) For the purposes of any section of this Act which confers powers on local authorities to construct, lay or maintain sewers, drains or pipes, the provisions of sections twenty-eight and thirty to thirty-four of the Waterworks Clauses Act, 1847, shall be incorporated with this Act, subject, however, to such adaptations as may be necessary to make those provisions applicable to the construction and maintenance of sewers and drains as well as to the laying and maintenance of water mains and pipes, and subject also to the following modifications, namely that—

(*a*) any reference in the said provisions to the persons under whose control or management a street or bridge is, shall, in the case of a highway or bridge repairable by the inhabitants at large or by the inhabitants of the county, be construed as a reference to the authority who are the highway authority or, as the case may be, the bridge authority in respect thereof;

(*b*) the reference in section thirty of the said Act of 1847 to three clear days shall be construed as a reference to seven clear days;

(*c*) the expenses referred to in section thirty-four of the said Act may be recovered summarily as a civil debt; and

(*d*) except in cases of emergency arising from defects in existing sewers, drains or pipes, a street or bridge which is under the control or management of, or repairable by, a railway company or dock undertakers shall not be opened or broken up without their consent, but that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to the Minister, whose decision shall be final.

(2) The provisions so incorporated with adaptations and modifications as aforesaid shall apply in relation to any person not being a local authority who is empowered by this Act to construct, lay or maintain a sewer, drain or pipe as if, so far as his powers extend, he were the undertakers:

Provided that, where such a person gives notice to a railway company or dock undertakers that he desires to open or break up a street or bridge which is under their control or management or repairable by them, they may within fourteen days give notice to him that they intend themselves to execute the necessary work and, if before the expiration of fourteen days, or after such a notice has been given to him, he proceeds himself to open or break up the street or bridge, he shall be liable to a fine not exceeding fifty pounds.

(3) Where a railway company or dock undertakers have given such a notice as is mentioned in the last preceding subsection, it shall not be obligatory on them to execute the work until the cost thereof, as estimated by their engineer or surveyor, has been paid to them or security for payment has been given to their satisfaction, but, if any payment so made to them exceeds the expenses reasonably incurred by them in the execution of the work, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, if any, made to them, they may recover the expenses or the balance thereof from the person for whom the work was done.

NOTES TO SECTION 279.

Definitions—

"local authority," s. 1 (2).
"sewer," s. 343 (1).
"drain," s. 343 (1).
"street," s. 343 (1).
"highway authority," s. 343 (1).
"bridge authority," s. 343 (1).
"railway company," s. 343 (1).
"dock undertakers," s. 343 (1).

General note. A right to break up streets is conferred on local authorities in respect of Part II (sewerage), Part IV (water supply), and Part VIII (baths, etc.). The present section is designed to place the law in respect of these three services on the same basis.

The Waterworks Clauses Act, 1847, ss. 28 and 30–34 (20 Halsbury's Statutes 196–198), provide as follows:—

28. Power to break up streets, etc., under superintendence, and to open drains, and to lay pipes, etc.—The undertakers, under such superintendence as is herein-after specified, may open and break up the soil and pavement of the several streets and bridges within the limits of the special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service pipes, and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which the undertakers shall from time to time deem necessary for

supplying water to the inhabitants of the district included within the said limits, doing as little damage as can be in the execution of the powers hereby or by the special Act granted, and making compensation for any damage which may be done in the execution of such powers.

30. Notice to be served on persons having control, etc., before breaking up streets or opening drains.—Before the undertakers open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

31. Streets or drains not to be broken up except under superintendence of persons having control of the same.—No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two justices; and such justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the intention of the undertakers as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons, or their officer.

32. Streets, etc., broken up to be reinstated without delay.—When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept thereagainst, every night during which such road or pavement shall be continued open or broken up, and shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for three months thereafter, and such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

33. Penalty for delay in reinstating streets, etc.—If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the undertakers are authorized to perform such works without any superintendence or notice, or, if the undertakers make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of six months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding five pounds for every such offence, and an additional sum of five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

34. In case of delay, persons having control of streets, etc., may reinstate them.—If any such delay or omission as aforesaid shall take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expence of executing the same shall be repaid to such persons by the undertakers; and such expences may be recovered in the same way as damages are recoverable under this and the special Act.

Sub-s. (2). By s. 34 (2), *ante*, the owner or occupier of any premises is entitled to break open a street for the purposes therein stated.

As to interpretation of the incorporated provisions, see s. 343 (2), *post*.

280. Protection for certain works of railway companies and dock undertakers.—(1) A local authority or other person who under the powers conferred by this Act propose to open or break up any length of street which forms a level crossing, or crosses over or under a railway or other works of a railway company or dock undertakers, and which is not under the control or management of the railway company or dock undertakers, shall give to the company or undertakers the like notice as they are required by section thirty of the Waterworks Clauses Act, 1847, to give to the persons under whose control or management the street is and, if and in so far as the proposed work is likely to affect the structure of any bridge or other works belonging to the railway company or dock undertakers, shall carry out the work to the reasonable satisfaction of the engineer of the company or undertakers in accordance with plans approved by him.

(2) If any dispute arises under this section between the persons proposing to execute work and a railway company or dock undertakers, either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

NOTES TO SECTION 280.

Definitions—

"local authority," s. 1 (2).
"street," s. 343 (1).
"railway company," s. 343 (1).
"dock undertakers," s. 343 (1).

General note. For the Waterworks Clauses Act, 1847, s. 30, see note to previous section. For interpretation, see s. 343 (2), *post*.

281. Protection for tramway undertakings.—For the protection of undertakers entitled to the benefit of section thirty-two of the Tramways Act, 1870 (which relates to the rights of authorities and companies, etc., to open roads), that section shall be construed as applying to operations authorised by this Act, and in the said section as so applied any reference to a tramway shall be construed as including a reference to a trolley vehicle system.

NOTES TO SECTION 281.

The Tramways Act, 1870, s. 32 (20 Halsbury's Statutes 19), provides as follows:—

32. Rights of authorities and companies, etc., to open roads.—Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in any local authority or road authority for any of the purposes for which such authority is respectively constituted, or in any company, body, or person for the purpose of laying down, repairing, altering, or removing any pipe for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes, but in the exercise of such power every such local authority, road authority, company, body, or person shall be subject to the following restrictions; (that is to say,)

1. They shall cause as little detriment or inconvenience to the promoters and lessees as circumstances admit:
2. Before they commence any work whereby the traffic on the tramway will be interrupted they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters and lessees, if there be any, notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before the commencement of the work:
3. They shall not be liable to pay to the promoters or lessees any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid:
4. Whenever for the purpose of enabling them to execute such work the local authority or the road authority shall so require, the promoters or lessees shall either stop traffic on the tramway to which the notice shall refer, where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work there: Provided that such work shall always be completed by the local authority or the road authority, as the case may be, with all reasonable expedition:
5. Any company, body, or person shall not execute such work so far as it immediately affects the tramway except under the superintendence of the promoters, unless they refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work or discontinue the same during the progress of the work; and they shall execute such work at their own expense, and to the reasonable satisfaction of the promoters: Provided tha tany additional expense imposed upon them by reason of the existence of the tramway in any road or place where any such mains, pipes, tubes, wires, or apparatus shall have been laid before the construction of such tramway shall be borne by the promoters.

As to interpretation of the incorporated provisions, see s. 343 (2), *post*.

282. Application of 38 & 39 Vict. c. 55, s. 153.—Section one hundred and fifty-three of the Public Health Act, 1875 (which relates to the power to require gas and water pipes to be moved), shall apply for the purposes of this Act as it applies for the purposes of that Act.

NOTES TO SECTION 282.

P.H.A. 1875, s. 153, provides as follows:—

153. Power to require gas and water pipes to be moved.—Where for any purpose of this Act any urban authority deem it necessary to raise sink or otherwise alter the situation of any water or gas pipes mains plugs or other waterworks or gasworks laid in or under any street, they may by notice in writing require the owner of the pipes mains plugs or works to raise sink or otherwise alter the situation of the same in such manner and within such reasonable time as is specified in the notice; the expenses of or connected with any such alteration shall be paid by the urban authority; and if such notice is not complied with the urban authority may themselves make the alteration required:

Provided—

That no such alteration shall be required or made which will permanently injure any such pipes mains plugs or works or prevent the water or gas from flowing as freely and conveniently as usual; and

That where under any local Act of Parliament the expenses of or connected with the raising sinking or otherwise altering the situation of any water or gas pipes mains plugs or other waterworks or gasworks, are directed to be borne by the owner of such pipes or works, his liability in that respect shall continue in the same manner and under the same conditions in all respects as if this Act had not been passed.

Reference should be made to *Southwark and Vauxhall Water Company* v. *Wandsworth District Board of Works*, [1898] 2 Ch. 603; 26 Digest 488, *1997*; *Gas Light and Coke Co.* v. *Kensington* (*St. Mary Abbots*) *Vestry* (1885), 15 Q. B. D. 1; 26 Digest 432, *1508*; *Driscoll* v. *Poplar Board of Works* (1898), 62 J. P. 40; 25 Digest 480, *57*.

As to interpretation, see s. 343 (2), *post*.

Notices, etc.

283. Notices to be in writing; forms of notices, etc.—(1) All notices, orders, consents, demands and other documents authorised or required by or under this Act to be given, made or issued by a council, and all notices and applications authorised or required by or under this Act to be given or made to, or to any officer of, a council shall be in writing.

(2) The Minister may by regulations prescribe the form of any notice, advertisement, certificate or other document to be used for any of the purposes of this Act and, if forms are so prescribed, those forms

or forms to the like effect may be used in all cases to which those forms are applicable.

NOTE TO SECTION 283.

This section is largely new. It follows P.H.A. 1875, s. 266 (13 Halsbury's Statutes 735), in requiring notices, etc., to be in writing. Sched. IV of P.H.A. 1875 contained a large number of statutory forms, the use of which, or forms to the like effect, was required under various provisions of the Act. By the present Act power is given to the Minister to prescribe forms by regulation. This is the usual modern practice, cf. L.G.A. 1933, s. 305 (" prescribed ") (26 Halsbury's Statutes 467); Housing Act, 1936, s, 176, etc.

284. Authentication of documents.—(1) Any notice, order, consent, demand or other document which a council are authorised or required by or under this Act to give, make or issue may be signed on behalf of the council—

(*a*) by the clerk of the council;

(*b*) by the surveyor, the medical officer of health, the sanitary inspector or the chief financial officer, of the council as respects documents relating to matters within their respective provinces;

(*c*) by any officer of the council authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document.

(2) Any document purporting to bear the signature of an officer expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or expressed to be duly authorised by the council to sign such a document or the particular document, shall for the purposes of this Act, and of any byelaws and orders made thereunder, be deemed, until the contrary is proved, to have been duly given, made or issued by authority of the council.

In this subsection the expression " signature " includes a facsimile of a signature by whatever process reproduced.

NOTES TO SECTION 284.

Definitions—

" clerk," s. 343 (1).
" officer," s. 343 (1).

General note. This section replaces the provisions of P.H.A. 1875, s. 266 (13 Halsbury's Statutes 735), as to authentication of documents. Special provision is made for the signature by officers other than the clerk of documents affecting their respective departments.

The second para. of sub-s. (2) is new. A printed signature was held to be sufficient under P.H.A. 1875, s. 150 (13 Halsbury's Statutes 686), in *Brydges* v. *Dix* (1891), 7 T. L. R. 215; 38 Digest 177, *190*. But see *R.* v. *Cowper* (1890), 24 Q. B. D. 60, and on appeal, *ibid.* 553; 13 Digest 492, *427*, and *France* v. *Dutton*, [1891] 2 Q. B. 208; 29 Digest 507, *585*. Printed facsimile signatures have not hitherto been regarded as adequate when a document is required to be " signed."

285. Service of notices, etc.—Any notice, order, consent, demand or other document which is required or authorised by or under this Act to be given to or served on any person may, in any case for which no other provision is made by this Act, be given or served either—

(*a*) by delivering it to that person; or

(*b*) in the case of a coroner, or a medical officer of health, by leaving it or sending it in a prepaid letter addressed to him, at either his residence or his office and, in the case of any other officer of a council, by leaving it or sending it in a prepaid letter addressed to him, at his office; or

(*c*) in the case of any other person, by leaving it or sending it in a prepaid letter addressed to him, at his usual or last known residence; or

(*d*) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office; or

(*e*) in the case of a document to be given to or served on a person as being the owner of any premises by virtue of the fact that he receives the rackrent thereof as agent for another, or would so receive it if the premises were let at a rackrent, by leaving it, or sending it in a prepaid letter addressed to him, at his place of business; or

(*f*) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of " owner " or " occupier " of the premises (naming them) to which it relates, and delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

NOTES TO SECTION 285.

Definitions—

" officer," s. 343 (1).
" owner," s. 343 (1).
" rackrent," s. 343 (1).
" premises," s. 343 (1).

General note. This section replaces P.H.A. 1875, s. 267 (13 Halsbury's Statutes 735). Minor modifications are the provision for serving coroners and medical officers of health at their residences, to meet cases where they have no separate office, and the limitation of service by fixing a notice on the premises to cases on which the name and address of the owner or occupier cannot after reasonable inquiry be ascertained or the premises are unoccupied.

Cf. P.H.A. 1925, s. 33 (3) (13 Halsbury's Statutes 1128), under which a similar method of service is authorised " where the name and address cannot after diligent inquiry be ascertained," Roads Improvement Act, 1925, s. 10 (9 Halsbury's Statutes 227), etc.

286. Proof of resolutions, etc.—In any proceedings under this Act a document purporting to be certified by the clerk of a council as a copy of a resolution or order passed or made by that council on a specified date, or of the appointment of, or of any authority given to, an officer of that council on a specified date, shall be evidence that that resolution, order, appointment or authority was duly passed, made, or given by the council on the said date.

NOTES TO SECTION 286.

Definitions—

" clerk," s. 343 (1).
" officer," s. 343 (1).

General note. This section is new, but is based on *ad hoc* provisions in a number of Acts.

Entry and obstruction.

287. Power to enter premises.—(1) Subject to the provisions of this section, any authorised officer of a council shall, on producing, if

so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

(*a*) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of this Act or of any byelaws made thereunder, being provisions which it is the duty of the council to enforce ;

(*b*) for the purpose of ascertaining whether or not circumstances exist which would authorise or require the council to take any action, or execute any work, under this Act or any such byelaws ;

(*c*) for the purpose of taking any action, or executing any work, authorised or required by this Act or any such byelaws, or any order made under this Act, to be taken, or executed, by the council ;

(*d*) generally, for the purpose of the performance by the council of their functions under this Act or any such byelaws :

Provided that admission to any premises not being a factory, workshop or workplace, shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(*a*) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry ; and

(*b*) that there is reasonable ground for entry into the premises for any such purpose as aforesaid,

the justice may by warrant under his hand authorise the council by any authorised officer to enter the premises, if need be by force :

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(3) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

(4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(5) If any person who in compliance with the provisions of this section or of a warrant issued thereunder is admitted into a factory, workshop or workplace discloses to any person any information obtained by him in the factory, workshop or workplace with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

(6) Nothing in this section shall be construed as limiting the provisions of section fifty-seven of the Waterworks Clauses Act, 1847, as incorporated with this Act, or the provisions of Part VII of this Act with respect to entry upon and inspection of premises by child protection visitors and persons authorised to exercise the powers of such visitors, or the provisions of Parts IX and X of this Act with respect to entry into or upon, and inspection of, common lodging-houses and canal boats.

