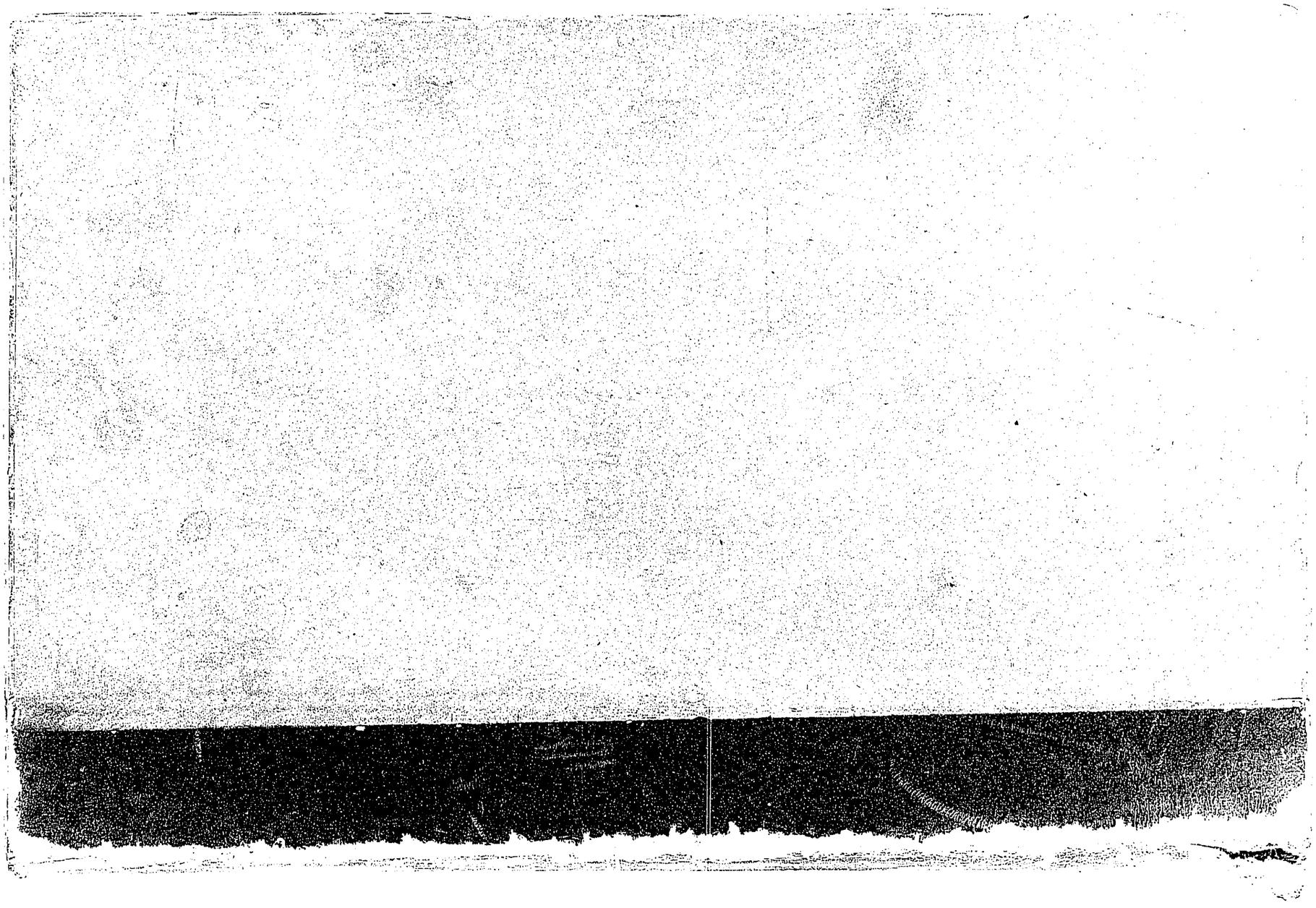

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SECOND REPORT

OF THE

ROYAL SANITARY COMMISSION.

VOL. I.

THE REPORT.

Presented to both Houses of Parliament by Command of Her Majesty.

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REPORT.

TABLE OF CONTENTS.

III. Suggestions for New Statute.

* See Arrangement of Sanitary Statutes in Vol. II.
† So much of Part VII. of the "Arrangement of Sanitary Statutes" as refers to Nuisance Authorities is here included.

COMMISSION.

VICTORIA R.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the faith, to Our right trusty and well-beloved Councillor Charles Bowyer Adderley; Our right trusty and right well-beloved Cousin Charles, Earl of Romney; Our right trusty and right well-beloved Cousin and Councillor Henry John, Earl of Ducie; Our right trusty and well-beloved Councillor Robert Montagu (commonly called Lord Robert Montagu); Our right trusty and well-beloved Councillor Russell Gurney, Recorder of Our city of London; Our right trusty and well-beloved Councillor Stephen Cave; Our trusty and well-beloved Sir Thomas Watson, Bart., Doctor of Medicine; Our trusty and well-beloved Charles Brisbane Ewart, Esq., Lieutenant-Colonel in Our Corps of Royal Engineers; Our trusty and well-beloved John Robinson McClean, Esq., Civil Engineer; Our trusty and well-beloved Samuel Whitbread, Esq.,; Our trusty and well-beloved John Tomlinson Hibbert, Esq.,; Our trusty and well-beloved Evan Matthew Richards Esq.; Our trusty and well-beloved George Clive Esq.; Our trusty and well-beloved Francis Sharp Powell, Esq.; Our trusty and well-beloved Benjamin Shaw, Esq.; Our trusty and well-beloved James Paget, Esq., Fellow of the Royal College of Surgeons; Our trusty and well-beloved Henry Wentworth Acland, Esq., Doctor of Medicine; Our trusty and well-beloved Robert Christison, Esq., Doctor of Medicine; Our trusty and well-beloved William Stokes, Esq., Doctor of Medicine; Our trusty and well-beloved John Lambert, Esq.; and Our trusty and well-beloved Francis Thomas Bircham, Esq., greeting:

Whereas We did, by warrant, under Our Royal sign-manual, bearing date the twenty-fourth day of November one thousand eight hundred and sixty-eight, appoint Our right trusty and well-beloved Thomas George, Baron Northbrook (since resigned), together with the several noblemen and gentlemen therein named, to be our Commissioners to inquire into the operation of the sanitary laws for towns, villages, and rural districts in Great Britain and Ireland, and into the several matters and things in such Warrant at large set forth:

Now know ye, that We have revoked and determined, and do by these presents revoke and determine the said warrant, and every matter and thing therein contained:

And whereas We have deemed it expedient that a new Commission should issue to inquire into and report on the operation of the sanitary laws in England and Wales, with the exception of the city of London and the liberties thereof, and all places under the jurisdiction of the Metropolitan Board of Works appointed under the Metropolis Management Act, 1855, so far as these Laws apply to Sewerage, Drainage, Water Supply, removal of Refuse, control of Buildings, prevention of Overcrowding, and other means of promoting the Public Health:

Also to inquire into and report upon the operation of the Laws for preventing the introduction and spreading of Contagious and Infectious Diseases, and Epidemics affecting the health of Man:

Also to inquire into and report upon the administration of the aforesaid Sanitary Laws, including in such inquiry and report the constitution of the Central and Local Authorities charged with the administration of such Laws, and the formation of Areas proper to be controlled by Local Authorities.

Also to inquire into and Report upon the operation of that part of the Registration System which relates to Certificates of Causes of Death.

Also to suggest improvements in all or any of the matters aforesaid, and means proper for carrying into effect the suggested improvements.

Now know ye, that We, reposing great trust and confidence in your knowledge and ability, have authorized and appointed, and do by these presents authorize and appoint you the said Charles Bowyer Adderley; Charles, Earl of Romney; Henry John, Earl of Ducie; Robert Montagu (commonly called Lord Robert Montagu); Russell Gurney; Stephen Cave; Sir Thomas Watson; Charles Brisbane Ewart; John Robinson McClean; Samuel Whitbread; John Tomlinson Hibbert; Evan Matthew Richards; George Clive; Francis Sharp Powell; Benjamin Shaw; James Paget; Henry Wentworth Acland; Robert Christison; William Stokes; John Lambert; and Francis Thomas Bircham, to be Our Commissioners for the purposes aforesaid.

And for the better effecting the purposes of this Our Commission, We do by these presents give and grant to you, or any five or more of you, full power and authority to call before you, or any five or more of you, such persons as you shall judge necessary, by whom you may be the better informed of the truth on the subjects herein submitted to your consideration, and every matter connected therewith, and also to call for, have access to, and examine all such official books, documents, papers, and records, as may afford the fullest information on the subject of this Inquiry; and to inquire of and concerning the premises by all other lawful ways and means whatsoever.

And our further will and pleasure is that you, or any five or more of you, do report to us with all convenient speed, under your hands and seals, your opinion on the several matters herein submitted for your consideration, with power, from time to time to make a separate report in respect of any of the matters aforesaid on which it may seem expedient to you to so report:

And We do further will and command, and by these presents ordain, that this Our Commission shall continue in full force and virtue, and that you, Our said Commissioners, or any five or more of you, may from time to time proceed in the execution thereof, although the same be not continued from time to time by adjournment;

And for your assistance in the execution of these presents, We have made choice of Our trusty and well-beloved William Hornby Birley, Esq., Barrister-at-Law, to be Secretary to the said Commission, whose services and assistance We require you to use from time to time, as occasion may require.

Given at Our Court at St. James's, the twentieth day of April 1869, in the Thirty-second Year of Our Reign.

By Her Majesty's Command,
(Signed) H. A. BRUCE.

REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

MAY IT PLEASE YOUR MAJESTY,

INTRODUCTION.

WE, the Commissioners appointed by Your Majesty to inquire into the operation of the Sanitary Laws in England and Wales, (excepting the Metropolis), have already submitted to Your Majesty in our First Report the Evidence given orally before us up to the 5th day of August 1869, and other Evidence which we had received up to that date.

We now humbly present our Second Report to Your Majesty: It contains (i.) a History of the Sanitary Laws, up to the present time; (ii.) our Observations upon the Evidence adduced before us, and our opinions on the principal points of the subject; (iii.) a Summary of the existing Sanitary Law, together with Suggestions for its Amendment and Consolidation; and (iv.) the leading features of our proposals in the form of a series of Resolutions.

In the Appendix will be found (1) an Arrangement, in four parallel columns, of the several provisions for *Local Government*,—*Sewerage*,—*Removal of Nuisances*,—and *Prevention of Epidemic Diseases*, which have been separately dealt with by the existing Statutes; (2) an Analysis and a Précis of the Evidence we have received; and (3) two Papers on Special Parts of our Inquiry, drawn up by members of our body.

Lastly we present the further Evidence given orally before us since the date of our First Report; other Evidence consisting of letters and memoranda; and a tabular abstract of the Answers in writing which have been received to Circular Questions issued by us to various Persons.

The general purport of our Report is, that the present fragmentary and confused Sanitary Legislation should be consolidated, and that the Administration of Sanitary Law should be made uniform, universal, and imperative throughout the kingdom.

We propose that all powers requisite for the health of towns and country should in every place be possessed by *one* responsible Local Authority, kept in action and assisted by a superior Authority.

We have advisedly abstained from the discussion of many questions which might seem to come indirectly within our inquiry, because we believe they will be better dealt with hereafter by the Department the constitution of which we recommend; neither have we attempted to lay down specific methods by which Public Works should be carried out. On the subject of the disposal of sewage, for instance, we forbear to recommend any mode of operation. Your Majesty has commissioned others to report on this important subject. We leave Authorities, in dealing with this and other large sanitary requirements, to carry out the best known methods; and have confined ourselves to the delineation of a complete machinery for Local Government, and of the powers which are requisite for the purpose.

I. History of the Sanitary Laws up to the Present Time.

In the earlier periods of our history the common law afforded the only means by which a comparatively rude and scattered population could vindicate their right to protection from injury to health by neglect or nuisance.

12 Rd. II. c. 13. The Legislature, however, seems to have become speedily sensible of the need of taking additional precautions, and it is worthy of notice that in the year 1388 an Act was passed, imposing a penalty of no less than 20*l.* upon persons who cast animal filth and refuse into rivers and ditches. This may properly be considered as the first Sanitary Law in the Statute book. The next is an Act passed in 1489, which prohibits the slaughtering of cattle within cities and boroughs. Both these Acts, (which are reprinted among our Evidence), continued to be law until the year 1856, when they were, with other obsolete Statutes, repealed.

4 & 5 Hen. VII. 19 & 20 Vict. c. 64.

In the older records there is but little evidence to show to what extent the Courts of law and equity exercised remedial or restrictive interference in such matters, and the Sheriffs' Tourn and Courts Leet, which were in possession of sanitary powers, and probably in their day exercised useful local jurisdiction, fell at length into desuetude, and, unless in the case of exceptional Courts Leet, became obsolete. It is worthy of note that the Court Rolls of Stratford-on-Avon show that in 1552 Shakespeare's father was fined for depositing filth in the public street, in violation of the byelaws of the Manor, and again in 1558, for not keeping his gutter clean.

6 Hen. VI. c. 5. 8 Hen. VI. c. 3. 4 Hen. VII. c. 1. 23 Hen. VIII. c. 5. Commissions of 'Sewers' for the purpose of draining off or controlling the action of waters within defined limits, and of providing (but incidentally and to this extent only) for the health of the population, appear to have been issued by the Crown at its discretion from very early times, and Acts were passed in the reigns of Henry VI. and Henry VII. relating to this subject. At length in the reign of Henry VIII. the Statute of Sewers authorised the issue of Commissions of Sewers, at the discretion of the Lord Chancellor, the Lord Treasurer, and Chief Justices, and enacted a general definition of the duties of the Commissioners appointed by them—such as—the overlooking (within the particular district) of sea banks and sea walls, and the cleansing of rivers, public streams, and ditches. Important Commissions were from time to time issued in conformity with this Act, and operated in their several districts more or less directly on the public health; but had they been much more numerous, they would to no appreciable extent have supplied the absence of general or local sanitary legislation.

The more populous and wealthy towns began as early as the reign of George II. to seek a remedy in their individual cases by applications to Parliament for special legislation; and very numerous special Acts have been passed between that date and the present time for conferring on populous places powers of local government, pointed more directly in the earlier instances at the paving, lighting, cleansing, and improving the districts embraced in them, but recognising in all later instances the importance of sanitary regulations, and affecting to make provisions accordingly; but until lately no general measure applicable to the whole kingdom provided for the health and comfort of the people.

The attention of the Legislature has, however, been specially directed from time to time to meet the extraordinary attacks of pestilent and contagious diseases; as in the case of the stringent enactments introduced by James I. against the plague, and, as in later times, the Vaccination Acts have been directed against small-pox.

The recent sanitary legislation in this country has been remarkably drawn out by, and connected with, three outbreaks of cholera which led to investigations of the means of preventing or mitigating infectious diseases, and so drew attention to the fact that the seats of endemic disease are generally where the air or water are polluted.

First cholera, 1831. The alarm caused by the ravages of Asiatic cholera in the year 1831 led to the first move in sanitary reform.

6 Geo. IV. c. 78. 2 & 3 Will. IV. c. 10. Debates immediately took place in Parliament, and the provisions of a section of the Quarantine Act of 1825, giving the Privy Council power to make regulations in case of emergency, were greatly extended by a temporary Act of 1832.

Crowded parts of towns, and the courses of rivers fouled by refuse, were observed to be the chief resort of the epidemic. High, open, and dry situations were not attacked. The dense masses of working people, brought together by the rapid growth of manufacturing, mining, and commercial industry, had presented sanitary difficulties of such unprecedented magnitude as to be at once novelties and puzzles for legislative treatment.

3 & 4 Will. IV. c. 90. 11 Geo. IV. c. 27. The Lighting and Watching Act, 1833, repealing an older Act of 1830, made provisions for lighting and watching in parishes of England and Wales; enabled the ratepayers to appoint inspectors, who might contract for works; imposed penalties for contaminating waters by gas, and gave the Surveyor of the Commissioners of Sewers power to enter the premises of gasworks.

A Vestry, convened on application by three ratepayers, might adopt this Act.

5 & 6 Will. IV. c. 76. In 1835 the Municipal Corporations Act* was passed, by which a better organization, with powers of making byelaws for local government, and for the prevention and suppression of Nuisances, was given to certain municipalities in England and Wales.

6 & 7 Will. IV. c. 86. In 1836 was passed the Act under which the Registrar General of Births, Deaths, and Marriages was appointed. This Act considerably amended the machinery of registration, and gave the first means of deriving sanitary information from it by bringing the registers kept throughout the kingdom into collocation in the hands of a Registrar General, and by ordering him to prepare and submit an annual abstract of them to Parliament.

Reports, 1838. Report, Registrar General, 1839. Slaney's Committee, 1840. In 1838–9 three Reports made to the Poor Law Commissioners, as to the causes of disease prevalent in the Metropolis, led to an inquiry extending over Great Britain; and in 1839 the first Report of the Registrar General exhibited in a general survey the increasing amount, and the causes, of excessive mortality in towns. Mr. Slaney induced the House of Commons to appoint a select committee on the health of towns, which reported in 1840, recommending that Acts should be passed for a better regulation of buildings and construction of sewers, and for the appointment of Local Boards of Health and inspectors.

The Report drew attention to the evils of interments in populous cities; the importance of water supply; the want of open spaces in crowded cities; the necessity of some superintendence over common lodging houses; and the advantages which would result from the establishment of public baths.

Vaccination Acts, 1840, 1841. 3 & 4 Vict. c. 29, and 4 & 5 Vict. c. 32. In 1840 and 1841 the first Vaccination Acts were passed, which empowered the Guardians and Overseers, under the supervision of the Poor Law Commissioners, to contract for the vaccination of all persons resident in their unions and parishes respectively. The Act of 1840 prohibited the production of small-pox by inoculation or other means, and the latter Act provided that the expenses of vaccination should be paid out of poor rates, but that vaccination should not be considered parochial relief.

Chadwick's Report, 1842. In 1842 Mr. Chadwick's report to the Poor Law Board on the results of the above-mentioned inquiry ordered in 1839, so elaborately described the unsatisfactory sanitary condition of the labouring population, gave so much evidence of the effects of preventive measures in raising the standard of health and chances of life, and so ably exposed the feebleness of the law on the subject and its capability of amendment on recognised principles, that the Home Secretary, Sir James Graham, brought the subject under the serious attention of the Cabinet.

Duke of Buccleuch's Commission, 1843. In 1843 Sir Robert Peel issued a Royal Commission, of which the Duke of Buccleuch was chairman, to inquire into the state of large towns and populous districts; and the inquiry was specially directed to the causes of prevalent disease; to the best means of improving the public health by existing laws giving powers for drainage, water supply, and building regulations; and to possible amendments of those laws. This evidence elaborately traced, in the case of 50 sample towns, an excessive mortality to defective drainage, and other like causes capable of removal; and exhibited instances of reduced mortality where such causes had been removed.

23 Hen. VIII c. 5. It appeared that the then existing law respecting drainage, namely, the Statute of Sewers, under which Commissions of Sewers were issued, contemplated only surface drainage, and that in most of the large towns the communication of house drains with the main sewers was prohibited, or made a matter of special privilege.

It also appeared that few of the Local Improvement Acts then passed gave any jurisdiction over sewers for the discharge of refuse, or were based on any complete schemes of sewerage, and that in relation to water supply, they only provided that mains should be laid in the principal streets.

General uncleanliness, and deficiency and impurity of water, especially in the poorer parts of towns, were the result. Costly charges, for any improvement, were made on owners or occupiers, while more comprehensive plans might have been better carried out for a quarter of the cost.

Duke of Buccleuch's Second Report, 1845. In a second report, made in 1845, these Commissioners recommended that the Crown should inspect and supervise the sanitary improvement of towns and populous districts; that

* This Act illustrates the extent to which special local legislation had then proceeded: a schedule to the Act enumerating nearly 200 such Acts which had then previously been passed and remained in force for conferring powers in the boroughs regulated by it.

Local Authorities should have more power, and that their districts should be enlarged and made co-extensive with drainage areas; that the necessary arrangements for drainage, paving, cleansing, regulating buildings, and water supply should be under one Administrative Body; and that there should be compulsory rating for water supply as well as for sewerage, the Local Authority contracting with any companies which might have already undertaken the supply.*

The legislation required for accomplishing these purposes was, after two failures, effectually commenced in the following year.

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* Extract from the Second Report of the Royal Commission on the State of Large Towns and Populous Districts. Cf. pp. 13–68.

(The recommendations in this Report are of such interest, and have exercised so great an influence upon the whole course of subsequent legislation, that we here transcribe them).

'We therefore recommend (say these Commissioners):

'I. That in all cases the local administrative body appointed for the purpose have the special charge and direction of all the works required for sanitary purposes, but that the Crown possess a general power of supervision.

'II. That before the adoption of any general measure for drainage, a plan and survey upon a proper scale, including all necessary details, be obtained, and submitted for approval to a competent authority.

'III. [In order to remedy evils arising from limited jurisdiction for drainage] and to render unnecessary the frequent applications to Parliament for additional powers and extension of jurisdiction, we recommend that the Crown be empowered to define and to enlarge from time to time the area for drainage included within the jurisdiction of the local administrative body.

'IV. That the local administrative body appoint the executive and other officers under it; that the appointment and dismissal of the chief surveyor be subject to approval; that such officer produce proof of his qualification for the office to which he shall be appointed, and, if required, be subject to an examination.

'V. That on representation being made by the municipal or other authority, or by a certain number of the inhabitants of any town or district, or part thereof, setting forth defects in the condition of such place as to drainage, sewerage, paving, cleansing, or other sanitary matters, the Crown direct a competent person to inspect and report upon the state of the defects, and if satisfied of the necessity, have power to enforce upon the local administrative body the due execution of the law.

'VI. That the management of the drainage of the entire [drainage] area as defined for each district be placed under the jurisdiction of one body.

'VII. That the local administrative body be empowered to raise money for purchasing the rights of mill owners and others, where the mill dams or other obstructions injuriously affect the drainage of the district comprised within the area defined; inquiry in each case having been previously made by the proper officer into the necessity of the purchase, and the amount to be paid.

'VIII. That the construction of sewers, branch sewers, and house drains, be intrusted to the local administrative body.

'IX. That the landlords of houses be rated for the purposes of the Act when the houses are let in separate apartments, or when the rent is collected more frequently than once a quarter, or when the yearly rent is less than 10*l.*, such a deduction being made from the gross amount of the rate, as may be considered a fair equivalent for the labour and losses incident to the collection of rents on such property.

'X. That the duty of providing the funds necessary to be imposed upon the local administrative body, and that the cost of making the main and branch sewers be equitably distributed among the owners of the properties benefited; and that the expense of making the house drains be charged upon the owners of the houses to which the drains are attached. That the expense remain a charge upon the properties to be levied by a special rate upon the occupiers, and recovered with interest by annual instalments within a certain number of years, unless the owners prefer to pay the cost in the first instance, and except in the cases mentioned in the ninth Recommendation.

'XI. That some restriction be placed on the proportionate rates in the pound to be levied in each year; but if the local administrative body finds that there is need for larger funds, for the immediate execution of works for sanitary measures, than can be provided by such rates, it be empowered to raise, by loan on security of the rates, subject to the approval of the Crown, such sums as may be requisite for effecting the objects in view.

'That provision always be made for the gradual liquidation of such debts within a limited number of years.

'XII. That the whole of the paving and the construction of the surface of all streets, courts, and alleys, be placed under the management of the same authority as the drainage, and that the limits of jurisdiction for both purposes, wherever practicable, be co-extensive. That the principle above submitted in respect to the cost of making drains and sewers, and the equitable distribution of the expense, be adhered to in the case of laying out, levelling, and paving of streets, courts, and alleys; but for the purpose of ensuring the greatest efficiency and economy in the execution of the work, it be performed by the local public officers.

'XIII. That the provisions in local Acts vesting the right to all the dust, ashes, and street refuse in the local administrative body be made general, and that the cleansing of all privies and cesspools at proper times, and on due notice be exclusively entrusted to it.

'XIV. That many of the more common nuisances which prevail within towns, such as large collections of dung, be declared nuisances, and be summarily abated.

'XV. That after such a period as it may be deemed advisable to fix, the provisions in local Acts for preventing the escape of dense black smoke from furnaces and steam engines in towns be made general. We also recommend that these provisions be applied, so far as is practicable, to steamboats usually plying within the limits of any city or town subject to the operation of such Act.

'XVI. That in cases where complaints shall be substantiated that the inhabitants of any house, street, or district in towns be injuriously affected by the noxious exhalations of any factory, power be given to the local administrative body to ascertain the cause of such exhalations, and to take legal proceedings for the abatement of the evils, in the event of such evils not being removed on due representation.

'XVII. That with a view of ensuring a sufficient supply and proper distribution of water to all classes, it be rendered imperative on the local administrative body charged with the management of the sewerage and drainage to procure a supply of water in sufficient quantities not only for the domestic use of the inhabitants, but also for cleansing the streets, scouring the sewers and drains, and the extinction of fire.

'That for this purpose the said body have power to contract with Companies or other parties, or make other necessary arrangements.

'XVIII. That where any independent body has the management of the supply of water, it be liable to comply with the demand of the local administrative body on equitable terms, and that, further, the local administrative body be empowered to purchase the interests in waterworks, subject to the control of the Crown, whenever the proprietors are willing to dispose of them.

'That on the establishment of new Companies it be made a condition that the local administrative body be enabled to purchase the works after the lapse of a certain number of years, upon certain terms, and upon a rate of interest to be fixed; and that with a view to economy competition between Water Companies be discouraged as far as practicable.

'XIX. That as soon as pipes are laid down, and a supply of water can be afforded to the inhabitants, all dwelling houses capable of benefiting by such supply, be rated in the same way for sewerage and other local purposes; and the owners of small tenements be made liable to pay the rates for water, as we have already recommended in respect of drainage.

'XX. That every facility be afforded to furnish ample supplies of water to public baths and washhouses that may be established for the use of the poorer classes.

'XXI. That for increasing the protection of property from fire, in all cases the supply of water in the mains be not only constant, but also at as high a pressure as circumstances will permit, and that fire plugs be inserted in the mains at short intervals.

'XXII. That subject to proper control, the local administrative body be empowered to raise money for the purchase of property for the purpose of opening thoroughfares, and widening streets, courts, and alleys, so as to improve the ventilation of the densely crowded districts of towns, as well as to increase the general convenience of traffic.

'XXIII. That with the view of ensuring better external ventilation courts and alleys be not built of a less width than 20 feet, and that they have an opening of not less than 10 feet from the ground upwards at each end; the width of the court being in proportion to the height of the houses.

'XXIV. [Whereas local Acts have already been passed for Liverpool, Leeds, and London, prohibiting the use of cellars as dwellings, unless they are so constructed as to provide protection against the existence of such evils as we have pointed out] that such provisions be made general, and that after a limited period the use of cellars as dwellings be prohibited, unless the rooms are of certain dimensions, are provided with a fireplace and window, of sufficient size, and made to open, and have an open space in front, and that the foundations are properly drained.

'XXV. [Whereas a few local Acts contain clauses empowering the authorities to compel the erection of privies] that the provisions referred to be made general, and that all new houses be provided with proper necessaries for the accommodation of the inmates.

'XXVI. That measures be adopted for promoting a proper system of ventilation in all edifices for public assemblage and resort, especially those for the education of youth.

'XXVII. That on complaint of the parish medical or other authorized officer, that any house or premises are in such a filthy and unwholesome state as to endanger the health of the public, and an infectious disorder exists therein, the local administrative body have power to require the landlord to cleanse it properly without delay; and in case of his neglect, or inability, to do so by its own officers, and recover the expense from the landlord.

'XXVIII. That the magistrates have power to license and to issue rules, to be approved by the Crown, for the regulation of lodging houses for the reception of vagrants, trampers, and other such wayfarers.

'XXIX. That the local administrative body have power to appoint, subject to the approval of the Crown, a medical officer properly qualified to inspect and report periodically upon the sanitary condition of the town or district, to ascertain the true causes of disease and death, more especially of epidemics increasing the rates of mortality, and the circumstances which originate and maintain such diseases, and injuriously affect the public health of such town or populous district.

'XXX. That for the purpose of aiding the establishment of public walks, in addition to the legal facilities adverted to, [viz., some alteration of the law in the case of common or waste lands in the vicinity of a town,] the local administrative body be empowered to raise the necessary funds for the management and care of the walks when established.'"

* Besides the Acts named in the text, *nine* "Clauses Acts" were passed in the years 1845–7, viz., Incorporation of Companies; Taking Lands; and Making Railways, 8 & 9 Vict. cc. 16, 18 & 20. Markets and Fairs, Gasworks, Incorporation of Public Commissioners, Waterworks, Harbours, &c., and Cemeteries, 10 & 11 Vict. cc. 14–17, 27, & 65.