NOTES TO SECTION 287.

Definitions—

" authorised officer," s. 343 (1).
" premises," s. 343 (1).
" functions," s. 343 (1).
" factory," s. 343 (1).
" workshop," " workplace," s. 343 (1).

General note. For existing powers of entry within the scope of this Act, see P.H.A. 1875, ss. 41, 102, 137, 305 (13 Halsbury's Statutes 642, 665, 681, 753) ; P.H. (Water) A. 1878, ss. 3, 7 (20 Halsbury's Statutes 241, 244) ; P.H.A.A. 1890, s. 36 (13 Halsbury's Statutes 838) ; P.H.A.A. 1907, ss. 41, 66 (13 Halsbury's Statutes 927, 935). A uniform code is now provided in respect of entry for all the purposes of the Act, except under three sections, in which an existing absolute right of entry has been preserved. These are—

Inspection of nursing homes, s. 191, *ante*.
Inspection of common lodging-houses, s. 241, *ante*.
Inspection of canal boats, s. 255, *ante*.

For the Waterworks Clauses Act, 1847, s. 57, see 20 Halsbury's Statutes 205. That section is incorporated by s. 120, *ante*, for the purposes of Part III of the Act.

For provisions of Parts VII, IX and X referred to in sub-s. (6), see ss. 191, 241, 255, *ante*.

288. Penalty for obstructing execution of Act.—A person who wilfully obstructs any person acting in the execution of this Act or of any byelaw, order or warrant made or issued thereunder shall, in any case for which no other provision is made by this Act, be liable to a fine not exceeding five pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.

NOTES TO SECTION 288.

This section replaces the first paragraph of P.H.A. 1875, s. 306 (13 Halsbury's Statutes 754).

The provision for a continuing offence of obstruction is new.

289. Power to require occupier to permit works to be executed by owner.—If on a complaint made by the owner of any premises, it appears to a court of summary jurisdiction that the occupier of those premises prevents the owner from executing any work which he is by or under this Act required to execute, the court may order the occupier to permit the execution of the work.

NOTES TO SECTION 289.

Definitions—

" owner," s. 343 (1).
" premises," s. 343 (1).

General note. This section replaces the second paragraph of P.H.A. 1875, s. 306 (13 Halsbury's Statutes 754).

Notices requiring the execution of works.

290. Provisions as to appeals against, and the enforcement of, notices requiring execution of works.—(1) The following provisions of this section shall, subject to any express modifications specified in the section under which the notice is given, apply in relation to any notice given under this Act which is expressly declared to be a notice in relation to which the provisions of this Part of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works are to apply.

(2) Any such notice shall indicate the nature of the works to be executed, and state the time within which they are to be executed.

(3) A person served with such a notice as aforesaid may appeal to a court of summary jurisdiction on any of the following grounds which are appropriate in the circumstances of the particular case :—

(*a*) that the notice or requirement is not justified by the terms of the section under which it purports to have been given or made ;

(*b*) that there has been some informality, defect or error in, or in connection with, the notice ;

(*c*) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary ;

(*d*) that the time within which the works are to be executed is not reasonably sufficient for the purpose ;

(*e*) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served ;

(*f*) where the work is work for the common benefit of the premises in question and other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute towards the expenses of executing any works required.

(4) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice, the court shall dismiss the appeal, if it is satisfied that the informality, defect or error was not a material one.

(5) Where the grounds upon which an appeal under this section is brought include a ground specified in paragraph (*e*) or paragraph (*f*) of subsection (3) of this section, the appellant shall serve a copy of his notice of appeal on each other person referred to, and in the case of any appeal under this section may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question, and on the hearing of the appeal the court may make such order as it thinks fit with respect to the person by whom any work is to be executed and the contribution to be made by any other person towards the cost of the work, or as to the proportions in which any expenses which may become recoverable by the local authority are to be borne by the appellant and such other person.

In exercising its powers under this subsection, the court shall have regard—

(*a*) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required ; and

(*b*) in any case, to the degree of benefit to be derived by the different persons concerned.

(6) Subject to such right of appeal as aforesaid, if the person required by the notice to execute works fails to execute the works indicated within the time thereby limited, the local authority may themselves execute the works and recover from that person the expenses reasonably incurred by them in so doing and, without prejudice to their right to exercise that power, he shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the default continues after conviction therefor.

(7) In proceedings by the local authority against the person served with the notice for the recovery of any expenses which the authority are entitled to recover from him, it shall not be open to him to raise any question which he could have raised on an appeal under this section.

NOTES TO SECTION 290.

Definitions—

" owner," s. 343 (1).
" premises," s. 343 (1).
" local authority," s. 1 (2).

Application of section. This section is not of general application, but is applied by certain sections of the Act which empower a local authority to require works to be done. Reference thereto will be found in the notes to each section by which s. 290 is applied. The section in effect replaces specific provisions in each of the former Acts replaced by those sections. See Second Interim Report, paras. 61–63, *post*, pp. 358–360. Note that the section is modified in its application to s. 47, *ante*.

Form of notice. The Minister may prescribe a form of notice under s. 283 (2), *ante*, subject to the express provisions of sub-s. (2). What is a sufficient indication of the nature of the works is no doubt a question of fact in each case. The point might perhaps be taken on appeal under sub-s. 3 (*b*), but it is doubtful whether an inadequate indication is an informality. The intention of the Consolidation Committee was to avoid the necessity for a detailed specification, but some sort of specification will generally be necessary, see *e.g.* ss. 25, 50, 56, 59, *ante*.

Grounds of appeal. The grounds of appeal under sub-s. (3) are in wide terms and include grounds in law and grounds based on reasonableness. Note that none of these matters, if not raised on appeal, can be raised subsequently as a defence to proceedings for the recovery of expenses (sub-s. (7)). This is a remarkable provision as respects an objection under sub-s. 3 (*a*). If a notice is wholly *ultra vires* the local authority, the person on whom it is served must appeal, or be estopped in subsequent proceedings for recovery of expenses from pleading the illegality. It is submitted that a court, if such illegality appears, ought to dismiss the summons notwithstanding sub-s. (7).

A further appeal lies to Quarter Sessions under s. 301, *post*.

Note that the local authority must state in their notice that there is a right of appeal. See s. 300 (3), *post*.

Provisions as to recovery of expenses, etc.

291. Certain expenses recoverable from owners to be a charge on the premises : power to order payment by instalments.—(1) Where a local authority have incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable, either under this Act or under any enactment repealed thereby, or by agreement with the authority, those expenses, together with interest from the date of service of a demand for the expenses, may be recovered by the authority from the person who is the owner of the premises at the date when the works are completed, or, if he has ceased

to be the owner of the premises before the date when a demand for the expenses is served, either from him or from the person who is the owner at the date when the demand is served, and, as from the date of the completion of the works, the expenses and interest accrued due thereon shall, until recovered, be a charge on the premises and on all estates and interests therein.

(2) A local authority may by order declare any expenses recoverable by them under this section to be payable with interest by instalments within a period not exceeding thirty years, until the whole amount is paid; and any such instalments and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred, and, if recovered from the occupier, may be deducted by him from the rent of the premises:

Provided that an occupier shall not be required to pay at any one time any sum in excess of the amount which was due from him on account of rent at, or has become due from him on account of rent since, the date on which he received a demand from the local authority together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.

An order may be made under this subsection at any time with respect to any unpaid balance of expenses and accrued interest so, however, that the period for repayment shall not in any case extend beyond thirty years from the service of the first demand for the expenses.

(3) The rate of interest chargeable under subsection (1) or subsection (2) of this section shall be such rate as the authority may determine:

Provided that the Minister may from time to time by order fix a maximum rate of interest for the purposes of this section generally, or different maximum rates for different purposes and in different cases.

(4) A local authority shall, for the purpose of enforcing a charge under this section, have all the same powers and remedies under the Law of Property Act, 1925, and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

NOTES TO SECTION 291.

Definitions—

"local authority," s. 1 (2).
"owner," s. 343 (1).
"premises," s. 343 (1).
"enactment," s. 343 (1).

General note. This section replaces, with amendments, P.H.A. 1875, s. 257 (13 Halsbury's Statutes 732), as amended by P.H.A. 1925, s. 77 (13 Halsbury's Statutes 1151).

Sub-s. (1) reproduces the first paragraph of P.H.A. 1875, s. 257 (*supra*); recovery may be made at the option of the local authority either from the person who was owner at the date of the completion of the works, or from the person who is owner at the date when a demand for expenses is served.

In the Bill for this Act it was expressly stated that the liability of the new owner was to be subject to the provisions of the Land Charges Act, 1925 (15 Halsbury's Statutes 524–545), with respect to local land charges. See now s. 329, *post*. When the expenses which it is sought to recover are charged on the land registration is necessary, and the effect of the last words of the subsection is that a local land charge should be registered on completion of the works. Cf. note to s. 295, *post*, as to priorities.

Sub-s. (2) reproduces the third paragraph of P.H.A. 1875, s. 257 (*supra*), but the reference to private improvement rates has been omitted and the instalments need not be annual. The system of private improvement rates has not been reproduced in the Act. As to such rates, see P.H.A. 1875, ss. 213–215 (13 Halsbury's Statutes 715–716).

Sub-s. (3) replaces P.H.A. 1925, s. 77 (*supra*), but the Minister is now to fix the maximum rate, not the actual rate, and within the maximum so fixed the local authority may fix such rate as they consider proper.

As to powers and remedies of Mortgagees under the Law of Property Act, 1925, see ss. 88–111 of that Act, 15 Halsbury's Statutes 267–294.

292. Power to make a charge in respect of establishment expenses.—Where under this Act a local authority are empowered to execute works and to recover from any person the expenses incurred by them in so doing, they may include in, and recover as part of, the expenses such additional sum, not exceeding five per cent. of the cost of the works, as they think fit in respect of their establishment charges.

NOTES TO SECTION 292.

For definition of "local authority," see s. 1 (2).

This section is based on provisions in Local Acts. Cf. Private Street Works Act, 1892, s. 9 (2) (9 Halsbury's Statutes 199). The power to charge a percentage for establishment charges is most useful. Actual expenditure could no doubt be recovered in any event.

293. Recovery of expenses, etc.—(1) Any sum which a council are entitled to recover under this Act and with respect to the recovery of which provision is not made by any other section of this Act, may be recovered either summarily as a civil debt, or as a simple contract debt in any court of competent jurisdiction.

(2) The time within which summary proceedings may be taken for the recovery of any such sums shall, except where otherwise expressly provided by this Act, be reckoned from the date of the service of a demand therefor.

NOTES TO SECTION 293.

This section replaces P.H.A. 1875, s. 251, and the last part of the first paragraph of s. 257 (13 Halsbury's Statutes 730, 733).

There is no general limitation of the time within which a demand must be made. See *Hampstead Borough Council* v. *Caunt*, [1903] 2 K. B. 1; 26 Digest 499, *2076*.

The effect of sub-s. (1) is that the limit on the jurisdiction of the county court to £50 (P.H.A. 1875, s. 261; 13 Halsbury's Statutes 734) is removed, and such courts will have jurisdiction up to their normal limit of £100.

294. Limitation of liability of certain owners.—Where a council claim to recover any expenses under this Act from a person as being the owner of the premises in respect of which the expenses were incurred and that person proves that he—

(*a*) is receiving the rent of those premises merely as agent or trustee for some other person; and

(*b*) has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid, but a council who are, or would be, debarred by the foregoing provisions from recovering the whole of any such expenses from an agent or trustee may recover the

whole or any unpaid balance thereof from the person on whose behalf the agent or trustee receives the rent.

NOTES TO SECTION 294.

Definitions—

" owner," s. 343 (1).
" premises," s. 343 (1).

General note. This section is new. Trustees and agents may be " owners " within the meaning of the Act, but are in effect protected from personal liability.

295. Power of local authority to grant charging orders.—(1) Where a local authority have under this Act required any person to execute works and those works have been completed, the person executing the works, or any person who has advanced money to enable them to be executed, may apply to the authority for a charging order and the authority, on being satisfied as to the due execution of the works and as to the amount of the expenditure thereon and, in the case of an advance, as to the sum advanced, may make an order accordingly charging on the premises on which the works were executed, and on all estates and interests therein, an annuity to repay the sum expended or advanced, as the case may be.

(2) Subject as hereinafter provided, the annuity charged shall be such sum as the authority may determine in respect of every hundred pounds of the said amount and so in proportion in respect of any fraction of that amount, and shall commence from the date of the order and be payable by equal half-yearly payments for a term of thirty years to the person named in the order, his executors, administrators or assigns :

Provided that the Minister may from time to time by order fix the maximum sum to be so charged in respect of a hundred pounds.

NOTES TO SECTION 295.

Definitions—

" local authority," s. 1 (2).
" premises," s. 343 (1).

General note. This section is based on P.H.A. 1875, ss. 240, 241 (13 Halsbury's Statutes 725–6). The language has been modified, cf. Housing Act, 1925, s. 16 (13 Halsbury's Statutes 1012), and the term " rent-charge " is not used. A charging order made under this section should be registered as a local land charge under the Land Charges Act, 1925 (15 Halsbury's Statutes 524–545).

A charging order may be made in favour of a person by whom works have been executed.

No special provision is made for the recovery of half-yearly payments under a charging order (cf. Housing Act, 1925, s. 32 ; 13 Halsbury's Statutes 1021). It appears that such instalments are recoverable by action. Charging orders appear to rank in priority to existing mortgages, cf. s. 291, *ante*. If the charged premises are severed into distinct ownerships the charge will, it is submitted, remain effective on each portion. There are no provisions for apportionment.

Note s. 329, *post*.

Prosecution of offences, etc.

296. Summary proceedings for offences.—All offences under this Act may be prosecuted under the Summary Jurisdiction Acts.

NOTE TO SECTION 296.

This section replaces in a condensed form P.H.A. 1875, s. 251 (13 Halsbury's Statutes 730), P.H.A.A. 1890, s. 6 (13 Halsbury's Statutes 826), and P.H.A.A. 1907, s. 6 (13 Halsbury's Statutes 913).

297. Continuing offences and penalties.—Where provision is made by or under this Act for the imposition of a daily penalty in respect of a continuing offence, the court by which a person is convicted of the

original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court and, where a court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration thereof.

NOTE TO SECTION 297.

This section is new, and is a reasonable modification of the law. Daily penalties, under the existing law, are recoverable from the date of conviction. When the court give directions a reasonable time may (not *must*) be fixed for compliance and the liability to a daily penalty does not attach until the time has expired. Note that in some cases a time *must* be fixed, *e.g.* a nuisance order under s. 94, *ante*.

298. Restriction on right to prosecute.—Proceedings in respect of an offence created by or under this Act shall not, without the written consent of the Attorney-General, be taken by any person other than a party aggrieved, or a council or a body whose function it is to enforce the provisions or byelaws in question, or by whom or by whose predecessors the byelaw in question was made.

NOTES TO SECTION 298.

For definition of " functions," see s. 343 (1).

This section replaces P.H.A. 1875, s. 253 (13 Halsbury's Statutes 731), which was however limited, as regards public authorities, to the local authority of the district in which the offence was committed.

The law as to who is a party aggrieved is by no means clear. See note (*b*) in Lumley, 10th Edn., p. 558.

299. Inclusion of several sums in one complaint, etc.—Where two or more sums are claimed from any person as being due under this Act, or under byelaws made thereunder, any complaint, summons or warrant issued for the purposes of this Act or of the byelaws in respect of that person may contain in the body thereof, or in a schedule thereto, all or any of the sums so claimed.

NOTE TO SECTION 299.

This section replaces P.H.A.A. 1890, s. 8 (13 Halsbury's Statutes 826), and P.H.A.A. 1907, s. 8 (13 Halsbury's Statutes 914), in a form usual in Local Acts. It is not at all clear, however, what the effect of the section is, or even whether it has any effect. It certainly does not authorise the joining of more than one offence in one summons, or proceeding for penalties under more than one section by means of the same complaint.

Appeals and other applications to courts of summary jurisdiction, and appeals to quarter sessions.

300. Appeals and applications to courts of summary jurisdiction.—(1) Where any enactment in this Act provides—

(*a*) for an appeal to a court of summary jurisdiction against a requirement, refusal or other decision of a council ; or

(*b*) for any matter to be determined by, or an application in respect of any matter to be made to, a court of summary jurisdiction,

the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.

(2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the council's requirement, refusal or other decision was served upon the person

desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(3) In any case where such an appeal lies, the document notifying to the person concerned the decision of the council in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought.

NOTES TO SECTION 300.

For definition of "enactment," see s. 343 (1).

This section in principle replaces P.H.A. 1925, s. 8 (13 Halsbury's Statutes 1117). The whole question of appeals is dealt with in para. 18 of the Second Interim Report, *post*, p. 340. The section does not reproduce the form of earlier appeal provisions in which, whether the appeal was to a petty sessional court or to Quarter Sessions, the right is given in general terms to appeal against a "notice, determination, requirement, order," etc. In this Act, wherever there is a right of appeal, the right is clearly stated in the section under which the right arises, and the present section deals only with procedure.

In every notice, order, or other document communicating to any person a decision of a local authority against which an appeal lies, there should be express notice of the right of appeal conferred by the Act, see *Rayner* v. *Stepney Corporation*, [1911] 2 Ch. 312; 38 Digest 212, *471*. Sub-s. (3) is perhaps declaratory.

See Introductory Note to Part II for general observations on the provisions of this Act as to appeals to justices from administrative decisions of local authorities. The principle appears now to be firmly established, but appears to raise a constitutional problem of some difficulty, and if appeals become numerous it is clear that local government may come to be administered not at the will of elected authorities but in accordance with a policy determined by Quarter Sessions. On the other hand the public must be protected against the unreasonable exercise of these powers, and it is possible that a general right of appeal to the responsible Minister might be open to criticism on other grounds. Such a right, however, is very generally given in modern legislation, *e.g.* Town and Country Planning Act, 1932, 25 Halsbury's Statutes 470 *et seq.*, Restriction of Ribbon Development Act, 1935, 28 Halsbury's Statutes 79 *et seq.*, Housing Act, 1936, etc.

301. Appeals to quarter sessions against decisions of justices.—Subject as hereinafter provided, where a person aggrieved by any order, determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to a court of quarter sessions, he may appeal to such a court:

Provided that nothing in this section shall be construed as conferring a right of appeal from the decision of a court of summary jurisdiction in any case if each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by such a court.

NOTES TO SECTION 301.

For definition of "enactment," see s. 343 (1).

See note to previous section.

As to the proviso, see s. 278 (2).

By the Interpretation Act, 1889, s. 19 (18 Halsbury's Statutes 1001) "person" in this Act, unless the contrary intention appears, includes any body of persons corporate or unincorporate, and the rule in that Act was probably declaratory of the common law, see *Royal Mail Steam Packet Co.* v. *Braham* (1877), 2 A. C. 381; 13 Digest 351, *890*. Quære, whether the result is to enable a local authority to appeal to Quarter Sessions under this section. There seems no reason why this should not be so in the case of appeals from administrative decisions.

For enactments replaced, subject to the previous section, see P.H.A. 1875, s. 269 (13 Halsbury's Statutes 736); P.H.A.A. 1890, s. 7 (13 Halsbury's Statutes 826); P.H.A.A. 1907, s. 7 (13 Halsbury's Statutes 913); and P.H.A. 1925, s. 7 (13 Halsbury's Statutes 1117).

302. Effect of decision of court upon an appeal.—Where upon an appeal under this Act a court varies or reverses any decision of a council, it shall be the duty of the council to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

NOTE TO SECTION 302.

This section is new and provides the machinery necessary to give full effect to the provisions of the Act as to appeals.

Arbitrations.

303. Mode of reference to arbitration.—In arbitrations under this Act the reference shall, except where otherwise expressly provided, be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the Minister.

NOTE TO SECTION 303.

This section replaces the elaborate provisions of P.H.A. 1875, ss. 179, 180, 181 (13 Halsbury's Statutes 702–704). Note that the reference is now to a single arbitrator. See the Arbitration Acts, 1889 and 1934 (1 Halsbury's Statutes 453 *et seq.*; and 27 Halsbury's Statutes 27), as to procedure.

Judges and justices.

304. Judges and justices not to be disqualified by liability to rates.—A judge of any court or a justice of the peace shall not be disqualified from acting in cases arising under this Act by reason only of his being as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or be benefited by, any rate or fund out of which any expenses of a council are to be defrayed.

NOTES TO SECTION 304.

This section replaces P.H.A. 1875, s. 258 (13 Halsbury's Statutes 733), except the provision by which a justice of the peace was not to be deemed incapable of acting by reason of his being a member of any local authority.

It follows that the general law as to possibility of bias applies. It is submitted that it is not in accordance with modern views as to the integrity of public life that any member of a local authority should be present as a justice on the bench, whether acting or not, when a case to which that local authority is a party is under consideration. If such a member has taken any part in the consideration of the matter by the local authority it is clear that his presence will not be tolerated, and this was so in proceedings under P.H.A. 1875, notwithstanding the language of s. 258 of that Act. See *e.g. R.* v. *Milledge* (1879), 4 Q. B. D. 332; 33 Digest 297, *118*; and cases in Lumley, 10th Edn., pp. 574–579.

Note that where a member has taken no part in the consideration of the matter it has not hitherto been the practice of the High Court to interfere. See *e.g. R.* v. *Huntingdon JJ.* (1879), 4 Q. B. D. 522; 33 Digest 295, *104*.

The well-known and often-cited judgment of Lord Hewart, L.C.J., in *R.* v. *Sussex JJ., ex parte McCarthy*, [1924] 1 K. B. 256; 33 Digest 294, *97*, appears to bring the law so closely into accord with the view stated above as a principle of proper conduct that it may be doubted whether that view might not have been stated as a principle of law, notwithstanding *R.* v. *Huntingdon JJ.* (*supra*).

Protection of members and officers.

305. Protection of members and officers of certain local authorities from personal liability.—Section two hundred and sixty-five of the Public Health Act, 1875, (which relates to the protection of members and officers of certain authorities) shall apply to local authorities, joint boards and port health authorities under this Act as if any reference in that section to the said Act of 1875 were a reference to this Act.

NOTE TO SECTION 305.

This section applies the protection given by P.H.A. 1875, s. 265 (13 Halsbury's Statutes 734), to members and officers of local authorities, to the purposes of this Act.

The section merely protects the named persons from personal liability and an injured person is not debarred from suing the authority, subject to the provisions of the Public Authorities Protection Act, 1893, 13 Halsbury's Statutes 455.

Compulsory purchase.

306. Compulsory purchase of land by means of provisional order.—The purposes of this Act shall be purposes for which a local authority may be authorised to purchase land compulsorily by means of a provisional order made by the Minister and confirmed by Parliament:

Provided that this section shall not apply where a power to purchase conferred by this Act is stated to be a power to purchase by agreement.

NOTES TO SECTION 306.

For definition of "local authority," see s. 1 (2).

This section replaces L.G.A. 1933, s. 159 (2) (26 Halsbury's Statutes 392), which is repealed by this Act, so far as it relates to purposes which are purposes of this Act (3rd Sched. Part V, *post*).

L.G.A. 1933 repealed P.H.A. 1875, s. 176 (13 Halsbury's Statutes 700), which conferred on local authorities for the purposes of the Act power to purchase land compulsorily and prescribed the procedure. The procedure is now to be found in L.G.A. 1933, ss. 160, 161 (26 Halsbury's Statutes 393–4), and the only effect of this section is to transfer the power from a Local Government to a Public Health Act.

Expenses and borrowing.

307. Contributions by county councils to certain expenses of county district councils.—(1) A county council may agree to contribute a sum equal to the whole or any part of any expenses incurred by the council of a county district within the county in connection with hospital accommodation, sewers or sewage disposal works, or a supply of water, if it appears to the county council to be reasonable so to do having regard to the resources of the district and the other circumstances of the case.

(2) For the purposes of the preceding subsection, contributions by the council of a county district towards the expenses of a joint board shall be deemed to be expenses incurred by the contributing council.

NOTES TO SECTION 307.

Definitions—

"county district," s. 343 (1).
"hospital," s. 343 (1).
"sewer," s. 343 (1).
"district," s. 1 (2).

General note. This section reproduces L.G.A. 1929, s. 57 (1) (10 Halsbury's Statutes 922), but extends it to hospital purposes.

Sub-s. (2) is new.

308. Special expenses of rural authorities.—(1) The following expenses of a rural authority, that is to say—

(*a*) expenses incurred in connection with sewers or sewage disposal works for any contributory place;

(*b*) expenses incurred in connection with a supply of water to any such place;

(*c*) charges and expenses arising out of, or incidental to, the possession of property held by the council in trust for any such place; and

(*d*) all other expenses incurred or payable by the council in, or in respect of, any such place, and determined to be special expenses by order of the Minister made under subsection (3) of section one hundred and ninety of the Local Government Act, 1933,

shall, so far as they fall to be defrayed out of rates, be special expenses chargeable on that contributory place, but without prejudice to the powers of the authority under subsection (4) of the said section one hundred and ninety.

(2) For the purposes of paragraph (*a*) or paragraph (*b*) of the preceding subsection, contributions towards the expenses of a joint board shall be deemed to be expenses incurred by the contributing council.

(3) Where a rural authority determine to defray as part of their general expenses the whole of any expenses which would otherwise be defrayed as special expenses chargeable upon a contributory place, or upon two or more contributory places, it shall not be necessary for the authority to keep parochial accounts in respect of those expenses and, if those expenses were incurred in respect of separate undertakings for supplying water, those undertakings shall for the purposes of this Act and of the Local Government Act, 1933, be deemed to be one undertaking.

NOTES TO SECTION 308.

Definitions—

"rural authority," s. 1 (2).
"sewer," s. 343 (1).
"contributory place," s. 343 (1).

General note. This section replaces so much as remains unrepealed of P.H.A. 1875, s. 229 (13 Halsbury's Statutes 720). Sub-s. (2) is new and is a parallel provision to s. 307 (2), *ante*. Sub-s. (3) is also new and is intended to remove an administrative difficulty under L.G.A. 1929, s. 56 (1) (10 Halsbury's Statutes 922), now replaced by L.G.A. 1933, s. 190 (4) (26 Halsbury's Statutes 409).

309. Expenses of joint boards.—(1) Any expenses incurred by a joint board shall, unless otherwise determined by the order constituting the board, be defrayed out of a common fund to be contributed by the constituent districts, or contributory places, in proportion to the rateable value of the property in each district or contributory place, as ascertained according to the valuation list for the time being in force.

(2) For the purpose of obtaining payment from constituent districts or contributory places of the sums to be contributed by them, a joint board shall issue precepts to the local authority of each district concerned, stating the sum to be contributed by the authority and requiring the authority, within a time limited by the precept, to pay the sums therein mentioned to the joint board, or to such person as the joint board may direct.

(3) Any sum mentioned in a precept issued under this section by a joint board to a local authority shall be a debt due from that authority, and may be recovered accordingly, without prejudice, however, to the right of the board to exercise any powers conferred upon them by section thirteen of the Rating and Valuation Act, 1925.

(4) In their application to joint boards constituted under section eight of this Act, the foregoing provisions of this section shall have effect as if references therein to constituent districts and to the local authority of a constituent district included respectively references to constituent counties and to the council of a constituent county.

(5) Where the order constituting a united district provides for contributions to be made to the common fund of the joint board by a county council, the amount of any such contribution as fixed by the order shall be a debt due to the joint board and may be recovered accordingly.

NOTES TO SECTION 309.

Definitions—

" joint board," s. 343 (1).
" contributory place," s. 343 (1).
" local authority," s. 1 (2).
" district," s. 1 (2).

General note. This section reproduces in effect P.H.A. 1875, ss. 283, 284 (13 Halsbury's Statutes 743).

As to orders constituting joint boards, see s. 8, *ante*. If such an order provides for expenses being defrayed otherwise than in proportion to rateable value, reference should be made to L.G.A. 1929, s. 83 (10 Halsbury's Statutes 935). Such an order is an " enactment " within the meaning of that section.

For the Rating and Valuation Act, 1925, s. 13, see 14 Halsbury's Statutes 637.

310. Power to borrow on sewage land and plant.—(1) Without prejudice to the exercise by local authorities of the borrowing powers conferred on them by the Local Government Act, 1933, a local authority who own any land, works or other property for the purposes of the disposal of sewage may borrow money on mortgage thereof for any purposes of this Act, or of the Public Health Acts, 1875 to 1932, so far as those Acts are not repealed, for which they might borrow money under the Local Government Act, 1933.

(2) Any money borrowed under this section shall be applied only to such purposes as aforesaid and shall be repaid within thirty years.

(3) Sections one hundred and ninety-nine, two hundred and two hundred and three of the Local Government Act, 1933, shall apply to any borrowing under this section, but, save as aforesaid, the provisions of sections one hundred and ninety-six to two hundred and eighteen of that Act shall not apply thereto.

NOTES TO SECTION 310.

Definitions—

" local authority," s. 1 (2).
" land," s. 343 (1).

General note. This section replaces P.H.A. 1875, s. 235 (13 Halsbury's Statutes 724).

For borrowing powers conferred on local authorities by L.G.A. 1933, see Part IX of that Act, 26 Halsbury's Statutes 412–424.

Ss. 199, 200 and 203 of L.G.A. 1933, provide—

199. Return to Minister.—(1) The clerk of a local authority shall, within one month after being requested so to do by the Minister, transmit to the Minister a return showing the provision made by the local authority for the repayment of moneys borrowed by the authority.

(2) The return shall show such particulars, shall be made up to such date and shall be in such form, as the Minister may require, shall be certified by the treasurer or other person whose duty it is to keep the accounts of the authority, and shall, if so required by the Minister, be verified by a statutory declaration made by that person.

(3) If it appears to the Minister from any return made under this section or otherwise that a local authority—

(*a*) have failed to pay any instalment or annual payment required to be paid: or

(*b*) have failed to appropriate to the discharge of any loan any sum required to be so appropriated: or

(*c*) have failed to set apart any sum required for a sinking fund: or

(*d*) have applied any portion of a sinking fund to a purpose other than those authorised;

the Minister may by order direct that such sum as is specified in the order, not exceeding the amount in respect of which default has been made, shall be paid or applied in the manner and by the date set out in the order, and the

authority shall notify the Minister as soon as the order has been complied with.

(4) An order made under the last preceding sub-section may be enforced, at the instance of the Minister, by mandamus.