In 1846 was passed the first of a series of Acts for the removal of nuisances. By this Act a summary jurisdiction in such matters was first given to Justices in petty sessions, on the information of Town Councils, or Commissioners under Local Acts or Boards of Guardians, as the case might be; nuisances were defined to be the filthy or unwholesome condition of any dwelling-house or other building, or of any accumulation of any offensive matter, dung, &c., or of the existence of any foul drain, privy, or cesspool. Nuisances Removal and Diseases Prevention Act, 1846, 9 & 10 Vict. c. 96.

This introduction of Guardians among the Authorities for such purposes may be said to have first extended sanitary legislation to rural districts.

The Act also empowered the Privy Council to make regulations for the prevention of formidable contagious diseases. This Act was to remain in force until the end of the Session of 1848.

In 1847 the Towns Improvement Clauses Act and the Towns Police Clauses Act were, with several similar Acts,* passed for consolidating in one Act respectively certain provisions generally required in local Acts for various public purposes, and by thus supplying provisions for many requisites for Local Government in the way of regulation of streets and buildings, consumption of smoke, supply of water, &c. &c., they considerably facilitated further legislation. Except in special cases their provisions have been adopted in all subsequent local legislation. Clauses Acts, 1847.* 10 & 11 Vict. c. 34. 10 & 11 Vict. c. 89.

In 1848 was passed the first great and comprehensive measure which may be called the ground-work of our Sanitary Legislation. It, however, was principally designed, as appears from the preamble, for towns and populous places in England and Wales, not including the metropolis, and it did not come into force in any locality unless petitioned for by ratepayers, or enforced by the Board of Health upon evidence of an exceptionally high rate of mortality. It seems, from the debate on Lord Morpeth's introduction of the bill, that dissatisfaction with the sanitary administration of the country, under the Common Law and Local Acts, and in the absence of any general legislation, led to the establishment of the General Board of Health, consisting of a President and two other persons appointed by the Crown, of whom one was paid. A second paid member was added to the Board in the year 1850 by "The Metropolis Interment Act," which imposed new duties on the Board. The Board which was to be continued during five years was empowered to appoint inspectors. Public Health Act, 1848, 11 & 12 Vict. c. 63. General Board of Health. 11 & 12 Vict. c. 63, §§ 4, 6.

The powers of local government supplied by this Act were generally an extension of those before given by sundry Local Acts to Commissioners of Sewers in the Metropolis, and to Authorities in a few large towns. Many provisions corresponding to sections in the Towns Improvement Clauses Act are found in the Act; and Communities were thus enabled to obtain by a simple process powers which they could not previously obtain except by a Local Act incorporating sections of the Towns Improvement Clauses Act. 13 & 14 Vict. c. 52. §§ 2, 31. Cf. 15 & 16 Vict. c. 85 §1.

The powers specified were for constructing or managing sewers and drains, wells, pumps, water and gas works, deposits of refuse, waterclosets, slaughter-houses; regulating offensive trades; removing nuisances, and protecting waterworks belonging to local boards from pollution; paving; regulating streets, dwellings, common lodging houses, cellars, &c.; providing burial grounds, recreation grounds, &c., and supplying public baths with water.

Facilities were also given for purchasing land, and authority for levying rates for such purposes. Local Boards were, moreover, made Surveyors of highways.

All public sewers were vested in the Local Boards.

In Corporate Boroughs the Town Councils were to be the Local Boards of Health: in other districts Local Boards of Health were to be elected by owners and ratepayers.

11 & 12 Vict. c. 63 § 36. §§ 37–40.

The Local Boards might appoint committees to act, subject to their approval, for special purposes, and by subsequent sections the appointment of such officers as surveyors and inspectors of nuisances was directed, and that of a member of the medical profession, to be called an officer of health, who was to perform such duties as the general board might order, was authorised. Contracts for public works, special assessments, and appeals were also provided for.

A cheap and easy mode of procuring the amendment or repeal of Local Acts by the machinery of Provisional Orders was now introduced.

Nuisances Removal and Diseases Prevention Act, 1848. 11 & 12 Vict. c. 123. 12 & 13 Vict. c. 111.

In 1848 was also passed the Nuisances Removal and Diseases Prevention Act of that year, in substitution for a similar Act of 1846 which was about to expire, and in 1849 this Act of 1848 was amended.

These Acts were not (as the previous Act of 1846), passed for a limited period, a circumstance which indicates an increased confidence in this class of legislation; they strengthened the previous statutory remedies, but were repealed, so far as relates to England, in 1855, to make way for still more stringent provisions.

Second cholera, 1849.

In 1849 the second visitation of cholera came, and the reports then made by the medical officers who had been established more clearly traced the most fatal ravages of the epidemic to the crowded alleys of large old towns, impure air and water, and foul streams.

14 & 15 Vict. c. 28. 16 & 17 Vict. c. 41. 15 & 16 Vict. c. 84.

The Common Lodging Houses Acts of 1851 and 1853, and the Metropolitan Water Act, 1852, showed increased attention to the necessity of sanitary precautions. These enactments, affecting limited portions of our subject, are merely mentioned here to trace continued progress, and because by the latter a supervising power was given to the Board of Trade, introducing a new controlling power into, and so complicating, sanitary government.

The Lodging House Acts we shall describe by-and-bye; Metropolitan Acts do not come into our inquiry.

Town Sewerage Works.

Encouraged by the facilities which the Public Health Act, 1848, offered, the towns began to carry out large works for their own sewerage and drainage, taking the rivers, on which most of them had been situated for water supply, as the means of discharging what they simply looked upon as refuse; regardless of the loss to themselves of pure water of the waste of sewage, and of the injury to the inhabitants of the valleys through which these poisoned rivers were afterwards to flow.

Thus men and cattle suffered by drinking from a polluted stream which should have afforded a pure supply to both town and country, whilst the towns were throwing to waste that which should have been employed as a valuable manure by the country, and the only remedy was by costly and tedious actions at law and suits in Chancery.

Third cholera, 1854.

In 1854 the third visitation of Asiatic cholera came, somewhat less destructively, except in certain localities, and by those very circumstances carrying additional warning of the need and use of sanitary precaution.

Its immediate effect, in inspiring the Legislature with renewed activity, is remarkable.

Postponing the consideration of some subsidiary legislation for special objects incidentally conducive to sanitary improvement, we find the next step in the general course of legislation one which we have already noticed, namely, the substitution in 1855 of a comprehensive Nuisance Removal Act, for the Acts passed in 1848 and 1849, which were repealed.

Consolidated Nuisance Removal Act, 1855 18 & 19 Vict. c. 121.

This Act consolidated the law relating to removal of nuisances, made a fresh and extended definition of nuisances, enabled Local Authorities to appoint Sanitary Inspectors and allow them a proper salary, enabled surveyors of highways to cleanse or make ditches near highways, imposed penalties on pollution by gas of any streams or reservoirs, authorised sanitary inspectors to examine and seize unwholesome meats, and dealt with noxious trades. Under this Act the Local Authorities had certain limited

§ 29.

powers of entry given them; there was also a provision against overcrowding of houses.

It was to be executed by the Local Boards constituted throughout England and Wales, excepting the Metropolis, and added to the category of Local Authorities Highway Boards; a Committee called the Nuisance Removal Committee, which might be annually chosen by the Vestry; a Board of inspectors for lighting and watching, with the Surveyor of highways; or the Guardians and Overseers of the poor and the Surveyors of highways. The Guardians *per se* were no longer an Authority under the Nuisance Removal Act of 1855.

Diseases Prevention Act, 1855. 18 & 19 Vict. c. 116.

The exceptional powers relating to formidable contagious or epidemic diseases were brought into a separate Statute of the same year, the Diseases Prevention Act, 1855, which continued the powers of preceding Acts, under which the Privy Council might issue orders during the prevalence of any "formidable epidemic, endemic, or contagious" disease, and amended the powers of the Board of Health as to issuing regulations where such orders should be in force. Such regulations, when made, were to relate to the speedy interment of the dead, house to house visitation, the dispensing of medicines, and affording medical skill and accommodation, but were not to extend to cleansing of streets, &c., cleansing, disinfecting, &c. of houses, &c., and removal of nuisances.

The separate treatment of "nuisance removal" and "diseases prevention" as subjects distinct from general sanitary administration and from each other, illustrates the casual and experimental course of legislation, which has led not only to confusion by unmeaning distinctions between common provisions for public health, but to repetition of subjects in parallel enactments. This confusion is further increased by the Authorities instituted for special purposes being frequently the same as the general Authorities, under special designations.

Reconstruction of the Gen. Board of Health, 1854. 17 & 18 Vict. c. 95. 18 & 19 Vict. c. 115.

In the year 1854 the Board of Health was reconstructed, and thenceforth consisted of a President and the Secretaries of State, together with the President and Vice-President of the Board of Trade. The President was to receive a salary of 2,000*l.*, and might sit in Parliament. The other members were not paid any salary in consideration of their new duties. The Board was to continue during one year and to the end of the next session.

The continuance Act of 1855 enabled the Board of Health to appoint a paid Medical Council, consisting of such number of persons as the Board, with the consent of the Treasury, might think expedient, and a *paid Medical Officer*, and to assign to such Council and Medical Officer such duties as the Board might see fit. Under this Act the Board proceeded to appoint Mr. Simon, the Medical Officer, who (under the Privy Council) still ably executes the duties of the office. The Board was again continued during one year and to the end of the then next session.

Although the Acts for the regulation of the Metropolis are outside our inquiry, they are very significant of and have often taken the lead in Sanitary progress, and we must mention, as showing the turn which public opinion was taking, that in the Metropolitan Local Management Act of this year, 1855, by which the Board of Works for the Metropolis was created, and the old Commissioners of Sewers were abolished, provision was made for the appointment of a medical officer of health and an inspector of nuisances, by every Vestry. The former officer is a legally qualified practitioner, and his duties are to inspect and report periodically on the sanitary condition of his district, to ascertain the existence of diseases, to point out the existence of any nuisance, and to give advice on the best sanitary expedients of all sorts. His practice is to consult always the books of the Registrars, and of the hospitals, dispensaries, workhouses, and all public institutions affording sanitary information. The latter officer sets the law in motion. This Act was amended in 1862 in some particulars.

18 & 19 Vict. c. 120. §§ 132, 133. 25 & 26 Vict. c. 102.

Gen. Board of Health expires 1858, 21 & 22 Vict. c. 97.

In 1858 the General Board of Health was allowed to expire, having only been continued since its re-construction in 1854 by yearly renewals;* and the powers given to that Board by the Diseases Prevention Act of 1855, to issue regulations in case of epidemics, were, with other powers for protection of health, vested in the Privy Council.

Local Government Act, 1858, 21 & 22 Vict. c. 98.

In the same year, 1858, the Local Government Act, which is to be construed with the Public Health Act of 1848, as one Act, was passed, and took effect in all places where that Act was in force at the time of its passing; and the two together constitute the principal sanitary legislation now on the Statute Book.

The Local Government Act, 1858, amended the Public Health Act of 1848 as to the constitution and powers of Local Boards of Health in towns or populous districts in England and Wales, excepting the Metropolis. It handed over to the Home Secretary the few remaining functions of the discontinued General Board for the purposes of sanctions, provisional orders, and appeals, and the Local Government Act Office was made a sub-department of the Home Office for the execution of the Act, and for the central superintendence and assistance of all Local Boards.

From the passing of this Act its provisions, read in connexion with the previous Statute of 1848, became the governing powers of all existing Local Boards of Health, and

* 17 & 18 Vict. c. 95; 18 & 19 Vict. c. 115; 19 & 20 Vict. c. 85; 20 & 21 Vict. c. 38.

became, without the necessity for any further legislation or any provisional order, or any sanction by the Central Authority, capable of adoption, in part or wholly, by the resolution of Town Councils in Corporate Boroughs, of Towns Improvement Commissioners in all ordinary cases of Improvement Commissioners; of owners and ratepayers in all other places having defined boundaries; and in all other places not having defined boundaries the provisions of the two Statutes were made capable of adoption in approved cases through the instrumentality of the Secretary of State.

Local Boards armed with the powers of this Act in amendment of those of 1848, might even compulsorily interfere with private property by purchase, through means of provisional orders, confirmed by Parliament; and by the same process Local Acts might be repealed or altered, and districts changed under amended provisions of the Act of 1848. The powers for compulsory taking of land under the 75th section mark an important and new step in legislation. The same Act greatly extended local powers for the execution of sanitary works in such urban districts as adopted it; and gave, in fact, most of the requisite powers of police and municipal government, if only they were duly sought and duly used.

Local Govt. Amendt. Acts.

Besides the Local Government Act Amendment Acts of 1861 and 1863, further powers have been given to Local Boards by the Sanitary Acts of 1866, and following years.

24 & 25 Vict. c. 61.

The Local Government Act Amendment Act of 1861 provided for the costs of proceedings in adoption of the Act of 1858, gave powers of its partial adoption to any Local Authorities, under Local Acts or otherwise, although not invested by the Local Acts with powers of sanitary regulation and extended powers beyond districts for the outfall of sewers and for repairs of highways in parts of parishes not included within the boundaries of any Local Board district. It made other new provisions, especially as to borrowing.

26 & 27 Vict. c. 17.

The principal objects of the Local Government Act Amendment Act of 1863 were to prevent the adoption, unless with the approval of the Secretary of State, of the Local Government Act, 1858, in places having less than 3,000 inhabitants, and to declare that Act no longer in operation in places of like population which had adopted or might adopt it, unless within three months after adopting it they proceeded to elect their board and appoint the officers required by the Local Government Act. This Act also amended the preceding Acts in some matters of detail.

Nuisance Removal Amendt. Acts.

Before describing the Sanitary Acts, we must notice as earlier in date the Nuisances Removal and Sewage Utilization Acts. The former (nuisances being still treated as a separate subject), were amended by an Act of 1860, another Act of 1863, and Act of 1866, and the second part of the Sanitary Act of 1866.*

23 & 24 Vict. c. 77.

The Nuisances Removal Amendment Act of 1860 amended the Nuisance Removal and Diseases Prevention Acts of 1855, again constituting the Guardians the Local Authority, as in the Act of 1846, and enabling them to appoint Committees for one or more parishes or places for executing the Act.

26 & 27 Vict. c. 117.

The Nuisances Removal Amendment Act of 1863 gave powers to medical officers of health or inspectors of nuisances as to the seizure of unwholesome meat, fish, fruit, bread, &c.

Sewage Utilization Acts.

28 & 29 Vict. c. 75, 1865.

The Sewage Utilization Act of 1865, which applied also to Scotland and Ireland, was, as its title suggests, passed for the purpose of enabling existing Authorities, *e.g.* Town Councils, Improvement Commissioners, Vestries, &c., to dispose of the sewage of their districts so as not to become a nuisance, and to make arrangements for its application to agricultural purposes. With these views it empowered those bodies under the designation of 'Sewer Authorities' to construct sewers, to exercise specified powers of the Acts of 1848 and 1858, and the amendment Acts (including those for acquiring land by compulsion), and to take measures for preventing the pollution of streams, &c. This Act largely increased the sanitary powers exercisable in rural districts, if indeed it may not be said to have introduced into such districts the first real instalment of active sanitary powers. The expenses of carrying the Act into execution were to be paid by Town Councils out of the Borough fund or rate, by Improvement Commissioners or Trustees out of the rates leviable by them, and by Vestries out of the poor rate.

30 & 31 Vict. c. 113.

The Sewage Utilization Act of 1867 gave further power to the Authorities to distribute sewage outside their districts and to purchase land for that purpose; and to several Authorities to unite their districts, and their Boards, for operations affecting all of them. It also authorised the levying of a rate for defraying the expenses of Sewer Authorities, exempting the same properties as are exempted in the case of the general district rate levied by a Local Board. Under this Act Local Boards were constituted 'Sewer Authorities' within their respective districts in place of Vestries.

* 23 & 24 Vict. c. 77, 26 & 27 Vict. c. 117, 29 & 30 Vict. cc. 41 & 90.

Sanitary Acts. 29 & 30 Vict. c. 90, pt. i.

To return to the Sanitary Acts, that of 1866 in its first part amended the Sewage Utilization Act, giving to "Sewer Authorities" power to form committees, and to Vestries in that capacity to form special drainage districts, and extending their powers of making and using sewers and supplying water.

Pt. ii.

In its second part it amended the Nuisance Removal Acts, and added to the definitions of nuisances, especially as regards crowded houses and workshops, and smoke, and to the duties and powers of "Nuisance Authorities;" especially in the way of providing means for disinfection and places for the reception of dead bodies. Section 16 moreover empowers the Chief Officer of Police, under the direction of the Secretary of State, to take proceedings in default of the Nuisance Authority.

Pt. iii.

The third part enabled Authorities, with the consent of the Secretary of State, to make regulations as to houses let in lodgings, hospitals, and baths; empowered the Privy Council to compel two or more Boards of Guardians to act together in executing the Diseases Prevention Act, and Burial Boards to transfer their powers to Local Boards, and Local Boards to adopt the Baths and Wash-houses Act. The 46th section incorporated Sanitary Authorities.

The 49th section of this Act was a great step in advance, it authorised the Secretary of State, in case of default, to proceed—first by calling on the defaulting Authority to remedy its omission, and in the event of continuing default, to perform the neglected duty at the expense of the district.

31 & 32 Vict. c. 115.

The second Sanitary Act (1868), extended the provisions of the Public Health Act as to the removal of house refuse to all Sanitary Authorities. This gave Vestries, as Sanitary Authorities, many powers similar to those of Guardians as Nuisance Authorities.

32 & 33 Vict. c. 100.

The Sanitary Loans Act of 1869 empowered the Public Works Loan Commissioners, on the certificate of the Secretary of State, to advance sums required for the execution of sanitary works done by him on the default of any Local Authorities, charging local rates with its repayment.

33 & 34 Vict. c. 53.

And lastly, the Sanitary Act, 1870, was passed to facilitate the removal of infected persons who were without proper accommodation, and to provide for service of notices in special drainage districts and of orders of the Secretary of State on Sewer Authorities.

Summary.

To give a summary of what may be called general sanitary laws, there are now on the Statute Book no less than fifteen Acts, namely,—

The Public Health Act of 1848;
The Local Government Act of 1858;
Its two Amendment Acts of 1861 and 1863;
The Diseases Prevention Act of 1855;
The Nuisance Removal Act of 1855;
Its three Amendment Acts of 1860, 1863, and 1866;
The two Sewage Utilization Acts of 1865 and 1867;
The two Sanitary Acts of 1866 and 1868;
The Sanitary Loans Act, 1869;
And the Sanitary Act, 1870.

Some of these later Acts apply to Scotland and Ireland, which have also their peculiar Acts, and there are many other Acts applying to the Metropolis, but for the area of our inquiry this is the general code.

Statistics.

There are upwards of seven hundred districts, urban and semi-rural, which by Councils, Commissions, or Elected Boards exercise the powers of the Public Health and Local Government Acts. A comparatively small number of towns are still governed by Local Improvement Acts alone. But these towns, as well as all Boards of Guardians and Vestries, have respectively the powers conferred by the Nuisance Removal, Sanitary, and Sewage Utilization Acts.

Notwithstanding this wide application of sanitary Statutes, there are still many places with very defective sanitary government, and still more with practically none at all, owing to the defective exercise of the powers which the law confers.

Subsidiary and Special Acts.

These general Acts are not, however, all the Acts that have emanated from the advancing public interest in such matters.

There are many Acts for special purposes bearing most materially on sanitary interests which, though not to be reckoned as part of the general legislation on the subject, nor all capable of being consolidated with it, yet have sprung from the same motives in Parliament, and from the awakened anxiety throughout the country in relation to health. We need merely glance at their various provisions.

Burial Acts. 13 & 14 Vict. c. 52. 15 & 16 Vict. c. 85. 16 & 17 Vict. c. 134. 17 & 18 Vict. c. 87. 18 & 19 Vict. cc. 79 & 128. 20 & 21 Vict. c. 81. 22 Vict. c. 1. 23 & 24 Vict. c. 64. 29 & 30 Vict. c. 90, § 44.

The first in this category of subsidiary and special enactments are the Burial Acts.

The Reports of the Commission of 1843 "on the sanitary condition of the labouring population as affected by interments within towns" led to the Metropolitan Interment Acts of 1850 and 1852, enabling the Privy Council to discontinue dangerous burial places in London. By the Act of 1852, Vestries in the Metropolis were enabled under certain circumstances to appoint a Burial Board for providing and maintaining a burial ground; and Vestries of more than one parish might unite for the purpose.

A Burial Act of 1853 extended this legislation to the provinces.

The recurrence of cholera in 1854 brought about further legislation by the Burial Act, 1854. Orders in Council can invest Town Councils with the power of providing burial places.

An Act for the burial of poor persons was passed in 1855, and by a second Burial Act in 1855, Churchwardens were enabled, without requisition of ratepayers, to convene a meeting to determine on provision of a burial ground and appointment of a Burial Board; but Local Boards acting as Burial Boards under Local Acts were, by a saving clause, protected in the exercise of all their powers.

The Burial Acts Amendment Act of 1857 enabled Local Boards of Health, or Commissioners elected by ratepayers under Local Acts, by Order in Council, upon petition under certain circumstances, to be constituted Burial Boards; and a Burial Act of 1859 gave churchwardens summary powers, in certain cases of neglect by private individuals, to prevent danger to health arising from places of burial. The Burial Act, 1860, provided for the expenses of Local Boards of Health when acting as Burial Boards being paid out of the general district or a separate rate, according to the case, and made corresponding provisions in cases of Commissioners elected by ratepayers under Local Acts, when acting as Burial Boards.

The general Acts make several other provisions incidentally relating to this subject, and the common law imposes responsibilities upon individuals.

The Sanitary Act of 1866 enabled Burial Boards to transfer all their property and powers to Local Boards having conterminous districts, on resolution of the Vestry, and agreement of both Boards.

The multiplicity of these Acts on the special subject of burial, and the manner in which the general Acts trench on the same subject with them, make their consolidation desirable.

Factory Acts. 3 & 4 Wm. IV. c. 103. 4 & 5 Wm. IV. c. 1. 30 & 31 Vict. c. 103. 27 & 28 Vict. c. 48, § 4.

The Factory Acts which limit the hours of labour of young working people must be considered among the most important of the sanitary provisions which have been made by Parliament during the past quarter of a century.

The first of these Acts to which we need call attention (omitting the original Act of 1802, &c.*) was passed in 1833, and was amended and strengthened the following year.

Since 1844 no less than twenty Acts have from time to time contributed some additional stringency or extent of application to these laws, until 1867, when the Factory Acts Extension Act, embraced within the definition of Factory almost every description of manufacturing premises. The earlier Acts contained some direct sanitary provisions, *e.g.*, they enforced whitewashing the inside walls, and a section of the Act of 1864 had provided for cleanliness and ventilation; and this section was incorporated by the Extension Act of 1867.

Workshops Act. 30 & 31 Vict. c. 146. 26 & 27 Vict. c. 40. 33 & 34 Vict. c. 62.

The Workshop Regulation Act was passed the same year, 1867, from the operation of which any Factory or place subject to the Factory Acts, and any bakehouse as defined by the Bakehouse Regulation Act, 1863, were specially excluded according to the isolated and tentative mode of all this legislation. There are also sections of the Sanitary Act guarding workshops from overcrowding. The Commission on the employment of children and young persons not already regulated by law, has advanced this legislation beyond controlling trades and manufactures to deal with public gangs employed in agriculture. The Bleaching and Printing Works Commission led to the further application of the Factory Acts by an Act of 1870, to Print Works and Bleaching and Dyeing Works, which had been under two separate sets of Acts. A Committee of the House of Commons in 1866–7, inquired into the condition of men labouring in coal and iron mines, but no Act has yet resulted. All this legislation, as soon as complete, should be consolidated.

But though these Factory and other Acts form one of the most important parts of Sanitary Legislation, it must probably be kept as a distinct part, especially as it is much mixed up with educational and other considerations; and the manufacturers, who are the

* 42 Geo. III. c. 73, 59 Geo. III. c. 66, 60 Geo. III. c. 5, 6 Geo. IV. c. 63, 10 Geo. IV. cc. 51, 63, and 1 & 2 Will. IV. c. 39.

chief subjects of its restrictive provisions, are also under the existing law the main executive for its enforcement.

Baths and Wash-houses Acts, 9 & 10 Vict. c. 74, and 10 & 11 Vict. c. 61.

In 1846–8, the Baths and Wash-houses Acts enabled inhabitants of towns through the Town Councils to supply themselves with the means of cleanliness, and in other places Vestries specially convened might, by a resolution of two-thirds of the number of votes, adopt them with the approval of a Secretary of State. In the one case the Town Council, in the other Commissioners appointed by the Vestry, are to execute these Acts, and a great number of places have already availed themselves of the powers given. By the 43rd section of the Sanitary Act, 1866, Local Boards may adopt these Acts for districts in which they are not in force.

10 & 11 Vict. c. 89. § 69.

There are provisions of the Towns Police Clauses Act of 1847, respecting bathing, which are incorporated into the Local Government Act of 1858.

Lodging Houses Acts, 11 & 12 Vict. c. 63. § 66. 14 & 15 Vict. c. 28. 16 & 17 Vict. c. 41.

Another class of subsidiary Sanitary Acts are those relating to crowded dwellings. The Public Health Act of 1848, makes it unlawful to keep a common lodging house unless registered, and imposes on Local Boards of Health the duty of registering such houses, and of making byelaws fixing the number of lodgers who may be received into them, and of regulations for cleaning, ventilating, and inspection. The Common Lodging House Acts of 1851–3 compel those who keep them to give immediate notice to the Local Authority of any contagious disease therein.

14 & 15 Vict. c. 34.

There is also the Labouring Classes Lodging Houses Act of 1851, which may be adopted in any district having a Local Board of Health, Town Council, or Improvement Commission, or, with consent of the Secretary of State, in a parish or in united parishes having a population of 10,000. Under this Act the Authorities may make or hold lodging houses, and take loans for that purpose, and make regulations for their being well kept.

31 & 32 Vict. c. 130.

Lastly, there is the Artizans and Labourers Dwellings Act of 1868, which applies to all places in the United Kingdom having above 10,000 inhabitants. Upon a report from householders of any premises being in a condition dangerous to health, this Act makes it incumbent on Authorities to force the owner of premises dangerous to health so as to be unfit for human habitation to a remedy, or to undertake a remedy themselves.

Wherever there is a Local Board, it is the Local Authority referred to in these Acts, and the Secretary of State is the referee for appeals in certain cases. There are also provisions against overcrowding in the general Acts of so similar a nature that it would be desirable that a consolidated Act should embrace the whole subject.

Vaccination Acts, 30 & 31 Vict. c. 84.

The Vaccination Acts form an important class of sanitary legislation; they were consolidated by the Vaccination Act, 1867, though unfortunately the old Acts are not all wholly repealed. Boards of Guardians have to arrange the vaccination districts, subject to the approval of the Poor Law Board, and are charged with specific duties and payments of fees incurred in executing the law. General regulations and additional payments for successful cases are left to the discretion of Privy Council, and the Registrar General provides forms. Parents are liable to penalties for neglect of their children's vaccination. Inoculation is prohibited by this Act.

Contagious Diseases Act, 29 & 30 Vict. c. 35.

The Contagious Diseases Act of 1866 provides against the spread of venereal infection, and though restricted in its operation to military and naval stations, is a very remarkable instance of legislative interference in the way of sanitary regulations.

There are other subjects relating to public health which are treated singly, by separate Acts of Parliament, and sometimes needlessly disconnected from general legislation.

Adulteration of Food Act, 23 & 24 Vict. c. 84. 28 & 27 Vict. c. 117.

The Act passed in 1860 "for preventing Adulteration of Articles of Food or Drink," empowers not only Commissioners of Sewers in the City of London, and Vestries and District Boards in other parts of the Metropolis, (which are outside the scope of our report,) but also the Court of Quarter Sessions in Counties, and Councils in Boroughs having separate Courts of Quarter Sessions, to appoint, subject to the Secretary of State, analysts, by whom any purchaser of food may for a small payment have any article of food analysed; and it provides penalties for adulteration. This Act applies also to Scotland and Ireland, but it is not generally in operation.

Pharmacy Acts, 31 & 32 Vict. c. 121. 32 & 33 Vict. c. 117.

The short amendment of the Nuisance Removal Act passed in 1863, already mentioned, had for its object, simply to empower Authorities to seize bad food. Under it the Medical Officers of Health, or Inspector of Nuisances may enter premises to inspect food, and may destroy it if unfit for use.

Alkali Works Acts, 26 & 27 Vict. c. 124. 31 & 32 Vict. c. 36.

The Pharmacy Act of 1868, amended in 1869, for the regulation of the sale of poisons, and the registration of those who sell them, though with a sanitary object in view, belong to the medical code rather than to that of municipal government.

The Alkali Works Regulation Act of 1863, passed for 5 years, but continued and made finally perpetual by an Act of 1868, is a most striking instance of the isolated legislation which in sanitary matters has followed cases as they occurred, and constituted special

officers for each. The Board of Trade by this Act has to appoint an inspector of all such works, which are registered for the purpose, and they must all be carried on to his satisfaction in a way innoxious to neighbours.

Smoke Acts, 10 & 11 Vict. c. 34, § 108.