(5) If a return required to be made under this section is not made, the person in default shall be liable, on summary conviction, to a fine not exceeding twenty pounds, and notwithstanding the recovery of any such fine the making of the return may be enforced, at the instance of the Minister, by mandamus.

(6) The provisions of this section shall be in substitution for, and not in addition to, any requirement under any other enactment or statutory order to make a return as to the provision made by a local authority for the repayment of borrowed moneys.

200. Charge of service of loan to particular account.—Where a loan is raised to meet any expenditure of a local authority which is chargeable to a particular account, there shall be debited to that account all sums required for repayment of the principal of the loan, or for payment of interest thereon, or for making payments to any sinking fund established for the purposes thereof.

203. Lenders relieved from certain inquiries.—A person lending money to a local authority shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money was properly applied, and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of any such money.

311. Loans by Public Works Loan Commissioners.—The power of the Public Works Loan Commissioners to lend money to a county council or local authority for any works authorised by this Act which are works for which that council or authority may borrow money shall extend to the lending of money to a port health authority or joint board constituted by an order under this Act, or any enactment repealed by this Act, for any works authorised by this Act and the order which are works for which that authority or board may borrow money.

NOTES TO SECTION 311.

Definitions—

" local authority," s. 1 (2).
" port health authority," s. 2.
" enactment," s. 343 (1).

General note. This section replaces P.H.A. 1875, ss. 242, 243 (13 Halsbury's Statutes 726). Since 1875 the powers of the Public Works Loans Commissioners to advance money to local authorities have been very considerably extended by a series of Public Works Loans Acts. It is not necessary to refer to these in detail, but by the Public Works Loans Act, 1896, s. 2 (12 Halsbury's Statutes 295), these powers were extended to " any work for which the council of a county, borough, district or parish are authorised to borrow." P.H.A. 1875, s. 242 (*supra*), referred to " purposes," not to " works."

The power to lend is now to be sought in the Public Works Loans Acts, and the effect of the present section is to include joint boards and port health authorities in the range of authorities to whom advances may be made.

Powers of the Minister.

312. Confirmation of byelaws.—The Minister shall be the confirming authority as respects byelaws made under this Act.

NOTE TO SECTION 312.

This section replaces so much of P.H.A. 1875, s. 184 (13 Halsbury's Statutes 705), as was not repealed and re-enacted by L.G.A. 1933. The procedure for making byelaws is now prescribed by s. 250 of that Act (26 Halsbury's Statutes 440), in which the confirming authority is defined as follows (sub-s. 10):—

" the authority or person, if any, specified in the enactment (including any enactment in this Act) under which the byelaws are made, or in any enactment incorporated therein or applied thereby, as the authority or person by whom the byelaws are to be confirmed, and in the case of byelaws made under any enactment incorporating or applying section twenty-three of the Municipal Corporations Act, 1882, or section sixteen of the Local Government Act, 1888,

means the Secretary of State or, if the subject-matter of the byelaws is such that the Minister would have been the confirming authority had they been made under the last preceding section, the Minister."

313. Orders for amendment or adaptation of local Acts.—(1) Where at the date of the passing of this Act there is in force—

(*a*) in any county borough a local Act the Bill for which was promoted by the council of the borough; or

(*b*) in any county or county district a local Act the Bill for which was promoted either by the county council or by the local authority of the district;

and the said local Act contains provisions appearing to the Minister either to be inconsistent with any of the provisions of this Act, or to have become redundant in consequence of the passing of this Act, the Minister on the application, in the first mentioned case, of the council of the county borough, and, in the second mentioned case, of the county council or of the local authority, as the case may be, may by order make such alterations, whether by amendment or by repeal, in the local Act as appear to him to be necessary for the purpose of bringing its provisions into conformity with the provisions of this Act, or for the purpose of removing redundant provisions, as the case may be.

(2) This section applies in relation to a local Act the Bill for which was promoted by any authority, board, commissioners, trustees or other body whose functions under the local Act have become exercisable by the council of a county borough, a county council or the local authority of a district, as if the Bill for that Act had been promoted by the council of the county borough, the county council or the local authority.

(3) Any order made under this section shall be laid before each House of Parliament for a period of thirty days during the Session of Parliament, and, if before the expiration of that period either House resolves that the order be annulled, it shall be void, but without prejudice to the making of a new order:

Provided that, in reckoning any such period of thirty days as aforesaid, no account shall be taken of any time during which both Houses are adjourned for more than four days.

NOTES TO SECTION 313.

Definitions—

"local Act," s. 343 (1).
"county," s. 343 (1).
"county district," s. 343 (1).
"local authority," s. 1 (2).

General note. This section replaces P.H.A. 1925, ss. 6 and 7 (2) (13 Halsbury's Statutes 1117).

Note also the provisions of s. 269 (10), *ante*, under which provisions in Local Acts are automatically repealed on a declaration by the Minister under that section taking effect.

314. Power to apply corresponding provisions of Act to joint boards, etc., in substitution for repealed provisions.—Where by a provisional or other order in operation immediately before the commencement of this Act any enactment repealed by this Act has been applied to a port health authority or joint board, that order may be amended by an order of the Minister applying to the authority or board, in substitution for any enactment so repealed, any corresponding enactment in this

Act which the Minister could under this Act apply to an authority or board of the like kind:

Provided that, if the Minister's order is not made within two years after the commencement of this Act, and on the application of the authority or board in question, the order shall be provisional only and shall not have effect until it is confirmed by Parliament.

NOTES TO SECTION 314.

Definitions—

"joint board," s. 343 (1).
"enactment," s. 343 (1).

General note. This section is new, but is based on L.G.A. 1933, s. 293 (2). Note that the powers may be exercised by order without confirmation by Parliament until 1st October, 1939.

315. Existing isolation hospital committees to be dissolved.—(1) Before the expiration of two years from the commencement of this Act, the Minister shall by order dissolve every hospital committee constituted under the Isolation Hospitals Acts, 1893 and 1901, and transfer the property and liabilities of the committee—

(i) if the committee consist wholly of representatives of a county council, or of a single local authority, to that council or authority; and

(ii) if the committee consist wholly of representatives of two or more local areas, or partly of such representatives and partly of representatives of a county council, to a joint board to be constituted by the order for the same local areas and consisting, in the first case, of members to be appointed by the local authorities for those areas and, in the second case, of members to be so appointed together with members to be appointed by the county council:

Provided that, if the committee request the Minister so to do, the Minister, in lieu of transferring their property and liabilities to a county council or joint board, may order their property to be disposed of, and, if the committee represent two or more councils or authorities, may order the proceeds of such disposal and the liabilities of the committee to be apportioned between the constituent councils and authorities as he may think fit.

(2) Before making an order under this section, the Minister shall cause a local inquiry to be held, if he is requested so to do by any council who are represented on the isolation hospital committee.

(3) A joint board constituted by an order under this section shall be a body corporate by such name as may be determined by the order and shall have perpetual succession and a common seal and power to hold land for the purposes of their constitution without licence in mortmain.

(4) A joint board so constituted shall be deemed to be a joint board constituted under section six of this Act and the provisions of this Act relating to joint boards constituted under that section shall apply accordingly, except that the order constituting the board shall not require confirmation by Parliament.

NOTES TO SECTION 315.

Definitions—

"local authority," s. 1 (2).
"joint board," s. 343 (1).
"land," s. 343 (1).

General note. The Isolation Hospitals Acts, 1893 and 1901 (13 Halsbury's Statutes 862–869, 888–890), are repealed by this Act (3rd Sched. Part V). See

Second Interim Report, paras. 99, 100, *post*, pp. 373, 374. Before 1st October, 1939, existing committees under those Acts are to be dissolved and where necessary a joint board is to be constituted in their place.
Note s. 346 (1) (*f*), *post*.

316. Adaptation, where necessary, of provisional order procedure.—(1) In relation to any order made by the Minister under this Act which requires confirmation by Parliament but was not made on the application of any local authority, section two hundred and eighty-five of the Local Government Act, 1933 (which relates to the procedure for making provisional orders), shall have effect as if for references therein to the applicants for the order and to the application for the order there were substituted respectively references to the Minister and to the order proposed to be made by him.

(2) The expenses incurred by the Minister in connection with the making and confirmation of any such order as aforesaid shall be paid by such council, or by such councils in such shares, as he may direct, and the amount of those expenses as certified by him, or the amount of any share thereof so certified, shall be recoverable by him from the council liable therefor as a debt due to the Crown.

NOTES TO SECTION 316.

This section is new.
For L.G.A. 1933, s. 285, see 26 Halsbury's Statutes 456.
That section assumes that there are "applicants" for a Provisional Order, and imposes duties upon them, *e.g.* to give notice by advertisement. The present section is necessary because under this Act, *e.g.* under s. 315, *ante*, the Minister may make a Provisional Order otherwise than on the application of an authority.

317. Amendment of 38 & 39 Vict. c. 55, s. 303.—In section three hundred and three of the Public Health Act, 1875 (which relates to the power of the Minister to repeal and alter local Acts by means of provisional orders), the reference to any local Act which relates to the same subject-matters as that Act shall be construed as including a reference to any local Act which relates to the same subject-matters as this Act.

NOTES TO SECTION 317.

For definition of "local Acts," see s. 343 (1).
See Second Interim Report, para. 134, *post*, p. 385.
P.H.A. 1875, s. 303 (13 Halsbury's Statutes 752), provides—

303. Power to repeal and alter local Acts.—The Local Government Board may, on the application of the local authority of any district, by provisional order, wholly or partially repeal alter or amend any local Act, other than an Act for the conservancy of rivers, which is in force in any area comprising the whole or part of any such district, and not conferring powers or privileges on any persons or person for their or his own pecuniary benefit, which relates to the same subject matters as this Act.

Any such provisional order may provide for the extension of the provisions of the local Act referred to therein beyond the district or districts within the limits of such Act, or for the exclusion of the whole or a portion of any such district from the application of such Act; and may provide what local authority shall have jurisdiction for the purposes of this Act in any area which is by such order included in or excluded from such district.

318. Local inquiries.—The Minister may cause a local inquiry to be held in any case where he is authorised by this Act to determine any difference, to make any order, to frame any scheme, to give any consent, confirmation, sanction or approval, or otherwise to act under this Act, and in any other case where he deems it advisable that a local inquiry should be held in relation to any matter concerning the public health in any place.

NOTE TO SECTION 318.

This section replaces P.H.A. 1875, s. 293 (13 Halsbury's Statutes 748).

Regulations.

319. Provisions as to regulations required to be laid before Parliament.—Where any regulation is required by this Act to be laid before Parliament, it shall be laid before each House of Parliament for a period of thirty days during the Session of Parliament and, if an Address is presented to His Majesty by either House before the expiration of that period praying that the regulation may be annulled, it shall thenceforth be void but without prejudice to the validity of anything previously done thereunder or to the making of a new regulation:

Provided that, in reckoning any such period of thirty days as aforesaid, no account shall be taken of any time during which both Houses are adjourned for more than four days.

NOTE TO SECTION 319.

This section is supplemental to other provisions of the Act, *e.g.* ss. 143 (7), 180 (2), *ante*. Cf. also s. 313 (3), *ante*.

Relinquishment and transfer of powers and duties.

320. Relinquishment of functions by district councils.—(1) The council of a county district may at any time, by agreement with the council of the county in which the district is situate, relinquish in favour of, and transfer to, the council of the county any of their functions under this Act for such period and upon such terms and subject to such conditions, if any, including terms and conditions as to the transfer of property and liabilities, as may be specified in the agreement:

Provided that, except in the case of an agreement which is expressed to remain in force for a specified period not exceeding five years, it shall be an implied term of any agreement made under this section that either party to the agreement may determine it at the end of any financial year by giving notice to the other party not less than twelve months beforehand.

(2) A copy of an agreement made under this section shall forthwith be sent to the Minister and notice shall be given to him as soon as may be of the determination of the agreement, or of any variation in the terms thereof.

NOTES TO SECTION 320.

Definitions—
"county district," s. 343 (1).
"district," s. 1 (2).
"county," s. 343 (1).
"functions," s. 343 (1).

General note. This section reproduces L.G.A. 1929, s. 57 (2) (10 Halsbury's Statutes 922), which by 3rd Sched. Part V, *post*, is repealed so far as regards functions relating to public health which are functions under this Act.

321. Complaint by county council to Minister of default of council of county district.—If it appears to a county council that the council of any county district within their county have made default in discharging any of their functions under this Act, the county council may complain to the Minister, and thereupon the Minister shall cause a local inquiry to be held into the matter.

NOTES TO SECTION 321.

Definitions—
"county district," s. 343 (1).
"functions," s. 343 (1).

General note. This section is introductory to s. 322. See sub-s. (2) of that section, *post*.

322. Power of Minister to enforce exercise of powers by local authorities, etc., in default.—(1) If—

(i) a complaint is made to the Minister that any council, port health authority or joint board have failed to discharge their functions under this Act in any case where they ought to have done so; or

(ii) the Minister is of opinion that an investigation should be made as to whether any council, port health authority or joint board have failed as aforesaid,

the Minister may cause a local inquiry to be held into the matter.

(2) If, after a local inquiry has been held in pursuance either of this section or of the last preceding section, the Minister is satisfied that there has been such a failure on the part of the council, authority or board in question, he may make an order declaring them to be in default and directing them for the purpose of removing the default to discharge such of their functions, and in such manner and within such time or times, as may be specified in the order.

(3) If a council, authority or board with respect to whom an order has been made under the last preceding subsection fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Minister, in lieu of enforcing the order by mandamus or otherwise, may—

(i) if the body in default are the council of a county district, or a joint board whose district lies wholly within one county, or a port health authority whose district (so far as it does not consist of water) lies wholly within one county, make an order transferring to the council of the county such of the functions of the body in default as may be specified in his order;

(ii) in any other case, make an order transferring to himself such of the functions of the body in default as may be so specified.

NOTES TO SECTION 322.

Definitions—
" joint board," s. 343 (1).
" functions," s. 343 (1).
" county district," s. 343 (1).
" county," s. 343 (1).

General note. This section is largely new but in effect replaces P.H.A. 1875, s. 299 (13 Halsbury's Statutes 750), which was, in so far as it relates to county district councils, repealed by L.G.A. 1929, and replaced by s. 57 (3) of that Act (10 Halsbury's Statutes 923). That subsection is in turn repealed by this Act (3rd Sched. Part V, *post*), so far as regards functions relating to public health which are functions under this Act, and is to the same extent replaced by the present section. The simplification of the law achieved by these codifying Statutes is not always obvious but is to be perceived after careful study.

Remedy. Under P.H.A. 1875, s. 299 (*supra*), if the defaulting authority did not perform the duty within the time limited in the Minister's order, the order was enforced by Writ of Mandamus (*R.* v. *Staines Union and Staines L.B.* (1893), 58 J. P. 182; 38 Digest 153, *36*; *R.* v. *Worcester Corporation* (1905), 69 J. P. 296; 38 Digest 153, *35*). It was not the practice to adopt the alternative remedy of appointing a person to perform the duty.

As to expenses when functions are transferred to the Minister, see s. 324, *post*.

See Second Interim Report, p. 129, and p. 441, *post*, sub " clause 316."

323. Subsidiary provisions on transfer of functions of body in default to county council.—Where any functions of the council of a county district, a port health authority or a joint board are transferred by an order under the last preceding section to a county council—

(*a*) the expenses incurred by the county council in discharging those functions shall, except in so far as they may be met by any grant made by the county council, be a debt due from the body in default to the county council, and shall be defrayed as part of the expenses of the body in default in the execution of this Act, and that body shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them;

(*b*) any such expenses as aforesaid shall, where the body in default are the council of a rural district, be raised as general expenses, or as special expenses, or partly as general expenses and partly as special expenses, according as the county council may direct;

(*c*) the county council, for the purpose of functions transferred to them, may on behalf of the body in default borrow money subject to the like conditions, in the like manner, and on the security of the like revenues as that body might have borrowed for the purpose of those functions;

(*d*) the county council may charge the said revenues with the payment of the principal and interest of the loan, and the loan, with the interest thereon, shall be paid by the body in default in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on those revenues by that body; and

(*e*) the county council shall keep separate accounts of all receipts and expenditure in respect of the transferred functions.

NOTES TO SECTION 323.

Definitions—
" functions," s. 343 (1).
" county district," s. 343 (1).
" joint board," s. 343 (1).

General note. This section is new in form but is based on the provisions of L.G.A. 1894, s. 63 (10 Halsbury's Statutes 816), which applied to transfer of powers by agreement and could be applied by an order of the Minister under L.G.A. 1929, s. 57 (3) (10 Halsbury's Statutes 923).

324. Provisions as to exercise by Minister of functions of body in default.—(1) Where under the last but one preceding section the Minister has by order transferred to himself any functions of a council, port health authority or joint board, any expenses incurred by him in discharging the said functions shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Minister shall on demand be paid to him by the body in default, and shall be recoverable by him from them as a debt due to the Crown, and that body shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them.

(2) The payment of any such expenses as aforesaid shall, to such extent as may be sanctioned by the Minister, be a purpose for which a local authority, port health authority or joint board may borrow money in accordance with the statutory provisions relating to borrowing by such an authority or board.

NOTES TO SECTION 324.

Definitions—
" functions," s. 343 (1).
" joint board," s. 343 (1).

General note. This section is new, and is supplemental to the provisions of s. 322 (3) (ii), *ante*.

325. Power to vary and revoke orders relating to defaults.—In any case where under this Part of this Act an order has been made by the Minister transferring to a county council or to himself any functions of a council, port health authority or joint board, the Minister may at any time by a subsequent order vary or revoke that order, but without prejudice to the validity of anything previously done thereunder; and when any order is so revoked the Minister may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to the transfer, vesting and discharge of any property or liabilities acquired or incurred by the county council or by him in discharging any of the functions to which the order so revoked related.

NOTES TO SECTION 325.

Definitions—

"functions," s. 343 (1).
"joint board," s. 343 (1).

General note. This section is new and is supplemental to ss. 321–324.

General provisions as to transfer, compensation and superannuation rights of officers.

326. Provisions as to the transfer and compensation of officers and superannuation rights of transferred officers.—(1) The provisions of this section shall apply in relation to any order or agreement made under this Act, or any order made by virtue of this Act under section three hundred and three of the Public Health Act, 1875, being an order or agreement by, under or in consequence of which an authority is constituted or dissolved, or any functions of an authority are relinquished, delegated, transferred or re-transferred, or exercised by two or more authorities in combination, or the services of any staff of one authority are rendered available to another authority.

(2) The provisions of section one hundred and fifty of, and the Fourth Schedule to, the Local Government Act, 1933, (which relate to the transfer and compensation of officers of a local authority affected by an order made under Part VI of that Act) shall have effect in relation to any such order as is mentioned in subsection (1) of this section as they have effect in relation to an order made under the said Part VI, and where, by virtue or in consequence of any such order as is mentioned in subsection (1) of this section, officers of one authority who are entitled as such to the benefits of a superannuation enactment will be transferred to the service of another authority, there shall be included in the order such provisions as are hereinafter mentioned for the purpose of protecting the rights and interests of those officers in respect of superannuation.

(3) The provisions with respect to superannuation to be included in any such order as aforesaid shall be either—

(*a*) provisions for securing that the superannuation enactment to the benefits of which an officer was entitled immediately before his transfer shall continue to apply to him, subject to such modifications and adaptations as the Minister may determine; or

(*b*) provisions for applying to the officer, subject to such modifications and adaptations as the Minister may determine, any superannuation enactment to the benefits of which any officers of the authority to whom the officer is transferred are entitled.

(4) The Minister, on the application of any officer or authority affected by any such agreement as is mentioned in subsection (1) of this section, shall make a scheme containing such provisions for the protection and compensation of existing officers affected by the agreement as are specified in paragraphs (*a*) and (*b*) of subsection (1) of section one hundred and fifty of the Local Government Act, 1933, and such provisions, if any, as he deems expedient with respect to the transfer of such existing officers, and where, by virtue or in consequence of the agreement, officers of one authority who are entitled as such to the benefits of a superannuation enactment will be transferred to the service of another authority, the scheme shall also contain such provisions for the purpose of protecting the rights and interests of those officers in respect of superannuation as in the case of an order are required by the last preceding subsection to be included in the order.

(5) A scheme made by the Minister under the last preceding subsection and the agreement to which it relates shall be construed together as if they constituted a single instrument coming into operation on the date on which the agreement comes into operation, and the provisions of subsections (2) to (6) of section one hundred and fifty of, and the Fourth Schedule to, the Local Government Act, 1933, shall have effect in relation thereto as they have effect in relation to a scheme made under Part VI of the said Act.

(6) In this section the expression "authority" means a county council, local authority, joint board, isolation hospital committee, port health authority or riparian authority within the meaning of section two of this Act, and, for the purposes of this section, any reference in the relevant provisions of the Local Government Act, 1933, to a local authority shall be construed as a reference to an authority as herein defined.

In this section the expression "superannuation enactment" means an enactment, including a scheme made thereunder, by virtue of which persons employed by an authority become entitled to superannuation benefits on retirement.

NOTES TO SECTION 326.

Definitions—

"functions," s. 343 (1).
"officer," s. 343 (1).
"local authority," s. 1 (2).
"enactment," s. 343 (1).
"joint board," s. 343 (1).
"riparian authority," s. 2 (1).

General note. This section is new and applies L.G.A. 1933, s. 150, and 4th Schedule (26 Halsbury's Statutes 388, 504 *et seq.*) to such orders as are mentioned in sub-s. (1).

L.G.A. 1933, s. 150 (*supra*), provides—

150. Transfer and compensation of officers.—(1) A scheme or order made under this Part of this Act may contain provisions as to the transfer of existing officers affected by the scheme or order, and shall contain provisions for—

(*a*) the protection of the interests of any such existing officers; and

(*b*) the payment, by such local authority as may be determined by or under the scheme or order, of compensation to any existing officer who by virtue of the scheme or order, or of anything done in pursuance of or in consequence of its provisions, suffers any direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, and for whose compensation for that loss no other provision is made by any enactment or statutory order for the time being in force.

(2) An existing officer who, at any time within five years after the date on which the scheme or order comes into operation, relinquishes office by reason of his having been required to perform duties which are not analogous to, or

which are an unreasonable addition to, those which he was required to perform immediately before that date shall be deemed for the purposes of the scheme or order to have had his office determined in consequence of the scheme or order, and, unless the contrary is shown, to have suffered direct pecuniary loss in consequence of the scheme or order by reason of such determination.

(3) An existing officer whose appointment is determined or whose emoluments are reduced within five years after the date on which the scheme or order comes into operation, because his services are not required or his duties are diminished (no misconduct being established), shall be deemed, unless the contrary is shown, to have suffered direct pecuniary loss in consequence of the scheme or order.

(4) A scheme or order made under this Part of this Act and providing for the payment of compensation to existing officers shall incorporate the provisions set out in the Fourth Schedule to this Act.

(5) For the purposes of this section—

(*a*) the expression "office" means any place, situation or employment and includes the office of superintendent registrar, registrar of births and deaths, registrar of marriages, and the office of teacher in a public elementary school maintained but not provided by a local education authority, and the expression "officer" has a corresponding meaning; and

(*b*) the expression "existing officer" means an officer who holds office on the date on which the scheme or order is made, or on such other date or dates as may be specified in the scheme or order.

(6) The payment of a lump sum by a local authority by way of compensation to an existing officer under a scheme or order made under this Part of this Act shall be a purpose for which the local authority may borrow.

For P.H.A. 1875, s. 303, which is amended by s. 317, *ante*, to apply to this Act, see 13 Halsbury's Statutes 752, and note to s. 317, *ante*, where the section is printed.

L.G.A. 1933, s. 150 (*supra*), which deals with compensation to officers, does not deal with the superannuation of transferred officers. Sub-s. (3) enables the Minister to apply the provisions of, *e.g.* L.G.A. 1929, s. 125 (10 Halsbury's Statutes 966).

The principles enacted in L.G.A. 1929, s. 125, may be summarised as follows:—

1. If the officer is transferred from the service of an authority who had, either alone or in combination with any other local authority, adopted the Local Government and other Officers' Superannuation Act, 1922 (10 Halsbury's Statutes 863 *et seq.*), and held a designated post on the date of transfer, then—

(*a*) if the authority to whom he is transferred have adopted the Act of 1922, that Act is applied as if the post to which the officer is transferred had been an established post on the date of transfer;

(*b*) if the authority to whom he is transferred have not adopted the Act of 1922 but have at the date of transfer some other superannuation scheme, that authority are required to submit for the Minister's approval a scheme adequately protecting the transferred officer's rights and interests;

(*c*) if the authority to whom he is transferred have no superannuation scheme, the Act of 1922 continues to apply to the transferred officer as if the authority to whom he is transferred had adopted that Act on the date of transfer and had designated his post as an established post. Provision is made enabling the Minister to dispense with the necessity for the establishment of a superannuation fund for these special cases.

2. Special provision is made for the payment of a sum representing the transfer value which would have been payable if the transfer had been a transfer to which s. 8 (1) of the Act of 1922 applied, and for avoiding any return of contributions under s. 11 (2) of that Act.

327. Provisions for compensation in certain cases to officers of trustees, etc., executing local Acts.—(1) If, by virtue or in consequence of a provisional order made by the Minister under or by virtue of any provision of this Act, an officer of any trustees or other body of persons entrusted with the execution of a local Act suffers any direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments and no other provision for his compensation for that loss is made by any enactment or statutory order for the time being in force, he shall be entitled to receive compensation for that loss from such local authority as the Minister may determine.

(2) The provisions of subsections (2) to (6) of section one hundred and fifty of, and the Fourth Schedule to, the Local Government Act, 1933, shall apply to the case of any such officer as aforesaid as if the provisional order of the Minister were an order made under Part VI of the said Act and as if subsection (1) of this section were contained in the said order.

NOTES TO SECTION 327.

Definitions—
"officer," s. 343 (1).
"local Act," s. 343 (1).
"emoluments," s. 343 (1).
"enactment," s. 343 (1).
"statutory order," s. 343 (1).
"local authority," s. 1 (2).

General note. This section replaces P.H.A. 1875, s. 309 (13 Halsbury's Statutes 755), in principle. Similar provisions were contained in L.G.A. 1888, s. 120 (10 Halsbury's Statutes 767), and L.G.A. 1894, s. 81 (7) (10 Halsbury's Statutes 824).

For L.G.A. 1933, s. 150 (2) to (6), see note to previous section.

Savings.

328. Powers of Act to be cumulative.—All powers and duties conferred or imposed by this Act shall be deemed to be in addition to, and not in derogation of, any other powers and duties conferred or imposed by Act of Parliament, law or custom, and, subject to any repeal effected by, or other express provision of, this Act, all such other powers and duties may be exercised and shall be performed in the same manner as if this Act had not been passed.

NOTES TO SECTION 328.

This section replaces similar provisions in P.H.A. 1875, ss. 340, 341 (13 Halsbury's Statutes 763, 764); P.H. (Water) A. 1878, s. 13 (20 Halsbury's Statutes 246); P.H.A.A. 1890, s. 10 (13 Halsbury's Statutes 827); P.H.A.A. 1907, s. 1 (13 Halsbury's Statutes 911); and P.H.A. 1925, s. 7 (13 Halsbury's Statutes 1117).

Some of the former provisions are unnecessary in view of the Interpretation Act, 1889, s. 33 (18 Halsbury's Statutes 1004).

329. Saving for certain provisions of the Land Charges Act, 1925.—Nothing in this Act with respect to the recovery of expenses from owners of premises affects the provisions of the Land Charges Act, 1925 (as amended by any subsequent enactment), with respect to local land charges.

NOTES TO SECTION 329.

Definitions—
"owner," s. 343 (1).
"premises," s. 343 (1).
"enactment," s. 343 (1).

General note. This section is new. The necessity of registration is referred to in the notes to sections under which it arises.

330. Power of railway companies, dock undertakers and land drainage authorities to alter sewers, etc., vested in a local authority.—Any railway company, dock undertakers or land drainage authority may, after giving reasonable notice to the local authority concerned, at their own expense and on substituting other sewers, drains, culverts and pipes which will be equally effectual and will entail no additional expense on the local authority, take up, divert or alter the level of any sewers, drains, culverts or pipes vested in the local authority which pass under, or interfere with, or interfere with the improvement or alteration of,

the railway of the railway company, or, as the case may be, any river, canal, towing path or works forming part of the undertaking of the undertakers, or any watercourse or other works vested in or under the control of the land drainage authority.

NOTES TO SECTION 330.

Definitions—

" railway company," s. 343 (1).
" dock undertakers," s. 343 (1).
" land drainage authority," s. 343 (1).
" local authority," s. 1 (2).
" sewer," " drain," s. 343 (1).

(The definition of " canal " in s. 258, *ante*, has no statutory application to this section.)

General note. This section replaces P.H.A. 1875, s. 331 (13 Halsbury's Statutes 761).

As to whether the substituted sewers, etc., will be equally effectual, see s. 332, *post*.

The section refers to sewers, etc., vested in the local authority, not constructed by them as in P.H.A. 1875, s. 331 (*supra*), for reasons which will be obvious on reference to s. 17, *ante*. S. 331 was defective in this respect, as sewers vested in the local authority under P.H.A. 1875, were not necessarily constructed by them.

331. Works affecting water rights.—Nothing in this Act shall authorise a local authority injuriously to affect any reservoir, canal, watercourse, river or stream, or any feeder thereof, or the supply, quality or fall of water contained in, or in any feeder of, any reservoir, canal, watercourse, river or stream without the consent of any person who would, if this Act had not been passed, have been entitled by law to prevent, or be relieved against, the injurious affection of, or of the supply, quality or fall of water contained in, that reservoir, canal, watercourse, river, stream or feeder.

NOTES TO SECTION 331.

For definition of " local authority," see s. 1 (2).

This section replaces P.H.A. 1875, s. 332 (13 Halsbury's Statutes 762). It is of the utmost importance in relation to Part XI of the Act, *supra*.

332. Arbitration as to alteration of sewers, etc., or injurious affection of water rights.—Any difference of opinion which may arise under either of the two last preceding sections between a local authority and any person as to whether—

(*a*) any sewers, drains, culverts or pipes substituted or proposed to be substituted for sewers, drains, culverts or pipes of a local authority are or will be equally effectual, or entail or will entail additional expense on the authority; or

(*b*) the supply, quality or fall of water in any reservoir, canal, watercourse, river, stream or feeder is injuriously affected by the exercise of powers under this Act,

may, at the option of the party complaining, be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

NOTES TO SECTION 332.

Definitions—

" local authority," s. 1 (2).
" sewer," " drain," s. 343 (1).