The nuisance of smoke is dealt with in both general and local Acts. The smoke provisions of the Towns Improvement Clauses Act, 1847, are incorporated into the Local Government Act of 1858, and thereby all fireplaces of factories are ordered to be made so as to consume their smoke, under a recurrent penalty on neglect of 40*s.* a day. The

16 & 17 Vict. c. 128. 19 & 20 Vict. c. 107. 8 & 9 Vict. c. 20.

Sanitary Act of 1866 adds all chimnies, not cured, as far as practicable, of emitting dense and opaque smoke, to the category of defined nuisances. An Act was passed in 1853, and amended by the repeal of exemptions in 1856, to abate the nuisance of smoke from furnaces and steam vessels in the Metropolis, an earlier Act having similarly dealt with all railway locomotives.

Quarantine Act, 6 Geo. IV. c. 78.

The Quarantine Act is a special sanitary measure enforced through the Privy Council. The Sanitary Act of 1866 adds to the conditions by which vessels come within its provisions. In some places Harbour Authorities clash with local jurisdictions, adding the mischief of double government on the spot to that of divided responsibility between two central departments in London.

Registration, 6 & 7 Wm. c. 86.

The existing system of registration of births and deaths, though capable of being made still more useful, is a powerful subsidiary to sanitary reform. The Registrars of districts throughout the kingdom report through the Registrar General to the Privy Council, and the registries constitute the machinery by which attention and information are secured for the prevention of disease. Excessive mortality and its causes and incidence, and the loss of infant life by negligence, are thus brought to light.

II.—OBSERVATIONS.

We now proceed to make our observations on the evidence, and to state our views on the several points under which we have grouped it in our analysis.

Subject defined.

The whole subject referred to us comprises the operation and administration of the Sanitary Laws of England and Wales (excepting the Metropolis) and the constitution and jurisdiction of the Authorities charged therewith. The Sanitary Laws we understand to include all the laws which provide for the supply of water, sewerage, drainage, removal of refuse, control of streets and buildings, prevention of overcrowding, and other means of promoting the public health; as also the laws for preventing the introduction and spreading of contagious and infectious diseases and epidemics affecting the health of man.

We have not entered on the discussion of any questions of sanitary science. But we believe that with a staff of sanitary officers, such as we shall recommend, guided from a central office by the highest scientific knowledge, and collecting facts from every town and village in the kingdom, the best possible means will be provided for the promotion and diffusion of sanitary knowledge, and for determining all questions relating to the public health. *See* page 35.

Imperfection of present Sanitary Administration.

The first group of evidence in our analysis discloses a very imperfect condition of local government for sanitary purposes.

The duties, which the Legislature has assigned to certain functionaries in every place in the kingdom, appear to be seldom discharged, except in those populous places which have either adopted the powers of local government provided by the Public Health and Local Government Acts, or have equivalent powers under Local Acts.

We now propose to investigate the defects in the law, which have led to such imperfection of local government, and the amendments which may be possible, following the analysis of our evidence.

Importance of the Subject.

That more active and effective sanitary local government is necessary for the well-being of this country, is clear from the comparative condition of places which have, and of those which have not, exercised their powers. The former, for the most part, have carried out, or are actively carrying out, works of sewerage, cleansing, water supply, and other requirements of public health, and with great sanitary results; while the latter are frequently tolerating a state of things which is productive, to a large extent, of preventible sickness and mortality.

Towns and populous districts which have adopted the Public Health and Local Government Acts, or have obtained and acted under special legislation, are much better provided with the requisites for public health than those which have not.

Mortality is greatly increased by want of sanitary provisions; a marked reduction of death-rate has followed the improvement of drainage and sewerage, and the supply of other obvious sanitary requirements.

Many causes of disease are preventible; and much chronic weakness, and incapacity for work are the result of sanitary negligence and want of the ordinary requisites of civilized life.

A large proportion of the population both in town and country is habitually drinking polluted water.

In many places accumulations of filth are widely vitiating the air.

A considerable portion of the working classes is debilitated, and thrown into sickness and poverty, by a tainted atmosphere and unhealthy dwellings.

No classes are exempt from these evils.

Overcrowding is the cause of much physical as well as moral evil.

Whether smoke be more or less noxious, and more or less consumable in various circumstances, may admit of argument, but there can be no doubt that it is permitted in excess, from unpunished neglect of possible and prescribed means.

The importance of the subject cannot be too highly estimated. The constant relation between the health and vigour of the people and the welfare and commercial prosperity of the State requires no argument. Franklin's aphorism, "public health is public wealth," is undeniable. But what is more important still is the close connexion between physical and moral pollution; it is significant that the Registrar General's returns show that

the "black country" presents the blackest calendars to our assizes, a fact which practically illustrates the effect of filth and sunless atmosphere on the minds as well as the bodies of the sufferers.

The mere money-cost of public ill-health, whether it be reckoned by the necessarily increased expenditure, or by the loss of the work both of the sick and of those who wait upon them, must be estimated at many millions a year.

The Subject belongs to a larger Subject.

The subject referred to us is only a part of a still larger subject, namely, the entire system of local government throughout the country. We must keep this clearly before our eyes in order to make any useful recommendations on the part which is specially referred to us; we should only aggravate evils, and increase the confusion, for which we are commissioned to suggest a cure, were we to induce Parliament to take any steps which would be inconsistent with a complete scheme of local government.

Not that we shall venture so far outside the scope of the reference made to us as to discuss improvements of the entire local government of the country; nor is there any such complete and perfect scheme of local government now in operation that we should be willing to sacrifice anything to mere requirements of symmetry with it. But there are main divisions of civil jurisdiction, and fundamental principles of government, which we must take as fixed data in our problem—upon which any entire scheme of local government throughout the country must be based—and to which we must make any recommendations of amendment conform.

Local Self-Government essential to England.

On the English theory, the Executive as local as possible.

The principle of local self-government has been generally recognized as of the essence of our national vigour. Local administration, under central superintendence, is the distinguishing feature of our government.

The theory is, that all, that can, should be done by local authority, and that public expenditure should be chiefly controlled by those who contribute to it.

Whatever concerns the whole nation must be dealt with nationally, while whatever concerns only a district must be dealt with by the district.

Disadvantages.

But local administration has its drawbacks. The smallness of the parochial unit of area minimizes the material for public officers.

The spirit of that self-government, which Englishmen have always vindicated to themselves through every developing period of their history, has led to the growth of many discrepancies in their institutions, and to many disconnected and even conflicting laws. Imperfect local administration has been the natural result. Local administration must nevertheless be maintained, but it should be at the same time simplified, strengthened, and set in motion.

Other Nations can show simpler Plans of Administration.

Arbitrary government furnishes examples of simpler plans, more uniform practice, and more systematic codification of law. Its machinery is naturally more perfect, though the working may be often less effective, than that of the local government of which we have experience.

New nationalities, sprung from our own, have also had the great advantage of a clear field, on which to lay down complete schemes of government based upon the example, traditions, and experience of the past.

From both these very different conditions, as shown by the governments of France and of the United States of America, useful hints may be gained for systematizing local government in England.

We must endeavour, in dealing with any part of such government, to avoid increasing complexity of detail, and to keep in view the utmost possible simplification of the whole. It would constitute perfection to combine with the economy and efficiency of systematic organization the energy and interest of distributed administration.

France.

Nothing can be more simple and uniform than the civil divisions of France since the first Revolution. Instead of consisting, as formerly, of provinces constituted on primitive systems of administration originating in the special conditions and exigencies of each locality, without regard either to equality of area or the more extended requirements of national government, that country is now, in conformity with the altered circumstances of

modern times, divided into departments which are proximately equal in extent, and are so arranged that the principal town or capital of the department almost always occupies a central position. Each department is sub-divided into from three to six arrondissements, each arrondissement into several cantons (varying in number from 7 to 11), and each canton into 10 or more communes, consisting sometimes of a single town or one large parish, and sometimes of a union of several smaller parishes or villages. At the present day the canton chiefly exists as a division for the administration of justice. Each department is presided over by a prefect as the chief magistrate, and each arrondissement by a sub-prefect, who acts under and as the representative of the prefect. To each prefecture a council is attached, before whom public matters affecting the whole department come for deliberation; and in like manner there is attached to each sub-prefecture a council, who deliberate upon the local affairs which more immediately concern the arrondissement.

Each commune is presided over by a mayor, and possesses a municipal council, to whom the several local matters which specially relate to the commune are referred for advice.

The prefect, as the head of the department, has the chief direction of the police. He licenses theatres and taverns, and has a general superintending authority over most of the public institutions within his jurisdiction.

In more immediate relation to our subject, it should be stated that in his administrative capacity it is part of his duty to see that the public buildings, roads, and bridges are maintained in proper order and repair, and he possesses controlling powers in relation to the conservation of rivers and streams. Without his sanction new mills cannot be erected, and he determines the conditions under which water is allowed to be subtracted from public sources of supply for irrigation and other purposes.

He may constitute into a legal association persons interested in lands adjoining the sea and rivers in order to enable them to protect their property against tides and floods, and he can authorise the erection of piers and regulate the charges for their use.

His consent is necessary for the opening of new markets, and to him belongs the regulation of slaughter-houses and bakehouses, and of the sale of provisions in markets and fairs.

He also licenses establishments in which dangerous and noxious trades are carried on, within the limits, and subject to the conditions, prescribed by the general law.

He exercises a right of supervision over the primary schools, and the general administration of the finances of his department, both with regard to preparation of the estimates and the dealing with the receipts and expenditure, is vested in him.

He is required to report to the central minister on all matters in connexion with his department, and the sub-prefects, mayors, and other subordinate functionaries are in their turn required to make their reports to him.

The sub-prefects, acting in their respective arrondissements as the agents of the prefect, assist him in the execution of the duties already referred to. Moreover, they have certain special duties assigned to them. Amongst others they superintend the collection of the local taxes and convene extraordinary meetings of the municipal councils. They have a veto upon the establishment of those trades which, although neither dangerous nor noxious of themselves, might prove extremely inconvenient in certain localities, and it is incumbent upon them to see that the public highways are properly preserved from damage or injury. They preside over the permanent statistical commission of each principal place in the arrondissement, and they collect the statistical returns from the several communes, and forward an abstract of them to the prefect.

The mayors of the respective communes in the next stage of administration assist, in their more circumscribed sphere, in the local government of the country. In their respective communes they have the immediate superintendence of the municipal and rural police, the public establishments, and the local receipts and expenditure. They have also the direction of the public works of the commune; and in defiance of the political economy of the 19th century, they are enabled, with the advice of the municipal council, but subject to the veto of the prefect of the department, to fix the price of bread.

In connexion with the duties which devolve upon the chief local authorities in France, we must not omit to refer to the local councils of health (Conseils d'hygiène) established mainly since 1848. There is for each department and each arrondissement a Council of health, consisting of a limited number of members appointed by the Prefect of the department. These councils are presided over by the prefect or sub-prefect.

The prefect may also, with the approval of his council, direct that sanitary committees shall be established in the chief places of any canton within his department, the Mayor of the principal commune within the canton being in this case the chairman of the committee.

The Councils of health are charged with the examination of all questions referred to them by the prefects or sub-prefects relative to the public health. They can be specially consulted on the following matters :—

(1.) The salubrity of particular localities and dwellings.
(2.) The precautions and remedies proper with respect to epidemics and contagious diseases.
(3.) Cattle plagues and the diseases of animals.
(4.) Vaccination.
(5.) The organization and provision of medical relief for the sick poor.
(6.) The means of improving the sanitary condition of the industrious classes.
(7.) The sanitary requisites in connexion with the construction of workshops, manufactories, hospitals, schools, charitable institutions, prisons, barracks, poor houses, &c.
(8.) The adulteration of food, drinks, condiments, and medicines offered for sale.
(9.) The regulation of establishments in connexion with the supply of mineral waters, and the means of rendering them accessible to the poorer classes.
(10.) The applications for licenses to carry on noxious or dangerous trades.
(11.) The construction and formation of great works of public utility, such as waterworks, markets, cemeteries, &c. in their relation to public health.

The Councils of health for the arrondissements are required in addition to their other duties to collect the statistics of mortality and its causes, and to examine the same in relation to the topography and other circumstances which may affect the sanitary condition of the arrondissement.

They afterwards make their report to the Prefect, whose duty it is to forward a copy of each report to the Central Minister.

The Board of health for the department advises the prefect upon the more general questions regarding the public health, and those relating to several arrondissements or the whole department. They abstract and summarize the labours of the boards for the arrondissements and make an annual report thereon to the prefect, which is afterwards in like manner transmitted to the Minister.*

Very stringent ordinances relating to the prevention of contagious disease are included in the French Code.

Under the French system, the appointment of the head of each local sub-division down to the commune, is vested in the Central Government, and in this manner the agents of the Government are brought to administer the affairs of the remotest and smallest locality. The symmetry of the plan seems to be perfect; but it fails in practice, resting as it does on the central power only, and being wholly wanting in that pervading spirit in which consist local energy and national life.

New England.

Nothing also can be more complete in form than the distribution of the executive in those kindred nationalities which have developed our institutions in an entire scheme of government laid down by founders of mature experience. We may gain some hints for simplifying our old and complicated institutions, even from their translation to a new theory of government, widely as the theory of government in England differs from that which exists in America.

By our Constitution the Crown is invested with the whole executive, which is locally mininistered everywhere in the name of the Sovereign. The sovereignty of the people is the adopted idea of New England government, and the popular power collects itself gradually to the Presidential Head. But, whether derived from the centre, or culminating in it, local government is the essence of both schemes.

In the New England States a township corresponds with our parish as the unit of the system, but has, on an average, about 2,000 inhabitants—a number considered large enough to find materials for the administration of public affairs, and yet small enough to concentrate interest in local matters. The Selectmen are elected by the taxpayers of the town, and their functions are defined by the legislature of the State.

The Counties culminate in the State; and the common interests of the States, reduced to only what we call imperial questions of peace, war, and commerce, are all that is left for the Congress of the Federal Union.

In the New England States a Board of health is annually appointed in every city by the government of the city, *i.e.*, by the Aldermen and Council. Townships sometimes,

* There is a special sanitary board for the department of the Seine, which comprises Paris, consisting of medical men, engineers, &c., holding public appointments, and there is also in each arrondissement of that department a sanitary committee, consisting of nine members, nominated by the prefect of police, from a list sent in to him by the chief officer of the arrondissement.

though rarely, elect boards specially for this purpose; but usually the three Select-men, who are also chosen annually, undertake this amongst the general duties of their office.

A Board of health has charge of sewers; assigns places where offensive trades may be carried on; abates nuisances; drains wet lands; keeps streams from pollution; sees to supply of water; and fixes salaries: and in default, it is liable to the county.

The control of streets is retained by the whole Council of a city.

Provision is in every case made for the medical charge of the poor, for dispensaries, hospitals, almshouses, &c.

There are no permanent inspecting officers, but inspectors are appointed for special nuisances, or on occasional alarms of epidemics.

Some cities have inspectors of food, and especially of milk.

The State Board of Health investigates causes of disease, and recommends modes of removal.

The organization of local government is very complete, though the working of it seems to be, from various causes, very imperfect. Streams near manufacturing towns are much polluted, and overcrowding of houses is unchecked except by occasional penalties. In some particulars the sanitary regulations are extremely strict, but they do not appear to be rigidly enforced. (See Report on "Condition of Industrial Classes, Foreign Countries," 357, presented 1870.) The power of borrowing money for public objects is not limited by law, but left to regulate itself.

Scheme of Local Government in England.

Parishes.

Similar to the foregoing, but more complicated, is the distribution of authorities in England. Derived from the old ecclesiastical unit of area, the parish or township is now the primary civil division.* The collection of the poor rate is parochial. But some other rates are collected with or paid out of it. The affairs of a parish are regulated by the Vestry, which consists of the minister, churchwardens, and of all the ratepaying parishioners, except in places where select Vestries are established. The Vestry are empowered to elect certain paid parochial officers, and they have still the control of certain items of parochial expenditure. Increasing public duties in connexion with sanitary matters have also been thrown upon them.

Hundreds.

The next larger county division is the Hundred or Wapentake, formed originally of ten tithings, but including within its area several parishes, which formerly had a court, and was governed by a High constable or bailiff.

Ridings.

In some parts of the kingdom there are intermediate divisions between the Hundred and the Shire called Ridings, Rapes, and Lathes.

Counties.

An indefinite number of hundreds or parts of hundreds ordinarily make up a county or Shire.

State.

The highest executive is the Sovereign, acting by constitutional advisers who exercise the widest functions, and are entrusted in specified cases with such supreme control, auxiliary powers, and superintendence over provincial authorities, as the Legislature may have sanctioned.

Unions of parishes to obtain a larger unit of area.

The first aggregates of parishes, into which counties were divided, were petty sessional divisions, connected with the business of Justices of the peace. The convenient administration of justice also originally led to the division of the realm into counties.

Groups of parishes have since 1834 been united for the management of poor-relief, which had become so misconducted by Vestries as to render a change in the law imperative; and so effective has this arrangement proved that other duties have been repeatedly entrusted to the Boards of Guardians representing the several parishes of the union. It has not been considered necessary, however, that a poor law union should be wholly within the limits of one county, and it is worthy of note that of 650 unions which have been formed, no less than 200 overlap county boundaries.

Other aggregates of parishes are highway districts formed under the recent Highway Act, but these districts are not necessarily conterminous either with petty sessional divisions or poor law unions; and they are under the management of a distinct Board, with a separate staff of officers.

The petty sessional divisions and highway districts, although necessarily confined within the limits of the county, may comprise different areas, whilst the poor law unions may not only be composed of a different aggregate of parishes from either, but as before stated often extend into more than one county.

* In several parts of England, especially in some of the northern counties, the large old ecclesiastical parishes have been subdivided into townships under the 13 & 14 Charles II. cap. 12. for the more convenient administration of poor relief, and these townships are now in fact parishes for all other than ecclesiastical purposes.

It should be added that counties also, from their difference of origin, are not always exact aggregates of parishes, some parishes being in more than one county.

The confusion of our institutional legislation could not be more strikingly illustrated than it has been in these very processes of consolidating jurisdictions with a view to greater simplicity and efficiency.

The consequence is a waste and weakening of authority, a redundancy of officers, a duplication of rates, and an uncertainty of jurisdiction.

Our local administration is still further complicated by the want of uniformity between the areas for municipal and sanitary government, and the frequent subdivision of parishes under two or more jurisdictions for similar objects.

To sum up the series of general divisions through which the functions of local government in this country are distributed, there are (exclusive of municipal boroughs, districts, and towns under Local Boards and Commissioners) parishes, unions of parishes, hundreds, counties, and finally the Central Departments of State.

Subjects of Local Government classified.

Two divisions of Local Government.

The subjects of local government generally may be separated into two main classes—those of police, and those of the supply of public requisites—which latter class subdivides itself into ordinary requirements for the general community, and the public provision for those who depend on the support of others.

1. Police.
2. Supply { Ordinary (of public health); which is the subject of this inquiry. / Eleemosynary (of relief).

The subdivision of the supply of requisites into ordinary and eleemosynary is on the same principle as the dual division of the whole subject into police and supply. When public provision was made for the poor, it became necessary to make distinct provision *for* the really needy, and *against* the sturdy and idle who tried to appropriate the provision for the needy. The distinction between use and abuse, between maintenance and protection, and similarly between the supply of ordinary requisites and the relief of destitution, is obvious and essential.

Chief Ministries of each division of subjects.

The defensive class of functions, or the Police Department of government, comes to its appropriate head in the Home Office, while the administrative class, that of the supply of requisites for the public health, as at present regulated, after wandering through a labyrinth of Local Authorities, may be traced up to no fewer than three chief offices—viz., the Home Office, the Privy Council, and the Poor Law Board; whilst certain collateral matters find their way to the Board of Trade.

Subdivision of local government concerning the supply of ordinary sanitary requisites.

That subdivision of local government which is referred to us is generally designated, in recent legislation, as *sanitary*, though it might be, in a wider sense, called *economical*. It deals with all subjects relating to public health; pure air; water and food; contagion and overcrowded dwellings with cleanliness and with structural works necessary for healthy living. Our evidence shows no reason for any further separation in the legislative treatment of subjects within this sub-division, such as of *medical* from *engineering* functions; nor why the prevention of disease should be treated separately from the removal of that which creates it; nor the supply of wholesome air, water, and food, from the suppression of maladies caused by their unwholesomeness.

What it comprises.

Considering the ordinary supply of what is necessary for civilized social life as our subject, we may say that it chiefly comprises—

The supply of wholesome and sufficient water for drinking and washing;
The prevention of the pollution of water;
The provision of sewerage, and utilization of sewage;
The regulation of streets, highways, and new buildings;
The healthiness of dwellings;
The removal of nuisances and refuse, and consumption of smoke;
The inspection of food;
The suppression of causes of disease, and regulations in case of epidemics;
The provision for the burial of the dead without injury to the living;
The regulation of markets, &c.; public lighting of towns, &c;
The registration of death and sickness.

Causes of present Imperfection in Sanitary Administration.

We now proceed to the causes of the present imperfection in the operation and administration of the laws upon sanitary subjects.

In the first place the law itself is confused.

Confusion of laws.

The Public Health Act of 1848 and the Local Government Act of 1858, with their Amendment Acts of 1861 and 1863, form by themselves an intricate mass of law, and may be wholly or only in part adopted, or not. As a locality may decide. Many large towns have, moreover, one or more special Acts applicable only to themselves, containing enactments bearing more or less directly on the question of the public health, wholly or partially in accordance with the general Acts, or possibly in conflict with them.

There are, next, the Act of 1855, part of the Act of 1860, the Act of 1863, and the Act of 1866 commonly called the "Nuisances Removal Acts."

There are another Act of 1855, and part of the Act of 1860, commonly called the "Diseases Prevention Acts;" two Sanitary Acts of 1866 and 1868; and two Sewage Utilization Acts of 1865 and 1867; and further enactments as the Sanitary Loans Act, 1869, and the Sanitary Act, 1870, which have been adding complication to the law even since our appointment.

There are, moreover, various other Acts bearing on the same class of subjects, besides a vast number of local regulations in the shape of byelaws, which are sometimes in conflict with the general law of the land.

The number of these Statutes and the mode in which they have been framed, render the state of the sanitary laws unusually complex. This complexity has arisen from the progressive and experimental character of modern sanitary legislation, which has led to the constant enlargement and extension of existing Acts, without any attempt at reconstruction or any regard to arrangement. The fatal result is, that the law is frequently unknown, and, even where studied, is found difficult to be understood.

Confusion of authorities.

Much confusion has been caused by each group of Acts designating a new Authority, at least nominally, for their particular purposes.

The administrative body created under or administering the Local Government Acts is called the "Local Board."

The Nuisance Removal Acts, applying to the whole country, assign that particular sanitary function either to such a Board, or, in rural districts, to the Board of Guardians, and to both under the double designation of "Local Authorities" or "Nuisance Authorities."

The Sewage Utilization Acts of 1865 and 1867, and the first part of the Sanitary Act of 1866, because their operation was general and might extend where there was no "Local Board," assigned the sanitary duties, to which they referred, to Town Councils, Improvement Commissioners, Local Boards, or Vestries, as the case might be, under the new name of "Sewer Authorities."

The Diseases Prevention Acts designate the Guardians, and, where none, the Overseers of the poor, as the Local Authorities for their execution, under the supervision of the Privy Council, who are empowered to direct the Nuisance Authority (not being Guardians or Overseers) to act.

Intricate legal responsibilities being attached to so many various bodies, or to the same under different names, doubt often has been created as to where the responsibility or power lay, resulting either in inaction, litigation, or frustration of public works already attempted. Boards of Guardians, for instance, seldom seem aware that the removal of nuisances in country places is entrusted to them; and Vestries are generally unconscious of most important sanitary duties resting on them; nor does the Central Power seem sufficient to rouse these various bodies to the proper execution of their duties.

Optional principle.

The fact that the Local Government Acts take effect only by the voluntary adoption of ratepayers or their representatives, is enough alone to account for the very partial operation of the law.

Tentative legislation.

Another cause of confusion is, that sanitary functions are classed together, or distinguished, with no apparent regard to any real affinity or difference. The removal of nuisances, for instance, seems to have been considered a work apart from local government;—and the prevention of epidemic disease, a work unconnected with the suppression of its causes. Such distinctions without differences, the result of casual legislation regardless of what had preceded, are far more than merely illogical or unmeaning. They cause grave misunderstanding of the law, mislead public opinion, multiply expenses, and aggravate disinclination to improvement, and distrust of science.

Variety of areas.

Lastly, local government is greatly impeded and wasted by the want of coincidence of the several areas of its various jurisdictions. The petty sessional divisions, poor law unions, and highway districts being generally different, a corresponding difference occurs in much that appertains to the administration. Instead of one superior clerk for all these, one single collection of rates, one set of officers for inspections, and a uniform system and concert of plans, and of their enforcement, each must have its own machinery, frequently in conflict or in duplicate, as the areas happen to be partly the same, partly different; and there can neither be combined efficiency nor general economy.

Such are the impediments of the existing sanitary law.

Law also incomplete.

We have also to consider its incompleteness. Some of the most noxious nuisances, such as, for instance, the pollution of rivers, are so imperfectly provided against, that the old remedy at law, expensive and slow as it is, remains the only resource to escape grievous injury to health and property.

Science may extend definitions.

Another consideration must be, how far the advance of science will enable Parliament to strengthen the hand of the law against such nuisances as, for instance, smoke and polluted water.

Recapitulation.

We have, therefore, to consider, amongst the causes of imperfect Sanitary Administration, the variety and confusion of Authorities; the want of sufficient motive power in the Central Authority; the non-coincidence of areas of various kinds of local government; the number and complication of enactments; the needless separation of subjects; the leaving some general Acts to voluntary adoption, and the permissive character of some Acts; and the incompleteness of the law.

Improvements considered.

We proceed to discuss in turn these defects and their possible remedies.

The first question relates to Authorities how to distribute particular functions of sanitary local government in a more effective manner, (as far as possible through existing bodies,) so that what machinery is already provided may be better utilized, homogeneous subjects may be no longer scattered under different authorities, and, where a new or intervening institution may be required, it may be attained rather by combination of what exists than by innovation or additional institution.

Local Authorities.

Constitution of Authorities.

If the subject of our inquiry were a new country without territorial divisions or Authorities, it would be necessary to settle the administrative areas before creating Authorities to have jurisdiction within them. But in an old country possessing Authorities already too many and complex, the first consideration must be given to those which exist and to the question whether any of them appear to be such as can be intrusted with the execution of an amended law.

The Town Councils in corporate towns, and the Local Boards created under the Acts of 1848 and 1858 at once present themselves as representative bodies, which have fairly discharged many of the duties prescribed by existing Statutes. They should, therefore, act within their respective districts under the New Consolidated Statute which we shall recommend.

These and all other Authorities should have the power to appoint committees.

Greater difficulty arises where Commissioners under Local Acts wholly or partly occupy the ground. They may now adopt the Acts of 1848 and 1858, or any part of those Acts, and become the Authority to execute them. When elected for life, their constitution has hitherto, subject to certain savings as to qualifications and *ex officio* members, in cases where they have adopted the Acts, been so far changed that the members have been elected according to the regulations which govern the elections of ordinary Local Boards. The New Statute should make similar provisions to apply in every such case. With these reservations such Commissioners should be the Authorities under the New Statute.

21 & 22 Vict. c. 98, § 15.

But considerable confusion may arise where there are both Town Councils, or Local Boards, and Commissioners. It is possible that each may now have special functions; in the one case by having adopted *some portions* of the Public Acts, in the other by virtue of Local Acts. There may indeed already be some confusion from the possession by both Authorities of certain powers common to both; but the Town Council or Local Board, if made necessarily and always the Authority to execute the *whole* of the New Statute, must in the great majority of cases necessarily possess many powers which the legislature by the Local Act has conferred on the Commissioners. If the Commissioners are for special purposes not within the scope of the proposed New Statute there is no need of any interference. But where, or so far as, the Commissioners have powers of local government within the scope of such Statute there should be every reasonable facility for entire or partial transference of such common powers to the Town Council or Local Board, so that it may become in such respect the Authority to execute the Local Act.

Proceedings by Provisional Order, with local inquiry, will probably prove the most convenient and effective method of introducing any necessary reforms in the constitution of the Authorities administering Local Acts, or in the powers exercised under those Acts.

We shall, by and bye, recommend that Local Acts, where they incorporate sections of General Acts, which will be repealed by the New Statute, should for the future be taken to incorporate the substituted provisions of the New Statute, and that generally the powers of the New Statute should co-exist with those of the Local Act, and be cumulative.

Urban Authorities.