General note. This section replaces P.H.A. 1875, s. 333 (13 Halsbury's Statutes 762). The option given is to proceed by arbitration or to sue for an injunction or damages.

333. Protection for works of dock undertakers and for railways.—(1) Subject to the provisions of this section, nothing in this Act shall authorise a local authority without the consent of the dock undertakers concerned—

(*a*) to interfere with any river, canal, dock, harbour, basin, lock or reservoir so as injuriously to affect navigation thereon or the use thereof or the access thereto, or to interfere with any towing path, so as to interrupt the traffic thereon;

(*b*) to interfere with any bridges crossing any river, canal, dock, harbour or basin;

(*c*) to execute any works in, across or under any dock, harbour, basin, wharf, quay or lock, or any land which belongs to dock undertakers and is held or used by them for the purposes of their undertaking;

(*d*) to execute any works which will interfere with the improvement of, or the access to, any river, canal, dock, harbour, basin, lock, reservoir, or towing path, or with any works appurtenant thereto or any land necessary for the enjoyment or improvement thereof;

or without the consent of the railway company concerned, to execute any works along, across or under any railway of a railway company:

Provided that consent under this section shall not be unreasonably withheld, and if any question arises as to whether or not consent is unreasonably withheld, either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

(2) Upon an arbitration under this section, the arbitrator shall determine—

(i) whether any works which the local authority propose to execute are such works as under the last preceding subsection they are not entitled to execute without the consent of the statutory undertakers; and

(ii) if they are such works, whether the injury, if any, to the undertakers will be of such a nature as to admit of being fully compensated by money; and

(iii) if the works are of such a nature, the conditions subject to which the local authority may execute the works, including the amount of the compensation, if any, to be paid by them to the undertakers.

If the arbitrator should determine that the proposed works are such works as the local authority are not entitled to execute without the consent of the undertakers and that the works would cause injury to the undertakers of such a nature as not to admit of being fully compensated by money, the local authority shall not proceed to execute the works, but in any other case they may execute the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator may have determined.

(3) For the purposes of this section, dock undertakers shall be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if it belongs to them and forms part of their undertaking, or if they have statutory rights of

navigating on or using it, or of demanding tolls or dues in respect of navigation thereon or the use thereof.

(4) Nothing in this section shall be construed as limiting the powers of a local authority under any of the foregoing provisions of this Act in respect of the opening and breaking up of streets and bridges for the purpose of constructing, laying and maintaining sewers, drains and pipes.

NOTES TO SECTION 333.

Definitions—

" local authority," s. 1 (2).
" dock undertakers," s. 343 (1).
" land," s. 343 (1).

General note. This section replaces P.H.A. 1875, ss. 327 (3) to (6), 328, 329 (13 Halsbury's Statutes 759–761), but the provisions are expressed in accordance with modern precedents and in a more intelligible form.

334. Protection for works of land drainage authorities, etc.—Nothing in this Act shall authorise a local authority to use, injure or interfere with any sluices, floodgates, sewers, groynes, sea defences or other works, whether made before or after the date of commencement of this Act, which are vested in or under the control of a land drainage authority, or are used by any person for draining, preserving or improving land under any local or private Act of Parliament, or for irrigating land, without the consent, as the case may be, of that authority or that person :

Provided that consent under this section shall not be unreasonably withheld, and if any question arises as to whether or not consent is unreasonably withheld, either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

NOTES TO SECTION 334.

Definitions—

" local authority," s. 1 (2).
" land drainage authority," s. 343 (1).
" land," s. 343 (1).
" local Act," s. 343 (1).

This section replaces P.H.A. 1875, s. 327 (1) (13 Halsbury's Statutes 759).

335. Saving for works, powers, etc., of London County Council.—Nothing in, or done under, this Act shall affect any outfall or other works of the London County Council executed, whether within or outside London, under the Metropolis Management Act, 1855, and the Acts amending that Act, or take away, abridge, or prejudicially affect any right, power, authority, jurisdiction or privilege of the London County Council.

NOTE TO SECTION 335.

This section replaces P.H.A. 1875, s. 336 (13 Halsbury's Statutes 763). For the Metropolis Management Act, 1855, see 11 Halsbury's Statutes 889 *et seq.*

336. Saving for powers and duties of Middlesex County Council as sewerage and sewage disposal authority.—Nothing in this Act shall affect the powers and duties of the County Council of Middlesex with respect to main sewers and sewage disposal under the Middlesex County Council Act, 1931, or impose on local authorities of that county any obligations with respect to sewers or sewage disposal from which they were relieved by the said Act :

Provided that, on the application of the county council, the Minister may by order amend the said Act by making therein such adaptations and modifications as appear to him to be necessary in consequence of the amendments made by this Act in the general law relating to public health, and, in particular, by applying to the county council, by way of substitution but with any necessary adaptation, such of the provisions of this Act as appear to him to correspond to any provisions of the Public Health Acts, 1875 to 1932, which were applied to the council by the said local Act.

NOTES TO SECTION 336.

Definitions—

" sewer," s. 343 (1).
" local authority," s. 1 (2).
" local Act," s. 343 (1).

General note. This section is new and is designed to make the Act consistent with the special provisions of the local Act referred to, which deals with main sewerage in west Middlesex. The Act is not printed in Halsbury's Statutes.

337. Saving for certain payments in respect of drainage into sewers of another district.—Nothing in this Act shall affect the payment or recovery of any yearly sum payable at the time of the passing of the Public Health Act, 1875, in pursuance of the Local Government Act (1858) Amendment Act, 1861, to any local authority in respect of any premises without their district which have a drain communicating with a sewer within their district :

Provided that any such sum shall cease to be payable if the connection between the drain and the sewer is discontinued, but shall again become payable if thereafter the connection is re-established.

NOTES TO SECTION 337.

Definitions—

" local authority," s. 1 (2).
" premises," s. 343 (1).
" district," ss. 1 (2), 17 (7).
" drain," " sewer," s. 343 (1).

General note. This section reproduces P.H.A. 1875, s. 337 (13 Halsbury's Statutes 763).

The Local Government Act (1858) Amendment Act, 1861, s. 8, provided—

" Where already or hereafter any premises not being within the limits of the local board have a drain communicating, directly or indirectly, with a sewer within the district, and maintained by the local board, and any sewage flows into the sewer, there shall (except in cases where the owner is entitled to use such sewer without making any payment) be paid to the local board in respect thereof such a yearly sum as is agreed on between them and the owner of the premises, or failing agreement between them, as on the application of the local board is determined by two justices ; and the yearly sum so agreed on or determined, shall be private improvement expenses, and shall be charged on the premises, and be paid and recoverable accordingly as if the premises were within the district."

(There is a proviso similar to that to the present section.)

The whole Act was repealed by P.H.A. 1875, and s. 22 of that Act (13 Halsbury's Statutes 635) contained similar provisions. S. 22 is itself repealed by this Act and is replaced by s. 35, *ante*.

338. Sewers or drains of collegiate and other corporate bodies and Government departments.—Any collegiate or other corporate body required or authorised by or in pursuance of Act of Parliament to divert its sewers or drains from any river or to construct new sewers, and any Government department, shall have the like powers and be subject to the like obligations under this Act as they had or were subject to under the Sewage Utilization Act, 1867 ; and for that purpose the

provisions of this Act applicable to purposes the same as, or similar to, those of the Sewage Utilization Act, 1865, and the Sewage Utilization Act, 1867, shall apply in substitution for the provisions of those Acts.

NOTES TO SECTION 338.

For definitions of "sewer" and "drain," see s. 343 (1).
This section replaces P.H.A. 1875, s. 335 (13 Halsbury's Statutes 762).

339. Saving for existing rights of drainage.—Nothing in this Act affects any right of drainage acquired by any person by prescription or otherwise before the commencement of this Act:

Provided that nothing in this section shall be construed as limiting the powers conferred on local authorities by sections twenty-two and forty-two of this Act.

NOTE TO SECTION 339.

The effect of this section, which is new, is not altogether clear. Rights of drainage have no doubt been extensively acquired, apart from prescription, under P.H.A. 1875.

340. Works below high-water mark.—Nothing in this Act shall authorise the execution of any works on, over or under tidal lands below high-water mark of ordinary spring tides, except in accordance with such plans and sections and subject to such restrictions and regulations as may, before the works are commenced, be approved by the Board of Trade in writing under the hand of one of the secretaries, under-secretaries or assistant secretaries of the Board.

NOTE TO SECTION 340.

This section is supplementary to P.H.A. 1907, s. 12 (13 Halsbury's Statutes 914), so far as works below high-water mark are concerned, and will extend those provisions to the purposes of the Act.

341. Power to apply provisions of Act to Crown property.—(1) The provisions of this section shall apply in relation to any house, building or other premises being property belonging to His Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a Government department, or held in trust for His Majesty for purposes of a Government department.

(2) The authority which in relation to any such property is for the purposes of this section the appropriate authority and the council of the county, or the local authority of the district, in which that property is situate may agree that any provisions of this Act specified in the agreement shall apply to that property and, while the agreement is in force, those provisions shall apply to that property accordingly, subject however to the terms of the agreement.

Any such agreement as aforesaid may contain such consequential and incidental provisions, including, with the approval of the Treasury, provisions of a financial character, as appear to the appropriate authority to be necessary or equitable.

(3) In this section the expression "the appropriate authority" means—

(*a*) in the case of property belonging to His Majesty in right of the Crown, the Commissioners of Crown Lands or other

Government department having the management of the property in question;

(*b*) in the case of property belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(*c*) in the case of property belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints; and

(*d*) in the case of property belonging to a Government department or held in trust for His Majesty for purposes of a Government department, that department;

and, if any question arises as to what authority is the appropriate authority in relation to any property, that question shall be referred to the Treasury, whose decision shall be final.

NOTES TO SECTION 341.

Definitions—
"house," s. 343 (1).
"premises," s. 343 (1).
"county," s. 343 (1).
"local authority," s. 1 (2).

General note. This section replaces or is supplementary to: P.H.A. 1875, s. 327 (1) and (2) (13 Halsbury's Statutes 759); Housing of the Working Classes Act, 1885, s. 9 (7) (13 Halsbury's Statutes 808); P.H.A.A. 1907, s. 12 (13 Halsbury's Statutes 914); P.H.A. 1925, s. 10 (13 Halsbury's Statutes 1118).

For other provisions of the Act containing savings for Crown property, see ss. 106, 146, and 267, *ante*.

As to agreements on behalf of the Crown compare similar provisions in the Town and Country Planning Act, 1932, s. 33 (25 Halsbury's Statutes 505).

Interpretation, transitory provisions, repeals, etc.

342. Application of portions of Act to London.—(1) In any Part or section of this Act which is declared to extend to London any reference to a local authority shall be construed as including a reference to the Common Council of the City of London and the council of a metropolitan borough, and any reference to the district of a local authority shall be construed as including a reference to the City of London and to a metropolitan borough.

(2) For the purposes of their functions under any such Part or section of this Act as aforesaid, the Common Council of the City of London and the council of a metropolitan borough may borrow—

(i) in the case of the Common Council of the City of London, under and in accordance with the City of London Sewers Acts, 1848 to 1897, as amended by any subsequent enactment;

(ii) in the case of the council of a metropolitan borough, in the like manner, and subject to the like conditions, as for the purposes of the Metropolis Management Acts, 1855 to 1893.

(3) The provisions of those sections of this Part of this Act which are specified in the Second Schedule to this Act shall extend to London in so far as they are material for the purposes of any other provisions of this Act which so extend.

NOTES TO SECTION 342.

Definitions—
"functions," s. 343 (1).
"enactment," s. 343 (1).

General note. The substantive provisions of the Act extending to London are contained in ss. 5, 28, 98, 143, 175 and 249–258, *ante*.

343. Interpretation.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

" authorised officer " means, as respects any council, an officer of the council authorised by them in writing, either generally or specially, to act in matters of any specified kind, or in any specified matter :

Provided that the medical officer of health, surveyor and sanitary inspector of a council shall, by virtue of their appointments, be deemed to be authorised officers for the purpose of matters within their respective provinces ;

" bridge authority " means—

(i) in the case of a county bridge the county council ;

(ii) in the case of a bridge which carries a highway repairable by the inhabitants at large but is not a county bridge, the council who are the highway authority in respect of that highway ; and

(iii) in the case of any other bridge, the authority or person responsible for the maintenance thereof ;

" building byelaws " means byelaws made under Part II of this Act with respect to buildings, works and fittings, and includes also byelaws made with respect to those matters under any corresponding enactment repealed by this Act, or under any such enactment as amended or extended by a local Act ;

" clerk," in relation to a local authority being the council of a borough, means the town clerk ;

" coastal waters " means waters within a distance of three nautical miles from any point on the coast measured from low-water mark of ordinary spring tides ;

" contributory place " means—

(*a*) a rural parish no part of which is included in a special purpose area formed under this Act or under any Act repealed by this Act or by the Public Health Act, 1875 ;

(*b*) a special purpose area so formed ; and

(*c*) in the case of a rural parish part of which forms or is included in a special purpose area formed as aforesaid, such part of the parish as is not comprised within that area ;

" county " means an administrative county ;

" county district " means a non-county borough, urban district or rural district ;

" dock undertakers " means persons who are statutory undertakers in respect of a dock, harbour, canal, or inland navigation ;

" drain " means a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage ;

" dustbin " means a movable receptacle for the deposit of ashes or refuse ;

" emoluments " has the same meaning as it has in the Local Government Act, 1933 ;

" enactment " includes any enactment in a provisional order confirmed by Parliament ;

" factory " means a factory within the meaning of the Factory and Workshop Acts, 1901 to 1929 ;

" functions " includes powers and duties ;

" highway authority " means, in the case of a highway repairable by the inhabitants at large, the council in whom that highway is vested ;

" hospital " includes any premises for the reception of the sick ;

" house " means a dwelling-house, whether a private dwelling-house or not ;

" inland waters " includes rivers, harbours and creeks ;

" joint board " means a joint board constituted under this Act or under any Act repealed by this Act, and includes such a board acting as a port health authority ;

" land " includes any interest in land and any easement or right in, to or over land ;

" land drainage authority " means a drainage authority within the meaning of the Land Drainage Act, 1930 ;

" local Act " includes a provisional order confirmed by Parliament and the confirming Act so far as it relates to that order ;

" local authority " has the meaning assigned to it in section one of this Act ;

" London " means the administrative county of London ;

" Minister " means the Minister of Health ;

" notifiable disease " means any of the following diseases, namely, small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric or relapsing, and includes, as respects any particular district, any infectious disease to which Part V of this Act or any corresponding enactment repealed by this Act has been applied by the local authority of the district in manner provided by that Part or that enactment ;

" officer " includes servant ;

" owner " means the person for the time being receiving the rack-rent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if those premises were let at a rackrent ;

" planning scheme " means a scheme made under the Town Planning Act, 1925, or the Town and Country Planning Act, 1932, or any enactment repealed by either of those Acts ;

" prejudicial to health " means injurious, or likely to cause injury, to health ;

" premises " includes messuages, buildings, lands, easements and hereditaments of any tenure ;

" private sewer " means a sewer which is not a public sewer ;

" public sewer " has the meaning assigned to it in section twenty of this Act ;

" rackrent " in relation to any property means a rent which is not less than two-thirds of the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe rentcharge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the same in a state to command such rent ;

" railway company " means persons who are statutory undertakers in respect of a railway undertaking ;

" school " includes a Sunday school or a Sabbath school ;

" sewer " does not include a drain as defined in this section but, save as aforesaid, includes all sewers and drains used for the drainage of buildings and yards appurtenant to buildings ;

" statutory order " means an order, rule or regulation made under any enactment ;

" statutory scheme " means a scheme made under any enactment ;

" statutory undertakers " means any persons authorised by an enactment or statutory order to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking ;

" street " includes any highway, including a highway over any bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not ;

" vessel " has the same meaning as in the Merchant Shipping Act, 1894 ;

" waterworks " includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines and all machinery, lands, buildings and things for supplying, or used for supplying, water, or used for protecting sources of water supply ;

" workplace " does not include a factory or workshop, but save as aforesaid includes any place in which persons are employed otherwise than in domestic service ;

" workshop " means a workshop within the meaning of the Factory and Workshop Act, 1901.