The Urban Authorities should then be as follows:—

I. (i.) In Boroughs* and districts previously under the local government of a Special Act (with or without application or adoption part or entire of Act of 1848 or 1858) - - -	The Town Council, and in districts within which there is no Town Council, the Commissioners or other body administering the Local Act.
(ii.) In all other Boroughs* (with or without application or adoption of the Act of 1848 or 1858 -	The Town Council.
II. (i.) In all other Local Board of Health districts (by adoption of the Act of 1848 or 1858) - -	A Local Board to be elected as by the New Statute prescribed.
(ii.) In all places not being such Boroughs or places as are before mentioned, but having known or defined boundaries and certified by the Central Authority as having not less than 3,000 inhabitants, unless upon its own motion or on petition, the Central Authority otherwise order on the ground of sparseness of population -	
(iii.) In all areas not being such Boroughs, districts, or places as are before mentioned, although not having known or defined boundaries, to which defined boundaries shall for the purposes of the New Statute be assigned by the Central Authority, and certified by the Central Authority as containing not less than 3,000 inhabitants - -	
(iv.) In all places or areas not from time to time within any of the above-mentioned conditions, but which the Central Authority may from time to time in its discretion by absolute or provisional order† after local inquiry (and with or without previous local application to him) constitute an elective board district -	

These remarks would be incomplete without some mention of the Authority which now exists in "special drainage districts," erected under the Sanitary Act, 1866, and the Sewage Utilization Act, 1867. This Authority has all the powers belonging to a "Sewer Authority." as such, including certain powers for draining the district, constructing outfall sewers, utilization of sewage, water supply, and, finally, under the Sanitary Act of 1868, for the removal of refuse from premises and the cleansing of privies, &c. The inhabitants of these special drainage districts would resent the attempt to deprive them of their powers of self-government. They have, moreover, given proof of an active and intelligent spirit by obtaining these powers. On the whole, therefore, it would appear expedient to preserve their independence, but to constitute them "Local Board" districts.

29 & 30 Vict. c. 90 § 5, &c. 30 & 31 Vict. c. 113, § 6, &c. 31 & 32 Vict. c. 115.

* The word Borough is throughout intended to mean only the scheduled Boroughs of the Municipal Corporation Act, 1835, and such others as have been or may be incorporated by charter subsequently to that Act. See also 10 sec. of 12 & 13 Vict., c. 94.

† See p. 26 *infra*.

Rural Authorities.

Such being the present and future Authorities in communities either more or less Urban, or having special legislation, we must review the Authorities which exist elsewhere. They are four in number:

(1.) Magistrates.
(2.) Highway Boards in highway districts.
(3.) Vestries in parishes.
(4.) Boards of Guardians acting in unions.

The Justices of the Peace, not being representative, cannot properly execute a Statute which will involve considerable expenditure of a fund derived from local rates; while Highway Boards, however well established and universal they may ultimately become, are not yet extended over the whole surface of the country, and, even where in action, are not equipped with the machinery necessary for the purpose in view. The last difficulty would alone suffice to restrain us from recommending Vestries as the Rural Authority. A small country parish could not find either occupation or pay for medical officers, inspectors, and other functionaries. The powers under the Sewage Utilization Acts, given to Vestries as "Sewer Authorities," have been productive of little but disappointment, and there is no reason to hope that new and amended powers would be more efficiently exercised than the old. To set up Vestries as Authorities under the New Statute would involve a rare combination of inconveniences. For any practical purposes of administration, they cannot be said to exist in very many places. To set them up would therefore be, in effect, though not in name, the unnecessary constitution of a new Authority or the permanent establishment of one already condemned by experience. These objections which appear to us conclusive against Vestries, apply also to Committees of Vestries. It would doubtless be practicable to construct unions of parishes for the purposes of the Statute in analogy to the unions for poor law purposes. But as there already exist the unions of parishes for poor law purposes, there does not appear to be any necessity for the erection of other unions by their side.

The Boards of Guardians possess the following recommendations as Rural Authorities:

(1.) They are representative.
(2.) They exist everywhere.
(3.) They have a complete organization in their offices, and a staff of executive officers with a clerk for correspondence and advice.
(4.) Through their medical officers they possess a knowledge of the state of disease in the unions, which has an important bearing on the work devolving on the Sanitary Authority.
(5.) It is found practically, both in the Central Department and in the Local Administration, that communications on sanitary questions are continually passing between the poor law and the sanitary Authorities where the latter do their duty.
(6.) Within limits, which experience alone can define, and which will vary according to the circumstances of individual cases, the same staff may render assistance in both services.

Where an Urban Authority, has jurisdiction over part of a union, the Rural Sanitary Authority should consist of such elected Guardians, as represent parishes not included within such jurisdiction, and such *ex-officio* Guardians as reside in or have property within such parishes.

The Guardians must in the future, as now, have power to act by committees, either for the whole union, or for one or more parishes.

A suggestion made to us, that Town Councils or Local Boards should exercise an authority over some adjoining Rural districts, labours under the fatal defect that there would be no representation of the adjoining districts, but is valuable as expressing a sense of the inconvenient results when districts, practically though not technically Urban, grow up uncontrolled by urban regulations.

Review.

Every portion of England and Wales would by this plan be brought each under some one Authority for the administration of such local affairs as are within the scope of our inquiry.

Local Boards which have adopted parts of the Acts of 1848 and 1858 must be invested with the powers and duty of executing the whole of the New Statute. In the first place, it would be difficult to determine what clauses of the New Statute correspond with the parts of the old Acts which are now in force in such districts, but which will have been abolished when the New Statute becomes law; and secondly, there is no sufficient reason for maintaining a condition which will become increasingly

exceptional and anomalous, inasmuch as all other existing Local Boards, and all Local Boards hereafter to be constituted, will administer the whole of the New Statute.

Elective boards sometimes substituted for Guardians, and how.

In the areas thrown under the jurisdiction of the Guardians there will be many districts which from situation, population, or other circumstances, ought to have their own government, and to manage their own affairs by means of a Board elected by themselves. The New Statute should enact that these districts shall either be constituted by the operation of the New Statute on a basis of population, or by the Central Authority on petition of the people of the district acting under some machinery which the Statute should provide (and which should be on the whole similar to that by which the Local Government Act is adopted in any place), or by such Central Authority upon its own motion under powers to be given for that purpose. The action of the Central Authority will in either of the above cases be necessary, because unless it have the power to regulate local action, its arrangements would be liable to disturbance and defeat.

Urban powers sometimes given to Rural Authorities

The Central Authority should have power of imposing upon rural districts, or any parts thereof, at its discretion, after local inquiry, urban powers. In such cases the Rural Authority will exist unaltered in constitution, but clothed with additional powers. There may be districts which, although not ripe for an elective board, either have so far changed their character, or are on the point of undergoing such a transformation, that the more rigid laws of the urban powers are necessary for their continued well-being. It is possible that some manufacturing establishment is to be undertaken, or that some new source of mineral wealth will shortly be developed. Unless measures be taken, an ill-built and undrained manufacturing or mining village or group of villages will cover what are now agricultural lands. Meanwhile the materials for a Local Board may yet have not been collected, but the necessity for urban powers to regulate the plan of the future town is abundantly manifest. Those who have witnessed the rapid growth of such a community testify to the fatal consequences of neglect at this stage. In many instances, the difficulties are greatly increased by the temporary nature of the future settlement. The mineral harvest is quickly gathered, and the population vanishes with the exhaustion of the treasure which attracted it. There is therefore little inducement to erect houses of a permanent character, or to supply the short-lived community with appliances and conveniences on any other than the rudest system. In order to prevent these mischiefs it would appear desirable to enable the Central Authority to invest the Board of Guardians, so far as relates to that district, with urban powers. The Central Authority should exercise this discretion, either (1.) on application made by (*a*) the Guardians, or (*b*) the inhabitants or owners within the parish, or (2.) upon its own motion, but in either case after local inquiry, conducted in the ordinary manner. Should the village attain the dimensions of a Local Board district, a Board should be duly constituted, and boundaries (where necessary) assigned in the usual manner. Should the population disperse, the need of urban powers will have ceased, and they should be reduced to rural powers. Meanwhile the population will in either case live under circumstances favourable to health, and will have escaped the almost irremediable difficulties found where the houses, themselves miserably built, are arranged without order or system. Nothing but reconstruction of the entire village (which even urban powers do not authorize) can cure the ultimate mischief of a state of affairs which would have been prevented by fitting precaution taken in time.

Dyke, 6329. Lord Penrhyn, 7850.

31 Vict. c. 3, §§ 10, etc. 34 Vict. c. 43, § 40. 22 Vict. c. 61, § 27.

The Public Health Act, 1848, was "applied" by the Central Authority (then the "General Board of Health"), whereas the Local Government Act, 1858, deprived the Central Authority of all such power (with an exception which will appear hereafter) and gave the locality the fullest discretion as to the adoption or non-adoption of the whole or any part of that Act.

The former Act enabled the General Board of Health to apply the Act by Provisional Order "upon petition of not less than one-tenth of the inhabitants * * * not being less than 30 in the whole, or where it appeared from the Registrar General's Returns that the mortality had exceeded the proportion of 23 to 1,000."

It does not appear expedient to limit the application of the New Statute by either of the above restrictions. Those places where the greatest negligence prevails, and where the most serious evils have arisen, are shown by the evidence and by daily experience to be the least ready to move by petition, or, indeed, any other process; and the limitation of the central initiative to cases where the mortality has exceeded a certain proportion pre-supposes the existence of those mischiefs which it is the duty of public Authorities to prevent by action in time, rather than to remove when too late, after the population has been diminished by death, weakened by disease, and demoralized by the pauperism and social degradation which ever accompany a low physical condition. The destruction

of unhealthy dwellings which should never have been built,—the removal of nuisances which should never have been permitted,—and the application of rigid rules which might have been unnecessary if there had been due regard for sanitary considerations in the original design of the town,—are all expensive proceedings which timely interference would have prevented.

It is necessaryto balance the inconvenience which may arise from the unfortunate exercise of discretion by the Central Authority in assigning Urban powers, against the far more inconvenient consequence of impeding its freedom by restrictions which may prove an impediment to the introduction of more perfect government. On the whole it would appear more prudent to trust the Minister who will be obliged in Parliament to defend his conduct. Undue exercise of authority will always be restrained by the natural reluctance of every Minister, in a country with representative institutions, to place new duties on an unwilling community. The Minister will also feel that no system of law or administration can be so efficient when imposed from without, as when voluntarily adopted by those whose interests are most closely concerned. Unchecked by conditions, the Minister will probably move too slowly; checked by restraints he may hesitate to move at all, except under circumstances of extreme and unusual exigency.

We have already expressed our views as to places with not less than 3,000 inhabitants. With reference to these the Central Authority will have the duty of certifying on the question of number, and the constitution of such places as Elective Board districts will be complete. In other places the Central Authority should be empowered to constitute Elective Board districts,—in unopposed cases by an absolute order—and, in cases (1) where there may be an extent of opposition (to be defined by the New Statute) or (2) in which the Central Authority may deem it expedient, by provisional order, which would require confirmation by Parliament.

The New Statute should, in every such case, make provision for the most complete local inquiry after due notice, and the fullest hearing of all parties interested.

Districts with no known or defined Boundaries.

Administrative Areas.

Where the inhabitants of certain portions of places are desirous of separation from the remaining portion, with a view to exclusive control over local affairs, either generally or in respect of certain matters, there are now several provisions to meet such cases. On petition from any place not having a known or defined boundary, the Home Secretary may sanction the assignment of a boundary, and thus enable the inhabitants to adopt

21 & 22 Vict. c. 95, § 15.

the whole or any part of the Local Government Act, 1858, or he may settle a boundary and constitute a special drainage district for the construction of sewers and

30 & 31 Vict. c. 113, § 8.

utilization of sewage (Sewage Utilization Act, 1867,). Or again, any part of a district where the "Sewer Authority" is a Vestry, Select Vestry, or other body of persons acting by virtue of any Act of Parliament, &c. as or instead of Select Vestry may be formed into a "special drainage district" for the last-named purposes by resolution, and without the sanction of the Home Secretary, unless appeal be made to him

29 & 30 Vict. c. 90, § 5.

(Sanitary Act, 1866).

The principle of this legislation must be retained:—

Where a place, without a known or defined boundary, has a boundary assigned by the Central Authority, and is certified by the Central Authority to contain not less than 3,000 inhabitants, the district will be constituted by the operation of the New Statute. In other places with newly assigned boundaries, their constitution as Elective Board districts will be effected by the Central Authority, by absolute, or by provisional, order as we have already suggested in the case of places with defined boundaries.

Great care will be required in the formation of these districts:—for instances have been found where the excluded portion contains the abodes of those to whom sanitary improvements are most essential. After formation, such districts should have all the powers, rural or urban, as the case may be; power of partial adoption of the Act not being continued either for them or for other districts.

The government of these districts by a Local Board would be most consonant with their character and origin.

The remainder of a parish would remain in the rural district.

Combination of Districts for limited Purposes.

The mode by which districts should be combined, when for any purpose such combination is desirable, must next engage attention. The principle has been already sanctioned by the Legislature, but the practice has been considerably restricted by the necessity of obtaining the consent of all the districts and by difficulties as to rating. It is probable that the words of the Act do not require the consent of all parties, but the Secretary of State does not appear to have ever felt himself justified in enforcing a combination.

It is necessary that the Central Authority should possess this power with a view to many purposes, but more especially for the construction of works which are within the powers of each Authority for its own district, but which by common action may be so constructed as to serve more than one district. For example, a drain for outfall or for distribution of sewage may cross the district of an adjoining Authority, and confer no advantages upon that district except so far as owners or occupiers within a few yards of the sewer may have a limited right to use it on certain conditions; but if combination for the purposes of drainage be enforced, the entire system would be so designed and constructed as to benefit the lower as well as the upper district.

Unless both districts be willing to unite, the Central Authority, on petition from the Local Authority or a certain number or proportion of the owners and inhabitants of either district, should, where it thinks fit, proceed by Provisional Order after the usual local inquiry. The Central Authority would define the terms of the combination and the matters with which the combined Authority should be intrusted. The apportionment of the contribution to the funds, and the adjustment of the representation (which would depend on population and rateable value) would be some of the terms thus defined, with powers to modify them when need should arise.

Districts should be enabled to combine (if they can agree upon terms) without Provisional Order. The sanction of the Central Authority should be made necessary or it might act as arbitrator if the sole difference related to terms. There are many purposes, *e.g.*, combination for hospitals, to which the machinery of a Provisional Order would be inapplicable.

Union of Districts for all Purposes.

30 & 31 Vict. c. 113, §§ 10, 11, &c. 33 & 34 Vict. c. 75 § 40. 21 & 22 Vict. c. 98, § 27.

The Sewage Utilization Act of 1867, contains provisions for the constitution of joint Sewerage Boards, and sections of the recent Education Act enable the Central Authority under that Act to create united school districts. The Local Government Act contains a similar provision for the union of adjoining Local Board districts. The Sanitary Authorities under the New Statute, where Urban, should be enabled, with consent of the Central Authority, thus to unite; but a union of two Boards of Guardians, except so far as the Poor Law Acts may have provided for such extension of unions, may so far affect the administration of the Poor Law, that we forbear to recommend new facilities for that purpose. The union of Sewerage Boards has hitherto been incomplete from the absence of any powers of direct rating. Should Parliament create facilities for the erection of united or joint Boards, they should have authority to rate directly, and thus overcome passive resistance or unwillingness to co-operate on the part of individual parishes. We may add, by way of explanation, that *combinations* imply the continued existence of *two* Authorities, but that where the Authorities are joint or united, they are no longer two Authorities, but have become *one*; *e.g.*, the joint Sewerage Board of the Act of 1867 is a body corporate with a common seal, &c.

The Union of Boards should take place under provisions as far as possible similar to those which govern Combinations.

Dissolution of Districts.

New circumstances may in a few rare instances call for the dissolution of districts, the constitution of two or more Urban districts instead of one, or the separation of some portion with a view to incorporation with some other district, Urban or Rural.

The process should be, as far as practicable, similar to that adopted in the other cases.

Extension of Urban Areas.

There are, however, cases where incorporation rather than combination has become desirable from the growth of a new population outside of an Urban district. Such populations derive benefit from the improved administration of the adjoining district, and are possibly in the closest relations with it, forming in fact a portion of the community. Yet they do not share in the burdens which those improvements have created. On the other hand they enjoy exemptions which though mischievous are not unpopular.

Within the district perhaps building byelaws are rigid; without it they do not exist. Within the district vigilant officers enforce the laws of health; without it the action of a remote Board of Guardians may be comparatively little felt. When these evils, which no reform of the rural administrative Authority will wholly remove, have reached their height, we find that the difficulties of incorporation, and the reluctance to grapple with them have become the most serious. The strong hand of a Central Authority,

controlled by the necessity of recourse to Parliament under Provisional Order, appears to be necessary. It might be enabled to issue a Provisional Order either upon its own motion or on petition. The petition might come from the Local Authority, or from owners and ratepayers, of the district with which incorporation is proposed, or of that from which it is proposed to detach a part; or the owners and ratepayers of that part might be enabled to petition.

The Provisional Order should deal with many of the same matters as the provisional order for combination, and should also contain provisions for the payment of debt. Existing liabilities may probably not attach to the newly incorporated district, which, however, should join in all responsibilities to be incurred in future years.

If objection to these extensions of Urban areas be taken, on the ground that they may render more difficult the identity of areas for poor law and sanitary purposes, it must be remembered that one object or the other must be wholly or in a measure sacrificed if uniformity be everywhere insisted upon. In each case the comparison between the benefit of having the best area for any one purpose, and the convenience of a common area for many purposes, must decide. It is, however, not impossible that such incorporation may be sometimes so made as to increase uniformity of areas. This will frequently occur where the "Local Board" district has been erected within a poor law parish, the whole of which may without disadvantage be included. In some of these cases the original boundary may have been unfortunate, however necessary under the circumstances, while in others a new population may have been formed in such a manner as to render it very desirable to incorporate the remainder of the parish. Instances may probably be found where small areas of Unions alone remain excluded from "Local Board" districts, and where therefore the authority of the Guardians cannot be exerted with economy and effect. In some cases the whole union may thus be brought under Local Boards, in others portions of boundaries nearly adjoining each other may be made coincident, and the country may thus be mapped out in such a manner as to give a convenient boundary to the district over which members of the Board of Guardians have jurisdiction. There may be Boroughs where a portion, although so intimately associated with the remainder as to share in the privileges of parliamentary franchise, lies outside the district of the Local Authority. Such abnormal and irregular conditions may be remedied by some readjustment of boundary for the purposes of the New Statute.

Minor Points.

Before leaving this branch of the subject we may direct attention to minor points on which provisions must be made in the New Statute, such as—

(1.) That when any district may become incorporated as a Borough the powers of the Local Authority must *ipso facto* vest in the new Town Council; and in like manner that when any new Local Board is formed, the powers of the former Authority must cease.

(2.) Those required by the exceptional cases of Oxford and Cambridge.

As to Authorities under Local Acts.

Local Acts.

21 & 22 Vict. c. 98, § 77.

We have already referred to the issue of Provisional Orders as a convenient means of reforming the constitution of Authorities which have been created by Local Acts. This power now exists under the Local Government Act. We may observe that this section affects all other parts of Local Acts, and supplies a ready machinery for their alteration or repeal. There is another provision affecting the administration of both Public and Local Acts which we shall best explain by following the language of the Statute.* "All the provisions of 'The Local Government Act, 1858,' "as amended by this Act, and of 'The Nuisances Removal Act for England, 1855,' "and 'The Diseases Prevention Act, 1855,' as amended by the 'Act to amend the Acts "for the removal of nuisances and prevention of diseases,' which Acts are herein-after "(*i.e. in this section*) designated the general Acts, shall extend and apply to all Local "Boards of Health constituted under or by virtue of Local Acts, with and subject to "the two following qualifications; (that is to say,)

"(1.) Provisions of the general Acts opposed to or restrictive of the provisions "(whether adopted or original) of any such Local Acts shall be of no force "in the district for which the Local Act was passed:

"(2.) Wherever the general Acts and a Local Act contain provisions for effecting the "same or a similar object, but in different modes, the Local Board of Health "may proceed under the general Acts or the Local Act:

"And every future Act for amending or repealing any of the general Acts aforesaid shall, "subject to the aforesaid qualifications, also extend and apply to every such Local "Board of Health."

The New Statute should contain a clause making similar provisions.

*Local Government Amendment Act, 1861, 24 & 25 Vict. c. 61, § 29.

Elections, &c., of Local Authorities.

The constitution of Local Authorities being thus determined, the mode of election and the tenure of office come next under consideration.

Duration of office.

In the case of Local Boards the duration of office is the same as that which obtains in Town Councils, where each member serves for three years, one-third retiring annually.

By this tenure a member has an opportunity of becoming acquainted with the duties of his office: there is at all times some security that a certain number possess knowledge gained by experience in business, and the policy of the Board is not in danger of being suddenly reversed by an entire change of members in a season of popular excitement. On the other hand, the constant entrance of newly-elected members gives fresh life to the whole. It would appear impossible to plan with confidence, or to execute with perseverance, works which the members holding office for the year deem essential, but which an entirely new Board may be pledged to oppose. A body of so fluctuating and uncertain a character could not have that permanence and steadiness of purpose, without which great works can be neither designed nor carried out.

If, as we propose, the Guardians in country districts become the Sanitary Authorities, the range of their duties will become such as to render the holding of office during a longer period than 12 months desirable. It is, however, obviously impossible that the Guardians who administer the Sanitary Law should have a tenure of office differing from that of those who administer the Poor Law. They must be the same body; and it only remains for us to point out how desirable it would be for sanitary purposes if Parliament should extend the tenure of office of Guardians of the poor to the same period as that enjoyed by members of Local Boards; a change which has also been strongly advocated of late years as likely to improve the administration of the poor law; and we recommend that the elected Guardians hold office on the same principle as the members of Local Boards and Town Councils. Where a parish elects three Guardians the process would be simple; but there would not appear to be any insuperable difficulty in arranging a rota where parishes do not elect three Guardians, *e.g.*, where each of three parishes elects one Guardian the Guardians should serve for three years, one retiring each Easter, but being capable of re-election.

These views as to the necessity of giving greater extension to the duration of office have been anticipated by remarks relating to Local Acts in the Report of the Commission of which the Duke of Buccleuch was chairman. Second Report, pp. 11 and 12.*

Representation of Owners.

In the election of Boards of Guardians, and of Local Boards under the Local Government Act, owners of property have, as such, a voice in the election of such Authorities. Where the Town Council is the Local Authority, owners have, as such, no voice in the election; but we may remark that, inasmuch as the powers in relation to property which we have proposed are so stringent, and as structural works often outlasting the occupancy of any tenant may be executed, there is a good reason why owners of property should have a more considerable voice in the election and in the deliberations of such Authorities than they now have.

Conduct of elections.

As to the conduct of elections, it is not necessary to give in detail the provisions of the existing law, which present some difficulties from contradictions between sections of the Public Health and the Local Government Acts, arising from negligence in not repealing portions of the earlier Statute when the Act of 1858 was before Parliament. The New Statute should follow the provisions of the later Act, rather than those of the Public Health Act.

There are, however, some sections on which comment may with advantage be made: 21 & 22 Vict. c. 98, § 11.

(1.) The provisions in case of failure to elect a Local Board, found in the Act of 1858, have proved inadequate, if, indeed, they were intended to meet continued and persistent non-election.

* "The Commissioners acting under these laws, although generally continued in office for the space of three years, have scarcely time to become acquainted with their duties, or to acquire a knowledge of the localities most demanding attention, before they are liable to be removed and their places filled by newly-elected members, who have to go through the same course of instruction. It can scarcely be expected that any public works requiring much time for their completion, and to be executed upon a combined system—such only as will render drainage effectual—can be safely undertaken while they are exposed to the risk of sudden interruption from a change in the constituent members of the body having control over them." Page 11.

"The annual election of the executive officers greatly increases the difficulty of carrying out any systematic plan for drainage. All the surveyors and other officers retire from office at the end of each year; and, although re-eligible, are liable to be superseded by an entirely new set of officers, who, unacquainted with their duties and the objects contemplated by their predecessors, may suspend improvements in progress, prevent the execution of many, or originate others in like manner to be superseded. This has been found to operate most prejudicially, and necessarily deters the existing officers from commencing works which, owing to the limited sums annually applicable to these objects, can only be carried to perfection by a close adherence to a well-considered plan during a series of years." Page 12.

T. Taylor, 127. Mr. Tom Taylor mentions the case of Hitchin, where the Act has fallen into abeyance; no elections are held, and a receiver has been appointed to receive the rates and pay the expenses of the works carried out.

33 & 34 Vict. c. 75, §§ 32, 63. This kind of default has been guarded against in the Education Act of 1870, which enables Government to appoint members and assign them remuneration at the cost of the ratepayers should no election be held in the ordinary manner.

We recommend the insertion of a similar clause in the New Statute, provided that such members be appointed from among persons who would be qualified for election in the ordinary course.

(2.) Members of Local Boards must now be resident within seven miles of the district (a distance which we propose should be extended to 15 miles), and must possess a property qualification as described in section 24 of the Local Government Act, but some difficulty has arisen from the disqualifications. Transactions with Local Boards have now become so numerous and varied that it has become inconvenient to disqualify a person because "interested in any sale or lease of any lands, or any loan "of money to Local Board"; or because "he is concerned in any bargain or con- "tract entered into by the Board, or participated in the profit thereof, or of any work "done under the Act in or for the district;" but there are certain exceptions in favour of water companies, &c. Recent Local Acts remove the former disqualification, and extend the exceptions in the latter case.* The St. Helen's Act, 1869, restrains members from voting on certain questions, including sale, &c. of land wherein they have a personal interest. We recommend that the new Statute should cautiously follow the principle of these recent Local Acts.

21 & 22 Vict. c. 98, § 25.

11 & 12 Vict. c. 63, § 19.

32 & 33 Vict. c. cxx. § 430.

See 21 & 22 Vict. c. 98, § 20.

32 & 33 Vict. c. 41.

(3.) The number of votes should rise according to property, as is now the case under the Public Health and the Local Government Acts, and to a maximum of six votes for property having the rateable value of 250*l*. The Assessed Rates Act of 1869, which gives the ratepaying franchise to those who do not directly pay rates, may be thought to strengthen the arguments for this mode of voting. The evidence before us contains abundant proof that sanitary reforms are in many cases rendered impossible by the hostility of inhabitants of the poorest class.

11 & 12 Vict. c. 63, § 22.

(4.) The provisions of the Public Health Act, which enable, but do not compel, the making of a register, should be made compulsory upon some officer.

21 & 22 Vict. c. 98, §24,(4.)

(5.) Under the Local Government Act, 1858, Local Boards may, with the sanction of the Secretary of State, divide their districts into wards, and declare what number of members are to be elected for each ward; but the Act does not provide for any future change of boundary or subdivision of wards, nor for any alteration of the number of members. The new Statute should contain a clause enabling the Central Authority to do any of these things after local inquiry; but the new provisions must be carefully framed, so that the fullest regard be in all cases had to numbers and rateable value; area likewise being taken into consideration.†

15 & 16 Vict. c. 42, § 14.

We may remark that a section of a Provisional Order Confirmation Act provides that the word "year" for the purpose of the election of Local Boards acting in execution of the Public Health Act, 1848, and of the continuance in office of the members of such Boards, be taken to mean the interval between any day of election of such Board and the day of election next ensuing. This isolated section of a Provisional Order Confirmation Act must be repealed, and the provision re-enacted in the New Statute.

See Page 75.

Central Authority.

We next take into consideration the defects and desirable alterations of the present aggregate Central Authority. However local the administration of affairs, a Central Authority will nevertheless be always necessary in order to keep the local executive everywhere in action; to aid it when higher skill or information is needed; and to carry out numerous functions of central superintendence.

Why now inefficient.

The causes of the present inefficiency of the Central Sanitary Authority are obvious:—

1. Its want of concentration:—the reference of general questions of local government being made to the Local Government Act Department of the Home Office; that of measures "for diseases prevention" to the Privy Council; and that of other matters to the Board of Trade. Even pending our work of consolidation, an Act of last session

33 & 34 Vict. c. 70.

* See Wolverhampton Act, 1869, 32 & 33 Vict. c. cxxxi. § 391; Barrow Act, 1868, 31 & 32 Vict. c. civ. § 249.

† The new Education Act, suggestive in this as in so many other details, contains (sec. 39) a provision by which the Education Department may, on proof after inquiry that there has been a *material change* in numbers or rateable value of any division (in London), alter the number of members of that and any other division. Compare the Metropolis Local Management Act, 1855, 18 & 19 Vict. c. 120, sec. 33.

(The Gas and Water Facilities Act, 1870) has referred schemes for water supply to the Board of Trade for Provisional Orders, which also issue from the Home Office for the same purpose.*

2. The want of central officers:—there being, for instance, no staff whatever for constant, and a very small one for occasional, inspection.

3. The want of constant and official communication between central and local officers throughout the kingdom.

Should be in one office.

The New Statute, therefore, should constitute, and give adequate strength to, *one Central Authority*. There should be one recognised and sufficiently powerful Minister, not to centralize administration, but on the contrary to set local life in motion—a real motive power, and an Authority to be referred to for guidance and assistance by all the Sanitary Authorities for local government throughout the country. Great is the *vis inertiæ* to be overcome; the repugnance to self-taxation; the practical distrust of science; and the number of persons interested in offending against sanitary laws, even amongst those who must constitute chiefly the Local Authorities to enforce them.

M.-Gen. Denison, 7601.

Privy Council relieved.

In the way of consolidation there can be little doubt, first, that the New Statute which we suggest should, in connecting all sanitary powers under one centre, relieve the Privy Council of all future superintendence of such matters. There can be no special reason for regulations about disease emanating from the Privy Council. The facility of Orders in Council for rapid action in case of sudden epidemics is not even a pretext for such a needless resort to the Privy Council, for any department of State can avail itself of the like facility.

Cattle Diseases Act.

We think that whatever central superintendence the Cattle Diseases Act, or indeed any Acts relating to the diseases of men or animals, may require, should also, together with other sanitary superintendence, be vested in the new Central Authority. We might have included in this same observation the Quarantine business of the Privy Council, but we agree with our evidence that Quarantine must always be mainly a political subject. We shall, however, express our opinion on Quarantine more in detail hereafter.

See p. 49.

One Minister over Sanitary and Poor Law.

Keeping in view then the necessity for concentration, and having briefly stated our objection to the exercise of sanitary functions by the Privy Council Office, we proceed to inquire whether the central superintendence of sanitary administration which we now find so widely scattered could be brought together under the Home Office or the Poor Law Board. Dealing first with the Home Office, we find it charged with the working of the Local Government Act, but having no means of ascertaining the sanitary wants of the country, having no Officers of Health, no Inspectors to report upon such questions, no knowledge of the amount of sickness in the country, and indeed no officers who could furnish such information, except the police, dependence upon whom for such information would in our opinion be objectionable; and we come to the conclusion that it would be for the public advantage to leave to the Home Office all that portion of local government which can be classed under the head of Police, and to remove elsewhere that portion which properly forms the subject of our inquiry.

Turning next to the Poor Law Board we find a department in the closest relation with every Parish in the kingdom upon matters intimately connected with, and indeed too often dependent on, the enforcement or neglect of sanitary measures. Seeing that the Poor Law Board has a staff of Inspectors widely acquainted with the condition of every district, and a complete and efficient body of Medical Officers, who could be made in no long time available where no other Health Officer is appointed for many purposes of Sanitary inquiry and information, and that the Board of Guardians is the only available Local Authority in rural districts, we are led irresistibly to the conclusion that the various branches of Sanitary Administration could best be superintended by a Minister who should at the same time be charged with the administration of the Poor Law.

Not only does *economy* forbid any needless duplication of authority, but the greater interests of *efficiency* demand an united superintendence and single responsibility for subjects so closely connected as the Public Health and the Relief of sickness and destitution amongst the Poor.

But if the sanitary government of country districts is necessarily mixed up with the administration of poor relief, the sanitary government of towns and populous places, though involving very different and larger functions, cannot be left by itself under a separate Department.

It is true that "more effectual provision for improving the sanitary condition of towns "and populous places" was the proposition in the preamble of the first Public Health

* It is, however, necessary to remark that these two classes of provisional orders are by no means identical. Those issued from the Home Office, when confirmed by Parliament, give powers of compulsory purchase, which is in fact their principal design, whereas by the Gas and Water Facilities Act, 1870, it is expressly provided (33 & 34 Vict. c. 70, § 71) no powers of compulsory purchase are to be contained in provisional orders issued under that statute.

Act, and the proper regulation of towns is of the highest importance from the density of their population, the peculiar difficulties in providing for their healthiness and supply, and from the size of the great public works to be undertaken. But though the health of towns may be the primary object, a large proportion of sanitary legislation must be equally applicable to town and country, and the latter makes up in area for inferiority in population; and amalgamation of central administration is clearly desirable in order to attain both uniformity of system, and greater economy and efficiency of superintendence.

The two subjects of Supply for public health and Relief of destitution are necessarily cognate. Sanitary laws must bear a constant ratio to Poor laws, the one making provisions for health, while Poor laws are necessary for the relief of destitution of which sickness is both cause and effect; so that local government, both of town and country, including all Sanitary and Poor law administration seems most capable of being arranged, in two sub-departments, under one common head.

Two distinct departments.

It would, however, lead to great misconception to place this entire range of administration under a Minister entitled President of Poor Law; apparently subordinating the care of health to the provision for infirmity, and the economy of public wealth to the relief of destitution. Though, therefore, the subjects are so necessarily intermixed in treatment that efficiency demands their final reference to one chief Minister, his title should clearly signify that his charge is of two distinct though correlative departments.

We proceed to consider the constitution of the Central Authority which should preside over sanitary administration, as one sub-department, and over poor law administration as another sub-department.

The central sanitary office must be enlarged.

The first consideration which suggests itself is that the new Central Sanitary Office, even as a sub-department of a new Ministry, must be very much enlarged from the present scale of the Local Government Act Office, which under the Home Office, (together with the Health Department of the Privy Council,) has almost entirely conducted the sanitary government of the kingdom. If the Sanitary Statutes are to be made of general application (and their partial and optional application is to be no longer admissible,) it is obvious that neither the present office nor the present staff can be sufficient.

Besides the extension of superintendence to all parts of the kingdom, the superintendence itself must be rendered more effective.

When stringent provisions for thorough local government are everywhere applied, and there is a Body responsible for carrying them out in every place, the Central Authority must have adequate powers to enforce the effective action of all such Local Bodies.

The Sanitary Department must be as universal and equal in its action throughout the kingdom under the proposed Minister as its co-department of the Poor Law, which has its responsible Authorities established in every parish.

Many Boroughs now without general powers of local government will have to undertake them through their Councils; many urban and populous Districts will have to be provided with Local Boards. The remainder of the country will be organized afresh for the better discharge of the sanitary duties now imposed on Vestries and Guardians; and the Unions of parishes, already constituted for the administration of the Poor laws, will be adapted for these further purposes. Places under Commissioners will also be brought, in common with all other districts, under the new supervision.

This advancement of sanitary government to the full requirements of the whole kingdom must necessarily demand both a much larger and a more powerful Central Office than the present Local Government Act Office, in proportion to the more numerous local bodies, and the more important works it will have to superintend. At the same time the coupling the machinery of poor law with sanitary administration under the same Chief will not only harmonize but economize the working of the whole system of local government.

Officers, Local and Central.

Inspection.

Amalgamated service.

The three inspectors of the present Local Government Act Office, and those of the Medical Department of the Privy Council, may, we think, be amalgamated with the Poor Law inspectors into one general body of Central Inspectorate. It may be found possible, ultimately, to incorporate into the same body all inspectors on matters relating to Public Health. For the present, considering the sanitary and poor law administration only, there seems no reason to doubt that the existing staff of inspectors could, with some addition to their numbers and in suitable circuits, ascertain the defects in the execution of both sets of laws, and bring the force of the common central office to bear on any defaulting quarter. For the specific purpose of setting any local work in operation, or for rendering prompt assistance and guidance in cases of epidemics, or on any emergency,

probably a variety of officers will be requisite; some with engineering knowledge, to judge of, advise upon, and aid in executing structural works; some with medical knowledge, who would be the agents of the chief Medical Officer in the central department, and would bring him into relation with the 4,000 medical officers already attached to the Local Authorities throughout the kingdom; and some with special knowledge in other branches of science, who will either (1) be retained only on particular occasions, or (2) should be attached, without salary, to the Central Office, for terms of years, and to whom special points of enquiry should be referred, with due remuneration for each such consultation.

The New Statute will doubtless, in this, as in other instances where the Central Authority has been empowered to appoint inspectors, leave a wide discretion in its hands. Experience alone can determine how far the same inspector can act both for Sanitary and Poor Law purposes. An inspector must, in any case, possess knowledge of a high order, or he cannot with effect exercise superintendence over the action of men who, in many cases, devote the best years of energetic lives to the discharge of their duties.

Some external pressure and vigilance is, especially in rural districts, necessary to force Local Sanitary Authorities into action. Highly intelligent members of Boards of Guardians, who have given us their opinions, agree that if such Boards are made the Sanitary Authorities in rural districts, they must at first be stirred up to and assisted in their work. It cannot be allowed that the health and strength of the people should suffer by their inaction, and many Guardians would gladly avail themselves of an external pressure compelling them to act.

Central inspection is mainly wanted to set local machinery at work, and to see that it is in order. Such inspection can easily be made in towns. In the country, distance may prevent personal inspection of every scattered sanitary district by the inspector on each circuit, but he might have forms of queries regularly distributed to the local inspectors, with penalties for making false or negligent returns, and the return being always presented to him at his visitations, or forwarded to him at his request, or at stated periods, would make him an effective medium of communication with the central power.

It is true that Mr. Weale, with all the impartial reflections of a retired poor law inspector and assistant commissioner, expresses doubts as to the possibility of such an united inspection; and so does Lord Devon, an ex-president of the Poor Law Board; but both allow that it is rather a question of increased numbers of inspectors, and that at the utmost the double work could not require anything like double the number: and it is with our complete agreement that they prefer putting additional inspectors over reduced areas to giving to the inspectors assistants, and thus making two inspectors travel over the same ground, and introducing an inferior class of men into the central service. Weale, 10,644, 10,662. Lord Devon, 10,851, 10,961.

The existing inspecting power of the Local Government Act Office is utterly inadequate even to the present requirements—being according to Mr. Taylor's estimate, about half what is necessary—and yet in the opinion of our most competent witnesses, effective inspection is the key to the working of the whole machinery. We deprecate the maintenance of parallel inspectorates of sanitary and poor law administration under the same chief Minister, not only on the ground of waste of powers but still more of probable conflict. We agree generally with Mr. Redgrave's opinion, that "there should be one staff for enforcing all regulations bearing on the health of the people." T. Taylor, 18, 20, 210, 8802. Redgrave, 7964.

Local inspection likewise economized.

The local inspection of nuisances will be likewise economized at the same time that it will be strengthened. The union of sanitary and poor law administration under one Department will be in accordance with the practice now existing in many rural districts, in which the Guardians, as Nuisance Authorities, employ generally the Relieving Officers of the poor law staff as their sanitary inspectors. They are too often ill-paid as sanitary officers, and in that capacity too dependent on their immediate employers to be thoroughly efficient; but it may be hoped that the greater development and combination of the whole system of local government may lead, in this as in other particulars, to a much improved service.

In this case however as in others a wide discretion must be left with the responsible Authority, who must be free to act in accordance with the circumstances, and will decide how far it can with advantage to the public service combine the duties of Poor Law and Sanitary Officers.

And other officers.

Clerks, treasurers, surveyors, collectors, and other officers of Local Authorities may to a great extent be the same as the corresponding officers of the Poor Law administration, and the two staffs actually united will greatly economize the strength if not the numbers of the service.

Central medical staff.

A still greater advantage from the coupling of sanitary and poor law administration under the same Chief Minister will be the union of the medical staff for both purposes.

Simon, 9696. Mr. Simon, the central medical officer who has been attached to the Privy Council Office since the abolition of the General Board of Health, is the medical referee for the Home Office, and is in correspondence with the Poor Law Board: with which latter he states that his "communications are immeasurably more frequent than with the Local Government Act Office." His severance from the Council Office, and concentrated superintendence of all public sanitary arrangements, whether those of Local Boards or Guardians, or any other Local Authorities, would greatly add to his usefulness and power.

Dr. Edward Smith, is attached to the Poor Law Board as medical officer, and to him the Board refer various medical and sanitary questions arising in connexion with poor law administration in the provinces; and one of the poor law inspectors for the Metropolis, who is also a medical man, advises the Board with reference to similar matters in that district.

Local medical staff. Nor would the united service of local medical officers for poor law and sanitary purposes be less advantageous.

There are about 4,000 medical officers, including those of workhouses, appointed by Boards of Guardians for unions, or for districts being parts of unions.

The Guardians, as "Nuisance Authorities," have power to call upon these medical men, whose primary duty it is to visit the sick poor, to report also on the sanitary state of their districts, for which reports the Guardians may pay under the express authority of the Nuisances Removal Act of 1860. The district medical relief books are to that extent records of disease; the medical officers are also employed by the Guardians under the Vaccination Acts.

23 & 24 Vict. c. 77, § 14.

To this extent the Poor Law medical officers are already officers of health, and such they should be to a much greater extent, and with a more complete organization, for at present the Poor Law Board has no authority over the Guardians in their sanitary capacity, and the communications of the medical officers of the Privy Council with the Poor Law medical officers on sanitary matters are, however numerous, only indirect and occasional. The sanitary work done by the Poor Law officers has therefore, for the most part, only local value. The work of the whole staff needs to be made uniform, and to be collected and digested under the guidance of one Central Authority.

The fitness of the Poor Law medical officers for larger sanitary works than they now discharge cannot be doubted. They are all fully qualified medical practitioners, intimately acquainted with the poorer classes, among whom are the most frequent needs of employing sanitary skill, and the best opportunities for sanitary studies. They are (speaking generally) sensible, humane, and well-informed men; they are constantly engaged in the cure of diseases, and, through their intimate knowledge of their several districts, have the best opportunities of tracing the sources of disease.

In rural districts it is probable that there would be very few exceptions to the rule that the medical officers of health would be also the Poor Law medical officers. In large towns, and other places in which the Guardians would not be the Sanitary Authorities, but in which Local Boards may now appoint local officers of health for one or more districts, the rule would not always be practicable or expedient. In these cases, the mutual relations of the officers of health appointed by the Local Sanitary Authority, and of the Poor Law medical officers appointed by the Guardians, should be arranged by the Local Authorities, with the approval of the Central Authority.

Similarly, there will be need of special adjustments in cases where the boundaries of the health districts differ so widely from the boundaries of the districts of the Poor Law medical officers that the balance of convenience would favour the holding of the two offices by different persons. But in every case we think it desirable that, so far as possible, the services of the Poor Law medical officers should be utilized for sanitary purposes.

The chief duties of a medical officer of health, in addition to such local duties as may be assigned to him by the Local Authority, should be:—

1. To study and report to the Central Office, as well as to his own Local Authority, with all possible dispatch, all things relating to considerable changes in the health of his district.
2. To collect from the local registrars, inspectors of nuisances, and others, materials which may be combined with his own observations in general reports on the health of his district, together with his recommendations thereon.
3. To supply information on all necessary inquiries to inspectors on their circuits.
4. To ascertain and certify, personally or by deputy, the causes of death in cases in which it is not otherwise medically certified.

For the purpose of his reports, of all of which one copy should be kept in the district and be accessible to all ratepayers, and another be transmitted to the Central Office, each officer of health should be supplied, from the Central Office, with forms for district returns relating to health, with spaces for statements as to conditions of houses, factories, water supply, drainage, food, and other recognised sources of ill health.

Officers willing to undertake observations of weather, analysis of water, or other scientific inquiries bearing on public health, should be entitled to receive, as the medical officers of the army do, on conditions to be determined by the Central Authority meteorological instruments and apparatus for chemical analysis, and records of their observations should be open to the inspection of the ratepayers of their districts, and be communicated to the Central Office.

Great importance should be attached to the preparation and collection of these local sanitary reports, and assistance and encouragement should be given to medical officers of health to induce them to study all sanitary questions, and to make their reports as complete as possible. Every local medical officer of health should have the like powers as are given to inspectors of nuisances, to call for reports from any inspector of nuisances in his district, and every report made by any inspector of nuisances should be made also to him. He should also be empowered to require from the local registrars of births, marriages, and deaths, any such information, reasonably within their departments, as may help in completing the public health reports in his district. Moreover, the local medical officers of health should be empowered to obtain, at the Office of the Local Authority, all reasonable assistance in the clerical work of their reports and statistical returns, especially in making copies for the local office. In recognition of satisfactory returns, the medical officers of health supplying them should receive copies of the reports of the Central Office on all subjects relating to such returns; and upon such conditions as may be agreed upon by the Central Authority and the General Medical Council of registration and education, the Registrar of the Council should be required to register, as an additional title, the title of officer of public health, or of inspector of public health.

In order that medical officers of health may be able to discharge their duties without fear of personal loss, they should not be removable from office by any Local Authority, except with the sanction of the Central Authority. They should not, as a rule, be hindered from the private practice of their profession, or from holding any public office, such as Inspector of nuisances, factories, or workshops, Coroner, or Hospital medical officer.

We have already expressed the belief that with such a sanitary staff as we should propose, the best means would be provided for the increase and diffusion of sanitary knowledge. Supervision of the public health in every part of the country, however small or remote from the centre, being exercised by competent persons, familiar with all the circumstances of their several districts, and encouraged in the study of sanitary science, will not only insure the swift detection of prevalent disease, and the application of its most probable remedy, but will conduce to a more comprehensive and exact study of the sources of disease than is now possible. The enquiries of the local medical officers will be guided from the Central Office with the highest attainable medical and scientific knowledge; and their reports will supply a vast collection of facts for the study and elaboration of the central officers.

See page 15

It is hoped that the results of this study may be published, under the authority of the new Minister, annually or biennially in the form of reports, as well as reports from the legal, engineering, and statistical officers of the Sanitary Department. To enhance the usefulness of these health reports, arrangements should be made with the General Registrar and Poor Law Commissioners of Ireland, and the Registrar and Board of Supervision of Scotland, for a uniform system of nomenclature and mode of reporting; and the Central Office should arrange for regular interchange of reports with foreign health departments, and for a wide diffusion of their own reports by presentations to persons distinguished for sanitary knowledge, or actively engaged in its promotion.

We proceed to consider how far the functions of both Central and Local Authorities must be affected, when so adjusted to the demands of general and effective sanitary government.

Functions of Central Authority.

The Central Authority when, as the proposed new ministry in chief of local government, it is charged in one of its departments with the superintendence of all Sanitary Authorities, and equipped with a sufficient staff of officers, both medical and inspectorial, must nevertheless avoid taking to itself the actual work of local government. We would leave *direction* only in the Central power. It must steer clear of the rock on which

T. Taylor, 26.

the General Board of Health was wrecked; for so completely is self government the habit and quality of Englishmen, that the country would resent any Central Authority undertaking the duties of the local executive.

The same as now, but increased and extended.

The new Department will have to keep all Local Authorities and their officers in the active exercise of their own legally imposed and responsible functions; to make itself acquainted with any default and to remedy it; it will have also to discharge to a much greater extent its present duties which we have already enumerated, namely, to direct enquiries, medical or otherwise; to give advice and plans when required; to sanction some of the larger proceedings of the Local Authorities; to issue provisional orders, subject to Parliamentary confirmation; to receive complaints and appeals; to issue medical regulations on emergencies, and to collect medical reports.

This New Office must be more fully empowered than the Home Secretary is at present to deal with the default of any Local Authority. It should also ascertain that money which has been borrowed under sanction for a public purpose has been properly applied.

Such, very generally stated, must be the extended powers and duties of the new Central Office.

Supervision and control over Local Authority.

There will remain cases where the Local Authority continues inactive and refuses to perform the duties which the Legislature has imposed.

29 & 30 Vict. c. 90, § 16. Blood, 3875–8; A. Taylor, 1377.

In some instances the Local Authority neglects to put the law in motion and to institute proceedings before the magistrate. Where this default exists the Central Authority may now, under the Sanitary Act of 1866, cause the Chief Officer of police to institute the proceedings. One witness illustrates the efficiency of this method by an example, viz., Terling, where the police were authorized to act in consequence of a fever caused by the drinking of polluted water and by the accumulation of filth. Action by the Chief Officer of police will ordinarily fail in corporate towns, where the Council are the Authority for sanitary purposes, and have the control of the police. The servant would be called upon to make good the defects of his master. The discipline of the force must break down under these circumstances, and we recommend that the Central Authority be unrestricted in the choice of the person whom they may appoint to institute the necessary proceedings—a freedom of choice which is desirable on other grounds; for example, where there is a strong local aversion to the exercise of any sanitary functions by the police it would be most undesirable to employ any member of the force. In districts and towns where no municipal Corporation exists the Chief Officer of police might be appointed; while in municipal Boroughs some other person would be selected. This power of initiation of Sanitary operations is one of no wide range: we, however, recommend that it be continued in the improved form which we have suggested. The Sanitary Acts of 1866 and 1868, followed by the Sanitary Loans Act of 1869, conferred on the Central Authority power of a more effective character; according to those Statutes, when an Authority neglects the duties imposed by law, the Central Authority can enter, execute the work by its own officers, and defray the expenses by levying a rate or even raising a loan.

29 & 30 Vict. c. 90, § 49. 31 & 32 Vict. c. 115, § 8. 32 & 33 Vict. c. 100.

The knowledge that power is in reserve together with a natural reluctance to be superseded in the management of their own affairs, and to have the power of levying rates transferred from representatives of the ratepayers to an office in London, will act as a *stimulus* to Authorities, and render frequent recourse to these extraordinary powers unnecessary. It is probable that, when once convinced that the works must of necessity be executed, the ratepayers will desire themselves to administer the details, and to exercise control over the expenditure.

Moreover, the Secretary of State can now only move on complaint made. The New Statute must provide that the report of an inspector, as well as complaint, shall also be sufficient warrant for the putting in force, after due notice, of these powers. If the execution of the law is not to depend on the energy or apathy of Authorities, still less can the power to set indolent or perverse Authorities in motion depend on the accident whether individuals make complaint or keep silence.

The evidence contains several suggestions for improvements in the law on this point.

We concur in the recommendation of the town clerk of Bradford that the powers of the Central Authority which are now confined to general Acts should be extended to local Acts. There is indeed reason to believe that in some instances local Acts are not so effectively carried out as general Acts. The powers of the local Act being granted to the locality on application to Parliament come to be regarded as weapons to be used or laid aside at the pleasure of the Authority on whose petition they were granted, rather than as powers accompanied by a duty to put them in force.

Mode of compelling local action.

Assuming, then, that the Central Office is to retain in some form the authority now exercised under the 49th section of the Sanitary Act, we find three modes in which reluctant Local Authority may be stimulated:

(1.) By mandamus;
(2.) By entry; execution of the work, and recovery of the costs from the district.
(3.) By fine, or attachment on non-compliance with order of Central Authority.

Simon, 1871, 1984, &c.; 2059 &c.

The remedy by *mandamus* does not appear adequate. The process is long and dilatory; and the case, when at last brought to issue, would be of a nature which a Court of Law is eminently unfitted to try. Details of sewers and sewage; quantity and quality of water supplied; character and volume of water within reach; capacity of works to be constructed, their nature and general arrangement; state of domestic offices; mode in which scavenging is done and removal of refuse carried on: these and similar questions would be the points for discussion, and the mere statement would appear to afford sufficient proof that they cannot with any satisfactory result become the subject of judicial decision.

We recommend that the Central Authority should have power, in case of necessity, to enter and execute, or closely superintend the execution.

The Local Government Act Office has submitted to us a list of cases where recourse has been had to the 49th section of the Sanitary Act, and we do not discover any reason to doubt the efficiency of the remedy. When the existence of sanitary mischiefs is proved considerable time must be devoted to the investigation of the most effective cure, and to the completion of the works after final decision upon the design. We cannot, therefore, look for a thorough reform in any given case, except perhaps that of a small village, until after the expiration of some time, and must not condemn the procedure as a failure because some delay has occurred in certain instances.

Rawlinson, 530, 575. T. Taylor, 261.

At the same time, however, it does not appear desirable that the Central Authority, where it can be avoided, should itself undertake the performance of any works. In so doing it would saddle itself with an onerous and unnecessary responsibility, and would undertake duties which it would not always be able to discharge satisfactorily. The Central Authority should therefore have the power, as an alternative, to make an order upon the Local Body (after due inquiry, and after affording it full opportunity for self-defence and for urging objections), enjoining upon it the proper exercise of its powers in the instance specified; and this order the Central Authority might be authorised to enforce, either by taking some prescribed and summary proceedings in a Court of Law, which should terminate in attachment, or by suing for and recovering from the defaulting body adequate penalties in a summary manner. These penalties, it is true, would come out of public rates, but the fear of such proceedings would have a most salutary influence upon the ratepayers by inducing them to forbear from electing, as members of the Local Authority, men averse to sanitary improvement.

There is the case where the Local Authority miscarries not by default but by excess—in other words by an undue exercise of its general powers, as by attempting to carry out expensive works unnecessarily. It may perhaps be thought that this case is not very likely to occur, or that, if it should arise, a sufficient remedy already exists in the check which the ratepayers at large would exercise over their extravagant representatives; but be this as it may, there seems no reason why the general superintendence of the Central Authority should not entitle it to interfere in this case also.

There are other circumstances under which the Central Authority should be entitled to interfere, but which will be more conveniently discussed when we come to deal with the subject of appeals.

Powers of Local Authorities.

Must be adequate to the objects in view.

Local Authorities existing everywhere must, whether in urban or rural districts, be supplied with all such powers as they may want, in order to be fairly responsible for the requirements of Public Health.

Question of separate urban and rural codes.

On the question how far the powers and duties of Local Authorities must be extended, the first point to be settled seems to be whether there should be one separate code for urban, *i.e.* thickly peopled, and another for rural, districts.

Many powers and duties of local government are applicable to towns and not to rural villages; but it is not clear that towns should therefore have a separate code to themselves. The alternative is that villages should take what powers they may require out of the provisions of a common code.

In favour of a separate code for towns, it may be argued that it would throw ridicule on the law to offer villages power to do that which they will never be called upon to do, even though the exercise of the power were made to depend on higher authorization.

In favour of a single code of law for all powers of sanitary government, to be used where appropriate, is the great practical value of simplicity, and the absence of repetition and volume of law. Besides this, the rapid change of places from a rural to an urban character makes it desirable that any place should easily acquire such further powers as its growth may demand. We think there should be but one code.

The clauses, however, of a single code may be made to designate certain provisions as intended for towns only, and it might be put within the discretion of the Central Authority to sanction the assumption of such urban powers by any Local Authority, or even to impose them upon any place attaining urban growth.

The present law, in its tentative course of enactment, has assumed, as we have already noticed, almost the form of a double code: the Nuisance Removal Acts, and the later Sanitary and Sewage Utilization Acts applying everywhere, and the Local Government Acts, together with local Acts, applying exclusively to towns.

It will, however, probably be found that there are certain matters which ought to be differently regulated in country and town. For example, should Parliament enact that building byelaws be provided for rural districts, those byelaws might be simpler in their character and narrower in their scope than urban byelaws. In urban districts the powers for scavenging and cleansing may well be more stringent than those in force among rural populations; simplicity may be promoted by the enactment of simpler rural clauses to meet these special cases.

We have pointed out elsewhere, in treating of administrative areas, how urban powers should be assumed by or imposed on rural districts when necessary.

Public experience will develope local power.

All the powers of local government will acquire new strength and meaning from their completion on a national system. When pollution of water, for instance, is made universally and practically penal, it will have to bear the brunt of national condemnation as a nuisance. Local prejudice and apathy cannot long resist established public opinion.

More uniform practice will range national habit on the side of the law. The advance of practical science, no longer discredited by the scoffs of ignorance, will have the means of wide illustration to carry conviction. The community will first learn, and then demand, their right to protection from preventible diseases and death, in return for rates levied on them by a Local Authority responsible everywhere for public health.

We proceed to make observations on the various powers of Local Authorities upon which we shall base our "Suggestions" for the New Statute on these subjects.

Water Supply.

The question of water supply may be said to involve more serious difficulties than any other subject referred to the Commission. The recent Water Supply Commission did not fully deal with these difficulties even in relation to provincial towns.

Large powers in respect of water supply have long been enjoyed by Local Boards. They have subsequently been extended to Sewer Authorities, and thus there are such powers vested in some Local Authority in every part of the kingdom. If like powers are to be exercised by the more numerous and vigorous Local Authorities under the amended law, it is necessary to point out that there would be practical results not hitherto experienced, and the powers might appear to require limitation in certain particulars by provisions either imposing restrictions, or subjecting the Authority to the superintendence of the Central Authority.

It is sufficiently obvious that Local Authorities must have the duty of providing adequate water supply for their districts, and the power of applying their rates for such purpose; but whilst conferring on them adequate powers in this respect, it must not be forgotten that there are other interests besides those of the Local Authorities and the water consumers to be considered and guarded. *Primâ facie* each district may be entitled to consume so much of the water found within it as may be necessary or convenient for its purpose. It may acquire the right to take the water, either by agreement with those who have the right over it, or by compulsory process where those parties oppose. In cases where the exercise of compulsion is necessary, the process for taking land for water purposes has hitherto been by Provisional Order, which involves a public hearing before an inspector of the Central Authority, and thus incidentally gives that Authority a power of *veto;* but whilst it would be well to retain this form of compulsion in the future law, and to extend it to the taking of water, and of land for water purposes, *beyond* the district of the Authority, it appears to us necessary and

proper that the future law should require that the Watershed Authority (if any) of every district affected should also be heard by the officer having the conduct of the inquiry; and that if there be no Watershed Authority, then it should be the express duty of that officer and of the Central Authority to try the question, not merely as one between the water owner and the water consumer immediately at issue, but also with reference to other, perhaps much wider, interests; and if this be necessary in cases where the Local Authority and the owner are at issue, much more might it be needful to require vigilance on the part of some public department where those parties are agreed. True it may be that in many instances there might be no practical mischief in allowing the Local Authority to bargain without restriction, with the owner of neighbouring land or water, for its necessary water supply; but there must be other instances,—*e.g.*, a proposed taking, by agreement, of water from another watershed within, or beyond, the district—where the exercise of such unrestricted power might operate to the serious prejudice of another district, perhaps adjoining, and perhaps even distant. It seems impossible to anticipate the varying circumstances which may arise, and it appears wise to require the consent of the Watershed Authority (if any), to the taking of water by a Local Authority for the purpose of public supply, power being given to the Central Authority, if the consent of the Watershed Authority should be withheld, to hear the parties interested, and to decide. The Central Authority should always where there is no Watershed Authority, have a *veto* on every proposed agreement for acquiring water or land for water purposes.