(2) In the construction of any enactment incorporated with this Act, the expressions " the undertakers " and " the special Act " shall be construed as meaning respectively the local authority and this Act.

(3) Nothing in this section shall affect the interpretation of expressions which are used in any local Act, statutory order or scheme passed or made before the commencement of this Act and are defined as having for the purposes thereof the same meaning as in some enactment repealed by this Act.

NOTES TO SECTION 343.

For notes as to definitions on the repealed Acts, etc., see Consolidated Table of Definitions, *post*, pp. 312–329.

drain has an extended meaning in Part II. See s. 90 (4), *ante*.

dustbin. The word " movable " is spelt " moveable " in s. 90 (1), definition of " earth closet," and in s. 269, *ante*, as in Surrey County Council Act, 1931, Part VII. Both spellings are given in the Oxford Dictionary.

The matter is of no importance, but variation in spelling in the same Act of Parliament is unusual.

officer. For the purposes of s. 327, *ante*, the meaning of this word in L.G.A. 1933, s. 150 (5) (26 Halsbury's Statutes 388), is applied.

rackrent. This definition substantially reproduces that in P.H.A. 1875, s. 4 (13 Halsbury's Statutes 624), which in turn reproduced the definition of " rateable value " in the Parochial Assessments Act, 1836, s. 1, which was repealed by the Rating and Valuation Act, 1925, Sched. VIII (14 Halsbury's Statutes 705).

As to " free from all usual tenants' rates and taxes, etc.," see *Hackett* v. *Long Bennington Overseers* (1864), 16 C. B. (N.S.) 38 ; 38 Digest 529, *749* ; *R.* v. *Hall Dare* (1864), 34 L. J. M. C. 17 ; 38 Digest 526, *737*.

sewer. The word " drains " in the latter part of the definition is clearly a word which the context requires to have a meaning distinct from the statutory meaning given to it by the Act.

street. The definition in P.H.A. 1875, s. 4 (*supra*), has been amended so as to make it clear that it is only the highway over a bridge, not the bridge itself, which is a " street " and by the omission of the exclusion of county bridges. See Second Interim Report, p. 131, and p. 443, *post*, as to the reasons for the second of these amendments.

344. Transitional provisions as to existing temporary buildings.—(1) Where at the commencement of this Act there is in existence a building to the erection of which a local authority have given their consent either under section twenty-seven of the Public Health Acts Amendment Act, 1907, or under section twenty-five of the Housing, Town Planning, etc., Act, 1919, the local authority may under this section extend the period fixed by them, either originally or by way of extension, as the period during which the building may be allowed to stand or, as the case may be, may be allowed to be used for human habitation, and any person aggrieved by their refusal to extend any such period may appeal to a court of summary jurisdiction.

(2) The owner of any such building shall, on the expiration of the period fixed, or, as the case may be, of that period as extended, remove the building if it was erected under the said Act of 1907 or discontinue its use for human habitation if it was erected under the said Act of 1919, and, if he fails to do so, the local authority shall remove the building and may recover from him the expenses reasonably incurred by them in so doing, and without prejudice to the right of the authority to exercise that power he shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day during which the building is allowed to remain, or, as the case may be, is allowed to be used for human habitation after the conviction.

NOTES TO SECTION 344.

Definitions—

" local authority," s. 1 (2).
" owner," s. 343 (1).

General note. This section is new. For P.H.A.A. 1907, s. 27, see 13 Halsbury's Statutes 920, and for the Housing, Town Planning, etc., Act, 1919, s. 25, see 13 Halsbury's Statutes 959. Both provisions are repealed by this Act, and the section preserves the powers of local authorities and owners as respects buildings erected under them. A further appeal lies to Quarter Sessions under s. 301, *ante*. See s. 300 (3), *ante*, as to notifying the right of appeal.

345. Transitional provisions as to offences and notices.—(1) Where an offence (being an offence for the continuance of which a penalty was provided) has been committed under any enactment repealed by this Act, proceedings may be taken under this Act in respect of the

continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provisions of this Act.

(2) Where an enactment repealed and re-enacted, with or without modifications, by this Act relates to the giving of notices—

(i) not less than a specified period before; or

(ii) within a specified period after,

the doing of some act or the happening of some event, and the commencement of this Act falls within the period applicable under that enactment to any particular act done or to any particular event, the repeal and re-enactment shall be deemed to have taken effect in relation to that act or event, in the first-mentioned case, at a date sufficiently early to enable the required notice to be given under the corresponding provisions of this Act, and, in the secondly mentioned case immediately before the doing of the act or the happening of the event in question.

NOTE TO SECTION 345.

For definition of "enactment," see s. 343 (1).

346. Repeals.—(1) The following Acts are hereby repealed to the following extent:—

(*a*) the Public Health Act, 1875, the Public Health Acts Amendment Act, 1890, the Public Health Acts Amendment Act, 1907, and the Public Health Act, 1925, to the extent specified in the First, Second, Third and Fourth Parts respectively of the Third Schedule to this Act;

(*b*) the Acts mentioned in the second column of the Fifth Part of that Schedule, to the extent specified in the third column of that Part of that Schedule,

and the said repeal shall as respects the Acts mentioned in the second column of the Sixth and Seventh Parts of that Schedule, to the extent specified in the third column of those Parts, extend to London and to Northern Ireland, the Isle of Man and the Channel Islands respectively:

Provided that—

(*a*) save as expressly provided in this Act, nothing in this repeal shall affect any byelaw in force at the commencement of this Act, and, while such a byelaw continues in force by virtue of this proviso, any question as to its application or interpretation shall be determined as if this Act had not been passed;

(*b*) nothing in this repeal shall affect the constitution of any authority, board or committee constituted for any district or area under any enactment repealed by this Act, and any such authority, board or committee shall continue to act for that district or area as if they and it had been constituted under the corresponding provisions of this Act;

(*c*) in so far as any appointment, agreement, scheme, order, rule, regulation, requirement, apportionment or representation made, or any resolution passed, or any notice, direction, consent, sanction, approval, exemption or certificate given under any enactment repealed by this Act, or any charge conferred by, or any conditions imposed, or any proceeding instituted, or any other thing done, under any such enactment, could have been made, passed, given, conferred, imposed, instituted or done under or by a corresponding provision of this Act, it shall not be invalidated by this repeal, but shall have effect as if it had been made, passed, given, conferred, imposed, instituted or done under or by that corresponding provision and, in the case of any legal proceeding, may be continued and appealed against as if this Act had not been passed;

(*d*) where immediately before the commencement of this Act a local authority were recovering any expenses by means of private improvement rates they may continue to recover the unpaid balance of those expenses by means of such rates as if this Act had not been passed;

(*e*) the repeal of section twenty-seven of the Public Health Acts Amendment Act, 1907, shall not take effect in the district of a local authority until the date on which building byelaws made by that authority under this Act came into force in the district, or until the expiration of one year from the commencement of this Act, whichever date may first occur;

(*f*) the repeal of the Isolation Hospitals Acts, 1893 and 1901, shall not take effect until the expiration of two years from the commencement of this Act.

(2) If any enactments or words mentioned in the Third Schedule to this Act are, wholly or partly, re-enacted in a Consolidation Act of the present session of Parliament, the references in the said Schedule to those enactments or words shall be construed as including references to such enactments or words in the Consolidation Act as His Majesty in Council may declare to be corresponding enactments or words, and accordingly any enactments and words to which such declaration extends shall also be repealed by this section.

(3) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment, if any, in this Act.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

NOTES TO SECTION 346.

Definitions—

"district," s. 343 (1).
"enactment," s. 343 (1).
"local authority," s. 1 (2).

London. When an Act of general application is repealed by an Act not extending to London, it remains in force in London.

P.H.A.A. 1907, s. 27. See note to s. 53, *ante*.

347. Short title, date of commencement, and extent.—(1) This Act may be cited as the Public Health Act, 1936, and shall come into operation on the first day of October, nineteen hundred and thirty-seven.

(2) This Act shall not extend to Scotland nor, except as otherwise expressly provided, to Northern Ireland or London.

NOTES TO SECTION 347.

Northern Ireland. S. 143 (1) to (7) may be extended to Northern Ireland by Order in Council.

London. The following sections extend to London: 5, 28, 98, 143, 175, 249–258, 342, and the sections specified in the Second Schedule in so far as they are material for any other provisions of the Act which so extend.

SCHEDULES.

FIRST SCHEDULE.

PROVISIONS AS TO MEDICAL OFFICERS OF HEALTH AND SANITARY INSPECTORS OF PORT HEALTH DISTRICTS.

Qualifications, duties, etc.

1. The Minister may by regulations prescribe—

(*a*) the qualifications to be held and the duties to be performed by medical officers of health of port health districts;

(*b*) the mode of appointment and terms as to salary and tenure of office of medical officers of health and sanitary inspectors of port health districts, and the qualifications and duties of such sanitary inspectors.

Regulations made under this paragraph shall be laid before Parliament.

2.—(1) Compliance with the regulations made under sub-paragraph (*a*) of the preceding paragraph shall be obligatory on every port health authority; compliance with the regulations made under sub-paragraph (*b*) thereof shall not be obligatory on any such authority, but compliance therewith shall be a condition of the right of the authority to receive from a county council or county borough council any such payment as is mentioned in the next succeeding paragraph of this Schedule.

(2) A medical officer of health of a port health district shall perform such duties as may be prescribed under the preceding paragraph of this Schedule, and may exercise any of the powers with which a sanitary inspector is invested.

Payments by councils of counties and county boroughs towards salaries.

3. Where in the case of a medical officer of health or sanitary inspector of a port health district the regulations made under paragraph 1 of this Schedule are complied with, the council of the county or county borough in which the district, or any part thereof, is situate shall, during the tenure of office of that officer, pay to the port health authority a sum equal to one-half of his salary:

Provided that—

(i) if the Minister certifies to the council—

(*a*) that the medical officer of health has failed to send to the Minister such reports and returns as are for the time being required by the regulations made under paragraph 1 of this Schedule to be so sent; or

(*b*) that the provisions of the next succeeding paragraph of this Schedule relating to a medical officer of health or sanitary inspector have not been complied with,

the said sum equal to one-half of the salary of the medical officer of health or, if the non-compliance relates to the sanitary inspector, of the sanitary inspector, shall be forfeited to the Crown and shall be paid to the Exchequer and not to the port health authority; and

(ii) where a port health district is not wholly situate in one county or county borough, such proportionate part only of the sum otherwise payable as may be certified by the Minister shall be paid by the council of each county or county borough in which a part of the port health district is situate.

Tenure of office.

4.—(1) The following officers, that is to say—

(*a*) a medical officer of health of a port health district to whom this paragraph applies, and who is restricted by the terms of his appointment from engaging in private practice as a medical practitioner; and

(*b*) a sanitary inspector of a port health district to whom this paragraph applies, and who is required by the terms of his appointment to devote the whole of his time to the duties of his office, or to the duties of that office and of any other office or offices held by him under a local authority or a public body,

shall not be appointed for a limited time only, and shall not be dismissed except by the port health authority with the consent of the Minister, or by the Minister.

(2) This paragraph applies to a medical officer of health or a sanitary inspector of a port health district, in respect of whose salary a payment is made by the council of a county or county borough under the last foregoing paragraph:

Provided that, where more than one sanitary inspector is appointed for such a district as aforesaid, the foregoing provisions of this paragraph shall apply only to such one of the sanitary inspectors of the district as the port health authority may determine to be the senior sanitary inspector.

SECOND SCHEDULE.

SECTIONS OF ACT EXTENDING TO LONDON FOR CERTAIN PURPOSES.

Sections.	*Subject matter.*
273 to 277	Supplementary powers of councils.
283 to 289	Notices, power of entry and obstruction.
291, 293 and 294	Recovery of expenses.
296 to 302	Prosecutions and appeals.
304	Qualification of judges, etc.
305	Protection of members and officers from personal liability.
318	Local inquiries.
319	Regulations.
328	Powers of Act to be cumulative.
343	Interpretation.
345	Transitional provisions.

THIRD SCHEDULE.

ENACTMENTS REPEALED.

PART I.

REPEALS IN THE PUBLIC HEALTH ACT, 1875.
(38 & 39 Vict. c. 55.)

(1) Sections six, ten and eleven.

Sections thirteen to twenty-five ; in section twenty-six, paragraph (1) and the word " building " where it subsequently occurs ; sections twenty-seven to sixty-five, sixty-seven and seventy.

Sections seventy-one to one hundred and fifteen.

Sections one hundred and twenty to one hundred and forty-three.

In section one hundred and fifty-seven, paragraphs (2), (3) and (4), the words " or to construct buildings ", the words from " Provided that no byelaw " to " subject to this enactment " and the words " of this section and " ; section one hundred and fifty-nine ; and in section one hundred and sixty, paragraph (3), except in so far as the enactments incorporated thereby relate to buildings, walls or other things which are dangerous to passengers.

In section one hundred and seventy-one, the words " and (5) With respect to public bathing ".

Section one hundred and seventy-five.

Section two hundred and six.

Section two hundred and eleven.

Sections two hundred and twenty-four, two hundred and twenty-seven, two hundred and twenty-nine, two hundred and thirty-three, two hundred and thirty-five, and two hundred and forty-four.

Section two hundred and fifty-five.

Sections two hundred and seventy and two hundred and seventy-five.

Sections two hundred and seventy-seven, two hundred and seventy-nine to two hundred and eighty-four, two hundred and eighty-seven to two hundred and ninety, and two hundred and ninety-two.

Sections three hundred and seven, three hundred and fourteen, three hundred and fifteen, three hundred and nineteen, three hundred and twenty and three hundred and twenty-three.

Sections three hundred and thirty to three hundred and thirty-seven.

In Schedule I, Part (2).

In Schedule IV, Forms A to D.

In Schedule V, so much of Part III as re-enacts 35 & 36 Vict. c. 79, s. 34.

(2) The following provisions except so far as they may be material for the purposes of any unrepealed enactment in the Public Health Act, 1875, or any Act directed to be construed therewith—

Section four.

Section one hundred and fifty-eight.

Sections one hundred and seventy-nine to one hundred and eighty-one, one hundred and eighty-three, one hundred and eighty-four and one hundred and eighty-eight.

Sections two hundred and thirteen to two hundred and fifteen.

Sections two hundred and eighteen to two hundred and twenty-three, two hundred and twenty-five and two hundred and twenty-six.

Sections two hundred and thirty-two, two hundred and thirty-four and two hundred and forty to two hundred and forty-three.