An illustration of the mischief, which may arise from allowing agreements for the taking of water for public supply, without the sanction of some tribunal, which would weigh all the circumstances, is afforded by the Cheltenham and Gloucester Water Bill, which came before Parliament in 1865, and was rejected by the House of Commons, on the ground that it proposed to sanction the taking of a million gallons per day, at a spot near indeed to Cheltenham, but in another watershed, and belonging to the sources of the London water supply. If the promoters of the Bill could by agreement or otherwise have carried out their object without application to Parliament, the inhabitants of the metropolis might have sustained this injury without the opportunity of resistance, or even without becoming acquainted with the scheme until too late.*

There are, moreover, cases where Local Acts assign to communities certain gathering grounds, which do not afford more water than is either required at the time, or will be required after no long interval. These grounds are not in all cases within the limits of the district, or even within the same watershed. But it would be an act of great hardship and severity to draw from these grounds for the sake of new districts, and deprive those who have constructed waterworks of the advantages which they ought to receive from expenditure incurred under parliamentary powers. Manufactures in which large capital is invested, and on which the well-being of considerable populations depends, might be thus deprived of the water necessary for their prosperity.

Letter from Mr. Denison, Q.C., vol. iii. p. .

It is idle to talk of compensation in money for the loss of water upon which the health of a community depends. Parties, moreover, may be deprived of water under circumstances of great hardship, for in many cases an equivalent in volume would be no compensation for the loss of water possessing the peculiar properties necessary for the successful carrying on of works, and it must not be forgotten that opposition to provisional orders is accompanied by expense and inconvenience, to say nothing of the technical impediments which may frequently shut an injured individual or community out of court.

Influenced by such considerations, we do not recommend that absolute power be given, even under provisional order, to obtain a supply of water by compulsory purchase.

Should no Watershed Authority be created we rely upon the vigilance of the Central Authority, who, upon application made, would not confine itself to narrow and technical views of the relations between two interests which may come more immediately into competition, but would take into the field of survey the entire district with the varied and complex conditions which each case will present. The Watershed Authority, where such exists, would discharge the duty of protecting the general welfare against the encroachments of individuals or of communities.

Recommendations.

Our recommendations run as follows, viz.:—

To prevent mischief to unrepresented interests either—(1) by the Local Authority requiring to obtain a water supply, or—(2) by the owner of the land proposed to be purchased for the purpose, it is desirable that no such purchase be permitted, either

* Valuable remarks on this point are to be found in the Report of the Metropolitan Water Supply Commission, 1869, p. cxxiv.

in the district or out of it, without the consent of the Watershed Authority representing the watershed from which the water is proposed to be taken, or of the Central Authority in the absence of or on appeal from any such Watershed Authority.

Subject to this consent, the Local Authority should have power to buy land in, and also beyond, their district for the purposes of water supply by agreement, and also by compulsion through the provisional order of the Central Authority confirmed by Parliament; and such Watershed Authority as above mentioned, if constituted, should be heard by the Central Authority during the local inquiry incident to the proceeding by provisional order.

Incorporation of Waterworks Clauses Acts, 10 & 11 Vict. c. 17. T. Taylor 1st Report Appendix p. ix.

The two Waterworks Clauses Acts, 1847 and 1863, contain clauses for insertion in Local Waterworks Acts. It has been suggested that the following provisions of those Acts be incorporated with the New Statute;—viz.:

1. The following sections of the Waterworks Clauses Act, 1847:—

(*a.*) The sections (7–15) with respect to the construction of waterworks.

(*b.*) The sections with respect to mines, so far as any of these clauses relate to England.

(*c.*) When the Local Authority have not the control or superintendence of streets, the sections with respect to

(1.) The breaking up of streets for the purpose of laying pipes.

(2.) The supply of water to be furnished by the undertakers, except so far as relates to agreement between the town Commissioners and the undertakers, and so much as requires request of town Commissioners, or as imposes any penalty or forfeiture payable to the said town Commissioners.

(*d.*) The sections with respect to the waste or misuse of water to be supplied by the undertakers.

(*e.*) The sections with respect to the payment and recovery of water rates.

26 & 27 Vict. c. 93. 2. The following sections from the Waterworks Clauses Act of 1863:—

(*a.*) The sections (3–11) with respect to the security of reservoirs.

(*b.*) The sections (12–15) with respect to the supply of water to be furnished by the undertakers.

(*c.*) The sections (16–20) with respect to the waste or misuse of water to be supplied by the undertakers.

T. Taylor. 8706, 8762–4.

It has also been suggested that the powers of compulsory purchase under provisional order should extend to the purchase of lands and rights which the Local Authority may require to purchase without their district for the purpose of water supply.

Subject to the restrictions and reservations which we have previously explained, we concur in all these recommendations. We may remark that the clauses of the Waterworks Clauses Act, 1847, relating to fouling the water, are nearly identical in terms with the Public Health Act, sect. 80; on the other hand, sect. 38–43 of the Waterworks Clauses Act, which it is proposed to incorporate, deal with the same subject as the Public Health Act, 1848, sect. 124, but in a more effective manner.

But the Waterworks Clauses Acts, 1847 and 1863, have not covered the whole ground; for, on a review of such Local Acts passed since the year 1863 as have incorporated the two Waterworks Clauses Acts, we find many provisions not contained in the Waterworks Acts. Some are of a local nature, and must in each case assume such character as circumstances may impose, but others are more general, and their frequent occurrence would suggest that another Waterworks Clauses Act should be passed, when the whole subject may be reviewed and the entire range of clauses collected into one statute.

Local Waterworks Acts. 27 & 28 Vict. c. vi.

The space at our command does not admit of a complete enumeration of these clauses, but some examples by way of illustration may be given. We find—

1. Power to purchase by agreement any easements. Matlock Baths Act (1864), sect. 18.

2. Limitation of time during which compulsory powers of purchase are to continue. Ditto, sect. 19.

3. Limitation of time within which works are to be executed. Ditto, sect. 20.

4. Power to take by agreement additional land not exceeding acres. Ditto, sect. 21.

5. Amount of charge at which the proprietors of the waterworks *must* supply water for domestic uses. Ditto, sect. 23.

6. Amount of charge at which baths and waterclosets are to be supplied. Ditto, sect. 24.

7. Reduced charge for waterclosets in case of a house below value named.

8. Reduction of rate where parts of dwelling-houses are occupied as separate tenements. Newcastle Act (1857). 20 & 21 Vict. c. xxxiv.

9. The company shall not be bound to supply water unless the cisterns be

(1.) Of proper strength, size, &c.

(2.) So used as to prevent

(*a.*) The waste or misuse of water.

(*b.*) *The return of foul air and other noisome or impure matter into the pipes belonging to or connected with the mains and pipes of the company.* (Matlock Baths Act, sect. 25.)

10. Provision that no supply for other than domestic purposes shall be given whenever such supply would interfere with the proper supply for domestic purposes. Ashton Act (1864), sect. 44.

11. Provision that, subject to right of inhabitants within the limits to the prior adequate supply of water, the (undertakers, in that case the) Corporation may sell to any Corporation or Local Board water in bulk, and at such terms as shall be agreed upon. Ashton Act, sect. 51. 27 & 28 Vict. c. xlvii.

12. Provisions in favour of railway works, *e.g.*:—

Ashton Act, secs. 11–18. North Cheshire Act (1864), sect. 19. 27 & 28 Vict. c. cviii.

13. The like as to canals, with provisions specially covering their case, *e.g.*:—

North Cheshire, sect. 9.

Most of the clauses above mentioned would appear suited to the provisions of a general Act. But there are local circumstances to be investigated at a local inquiry, and for which the most ample provision must be made in all concessions for water supply to Local Authorities.

Security of reservoirs 26 & 27 Vict. c. 93, §§ 3–11.

The sections of the Waterworks Clauses Act, 1863, which we have recommended should be incorporated into the New Statute, only imperfectly provide for the repairs of reservoirs which may be in a dangerous state. The destruction of life and property which resulted from the bursting of the Bradfield reservoir excited public attention, and caused an inquiry, in 1865, by a Committee of the House of Commons, to which the Waterworks Bill of that year was referred.

They recommended, among other things:—

(1.) The submission to Home Office or Board of Trade of plans and sections of the site selected for all large reservoirs, of the works to be erected, and descriptions of the mode of construction.

(2.) That a competent person should be sent down by the Home Office or the Board of Trade to examine the site and report.

(3.) That the plans, &c. and observations of person who has so examined the site should be laid before the committee on the bill.

(4.) Inspection during the progress of the works: that notice should be given to an office in London before the reservoirs were filled, and that the London Authorities should have power, during a specified time, to forbid the filling of the reservoir.

(5.) That an adequate supervision over all such reservoirs should be maintained by the Home Office or Board of Trade, and that competent persons should be sent down to inspect.

The bill of 1865 proposed to enable proprietors of waterworks to acquire, or temporarily occupy, land on the certificate of the Board of Trade, in order to strengthen their works where public safety so required, and, in case of urgency, temporarily to occupy lands for that purpose even without a certificate; the bill was dropped and no legislation has resulted from the Report of the Committee.

We suggest that the Committee's recommendation should be introduced into the New Statute, but referring, always and only, to our proposed Central Authority.

Menzies, 7160, 7220.

In many rural places rain-water tanks are almost necessities, and the Local Authority should be empowered to provide them, or to compel the provision of them when necessary, by the owners or builders of detached cottages.

Quality of supply.

But no abundance of water supply can compensate for defects in the quality of the water.

To this subject the Central Authority will doubtless devote unremitting attention. We already have reports on the character of the water supplied in London; and

the same vigilance ought to be exercised by the Local and Central Authorities throughout the country. The last report of Mr. Simon* contains additional evidence of the unsatisfactory character of water supplied in the metropolis, and the necessity for increased supervision over companies. We agree with him in thinking that it should be the province of some named Central Authority to take at its discretion legal proceedings against any purveyors of water who wilfully or negligently distribute polluted water.

Facilities for analysis. With a view to promote public health it is necessary that every reasonable facility be afforded for analysis. Were an extensive analysis of water for domestic use to take place there is no doubt that many sources now but little suspected would prove to be poisonous or unwholesome, and the prevalence of disease in many districts would be fully accounted for; indeed the establishment of a few laboratories, for this and other purposes, seems eminently desirable.

Constant service. Another source of mischief to the public health is the storage of water in cisterns instead of a constant service. It has, we believe, too often happened that Committees of Parliament have, without sufficient reason, allowed promoters of water bills to escape from the obligation to afford a constant supply. In other cases where, as in London, the cisterns piping and other water gear in houses, have been, in the first instance, adapted, perhaps throughout an entire district, for intermittent supply, there has been reasonable reluctance to compel owners and occupiers to make the necessary alterations. See Metropolis Water Supply Act, 1852. But in inquiries, such as that of the House of Commons Committee of 1867 relating to the water supply in the east of London, the injury to the community created by the present mode of storing water has been brought out in bold relief. In houses of the opulent the cisterns are frequently more or less unsatisfactory, perhaps not free from effluvia caused by drainage pipes; whilst in the more confined and less cared for houses of the lower-middle and working class they are often the receptacle of putrid matter.

15 & 16 Vict. c. 84, § 15.

Report, page xvi., paragraph 68.

The Committee reported as follows:—"The use of cisterns for the purpose of "storing water for consumption is probably a more fertile cause of impurity than any "pollution of the river from which the water is drawn. Decaying animal or vegetable "bodies, or other impure matter, may easily find their way into a cistern, and are more "likely to engender disease than any impurity existing in the water before it flows "into the cistern. In well-regulated houses the cisterns are of course constantly "drawn dry and properly cared for, but as cleanliness decreases it is found that "the cisterns are allowed to become more foul, until the lowest state is reached, when "the water is stored in tubs and otherwise under the most disgusting conditions, which "cannot but be injurious to health, and a cause of the diseases which are found to "prevail in the worst-regulated parts of London. On the other hand, an intermittent "supply of water without cisterns not only deprives the inhabitants of the supply they "ought to receive, but, from the want of adequate storage, it is kept in pails and "other small receptacles in rooms and places where it is liable to much contamination."

We think that Parliament should as much as possible insist on the constant service which the general Statutes have enjoined.

21 & 22 Vict. c. 98, § 76. 29 & 30 Vict. c. 90, § 50.

A fertile cause of mischief in connexion with water supply, is the neglect of owners of property in low localities to provide a proper supply or access to a proper supply of water either within or in fit proximity to the houses for the use of their occupants.

Local Authorities have been armed with strong remedial power in this respect by the Local Government Act of 1858 and the Sanitary Act, 1866; and care should be taken in the New Statute to continue those powers with increased facilities, if necessary, for their exercise, and to make it the duty of the Local Authority to put them in force.

Soakage from cesspools. In connexion also with this branch of the subject we feel bound to direct attention to the evidence, which proves the wide prevalence of soakage from privies, cesspools, and other receptacles into wells; we must also advert to the necessity of not permitting houses to be occupied in country districts without some supply of, or access to wholesome water.

Pollution of Water.

All Local Authorities may protect watercourses in their district from pollution.

The discharge of the unpurified contents of sewers into running water should as far as possible, be made penal under the New Statute, as indeed should all kinds of pollution of such water by refuse, gas-water, or slaughter-house washings, or by the discharge of injurious liquids or of solids from manufactories. Our evidence leads us to believe that almost all such pollution is not only a nuisance, but also a waste of what might be utilized. Christison, 5285.

Rawlinson, 719.

* Twelfth Report of the Medical Officer of the Privy Council (for 1869), page 35.

No prescriptive right should accrue from long-established pollution. Some leniency may be due to old custom, and existing establishments may have only "the best proved practice for abatement of nuisance" forced upon them; but all new offenders should be effectually restrained.

We do not consider the superiority of any particular mode of sewerage, *e.g.*, whether by separate or joint discharge of sewage and surface water, sufficiently decided by general experience or opinion to be imperatively asserted by law; but there can be no doubt that every town, and even village, should have some innoxious means for the disposing of its refuse, so as to pollute neither the air breathed nor the water drunk, and if possible so as to turn the refuse to profitable use. "This principle," says Mr. Rawlinson, "has never proved unreasonable; it is asserted in the existing law but not carried out." We hope the proposed inspectorial, and ultimately executive, power of the central authority will carry it out. In this matter combination of authorities is peculiarly necessary, as no river can be safe from pollution unless the whole watershed is protected. Rawlinson, 717, 719.

Most towns of any considerable size have already made or are making sewers, and few (except in the north of England) retain the ashpit and scavenger system. Many places have undertaken the utilization of sewage; but we doubt whether many have yet discovered how to make such a profit on their outlay as we hope may some day result from the proper application of such rich manure as must be contained in sewage to agriculture. The admission into sewers of deleterious refuse from manufactories, is one cause of the unprofitableness of sewage as manure. Sewers are still too often made to discharge into running water or the sea. In many places sewage is allowed to soak through the soil into the wells from which water is drank; this should be made penal. More power is also wanted to cleanse, or in the last resort to close, polluted wells and pumps.

Sewerage.

The powers of all Local Authorities, whether Councils of Boroughs, Local Boards, Commissioners, or Vestries, are generally ample on the subject of sewerage under the existing Statutes. Every such Authority is required to provide and maintain sufficient sewers. The Secretary of State may order the execution of such works, and, on the default of the Local Authority, may execute them at the charge of the locality.

Sewers may be carried to an outfall, even outside a district, and land can be taken, held, leased, and farmed by the Local Authority for sewage irrigation. Reservoirs may be constructed and kept in order, and sewers conducted into them; and, for all purposes of the Acts, land may be purchased by provisional order.

Many defects, however, appear from our evidence to obstruct the active exercise of these powers; and on some points they require supplement.

The suggestions we have received for amending the law as to sewerage are either for extending general powers to omitted details, such as empowering Local Authorities themselves to execute works of combined back drainage, instead of giving authority to have it done piecemeal by individuals; or for obtaining easements through properties, for outfalls, by a cheaper process than under the Act of 1861;* or for restricting claims for damage by public works, or for wayleave of sewers through private property, to cases where no special damage can be shown; or for facilitating process as to notices, &c.; or for compelling private persons laying out building land to provide, in the first instance, a system of sewers. Rawlinson, 571; Wilson, 1703; Bailey Denton, 4883; Norris, 927.

We make the following observations on the preceding suggestions:—Some greater powers might be given for sewage distribution, *e.g.*, extending the limit of seven years for taking land on lease; but generally speaking the powers for the utilization of sewage are very ample, either for the Local Authority undertaking it, or contributing to the cost or being shareholders, or contracting, unless restricted by the terms of a Local Act; and only require the Central Authority to be clothed with such power as may render applications to the Court of Chancery in many cases unnecessary. A more formal assent of the Local Authority should in certain cases be attached to the right of owners to connect private drains with their sewers in order to guard against noxious fluids entering therein.

The scattered dwellings of a village often cannot have combined sewerage; but drains for surface water should exist in every village. Field, 8025; Snowball, 8021.

* By the Bradford Waterworks Act, conduits may be taken by way of easement without purchasing the fee simple.

We have elsewhere recommended greater powers and facilities for the appointment of combined or joint Boards. It is clear that they may often be wanted to enable country districts to carry out in combination or jointly sewerage works otherwise too costly, or by the nature of the ground impracticable for one Board.

Snowball, 8006. The powers of Local Authorities as to sewerage when there is more than one jurisdiction in the same district should be such as to enable them to secure uniformity of system, at all events within their own districts, which is not the case now.

Farr, 5186; Trench, 7765. It has been remarked in the course of our evidence that sewers themselves convey disease if imperfectly ventilated. This is an important point in detail to be brought under supervision.

This seems the proper place for observing that under the existing law Local Authorities have no power to make drains for taking off water, or for collecting and leading off water, otherwise than in connexion with sewage or other noxious matter. It seems very expedient that this absence of power should be remedied by carefully guarded legislation. There are many districts in which it must be desirable, on sanitary considerations, to execute works of drainage for the sole purpose of getting rid of water, and in which such an operation might be carried out without prejudicially interfering with the water supply of the district, and in which an outfall for mere drainage water not polluted by sewage might be easily obtained; and it has been strongly suggested to us that works for receiving and leading away surface or unpolluted water, separate from those by which the sewage and other noxious fluids of the same area may be led away, will in many conditions be found economical and desirable.

Removal of Refuse.

Water-closets, earthclosets, and privies. Earthclosets, and waterclosets, which the existing laws treat as equivalent, become themselves nuisances if not properly attended to. It is hardly possible to obtain such proper attention in villages to any sort of closet which requires machinery, but we think that a simple sort of closet without machinery might be made for them; and that with reasonable inspection, and under proper advice from health officers, we believe the state of cottage accommodation in this respect may, compatibly with the utilization of the refuse, be made quite innocuous, so as to pollute neither the water nor the air.

Scavenging. Local Boards have power to scavenge their districts by themselves, or by contract, and have power to acquire land by agreement, in or adjoining their district, for the deposit of refuse.

All Local Authorities should have these powers.

The new Statute should empower an owner or occupier to compel the Urban Authorities, who have undertaken to empty privies, cesspools, ashpits, or closets, after due notice, to perform their duty. We see no reason for altering the law further on this subject.

Nuisances removal. The distinct enactments for "removal of nuisances" *eo nomine*, which we would bring into the general sanitary law, bind every Local Authority, and especially the Authority now called a Nuisance Authority, in every place to appoint inspectors and search out and remove every nuisance.

We have carefully considered how far it may be possible to improve the existing law with respect to nuisances bearing upon health. Nuisances at common law may be prejudicial to health, and the amended statute law would leave, without interference, every remedy which the general law supplies. The Acts, of which the Commission recommends the repeal, have, by specific definition, declared that certain offensive conditions shall be taken for the purposes of those Acts to be nuisances, and thus have facilitated their removal or repression. All these statutory provisions should be maintained, and in a subsequent part of our report, when making suggestions for the arrangement of the existing Statute Law, we shall call attention to some other cases which may, in our judgment, be prudently brought by the New Statute within the category of statutory nuisances.

Winkley, 3776; Harrison, 6186; Lord Egerton, 6878. Some amendments of the law are suggested as to the liability to expenses in removing nuisances, namely, that the expenses should fall on those causing them. This is a principle of considerable importance, and one which the Legislature has not asserted in the general public Statutes. If a nuisance of any kind exist on premises the occupier or owner, however innocent, must bear the cost of removal. If, for example, offensive matter is discharged upon property by the neglect or even the wilful act of the neighbour, the cost of abating the nuisance falls on the occupant or owner, who is himself the greatest sufferer. Refuse from stables, cowhouses, privies, offensive drains, and even manufactories, is now frequently permitted to flow upon adjoining lands or premises, to

the grievous injury of the tenants or owners. If a stream be polluted by the conduct of those above, the duty of arching the stream or otherwise removing the mischief often falls on the occupier or owner below. He may have some ulterior remedy against the party who is the cause of the evil, but meanwhile he is exposed to proceedings from the Local Authority, and has to bear the burden caused by his neighbour's wrong-doing. There ought to be some process by means of which the original offender may be attacked. Where, for example, sewage matter is discharged upon property, it should be a sufficient defence to proceedings if the defendant is able to show that the injury results from the neglect or default of those interested as occupiers or owners in other properties without any contributory default or negligence on the part of the defendant. It not unfrequently happens that there is no nuisance on the property of the real offender, who transmits his noxious matter in such a manner that no injury arises to himself. The Local Authority might be enabled, in cases of emergency, to enter and do the work, charging the costs on the real offender, but in ordinary cases the true remedy consists in curing the evil at the source, and preventing the discharge of offensive matter or pollution of the stream; adjoining Authorities should co-operate, when necessary for this purpose.

Smoke. Certain fireplaces or furnaces which do not, as far as practicable, consume their smoke, and any chimney, not of a private dwelling-house, sending forth black smoke in such quantity as to be a nuisance, are included amongst the definitions of nuisances in the Sanitary Act of 1866.

29 & 30 Vict. c. 90, § 19. 21 & 22 Vict. c. 98, § 45. 10 & 11 Vict. c. 34, § 108. 16 & 17 Vict. c. 128. The Local Government Act, 1858, incorporated several provisions of the Towns Improvement Clauses Act of 1847, and amongst them a section which made it imperative, under a penalty, to construct or adapt fireplaces of factories so as to consume smoke, excepting in certain processes. The Leeds and other local Acts include similar provisions relating to consumption of smoke. The "Smoke Nuisance Abatement," (Metropolitan) Act, deals summarily with any trade carried on without the use of the best practicable means of preventing smoke. In Manchester the local Act provision is on this point practically superseded by the Sanitary Act, owing to the great cogency of the latter as there interpreted: the magistrates there holding that the words of the proviso in the 19th section of the Sanitary Act, "as far as practicable," do not apply to "black smoke," but only to "any fireplace or furnace used for working engines by steam," &c. The town clerk expresses the opinion that "in the case of those fireplaces "or furnaces the magistrates can refuse to convict, if satisfied that the owner has done all "that is practicable for the purpose of consuming his smoke absolutely and entirely, but "as far as regards the black smoke which is declared to be a nuisance, that proviso "does not at all apply." Sir J. Heron, 2339.

The consumption of smoke is not effectually carried out in many places, and we have had witnesses who still deny its possibility in certain cases, notwithstanding the practical reputation of many who have been equally incredulous, ever since the subject was first dealt with.

29 & 30 Vict. c. 90, § 19 (2). We are, on the whole, satisfied with the present state of the law as contained in the above-mentioned section, but have to regret that Local Acts contain exceptional privileges in favour of certain trades carried on in the districts under those Acts. These exceptions weaken the force of the general law, and expose to unfair competition those engaged in the same trade, who conduct their establishment subject to the more severe restrictions of the ordinary statutes. The recent Local Act for the borough of Leeds contains the following clause: "No means for the prevention or consumption "of smoke shall be deemed practicable within the meaning of this Act, as regards the "application to any dye pan, dye vat, or dye vessel used for the dyeing of wool, "woollens, or worsted stuffs, as regards the smelting of iron ores, or the refining, "puddling, shingling, and rolling of iron or other metals, or the melting and casting "of iron into castings, or as regards the coking of coal, or the calcining of ironstone "or limestone, or the making or burning of bricks, quarries, tiles, or pipes, unless it shall "be proved to the satisfaction of the justice or justices, or in case of appeal to the "satisfaction of the court of quarter sessions, that the same have been successfully applied "in similar processes, and are in successful operation, and have been used for 12 months "in similar processes or in similar trades under similar circumstances." 29 & 30 Vict. c. clvii. § 70 (*c.*)

In the adjoining districts there are ironworks and dyeworks competing in the same markets with the capitalists of Leeds, under the more rigorous enactments of the public general statutes. The injustice is self-evident, and will not be rendered more manifest by the most elaborate arguments. We may, however, remark that this enactment illustrates the desirableness of identity of provisions between laocl and general statutes. Pressed by obnoxious clauses, localities, or powerful influences in localities, will endeavour to escape by local Acts.

10 & 11 Vict. c. 34, § 108.

We recommend the abolition of the smoke section of the Towns Improvement Clauses Act, 1847, even if the whole of that Act should not (as we propose) be repealed.

In reference to smoke consumption, we would observe that no exceptions in favour of certain trades must include fireplaces or furnaces used for working engines by steam.

18 & 19 Vict. c. 121, § 44.

It is now said by persons of considerable authority that the provision of the Nuisances Removal Act, excepting mines, smelting of ores, &c., protects fires used for the generation of steam for that purpose, as well as furnaces employed in the actual smelting of ores.

The Legislature does not appear to have intended to exclude those trades from the operation of the 19th section of the Sanitary Act, 1866; and we recommend that the exception cease, both as to smoke, and generally as to all clauses dealing with trades. These trades will be sufficiently protected by the provision that it shall be a sufficient defence to prove that the best known practicable means for the consumption of smoke prevention of nuisance, effluvia, &c. have been adopted.

Noxious trades.

Slaughter-houses may be provided by Local Boards, who may also, where the clauses of the Towns Improvement Clauses Act relating to slaughter-houses have been adopted, license all future slaughter-houses, and make byelaws for the regulation of them.

As to noxious trades, the Act of 1848 forbids any of those therein specified to be newly set up without the consent of the Local Authority, under penalty, and subjects them, whether newly set up or not, to byelaws.

It may be a question whether the New Statute should assert the principle of this law more generally, or enlarge the list of specified trades to which it should apply, such as brick-burning, which has been suggested to us for addition.

18 & 19 Vict. c. 121, §§ 27. 28.

The Nuisance Removal Act of 1855 contains sections which, with unimportant alterations, are copied from sections of the Towns Improvement Clauses Act.

10 & 11 Vict. c. 34, §§ 104, 105.

Under these sections when a certificate is made to the effect that a place for carrying on trades therein named, or for any trade, &c., or manufacture causing effluvia, is a nuisance or injurious to health, the Local Authority is *directed* (*not* merely *enabled*) to take proceedings before justices. The complainant must prove that the defendant has not used the best practicable means for abating the nuisance, or preventing or counteracting the effluvia.

§ 27.

It is enacted that the Justices may suspend their final determination upon condition that the person complained against shall undertake to adopt within a reasonable time such means as the Justices shall judge to be practicable and order to be carried into effect for abating such nuisance, or mitigating or preventing the injurious effects of the effluvia.

§ 28.

Provision is also made for a trial of the case before a Superior Court, if the party complained against objects to the jurisdiction of the Justices, and finds security for the costs.

The trades enumerated in the Act of 1848 are not the same as those given in the Act of 1855, but no principle appears to distinguish the two lists. The two ought to be made identical, unless it be deemed more expedient to specify with accuracy and precision the new establishments which may not be set up without permission, while proceedings may be taken against either (1.) certain trades to be enumerated, but more numerous than those named in the other instance, or (2.) any trade whatsoever causing effluvia when proved to be a nuisance or injurious to health, with a proviso that proof of the use of the best practicable means for abating the nuisance shall be a good defence. But the burden of proof must rest on the defendant, not, as now, on the complainant. Our recommendations in the "Suggestions for new Statute" contain what we think should be the future state of the law, and it is unnecessary to anticipate what is there stated with the necessary precision.

In cases where the Local Authority gives or refuses consent to the setting up a new trade, there should be an appeal, in either case, to the Central Authority. Where assent is given, any inhabitant ratepayer or owner should be entitled to appeal.

Care is required in dealing with the subject, involving as it does important interests, because great manufactories cannot be stopped, and offensive trades must be carried on somewhere. Redress is open at common law, nevertheless we think summary remedy should be given generally through the Local Authority, subject to appeal.

30 & 31 Vict. c. 101, (Pt. ii.) § 16 (e.)

The Public Health Act of Scotland, 1867, has a long list of nuisances admirably drawn up, amongst which are enumerated, "Any work, manufactory, trade, or business "injurious to the health of the neighbourhood, or so conducted as to be offensive or "injurious to health." The machinery by which this Act deals with such cases is in some degree peculiar to the Scotch system, but the section is valuable as a testimony to the great importance of the subject in a sanitary point of view.

These provisions are chiefly applicable to towns; but in all places noxious trades

should be compellable to employ the "best practicable" means to abate any nuisance to health thence arising.

Buildings, Streets, and Highways.

To give an outline of the powers of Urban Authorities on these subjects we may say, generally, that they may prescribe new or altered lines of streets, make byelaws respecting their conditions, deal with drainage of houses, waterclosets, &c., cleanse filthy, close unfit, and pull down dangerous habitations; deal with overcrowded dwellings as a nuisance, prevent cellars being inhabited, regulate lodging houses, and in some cases provide for the improvement of labourers' dwellings. Streets, which are public highways, are under their control. They are, by the Act of 1848, the Surveyors of highways in their districts, and have the powers which, by the Highway Act, 1835, belong to Vestries. Paving, sewering, and lighting such streets can be enforced by them.

11 & 12 Vict. c. 63, § 117. 5 & 6 Will. IV. c. 50.

This rough outline of the law shows the general scope and nature of the powers which advancing experience has led Parliament to give to Urban Authorities, relating to the regulation of buildings and streets.

Cottages.

It is proposed by several witnesses, that cottage building in country districts should be under the regulation of Local Authorities, as to size and accommodation; and that there should be a surveyor for every union for this purpose. As regards rural districts, we recommend building byelaws of a simpler character; but do not think the deposit of plans necessary. It would be sufficient to enforce, by fine, compliance with the general regulations laid down by the byelaws.

The stringent control over private property suggested by witnesses, though in certain cases advantageous, should not be exercised by Rural Authorities, except under special byelaws sanctioned by, and with an appeal to the Central Authority.

A large portion of the cottages in the country are built as part of farm accommodation, without adequate or indeed any rent being paid for them.

This renders it exceedingly undesirable to impose any unnecessary restrictions on cottage building which would render the landlord less willing to expend his money without profitable return, but it is right that in all cases such restrictions as are necessary to prevent unhealthy cottages being erected should be enforced.

Witnesses have suggested to us that Urban Authorities, in addition to the powers which are already given them to require deposit of plans of all new buildings, to inspect all buildings in progress, and to make byelaws as to the line and width and sewerage of streets, and as to the thickness of the walls, the space about, and the ventilation of, buildings; might be further empowered to enforce some of these regulations retrospectively, and to license all new buildings before occupation.

There should be power to appeal to the Central Authority in these cases both where any person deems himself aggrieved by the rejection of his plans, and also where plans inconsistent with the byelaws are passed by the Local Authority. In the latter case any inhabitant ratepayer should be empowered thus to appeal, but in both cases the costs should be at the discretion of the Central Authority.

Lord Penrhyn, 7899

We agree with Lord Penrhyn, that much may be trusted to the rapid advance of public opinion to carry out improvement without public coercion.

New aggregations of people about a coal or iron field, or a fresh seat of manufacture, as we have already pointed out, are frequently housed without any plan or sanitary provision whatever. In such cases it must be required that plans of new buildings should be first submitted to the Local Authority for the purpose of being brought into any general system.

Lodgings.

29 & 30 Vict. c. 90, § 35.

By the Sanitary Act of 1866 the Central Authority may, where the population exceeds 5,000, on the application of a Local Authority, in certain cases, make regulations for all houses let or occupied as lodgings, though not common lodging houses, and on the certificate of the medical officer, the Local Authority may proceed before the justices for the abatement of overcrowding.

Dr. Trench, 7794.

Dr. Trench says the only sanitary evil of this kind untouched by the law, is the mal-arrangement of families in self-occupied houses, that is, overcrowding in houses which are neither lodging houses nor sub-let houses.

Interference with such private houses would, probably, be thought too great. We must look for a remedy, as Dr. Trench does, to making sanitary truths more known.

14 & 15 Vict. c. 28. 16 & 17 Vict. c. 41.

At present, by the Act of 1848, local boards register common lodging houses, regulate them by byelaws, and may inspect them. The Common Lodging Houses Acts, 1851 and 1853, extend the powers relating to lodging houses, and make certain provisions to meet cases of infection.

Common lodging houses should be put under more stringent control. The Justices should be empowered to take such houses off the register after conviction, and they should thereupon cease to be common lodging houses.

18 & 19 Vict. c. 121, § 43. It is a striking illustration of present legislative confusion that the Nuisance Removal Act of 1855 gives the powers of Nuisance Authorities to the Local Authorities constituted under the Lodging Houses Acts of 1851–3, by mere reference to those Acts.

The New Statute must avoid, as far as possible, legislation by reference to preceding Acts, and should itself give the Local Authority in every place all powers which are given by any other Acts on this as on every other subject. The Common Lodging Houses Acts of 1851–3 should be repealed, and all provisions respecting common lodging houses should form part of the New Statute.

Cellars. Cellar habitation is with difficulty suppressed. In Liverpool they have found the law difficult of complete enforcement. A landlord has been driven to fill up cellars, and

11 & 12 Vict. c. 63, § 67. the authorities ask for more distinct power on the subject. The section of the Act of 1848 on the subject wants great condensation and improvement of phraseology, as we shall afterwards indicate; but the law is generally stringent enough if enforced, and general in application.

Infectious and Contagious Disease.

On this subject the law seems to contemplate giving all necessary powers to Local Authorities to defend the public from the effects of neglect of proper precautions against the spreading of diseases.

28 & 30 Vict. c. 90, § 22. 16 & 17 Vict. c. 41, § 7. The Sanitary Act of 1866 enables Local Authorities on medical certificates to require owners, and in default themselves, to cleanse infected houses and clothes, to provide means of disinfection, and means of carrying infected persons (which they could before do, from common lodging-houses, by the Common Lodging-Houses Act of 1853); and subjects to penalties infected persons who expose themselves, or others in their charge, or infected clothes, &c., so as to endanger public health; it also imposes penalties on infected persons entering public carriages without notifying their infection, on drivers not afterwards disinfecting such carriages, and on persons letting a house which has not been properly disinfected.

See page 31. We have already recommended that the Diseases Prevention Act (1855) should be

18 & 19 Vict. c. 116. merged in the New Statute, and that the Privy Council should no longer issue the regulations required when any part of England is threatened with epidemic disease. On such emergencies the new Central Authority should include this among its Public Health responsibilities. Its duty would also be to institute inquiries; to authorize the gratuitous dispensing of medicines; the speedy interment of the dead; and to issue other necessary orders to Local Authorities. Medical relief to the poor in epidemic emergencies seems a function rather of poor law administration, but under the system which we have recommended there would be no need of separating it from other sanitary provisions. Local Boards should in all cases execute the Act within their own districts.

Vaccination. Vaccination enactments have been so much evaded or resisted, and so much feeling has been manifested against them, that a bill was introduced last session, but eventually withdrawn, to remit the penalty on neglect after two convictions. No doubt carelessness as to the supply of good lymph and as to the conduct of the operation has added to the inevitable unpopularity of compulsory vaccination; but we are far from recommending any relaxation of the law: while, on the other hand, we suggest no greater stringency, but trust that the result of the better regulations recently introduced will gradually conciliate public opinion.

Report, pp. 7–9. and 32–36. Mr. Simon, in his 11th Report (for 1868) details the improved instructions of the Privy Council to Local Authorities on the subject; their inspection of 1,749 vaccination districts, comprised in 312 unions; and their distribution, during 1868, of 2,753*l.*, placed at their disposal by Parliament for extra payments for successful vaccinations. He also states that 22 stations supply lymph to the National Vaccine Establishment, and that

Report, p. 36 2 stations are educational, not supplying but practising. In his 12th Report (for 1869) he says, that "besides the very detailed and numerous communications which "the Privy Council had with Boards of Guardians in immediate connexion with "their own superintendence of vaccination, they had equally detailed correspondence "with the Poor Law Board concerning vaccination arrangements." He describes

Report, pp. 47–52. the constant improvements which have been introduced since the superintendence of vaccination was transferred to the Privy Council by the Public Health Act

21 & 22 Vict. c. 97, § 2. (1858), in securing due qualification of vaccinators, and efficient performance of vaccination; the establishments for supply of lymph and for practice; the issue, of

instructions; the registration of operations; and systematic inspection. Since the Vaccination Act of 1867, he thinks everything has been done to perfect the system. 30 & 31 Vict. c. 84.

At present the Guardians are the Local Authorities for vaccination, and the cost is charged upon the poor rate, but the law expressly provides that vaccination shall not be considered as poor relief disqualifying the recipient from any public rights. It would be one of the many advantages resulting from our proposed concentration that vaccination would come under the public health administration, and then no stigma of pauperism would attach to those who are vaccinated gratuitously. The medical contractors with Local Authorities would then report to the new Central Authority who, on the advice of his chief medical officer, would issue the regulations which now emanate from the Privy Council, and would decide on the qualifications of vaccinators. The fees, certificates, and registration of vaccination would also all come under the cognizance of the sanitary department.

For proof of the success of compulsory vaccination in Ireland and Scotland, we may draw attention to the evidence of Dr. Burke and Mr. Power, and that of Mr. Walker Burke, 8839-8847, 8856.

The suggestions of witnesses for the amendment of the sanitary laws in relation to infectious diseases are somewhat minute, but some are worthy of adoption. Power, 12042-7. Walker, 12,177.

Suggestions of witnesses.

Mr. Simon recommends further restrictions, beyond those of the Sanitary Act of 1866, on infected persons frequenting public places, and that every health authority should have disinfecting apparatus. Simon, 1920.

Mr. Carr suggests that the powers for disinfection given by the Sanitary Act should be extended, enabling the authority to destroy infected clothes, to which Mr. Snowball adds furniture. Carr, 2712-3. Snowball, 8677-8.

Dr. Budd states that this is largely done with consent at Bristol. Budd, 9325.

Dr. Stokes thinks the law against the conveyance of infected persons in public carriages nugatory, but Mr. Beckett would require railway carriages to be specially provided for them. Stokes, 5640, 5671.

We agree generally with all these suggestions. Beckett, 6627 *b.*

The Contagious Diseases Acts 1866, for checking venereal infection, is a special question, and we understand is the subject of inquiry by another Commission. 29 & 30 Vict. c. 35.

We add to this chapter on infection some comment on Quarantine, which is so intimately connected with the subject.

Quarantine.

Quarantine has hitherto been imposed and administered by the Privy Council, with the assistance of the local Custom House staff. It is looked upon in this country mainly as a subject connected with trade or political considerations. We make the following recommendations, with a view to bring quarantine arrangements, so far as they may affect our subject, into harmony with the future general sanitary administration which we have proposed.

Should our recommendation that there should be a Local Authority, with a health officer in and for every place or district of England and Wales, be carried out, all adjacent British waters should be declared to be within the district of such Authority, who could carry out quarantine regulations either in case of emergency, or systematically when quarantine is enforced for political or other reasons.

Such an emergency, for instance, may arise as the following:—

1. A vessel arriving in some Port with yellow-fever on board, at a time when the temperature may be exceptionally high.
2. A vessel arriving from a Port declared to be infected with some epidemic, and even perhaps having passengers or crew infected.

It should be incumbent on the Local Authority to take immediate action in each such case, and to inform the Central Authority as rapidly as possible, and to forward in due course the report of the health officer. The Central Authority would then confirm or alter the action taken by the Local Authority.

The Naval Authorities and the Coastguard or Custom house Officials, should be bound to give information to the nearest Local Authority in any case in which an examination or visit by the health officer might be desirable, and the senior or superintending officers of the Navy, Coastguard, or Customs, on the spot or within the waters of the district might be called upon, on receiving requisition from the Local Authority or from the Central Office, to furnish such assistance or supervision as may be requisite.

Hospitals.

In connexion with the subject of infectious disease we note the extent to which sanitary laws deal with hospitals for public purposes. In other countries they are largely provided for out of public funds. Such institutions in England have generally resulted from private effort or individual munificence.

Besides these private hospitals there is under the Poor Law extensive hospital accommodation, both for the ordinary sick and for infectious cases, in connexion with the workhouses, and this accommodation is still increasing.

In Ireland persons not in receipt of poor relief can be received into such rate-supported hospitals, either in the case of infectious disease or of accident, on payment of the expenses.

It seems to us desirable that every facility should be given for the reception on these terms in the rate-supported hospitals of infectious cases where proper accommodation exists, such as is approved by the Central Authority, and provided such wards are duly separated from the workhouse.

It is not within the scope of our present inquiry to consider whether similar rules should apply to hospitals for the insane, but it would further the aims of charity and science if *all* hospitals were brought within the inspection of the Central Authority.

The sanitary laws, which are concerned with hospitals chiefly as places to which persons who are dangerous centres of infection to the healthy may be removed, simply seek, for that purpose, to use what already exists, or to provide what is wanting.

29 & 30 Vict. c. 90, § 24. By the Sanitary Act of 1866 Local Authorities may provide carriages for the conveyance of infected persons to hospitals, and justices may, under certain circumstances, order the removal of infected persons to a hospital within their district at the charge of the local rates.

We think the words restricting this power *within any district* needless, especially on the system of local government which we propose; and we would suggest that the utmost facility should be afforded for the reception into rate-supported hospitals, where such exist, of all infectious cases, especially amongst those living in lodgings, and domestic servants.

Local Authorities may, in various ways, provide hospital accommodation for inhabitants of a district, or temporary places for sick in cases of emergency.

The law renders possible most that is needful on this point.

Dispensaries of medicine in reach of the poor might be encouraged by law. A better provision of nurses for the sick poor would be a great advance in sanitary government.

Reception Houses for the Dead.

29 & 30 Vict. c. 90, § 27. Local Authorities may provide a proper place for the reception of dead bodies, and thereupon a justice, with a medical certificate, may order bodies to be removed to it, and cause removal if the relations fail to obey charging them with the cost. They may also provide places for post-mortem examinations.

Although there is this power by law, it appears to be very little exercised, and the evil of keeping the dead in the same room with the living exists very extensively amongst the poor, and this evil is aggravated, by the general practice of wakes amongst the lower class of the Irish Roman Catholics, who are very numerous in some large towns, such as Liverpool.

Baker, 9407. It has been suggested that there should be a mortuary at every cemetery, to which the bodies of the poor might be conveyed soon after death, if the relatives wished, but in case of contagious diseases compulsorily.

Burial Grounds.

If it were not for the fear of delaying legislation we should certainly recommend that all the burial Acts should be consolidated and incorporated in the New Statute; but under any circumstances the numerous Acts on this subject should be consolidated. Those Acts are referred to in our historical preface; and particular sections of the Acts under our review relating to this subject are set out in our "Suggestions for the New Statute."

By various provisions Local Boards in certain cases are enabled to become the Burial Boards for their districts, with all the powers given by the Burial Acts. We think that wherever there is a Burial Board having the same area as an Urban Authority the latter should become the Burial Board.

The administration of the Burial Acts is under the Home Office, and should pass to the new Central Authority.

Holland, 8153. The difficulty found in getting the best class of ratepayers to serve on a burial board will probably cease to be felt when such boards merge in the Local Authorities.

Ships.

All ships in rivers, harbours, or any British water should be subject, just as houses, to the Local Authority of the district, and be liable to the regulations issued for the prevention of contagion, and equally entitled to medical aid.

It would be advisable in maritime towns where possible to unite the Harbour and Local Authorities for all sanitary purposes. Our evidence is in favour of such amalgamation, and the difficulties felt at Southampton prove the evils of the present multiplication of authorities and consequent uncertainty. In Newcastle a ship lying in mid-channel is considered under no sanitary authority. Stebbing, 5911.

The Local Authority of a maritime town should have as full power over ships' crews, passengers, emigrants, and all belonging to ships in the harbour for sanitary purposes as over the town population, and be equally able to recover expenses incurred in such jurisdiction. They would probably sometimes want a water police as well as a land police; but for the drainage, lighting, nuisance removal, overcrowding, smoke consumption, water supply, and all sanitary government, one jurisdiction over town and harbour would be stronger, more certain, and more economical.

Powers of Entry.

Powers of entry may be required for two purposes, viz.:—

(1.) To inspect for sanitary defects;
(2.) To execute works.

The owners or occupiers must be guarded against unnecessary or vexatious visits; at the same time, Local Authorities and their officers should not be unduly impeded in the performance of their duties.

They may have to execute works:—

(*a.*) As part of general improvements or alterations;
(*b.*) Being additions or alterations for which the owner is liable to pay;
(*c.*) On account of the neglect of the owner or occupier.

For example, it may be requisite (under *a.*) to lay down water pipes, gas pipes, main sewers, &c.; (under *b.*) to carry out "house connexions," paving, &c.; or (under *c.*) to close up basements used by lodgers, to clear drains for the "house" or "court" which may be choked up, to close foul wells, &c. &c.

We therefore recommend that in the New Statute sufficient power should be given to enter dwellings for these purposes.

Byelaws.

Before discussing the subjects on which the Local Authorities should be empowered to frame byelaws, it will be necessary to consider some important points raised in the evidence which we have taken, as to the expediency of having byelaws at all, and also as to the propriety, if they are to be retained, of investing them with a more unquestionable validity.

The fact that a number of byelaws framed by Local Authorities and sanctioned by the Secretary of State have been from time to time set aside as invalid by decisions of the Superior Courts, has given rise to a not unnatural feeling of impatience in the minds of some zealous friends of sanitary reform, and more than one expedient has been suggested to avoid this inconvenience in future. Without entering into all the details of such schemes, we proceed to examine the leading principles applicable to the subject. Notcutt, 1413–9. Rayner, 2285–8. Sir J. Heron, 2375. Carr, 2723. Ponsonby, 3949.

I. The first question is:—Can the necessity for having byelaws be wholly obviated?

Two leading methods may be suggested for rendering them unnecessary.

(*a.*) The method of providing, by direct enactment in the statute itself, for every point on which a byelaw could be needed.

And here we must resort to a further subdivision, inasmuch as there are two distinct ways in which this end may be sought.

(ii.) By endeavouring to frame the Statute, or a schedule thereto, with such details as expressly to provide for every case for which byelaws could be required. (No doubt a carefully drawn Act might be made directly to extend to more cases than are at present comprehended under the actual text of our sanitary legislation; but in order wholly to supersede the need for byelaws, the Act

must be so drawn as at once to ensure the requisite particularity and the utmost flexibility. While descending into details it must also adapt itself to the peculiar needs of each place (however it may vary from other places in its local circumstances), or even the peculiar needs of different parts of the same place. Such requisites, even if constant, it would be very difficult to combine and satisfy in an Act of Parliament; but it is further to be noticed, that if byelaws are to be of a discriminating kind, and really to adapt themselves to the special needs of a place, they will call for modification from time to time as the circumstances of the locality become modified. But statutory enactments admit of no adaptation as they cannot be varied except by the Legislature).

(ii.) By framing the Statute in extremely broad and sweeping terms, so as to comprehend (*without particularising*) every case that could form the subject of a byelaw.

21 & 22 Vict. c. 98, § 34.

Thus, for instance, the Act of 1858, gives power to make byelaws as to the ventilation of buildings, and as to their drainage, cesspools, &c., and as to the closing of buildings unfit for human habitation; but it would be easy to take another course, and prohibit defects on these points in general terms,

30 & 31 Vict. c. 101, § 16.

such terms are in fact employed in the Public Health Act for Scotland, which makes the word "nuisance" include "any insufficiency of size, defect "of structure, defect of ventilation, want of repair or proper drainage, or "suitable watercloset or privy accommodation or cesspool, and any other "matter or circumstance rendering any inhabited house, &c., injurious to the "health of the inhabitants or unfit for human habitation or use."

But a clause like this is not so much an *equivalent* for a set of byelaws as the adoption of an entirely different system instead of them. For the object of such a clause as this is to remedy evils when proved to exist, whereas the object of a byelaw is to prevent them from arising. And this latter object can only be attained by giving express and particular notice beforehand of the details which must be observed, so as to warn builders or others from transgressing them. For this end a general prohibitory clause can seldom be effective, because until the decision has taken place it cannot be certainly known what constitutes "defect of ventilation," or "a matter rendering "any inhabited house injurious to health."

General prohibitory clauses have indeed their value, and ought in many cases to be retained, either as more suitable than byelaws, or as affording an additional security. But it is erroneous to suppose that they ever amount to the same thing, or effect precisely the same object.

(*b.*) The other method for obviating the need of byelaws is by leaving the whole matter to the discretion of the Local Authority on each particular occasion, without attempting to lay down any general rules as to the exercise of such discretion.

11 & 12 Vict. c. 63. § 64.

§ 49.

Thus by the Act of 1848, the "consent" of the Local Board is required in order to the setting up of certain trades, and this consent they may give or withhold at their discretion in each particular instance. They are not bound to lay down any rules as to its exercise. So, again, by another section of the same Act, in the case of a newly erected or rebuilt house, drains are to be constructed "of such size and mate-"rials, and at such level, and with such fall, as upon the report of the Surveyor shall "appear to be necessary and efficient for the proper and effectual drainage of the same "and its appurtenances."

Here there is a power to make orders *pro re natâ* on every occasion, which is a different thing from laying down byelaws, which must be general, certain, and not arbitrary.

There can be no doubt that a discretionary power like this effects the most direct and complete supervision; so long as the Local Authority does not go *ultra vires*, its discretion is not liable to be reviewed by a Court of law, and of course it is free from the danger attending byelaws of being held bad for want of certainty or generality.

Hargreaves *v.* Taylor, 3 Best & Smith, p. 613.

It is in fact a useful power, and one which it is in some cases desirable to preserve, though perhaps it should generally be made subject to an appeal to the Central Authority. But as it is necessarily of a somewhat arbitrary nature, it does not seem advisable to extend it indefinitely, or to substitute it universally for the power of making definite byelaws.

II. If therefore it appears on the whole to be the case that byelaws are too useful a machinery to be set aside, and that no adequate substitute can be found, the remaining question is, whether any greater force can be given to them? Can they, after the approval of the Central Authority, be safely put on the footing of an Act of Parliament and allowed

to acquire a statutory validity, so as to be above challenge by any Court of law? Some such view has been advocated, but it is liable to the serious objection that this is to give to the Central Authority an absolute power of legislation. Moreover, the question which commonly arises with respect to the validity of byelaws, is not whether they are well and discreetly made *within* the limits of the discretion entrusted to the makers of them, but whether they are *ultra vires*, i.e., whether they have not overstepped those limits altogether. It is evident that it would be impossible to enact that all byelaws should be valid, whether they kept within or whether they exceeded the limits of the authority entrusted to their framers. Yet without such an enactment the disputes which have most commonly arisen could not be effectually precluded.

Byelaws might indeed be sanctioned by a "Provisional Order;" but this again would have the inconvenience of making them immutable except by a fresh Act of Parliament. It would, perhaps, be more feasible to require them to be laid on the table of Parliament after confirmation by the Central Authority, and to enact that they should become valid after a certain time, though it may be doubted whether they would attract sufficient notice to make it probable that faults would in this manner be discovered and pointed out.

On the whole it may probably be the preferable course to retain the regulations as to byelaws in nearly their present state. While many sanitary subjects may be specifically provided for by Statute, and some may be best left to the discretion of the Local Authority, there will still remain a large class to be dealt with (as now) by means of byelaws. We conceive the principle to be followed is this; that matters of general applicability should be included in general legislation, but that matters which require to be adapted to varying times or localities, or are too minute for general legislation, are the fitting subjects for byelaws.* The confirmation of these by the Central Authority should not be treated as a form, but should be the result of deliberate judgment, based on some local inquiry and report.

The danger of having byelaws set aside, upon the framing of which due care has been expended, is probably diminishing, and is likely to diminish. The experience of the last few years, and the decisions which have taken place, have thrown much light upon the subject. It is every day becoming more easy to avoid the most fatal flaws, and to accomplish with success the most necessary objects.

On Coincidence of Areas of Local Government.

We have already considered the existing distribution of local administration throughout the country, and the Local Authorities to which the execution of laws relating to the public health should be entrusted, and we have proposed that sanitary government should be committed to one Authority in every place.

We now wish to lay the utmost stress upon the importance of taking every possible step towards introducing coincidence between the areas of petty sessions, highway districts and unions which will be rural districts.

Unions, and sometimes even parishes, overlapping county boundaries; registration districts making incomplete correspondence with them in statistics of births and deaths; highway districts made optionally, and irrespectively of all other areas, or coinciding sometimes with one, sometimes with another; petty sessional divisions generally differing from all; cause altogether to a country whose life is self-administration, probably the maximum of embarrassment and waste of local government, and the utmost loss of means and effectiveness.

The same boundaries should as far as possible define the areas of all these kinds of provincial executive, and their officers, should be, as far as possible, the same for all those purposes.

The re-adjustment of boundaries from time to time may be most desirable for the right adjustment of the powers of government to the character of the place; but that is another consideration. The point we are now laying stress upon is that, having ascertained a right boundary for local government, all such government should be transacted within it, whether of public health, poor relief, highway management, justice, education, or any other local interests. Each subject should not, as now, have separate areas and officers, and seldom the same; but all should come together. These remarks do not apply to urban districts, nor to some areas for specific purposes, such as river conservancies which may require other boundaries.

* The Baths and Washhouses Acts contain several minute provisions which might more conveniently find place in byelaws, *e.g.*, 9 & 10 Vict. cap. 74, § 36, 10 & 11 Vict. cap. 61, § 5, and § 7, fixing the charges, and among others "where several persons bathe in the same water; for one person, one halfpenny"!

Areas for one purpose must be larger than areas for another ; areas for registration or river conservancy, for instance, must include several smaller, but the unit of area should be the same for all local purposes, and larger areas should be as far as possible exact multiples or aggregates of that unit.

That even now, far as we have wandered from this essential condition of efficiency, the confusion of administration may be unravelled and retrieved is proved by our evidence from Hampshire. The effort might be made, and the amendment of the laws in hand should assist in every possible way.

Letter from Lord Eversley, vol. iii. p.

Coincidence of areas of government would reduce rates, and simplify their collection. Of this we treat elsewhere, glancing only here at the agreement with our present argument, of the conclusions to which the Select Committee on Local Taxation of 1870 came as to the variety of rates on different assessments even in the same area, and the necessity of more uniformity, simplicity, and economy of management.

Report of Committee on Local Taxation, 1870.

Intermediate Authority.

We proceed to discuss the desirability of some intervening Authority in local government between the executive on the spot and the Central Authority, and to show to which of the opposite views on the subject, almost equally balanced in our evidence, we, on the whole, decidedly incline.

A local executive of work locally paid for, and a central stimulus to its activity constituting our whole object in view, the only reasons we could entertain for any interposition of additional machinery of local government, must be, either to provide for the execution of larger works than any primary district would undertake, such as river conservancy, arterial drainage, and the like; or to make the stimulus to bear more effectively on any slumbering locality.

The former is a reason for several districts combining for a special purpose, but no reason for setting an Intermediate Authority over them.

The latter plea for an Intermediate Authority we think not only wholly insufficient to outweigh the objections to increased machinery, but in itself open to the objection that it seeks a controlling power from a constituency similar to that of the body which has to be controlled, and we think that the Central Authority, if sufficiently supplied with agents, would exercise such control more effectually and less invidiously.

If, as we have recommended, all local jurisdictions be made more coincident in areas with as far as may be practicable one machinery, the arguments used in favour of an Intermediate Authority will have still less weight. One Central Authority with eyes enough through its inspectors to be cognizant of every negligence, and skill enough through an agency of experts to give the best advice and plans, and having full power to execute what is acknowledged to be necessary when the local executive persistently leaves it undone, is all that can be requisite to secure complete local government. Direct communication between the Central and Local Authorities will keep up systematic administration better than an Intermediate central power in every county.

County Financial Boards, which are proposed as Intermediate Authorities, if ever established, will be intended rather for giving county ratepayers a voice in the county expenditure than for constituting a local court of appeal, or a body for the execution of local works on local default. Towns could not be so superintended.

If it be objected that the Central Authority can hardly be made cognizant of so many local details throughout the kingdom, or have time or means to attend to them, we reply that this is rather a question of the extent of staff than of principle. In order to have sufficient agency it is not necessary to change the nature of the controlling body, or to divide it. Those who would establish an Intermediate Authority still propose to give an appeal from every exercise of such intermediate control to the Central Authority as a last resort.

On the whole we decide not to recommend the setting up of any intervening Authority between the Local and Central Authorities.

Consolidation of the Law.

We have stated our conviction that the confusion of the existing Sanitary law is one of the main causes of its defective administration.