Sections two hundred and fifty-one, two hundred and fifty-three, two hundred and fifty-four, two hundred and fifty-six to two hundred and fifty-eight, two hundred and sixty-one, two hundred and sixty-two, and two hundred and sixty-six to two hundred and sixty-nine.

Sections two hundred and seventy-six and two hundred and eighty-five.

Sections two hundred and ninety-three to two hundred and ninety-five.

Sections two hundred and ninety-nine to three hundred and two.

Sections three hundred and five, three hundred and six, three hundred and eight, three hundred and nine, three hundred and thirteen, three hundred and sixteen, and three hundred and seventeen.

Sections three hundred and twenty-seven to three hundred and twenty-nine, three hundred and forty and three hundred and forty-one.

In Schedule IV, Forms E, F, K, L, M, and O.

PART II.

REPEALS IN THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1890.
(53 & 54 Vict. c. 59.)

In Part I (General).—Subsection (1) of section eleven.

In Part III (Sanitary and Other Provisions).—Sections sixteen to twenty-seven, thirty-two, thirty-three, thirty-six and forty-seven, and in section fifty the words from " Section sixteen " to " certain sanitary purposes " and the words from " Section thirty-two " to the end of the section.

PART III.

REPEALS IN THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1907.
(7 Edw. 7, c. 53.)

In Part I (General).—In section one the references to Part III (Sanitary Provisions) and Part V (Common Lodging Houses) of the Act.

In Part II (Streets and Buildings).—Sections fifteen and sixteen in so far as they relate to buildings ; sections twenty-three to twenty-seven, and in section thirty-three the words " or in any byelaws to be made under any enactment extended by this Part ".

Part III (Sanitary Provisions).—The whole Part.

In Part IV (Infectious Diseases).—Sections fifty-two and fifty-five to sixty-eight.

Part V (Common Lodging Houses).—The whole Part.

Part VII (Police).—Section eighty-two, so far as regards matters with respect to which byelaws can be made under Part VIII of this Act.

In Part X (Miscellaneous).—Sections ninety-two and ninety-three.

NOTE TO 3RD SCHEDULE PART III

As to P.H.A.A. 1907, s. 27, see ss. 344 and 346 (1) (*e*), *ante*.

PART IV.

REPEALS IN THE PUBLIC HEALTH ACT, 1925.
(15 & 16 Geo. 5, c. 71.)

In Part I (Preliminary).—In subsection (2) of section one the words from "and the Baths and Washhouses" to the end of the subsection; in subsection (3) of the said section the words from "and Part IX" to the end of the subsection, and in sections one to five any reference to Part III, Part IV, Part V, Part VII, or Part IX of the Act; sections nine, eleven and twelve.

In Part II (Streets and Buildings).—Section twenty.

Part III (Sanitary Provisions).—The whole Part.

Part IV (Verminous Premises, etc.).—The whole Part.

Part V (Watercourses, Streams, etc.).—The whole Part.

Part VII (Infectious Disease and Hospitals).—The whole Part.

In Part VIII (Miscellaneous).—Sections sixty-six, sixty-seven and seventy-three; paragraph (*a*) of section seventy-seven, except so far as material for the purposes of any unrepealed enactment in the Public Health Act, 1875, or any Act directed to be construed therewith; section seventy-eight, and section eighty in so far as it relates to water pipes.

Part IX (Baths and Washhouses).—The whole Part.

In Schedule I, the references to Part III of the Act and to section forty-four.

In Schedule II, the references to Part III of the Act and to sections thirty-nine and forty-four.

Schedule V.

PART V.

REPEALS (GENERAL).

Session and Chapter.	Short Title.	Extent of Repeal.
2 & 3 Vict. c. 71 –	The Metropolitan Police Courts Act, 1839.	Section forty-one.
3 & 4 Vict. c. 85 –	The Chimney Sweepers and Chimneys Regulation Act, 1840.	Section six.
9 & 10 Vict. c. 74 –	The Baths and Washhouses Act, 1846.	The whole Act.
10 & 11 Vict. c. 61 –	The Baths and Washhouses Act, 1847.	The whole Act.
15 & 16 Vict. c. 84 –	The Metropolis Water Act, 1852.	Section fourteen.
16 & 17 Vict. c. 134	The Burial Act, 1853.	Section seven, so far as it relates to the power to provide mortuaries conferred by section forty-two of the Burial Act, 1852, on persons other than burial boards.
34 & 35 Vict. c. 70 –	The Local Government Board Act, 1871.	In Part I of the Schedule, the references to Baths and Washhouses and to 9 & 10 Vict. c. 74, and 10 & 11 Vict. c. 61.
37 & 38 Vict. c. 89 –	The Sanitary Law Amendment Act, 1874.	The whole Act so far as it applies to the metropolitan police district outside London.
39 & 40 Vict. c. 36 –	The Customs Consolidation Act, 1876.	Section two hundred and thirty-four.

Session and Chapter.	Short Title.	Extent of Repeal.
39 & 40 Vict. c. 75 –	The Rivers Pollution Prevention Act, 1876.	Section seven.
40 & 41 Vict. c. 60 –	The Canal Boats Act, 1877.	The whole Act, except sections twelve, sixteen and seventeen.
41 & 42 Vict. c. 14 –	The Baths and Washhouses Act, 1878.	The whole Act.
41 & 42 Vict. c. 25 –	The Public Health (Water) Act, 1878.	The whole Act.
45 & 46 Vict. c. 23 –	The Public Health (Fruit Pickers' Lodgings) Act, 1882.	The whole Act.
45 & 46 Vict. c. 30 –	The Baths and Washhouses Act, 1882.	The whole Act.
46 & 47 Vict. c. 59 –	The Epidemic and Other Diseases Prevention Act, 1883.	The whole Act.
47 & 48 Vict. c. 12 –	The Public Health (Confirmation of Byelaws) Act, 1884.	Section three, so far as it relates to byelaws made under section sixty-nine of the Town Police Clauses Act, 1847, by virtue of its incorporation with the Public Health Act, 1848, the Local Government Act, 1858, or the Public Health Act, 1875.
47 & 48 Vict. c. 75 –	The Canal Boats Act, 1884.	The whole Act.
48 & 49 Vict. c. 35 –	The Public Health (Ships, etc.) Act, 1885.	The whole Act.
48 & 49 Vict. c. 72 –	The Housing of the Working Classes Act, 1885.	Sections seven to ten.
51 & 52 Vict. c. 41 –	The Local Government Act, 1888.	Section nineteen.
52 & 53 Vict. c. 72 –	The Infectious Disease (Notification) Act, 1889.	The whole Act.
53 & 54 Vict. c. 34 –	The Infectious Disease (Prevention) Act, 1890.	Sections five to fifteen and seventeen.
54 & 55 Vict. c. 76 –	The Public Health (London) Act, 1891.	Sections eighty-two to eighty-seven; subsection (1) of section one hundred and five, so far as it relates to epidemic regulations; section one hundred and thirteen, and in Schedule I the paragraphs reproducing sections 130, 134, 135, and 140 of the Public Health Act, 1875.
* 56 & 57 Vict. c. 68	The Isolation Hospitals Act, 1893.	The whole Act.
56 & 57 Vict. c. ccxxi	The London County Council (General Powers) Act, 1893.	Section thirteen.
56 & 57 Vict. c. 73 –	The Local Government Act, 1894.	In section seven, the words "(*b*) the Baths and Washhouses Acts, 1846 to 1882"; in section eight, paragraphs (*e*) and (*f*) of subsection (1) and subsection (3); in section sixteen, subsection (1) so far as regards functions of a rural district council which are functions under this Act, and subsection (3); in section twenty-five, subsections (1) and (7) so far as regards functions of a council which are functions under this Act, and section sixty-three to the like extent.
59 & 60 Vict. c. 19 –	The Public Health Act, 1896.	The whole Act.
59 & 60 Vict. c. 20 –	The Public Health (Ports) Act, 1896.	The whole Act.
60 & 61 Vict. c. 31 –	The Cleansing of Persons Act, 1897.	The whole Act.

* As to this Act note s. 346 (1) (*f*), *ante*.

Session and Chapter.	Short Title.	Extent of Repeal.
62 & 63 Vict. c. 8 –	The Infectious Disease (Notification) Extension Act, 1899.	The whole Act.
62 & 63 Vict. c. 29 –	The Baths and Washhouses Act, 1899.	The whole Act.
* 1 Edw. 7, c. 8 –	The Isolation Hospitals Act, 1901.	The whole Act.
1 Edw. 7, c. 22 –	The Factory and Workshop Act, 1901.	Subsection (2) of section one; subsections (1) and (2) of section two; in subsection (3) of section seven the words from "and a workshop" to the end of the subsection; in subsection (4) of section nine the words from "or to any place" to the end of the subsection; sections sixty-one, one hundred and nine and one hundred and ten.
4 Edw. 7, c. 16 –	The Public Health Act, 1904	The whole Act.
6 Edw. 7, c. 33 –	The Local Authorities (Treasury Powers) Act, 1906.	In subsection (1) of section one the words "the Baths and "Washhouses Acts, 1846 to "1899, or".
7 Edw. 7, c. 40 –	The Notification of Births Act, 1907.	The whole Act.
8 Edw. 7, c. 67 –	The Children Act, 1908.	Part I.
9 Edw. 7, c. 44 –	The Housing, Town Planning, etc., Act, 1909.	Section seventy-one.
1 & 2 Geo. 5, c. 55 –	The National Insurance Act, 1911.	Section sixty-four.
3 & 4 Geo. 5, c. 23 –	The Public Health (Prevention and Treatment of Disease) Act, 1913.	The whole Act.
3 & 4 Geo. 5, c. 37 –	The National Insurance Act, 1913.	Subsection (2) of section forty-two.
5 & 6 Geo. 5, c. 64 –	The Notification of Births (Extension) Act, 1915.	The whole Act.
6 & 7 Geo. 5, c. 12 –	The Local Government (Emergency Provisions) Act, 1916.	Section five.
8 & 9 Geo. 5, c. 29 –	The Maternity and Child Welfare Act, 1918.	The whole Act.
9 & 10 Geo. 5, c. 21	The Ministry of Health Act, 1919.	In section three, paragraph (*f*) of subsection (1).
9 & 10 Geo. 5, c. 35	The Housing, Town Planning, etc., Act, 1919.	In subsection (4) of section twenty-four, the words "new "buildings and," and section twenty-five.
11 & 12 Geo. 5, c. 12	The Public Health (Tuberculosis) Act, 1921.	The whole Act except section six.
11 & 12 Geo. 5, c. 23	The Public Health (Officers) Act, 1921.	The whole Act.
11 & 12 Geo. 5, c. 51	The Education Act, 1921.	In section one hundred and sixty-six, the words from the beginning of the section to "plans and sections, and".
15 & 16 Geo. 5, c. 14	The Housing Act, 1925.	In section one hundred and one, the words "or build-"ings".
15 & 16 Geo. 5, c. 76	The Expiring Laws Act, 1925.	In Part I of Schedule I, the words in column 3 "Sec-"tion five, except para-"graph (*a*)".
16 & 17 Geo. 5, c. 43	The Public Health (Smoke Abatement) Act, 1926.	The whole Act, except sections four and twelve.
16 & 17 Geo. 5, c. 48	The Births and Deaths Registration Act, 1926.	In section nine, paragraph (*b*).
17 & 18 Geo. 5, c. 38	The Nursing Homes Registration Act, 1927.	The whole Act.

* As to this Act note s. 346 (1) (*f*), *ante*.

Session and Chapter.	Short Title.	Extent of Repeal.
19 & 20 Geo. 5, c. 17	The Local Government Act, 1929.	In section two the words "infant life protection and" and paragraph (*a*); section thirteen; subsections (1), (2) and (3) of section fourteen; section sixteen; in section fifty-seven, subsection (1) and subsections (2) and (3) so far as regards functions relating to public health which are functions under this Act; sections fifty-nine to sixty-one and sixty-three; in section seventy-seven, subsection (2) so far as regards water rates under this Act; in subsection (1) of section one hundred and twenty-eight the words from "or by any scheme" to "infectious disease"; in Schedule I, the references in Parts II and V to section forty-seven of the Public Health Acts Amendment Act, 1907; and paragraph 3 of Schedule III.
20 & 21 Geo. 5, c. 17	The Poor Law Act, 1930.	In paragraph (*c*) of section sixty-seven, the words "for providing nurses or".
22 & 23 Geo. 5, c. 46	The Children and Young Persons Act, 1932.	Sections sixty-five to sixty-nine and the Second Schedule so far as it relates to sections one, two, three, eight and nine of the Children Act, 1908.
23 & 24 Geo. 5, c. 12	The Children and Young Persons Act, 1933.	In subsection (1) of section ninety-eight the words "or "under Part I of the "Children Act, 1908".
23 & 24 Geo. 5, c. 51	The Local Government Act, 1933.	Subsection (2) of section one hundred and fifty-nine, so far as it relates to purposes which are purposes of this Act, and in section three hundred and five, in the definition of "adoptive Acts" the words "(*b*) the "Baths and Washhouses "Acts, 1846 to 1925".

NOTE TO 3RD SCHEDULE PART V

As to the Isolation Hospitals Acts, 1893 and 1901, see s. 346 (1) (*f*), which postpones the repeal until 1st October 1939. See s. 315, *ante*.

PART VI.

REPEALS EXTENDING TO LONDON.

Session and Chapter.	Short Title.	Extent of Repeal.
39 & 40 Vict. c. 36 –	The Customs Consolidation Act, 1876.	Section two hundred and thirty-four.
40 & 41 Vict. c. 60 –	The Canal Boats Act, 1877.	The whole Act, except sections twelve, sixteen and seventeen.
46 & 47 Vict. c. 59 –	The Epidemic and other Diseases Prevention Act, 1883.	The whole Act.

Session and Chapter.	Short Title.	Extent of Repeal.
47 & 48 Vict. c. 75 –	The Canal Boats Act, 1884.	The whole Act.
54 & 55 Vict. c. 76 –	The Public Health (London) Act, 1891.	Sections eighty-two to eighty-seven; subsection (1) of section one hundred and five, so far as it relates to epidemic regulations; section one hundred and thirteen, and in Schedule I the paragraphs reproducing sections 130, 134, 135 and 140 of the Public Health Act, 1875.
56 & 57 Vict. c. ccxxi	The London County Council (General Powers) Act, 1893.	Section thirteen.
59 & 60 Vict. c. 19 –	The Public Health Act, 1896.	The whole Act.
4 Edw. 7, c. 16 –	The Public Health Act, 1904.	The whole Act.
3 & 4 Geo. 5, c. 23 –	The Public Health (Prevention and Treatment of Disease) Act, 1913.	Section two and section four, so far as it relates to expenses incurred under section two.
11 & 12 Geo. 5, c. 12	The Public Health (Tuberculosis) Act, 1921.	Section seven.
19 & 20 Geo. 5, c. 17	The Local Government Act, 1929.	In section fifty-nine the words from " or any regulations " to " 1891 ".

PART VII.

REPEALS EXTENDING TO NORTHERN IRELAND, THE ISLE OF MAN AND THE CHANNEL ISLANDS.

Session and Chapter.	Short Title.	Extent of Repeal.
39 & 40 Vict. c. 36 –	The Customs Consolidation Act, 1876.	Section two hundred and thirty-four.
59 & 60 Vict. c. 19 –	The Public Health Act, 1896.	Section two.

PART III

COMPARATIVE TABLES AND TABLE OF DEFINITIONS