1st. There are many Statutes, some to be read together, some in repetition of each other, some for special cases only, and some in practical conflict.

2nd. Much is of optional, of uncertain, and of partial application.

3rd. There are many local and private Acts, producing want of uniformity.

4th. The provisions themselves are incomplete.

The first and most obvious general observation upon such a state of the law is, that the whole of this progressive series of enactments should now be reduced to one Consolidated Statute, by which all may be clearly informed as to what is required of them and as to what they have power to do. The time has arrived for a consolidation of the law, upon general principles, and for a general application of them, by the right Authorities.

Total Repeal of existing Acts.

We have no hesitation in recommending, as the only satisfactory preliminary to this necessary consolidation, the total repeal of all the Acts to be consolidated, so that the whole law may be seen clearly arranged in one Statute, and that nothing in that Statute should be laid down merely by reference, but that all should be expressly stated in the Statute itself. We even recommend that if it be necessary to engraft any parts of the various "Clauses Acts," they should always be set out *in extenso* either in the text or in a schedule to the Statute.

It will be a valuable result of this reconstruction of the law that the previous mass of casual enactments will be reduced under general principles to scientific and logical arrangement, cognate subjects now separated will be brought together, and details which although isolated have connexion in subject will be grouped under their common head. The large amount of repetition and contradiction which are involved in the present Acts will thus disappear.

Then comes the task of perfecting what is defective, and adding what is still further required; making obligatory what is now permissive, and general what is now applied without reason only to particular localities.

One Code

We have already decided against separate Urban and Rural codes.* We have given reasons for preferring the simplicity of one general code from which every district may derive all needful powers. The powers of Rural Authorities being in some cases restricted, and in a few cases made special to themselves; the assumption of unsuitable powers, and the non-assumption of such as are suitable, will be alike prevented by the Central Authority, at whose discretion sanction in the one case and compulsion in the other should be given or withheld.

* See p. 38.

Some powers of local government are so obviously requisite for Urban districts only, that the enacting section might as well at once so designate them, and exclude Rural districts from assuming them. Most of the ordinary powers are more or less applicable to all districts, and some would become applicable when a district passes from a rural to an urban or suburban character; or, on the other hand, might cease to be applicable when a populous district becomes deserted on account of a change of circumstances.

Suggestions for New Statute.

The mode in which we propose consolidation to be effected is shown in the next Part of our Report. The "*Suggestions*" there given presuppose a clean sweep of the statute book on the subject, and offer materials for an embodiment of the Acts designated for consolidation in one New Statute, omitting what is in duplicate, or in conflict, and noting whatever alteration or addition experience has indicated. In our Appendix will be found an "*Arrangement of the Sanitary Statutes;*" in which the whole contents of those Acts are arranged in four columns, each column containing all the enactments now executed by one of the four different Authorities—Local Boards;—Sewer Authorities; Nuisance Authorities;—and Authorities to carry out "Diseases Prevention Acts." We have grouped this quadruple sanitary legislation in 10 parts: (1) interpretation of terms; (2) provisions for adoption of the Acts, and constitution of Authorities; (3) powers to combine Authorities; (4) mode of conducting business; (5) central supervision of Local Authorities; (6) powers given to Local Authorities; (7) course of legal procedure; (8) expenses and rates; (9) penalties; (10) saving clauses.

From this methodical distribution of existing Statutes we have been able at once to detect repetitions, conflicting provisions, illogical divisions of subject, and obsolete enactments; as also to suggest omissions and improvements.

The result of this labour presents to the draftsman the materials collected into heads for one New Statute, together with our recommendations for amendments. If one Statute emerge from materials so arranged, we believe that for many years to come little new legislation will be wanted, and that both the public and the Authorities will know where to go for a clear and simple statement of all their duties and responsibilities. The Sanitary Statutes which we have enumerated in our historical preface as *subsidiary* to the general Acts of which we recommend the repeal in order that that their provisions may be amended and consolidated, must, for the most part, be treated separately, lest the main Statute should become too bulky, and lose the simplicity which should be one of its highest merits.

Clauses Acts, 10 & 11 Vict. c. 34.

Among other Statutes which it will be necessary to review when bringing such portions of the Statute Book as come within our province into a satisfactory condition, is the Towns Improvement Clauses Act, 1847. This Act was passed before the Nuisances Removal Acts and the Public Health and Local Government Acts. Inasmuch as the general statutes at that time contained no permanent or sufficient provisions, the communities which had become alive to the necessity of sanitary reforms were compelled to have recourse to private Acts; and it was in order to produce uniformity in local or "special" Acts, that the Legislature collected into the Towns Improvement Clauses Act groups of clauses to be incorporated from time to time with them. Subsequent legislation has, to a considerable extent, supplied this deficiency, and the consolidation of the laws affecting public health will render still more unnecessary the adoption by local Acts of clauses dealing with the same subjects as the general Acts.

See Suggestions for New Statute, Part XI., page 165.

We have made an analysis of the Act, which will be found in our "Suggestions," and have distinguished—

(1.) The sections which may be regarded as having been already superseded by subsequent Acts, because the later provisions treat the same subject with at least equal completeness.

(2.) The sections which, as regards subject matter, correspond more or less completely with sections of subsequent Acts, but are still of value because either wider in their range or more satisfactory.

(3.) The sections which are not represented in the actual text of other Acts but should now, with more or less amendment, form part of the New Statute. Some of these sections are already incorporated by reference in the Act of 1858, others have not yet in any manner formed part of the Statutes with which we are more immediately concerned.

21 & 22 Vict. c. 98, § 45.

(4). Sections which may disappear from the statute book as inexpedient or unnecessary.

It will appear from our analysis that all sections, which it is desirable to retain, may with advantage form part of the New Statute. We therefore recommend the repeal of the Towns Improvement Clauses Act, so far as it relates to England, and the re-enactment in the New Statute, with necessary modifications and amendments, of such sections as should be preserved.

10 & 11 Vict. c. 89.

With reference to the Towns Police Clauses Act of 1847, we would observe that this subject does not appear to fall within the province of the proposed new Central Authority; and we do not recommend that any sections of that Act form part of the New Statute. Provision should of course be made for the continued application to any Local Board district of such sections as are already in operation until such time as the subject of police regulation comes under review.

It may, however, be necessary to observe that as we do not propose the re-enactment in the new Statute of such police clauses as refer to matters not affecting health, it may be necessary that steps should be taken to enable proper Authorites to clothe themselves with the powers of such clauses by some other machinery than through the Local Government Act, which we recommend should be repealed.

Appeals.

At this point it will be convenient to consider briefly the means which ought to be provided for correcting the errors or miscarriages of the Authorities to whom power is to be entrusted in relation to sanitary matters. That some redress in such cases is required, and that questions involving trouble and expense to individuals, and not seldom important consequences to a neighbourhood, ought not to be left to the decision of any single person or body of persons without appeal is abundantly proved by the evidence. All such correction and redress, from whatever kind of superior Authority obtained, will be here spoken of under the general head of appeals. The miscarriages to be corrected will be found to range themselves under two heads.

I. Those of the Local Authority. These may be of various kinds; for it may fail or decline to move, or move ineffectually; and this again may be—

(*a*) Where it is *bound* to act.

(*b*) Where it has the *power* of acting, but possesses a discretion whether it will act or not.

In the former of these instances a remedy often exists in theory by way of mandamus, but it is both expensive and dilatory.

In the latter it is apprehended that no mandamus could be obtained, inasmuch as that writ is not granted against a party who is entrusted by law with a discretion and exercises such discretion honestly, even though erroneously.

To this it may be added that when the Local Authority, in pursuance either of an

absolute duty or of a discretionary power, *does* act to a certain extent, but *ineffectually*, it would be extremely difficult for a court of law to afford a satisfactory remedy.

The remedy therefore in all the above cases should be by interposition of the Central Authority in the manner already suggested under the head of "Functions of Central Authority."* We need not repeat the remarks there made, but we pass on to observe that similar principles may be applied where the Local Authority Acts erroneously in relation to private and personal questions. It may not only fail to carry out a general work like the sewerage of a district, but so act or refuse to act in particular cases as to entail much mischief on an individual or a neighbourhood. Thus, for example, a Local Authority may, on the one hand by too great facility in granting, or on the other hand by unreasonable caprice in refusing, its consent to the establishment of what are called noxious trades, inflict injury on a whole district, or great and unnecessary inconvenience and loss on individuals. Like results might follow from remissness or arbitrary conduct in the use of other powers affecting private property. In cases indeed where the Local Authority has no power *per se* to make a conclusive order, but can only lay a complaint before Magistrates, the decision to be appealed against will be that of the Justices, and will come to be considered under the next head. But in any case where the Local Authority is invested with an absolute discretion as to the making or not making any order, the Court which is called upon to enforce such order would usually have no power to inquire as to the propriety of the discretion exercised, unless the order were actually *ultra vires*.

* See p. 36.

In such cases, therefore, it might probably be well to permit any party who can prove that he is injuriously affected by the course pursued by the local body to make complaint to the Central Authority; and in cases where a whole neighbourhood may suffer, as, for instance, where consent is alleged to have been wrongly given to the establishment of a noxious trade, it would seem that any inhabitant or owner of property should have a *locus standi* as complainant, as should also the inspector of the Central Authority.

A limited period should be fixed within which all complaints must be brought, and power, it would seem, must be given to the Central Authority, upon complaint made (after giving fair opportunity for all sides to be heard in a summary way), to annul or modify the determination of the Local Authority, and to make such order as that Authority ought to have made.

It is conceived that the Central Authority would usually require a report from its inspector, and that in important cases the proceedings would resemble those which now take place when an inquiry is made previously to the making of a provisional order.

We may add that in all these inquiries the inspector should be clothed with the same powers with respect to the summoning and examination of witnesses as inspectors under the Poor Law Acts.

For the purpose of checking frivolous appeals, it might deserve consideration whether the Central Authority should have power, if it see fit, by its order to saddle the party who complains without cause with the whole or part of the costs of such inquiry.

In some instances, however, a view of the locality by the inspector, with the assistance of a qualified surveyor, and a brief statement of facts by the complainant on the one hand, and by the Local Authority on the other, might furnish adequate materials for the decision of the Central Authority, without incurring any great expense.

II. Miscarriages by Justices.

In a large class of cases, falling within the limits of the present Nuisance Removal Acts, the decision of the question at issue rests wholly with the magistrates; the Local Authority appearing merely in the character of a complainant.

As it is proposed that this distinction shall be preserved in the New Statute, it becomes needful to consider whether any and what appeal should lie from such magisterial decisions; and we think that upon this head the procedure pointed out by the existing Nuisance Removal Acts appears in the main to be sufficient, and will merely require to be continued in the New Statute.

18 & 19 Vict. c. 121, § 40.

Registration.

Registration of Death.

The plan for the registration of the causes of death in England and Wales appears to be as good as the means at the disposal of the Registrar General can make it; but the defects and errors in the execution of the plan are neither few nor trivial.

Farr, 4460, 5063, &c. Christison, 5296, 5299, &c.

It is probable that very few deaths are unregistered, except those of children born dead or dying shortly after birth. But in many cases the cause of death is either not registered or is registered on insufficient testimony.

Farr; annual report

In 1867 more than 8,000 deaths were thus "uncertified," that is, their causes were not assigned by medical persons or ascertained by coroners' inquests; and among those

1869, p. 208. Graham, 6440. Simon, 1832. Farr, 5200, &c. Graham, 6433, &c.

which are medically "certified" the causes assigned are often erroneous, through either imperfect knowledge or carelessness, or through regard for the feelings of friends.

Over these last errors it is probable that legislation can exercise little or no direct influence. They will gradually be corrected by the increase and diffusion of exact medical knowledge, and by the influence of a better and more complete sanitary organization than now exists. Under this influence medical practitioners, who now voluntarily* give certificates of causes of death only because they are thought necessary for the obtaining of a right to the burial of the dead body, will feel that every such certificate is to supply a fact which will be valuable in the study of the Public Health.

But it is important that there should be no "uncertified" deaths, that is, no cases in which deaths and their supposed causes are reported to the registrars by any other than the medical attendant of the deceased person or some qualified medical man. In every such case there is not only a fact lost to the statistics on which a part of the study of the public health is based, but a great opportunity permitted for fraud and crime.

Simon, 1832. &c. Farr. 5043, &c. Rumsey, 4273, 4308. Farr, 4464, &c. Rumsey, 4416.

Every death should be registered either on the certificate of a qualified medical practitioner, or on the verdict of a Coroner's inquest. In the case of any person having died without a medical attendant, or whose medical attendant refuses to sign the cause of death, the Medical Officer of health of the place in which the death occurred should be required and authorized to make by himself or deputy inquiries as to the cause of death, and, thereupon, either to give a certificate of the cause, or to take steps towards a coroner's inquest. It would seem to be well worthy of inquiry and consideration on the part of the Government how far, when this complete system of registration of deaths is established, the holding of Coroners' inquests as at present might be limited.

Farr, 5036. Baker, 9473, &c. Druitt, 9136. &c.

The registration of still-born children, which is at present entirely neglected, might lead to useful knowledge in relation to the causes of death before birth, but it is much more to be desired as a means for diminishing infanticide and criminal abortion. It would suffice that those alone should be registered who die within two months before the natural time of birth; and that the fact of death should be registered, without reference to its cause. But the fact of such death should be certified by a qualified medical practitioner (either the medical attendant before or after the birth, or the district Medical Officer of Health), and the certificate of registration should be required at the burial of the body.†

We think it also desirable that undertakers should be obliged to keep a register of all bodies (including those of still-born children who die within two months before the natural time of birth) which they undertake to bury. This register, as also the register of burials kept by the clergyman or guardian of the burial ground, should be compared with the register of deaths; and we think that the penalty of 10*l*., to which a clergyman is liable who buries a body without a certificate of death, and neglects within seven days to report the fact to the registrar, should also attach to the undertaker or person in charge of a funeral bringing a body to the burial ground without a certificate of death; and that the penalty, or some part of it, should go to the informer.

Registration of Sickness.

But, however complete the registration of deaths may be, it cannot give a fair estimate of the grief and poverty occasioned by sicknesses that are not fatal; it cannot indicate where or how these are to be prevented or remedied; it cannot tell the cost which is worth incurring for their diminution. To these ends, the first step must be a registration, so far as may be practicable, of all the cases of the most prevalent and injurious sicknesses among such portions of the population as may suffice for an estimate of the general state of the public health, and especially of the health of the working classes, and of those for whom sanitary arrangements are most urgently needed.

* In Scotland, the Scottish Registration Act makes it compulsory on medical men to give certificates of death. Graham, 6498.

† Extract of letter from the Registrar General:—

"Entertaining a strong opinion that infanticide is much more common in this country than has been generally supposed, I cannot shut my eyes to the fact that the perpetration of that crime is much fostered by the present unrestricted system of the burying by sextons of infants said to be still-born in corners of churchyards and cemeteries.

"Children killed during birth and after birth are doubtless buried as still-born; many of those who lived a few hours, and are so buried, being thus consigned quietly to a grave, in some cases because they are unbaptized, and the incumbent will not read the funeral service, in other cases to escape the trouble of registering the birth and death, and to save the expense of a more formal funeral ceremony.

"If every woman that is confined were attended by a legally qualified medical practitioner, a certain form of certificate might be invented for him to sign; but we know that many thousands of women have no such good advice, and what reliance could be placed on certificates of midwives and quasi midwives?"

Farr, 5038, &c. Budd, 9312, &c.

All the witnesses examined by us on the point have spoken strongly of the need of this registration of sickness. Among the chief purposes it would serve are these:—

Simon, 9763. Christison, 5320, &c. Rumsey, 4270, &c. Burke, 8834, &c. Simon, 1908, 1932, 9764, &c.

1. It would keep the public, and especially the Central Sanitary Authority, constantly aware of the state of the public health in every part of the country. A certain amount of knowledge of this kind is obtained from the registers of deaths, and it would be hard to over-estimate the good service they have done; but the greatest knowledge they can supply is, not only scanty, in comparison with what is wanted and can be had, but is often too late to be useful. In nearly all cases of epidemic and contagious diseases time is lost before the deaths, few in comparison with the cases, begin to attract attention. In many instances weeks have elapsed, before the existence of widely prevalent and preventible diseases has become known to any efficient Sanitary Authority. Thus, the best opportunities have been lost both of ascertaining the origin of epidemics, and of preventing or limiting their spread. The chances of suppressing an outbreak of disease are in direct proportion to the speed with which it becomes known to a Sanitary Authority; and it is only by a systematic registration of all cases, whether fatal or not, that the speediest information can be attained. The advantage of obtaining such information has been proved in Ireland, where the medical officers of districts, in which epidemic or infectious diseases appear, are bound to report them to the Poor Law Commissioners in Dublin, who at once send down inspectors and, if necessary, assistant medical officers.

Farr, 5143, &c.

2. The registration of sickness would teach more than we can yet guess of the magnitude of the grief and poverty caused by disease. This is very incompletely shown by a register of deaths. For example, in an epidemic of scarlet fever, the deaths are rarely more, and often less, than 10 per cent. of the cases. But, reckoned by its money cost, a non-fatal case may be more costly than a fatal one; for, in the one, the cost ends with burial, in the other it has to be borne through the whole period of sickness, and of the often tedious convalescence. Moreover, after every epidemic of scarlet fever, whether it has been very fatal or not, thousands are left disabled for long periods, or for life, with diseases of the ears, or bones, or joints, the glands, or other parts; and the great majority of these are a burden on the working power of the healthy.

What is thus true of scarlet fever is equally true of other epidemics. Their mortality is no sufficient measure of the importance, whether for the sake of humanity or of economy, of preventing or limiting them. In an epidemic of relapsing fever not more than one or two of every 100 cases may appear on the register of deaths; but the cost of the other 98 in every 100 must be enormous, seeing that every one of them has to be expensively maintained for many days or weeks.

Moroever, it has often been observed that an epidemic, even when very fatal, does not add largely, if at all, to the total mortality of a few years. When many die of one epidemic, fewer die of others, or of all other forms of disease. But there is no such counterbalance for the cases of sickness and disability that are left as the residues of an epidemic. These are all costly so long as they continue; they are a dead loss.

Terrible as epidemics are, when we count the thousands that have died quickly in them, and guess at the misery consequent on the deaths of those who worked for others, they would seem much more terrible, if we could count the consequences of the necessity of maintaining the many more thousands, who are disabled for months or years from working either for themselves or for others.

3. It is probable that the registration of sickness would show more urgent need than is yet felt for diminishing, if possible, many diseases that, being neither epidemic nor often fatal, are commonly regarded without concern. Ague is very rarely fatal, it counts for little on a register of deaths, yet ague in all its various forms, and in its long abiding, is a great hinderer of work, a great burden on the wealth of the nation, a burden which good sanitary arrangements could remove, and probably would remove if it were shown to be worth the cost.

And so of scrofula, of rheumatism and bronchitis, and of many other disabling maladies. We cannot doubt that a registration of sickness would show that not only the personal misery, but the public loss caused by these diseases is enormous. Thousands suffer either constantly or through a large portion of the year. Many of them suffer and are thus disabled year after year, and during all their sufferings they are maintained wholly or in part by the labours of others. It is probable that, on the whole, these diseases are much more costly than the most terrible epidemics; certainly they are so, if we reckon their influence on the progeny of those who suffer. And yet to what amount they are costly, or what cost ought to be incurred for their diminution, we can scarcely guess without a registration of sickness.

4. Another class of cases, of which the death registers do not nearly indicate the importance as affecting the working power of the country, are those of diarrhœa, influenza, and other widely prevalent maladies which, though often trivial to the individual, are very impoverishing in their effects on the people generally. The deaths caused by them are not felt as causes of poverty, for they are fatal to very few except children and invalids and old persons; they are often too few to attract any attention, and every year thousands suffer and are unobserved by any Sanitary Authority. Yet the cost of these diseases in loss of work is so great that it can scarcely be estimated.

5. The registration of sickness would further show whether and in what degree legislation is needed for the prevention of diseases dependent on occupations and social habits. Much has already been done in this direction, by the inquiries directed by the medical officer of the Privy Council, but the effects of many occupations on health are still unknown.

The effects of social vices and vicious habits of life, whether any of them are sources of such sickness, poverty, and decay, as to justify on public grounds a considerable expenditure of money and of executive force, cannot be known without registration.

6. In all these, and in many other instances, a registration of sickness would supply a comparatively full knowledge of the prevalence and magnitude of diseases which are imperfectly indicated in the register of deaths, but of which a fuller knowledge might be expected to teach the means of prevention. Equally it would correct some errors which are scarcely avoidable in deductions from the death registers. In these, for instance, each death is registered at the place at which it occurs, whether the fatal illness commenced there or elsewhere. Yet it is obvious that, for the prevention of disease, we ought to know where it began, rather than where it ended. The registration of sickness would tell the former—that of deaths tells the latter.

Clegg, 824. The errors hence arising are not trivial. Large classes of persons, including domestic servants and "workers on premises," usually leave the places in which they reside as soon as they fall severely ill. The places in which they die are thus made to appear more unhealthy, and those which they leave less unhealthy, than they truly are.

Similarly, the insane, and many other persons who have been long invalided with one disease, often die of another, and this is registered as the cause of death. Yet that which it was more important to prevent, because it was the more costly, and wasted, though it did not quite destroy, life, was the earlier and longer disease, which would have appeared in a register of sickness, but takes a subordinate, if any, place in a register of deaths.

7. A registration of sickness is essential as a test of the fitness of institutions for the reception of the sick and poor. The registration of deaths in various hospitals and workhouses is important; yet it may tell little more than the proportions of cases of very severe disease admitted into them. That which ought to be known is the number and character of the cases of sickness that begin in each hospital, *e.g.*, of fever, of erysipelas, &c., springing up among those admitted for other ailments.

8. And it may be hoped that a registration of sickness would bring to light not only many unknown liabilities to disease, in various places and among various classes, but some immunities, from the study of which means of improving the public health might be derived. There is reason to believe, for instance, that workers in brass are insusceptible of cholera, that people bred in rural districts are less liable, than those who live in towns, to the blood-infections following injuries. And, if these are facts, it is not likely that they are the only facts of the kind; there must be many more, which a registration of sickness would help to detect.

On all these grounds we recommend that authority and sufficient means should be given to the Registrar General for a registration of sicknesses, under the direction of the Central Sanitary Authority. But questions may arise as to how far the registration should be carried.

Rumsey, 4331.

It would be unwise to attempt to register all cases of sickness in the whole population. The number of cases severe enough to disable from work, or to require medical help, is probably in England and Wales not less than 13 millions a year. The cost of registering so vast a number of facts, however simply, would be far beyond its value.

On an estimate made by Dr. Farr.

It would be impossible to register all cases in private houses.

The diseases constantly registered should be those which affect large numbers of the population, which may be considered as, in a greater or less degree, preventible by sanitary arrangements, and which are usually not difficult of discrimination. The registration of other diseases than these should be by a single entry of the total number of

"other diseases;" but an exact registration of any of them might be from time to time directed by the Central Sanitary Authority.

The registration would, in the first instance, include only or scarcely more than those among whom sickness is, for various reasons, already registered. These would be sufficiently numerous for a general and speedy estimate of the prevalence, in every part of the country, of the diseases which are the greatest causes of misery and the most likely to be prevented by due care. They would include all the sick attended under the poor law; the inmates of nearly all charitable institutions; patients at hospitals, asylums, and dispensaries; the workmen in some mines, factories, and other large establishments in which great numbers of persons are under the care of medical men who are obliged to make returns of all the sick they treat.

Farr, 5041, &c. Lambert, 4707–9, 4634. Dyke, 6300, and others.

In all these cases some sort of record is made of sicknesses; but, however useful the records may be for private or local purposes, they are useless for any general or nationa purpose, being without uniformity, and therefore unfit for either summary or comparison. In many instances these local records include more particulars than would be necessary for a general registration; such as the name of the disease in every case, the name, residence, occupation, &c. of the patient. Details of this kind would be usefully preserved for local purposes; but the general purposes of the registration of sicknesses would be sufficiently served by a central registration of only the few most important facts, and by the Central Sanitary Authority and his officers having access to all local registers.

Lambert, 4634.

The method of registration may be safely left to the department of the Registrar General. The subject has already been carefully considered in his office; and a member of his staff, Mr. James Lewis,* has shown that returns for such a registration as suggested may be collected from all parts of England and Wales, and arranged and published weekly,† so as to be at once accessible to both the Central and Local Authorities.

The practicability of such a registration is proved by its having been carried out by the medical authorities in the army, and by private exertions in Newcastle-on-Tyne, in Manchester and Salford, and, for a time, by the London medical officers of health. The system maintained, for the registration of the contagious diseases of animals, in the veterinary department of the Privy Council, a registration, not only of the first occurrence, but of the progress of every case, may be taken for a model of that which, it may be hoped, will some day be maintained for the registration of preventible diseases among men.

If the registration of sickness be added to the work of the Registrar General's Office, it will make the relations of that office to the public health so much larger than to any other subjects, that it would be advisable that the office should be a department under the proposed Central Sanitary Authority.

Registrar General's office to be brought under the new Central Authority.

But we are of opinion that in any case the Registrar General's Office should be placed under the Central Authority. The registration of deaths already contains a statement of the causes of death, and prompt knowledge on this subject will be required by both the Central and the Local Authorities.

In connexion with the subject of registration, we may observe that in our opinion the registration of births should be compulsory, as is the case in Ireland and Scotland.

State Medicine.

Inducement should be provided for the study of "State Medicine," which may be defined as the application of the physical and medical sciences to the preservation of the health of the community at large. It includes—

a. Medical jurisprudence.
b. Vital and sanitary statistics.
c. Preventive as distinguished from curative medicine.

It is probable that the large towns would select for the appointments of Officers of Health, men posesssing due qualifications in "State Medicine."

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* Suggestions for national returns of sickness, 1870, by Mr. James Lewis.

† Or weekly for London and the 16 other large towns that have weekly returns of deaths, and quarterly for the rest of the country.—Proceedings of the Social Science Association, 1870, p. 318. Druitt, 9,033, &c. Carr, 2,780–9, and Appendix to first report, p. xiv. Farr, 5,038. Budd, 9,211, 9,374, &c.

Expenses and Rates.

We propose next to offer some observations on the manner in which the expenses of carrying out the provisions of the sanitary law have been and should be provided for, a question of considerable intrinsic importance, and rendered of greater practical moment by the too evident disposition to postpone, on the ground of expense, those sanitary regulations and works, the necessity for which, in the rural districts at least, is at first unwillingly acknowledged or afterwards on the ground of expense and trouble too often altogether omitted.

In our "Suggestions for the New Statute" there will be found an abstract of the existing enactments which fix the incidence of such expenses, and confer powers for the levy of the rates to meet them. Evidence has been given before us and we here offer some observations, on the general subject.

Sanitary regulations and sanitary works have been in the past, and must always be, so much mixed up with other branches and operations of local government that it has been and must be impossible to sever the expenses incident, whether centrally or locally, to the one from those appertaining to the other. Hence it also becomes impossible to make useful practical suggestions as to the manner of providing for the expenses necessarily arising in connexion with health objects separately from those necessarily arising in connexion with other local purposes. In a word, the apparently limited question of local health taxation is found to be inseparable from the far larger question of local taxation generally; but as the latter involves considerations greatly beyond the scope of our inquiry and duty, and was in the last session of Parliament examined, and reported upon, by a Select Committee of the House of Commons, it has appeared to us unnecessary to pursue this branch of inquiry as fully as we otherwise might have felt called upon to do.

There are four sets of Local Authorities whose jurisdictions are directly within our province, viz., those acting under—

(*a.*) The Public Health Act of 1848, and the Local Government Act of 1858;
(*b.*) The Sewage Utilization Acts;
(*c.*) The Nuisances Removal Act, 1855; and
(*d.*) The Diseases Prevention Act, 1855;

with their respective several Amendment Acts in each division of the subject.

Rates leviable by local boards.

Every Authority or Local Board administering the Acts of 1848 and 1858, has power to make a "general district rate," "private improvement rates," and "a water supply rate," and was originally authorised to make "special district rates." The last of these was leviable for defraying the expense of special permanent works, and this power of separate rating being found inconvenient, as well as unnecessary (every proper object being attainable through the general district rate), it was in 1858 abrogated, except in cases where such rates had been already made and mortgaged: in this last class of cases it was and will be necessary to continue them for the protection of creditors.

Private improvement charges.

It should here be noticed that every such Local Board has also power to fix upon the owners, or, in certain cases, on the occupiers of properties, in the improvement of which they have incurred authorised expenditure, a "private improvement charge;" that is to say, to fix the expense on the owner, occupier, and property, and claim its immediate discharge.

This, within proper limits of authority, is a useful jurisdiction, and the exercise of it, including the prompt recovery of the expenditure and all incidental charges, either by instalments or in one payment, at the option of the Authority, should be in every way facilitated. The present Acts give summary jurisdiction to the Justices for the enforcement of such payments, and jurisdiction to County Court where the demand is not greater than 20*l.*

11 & 12 Vict. c. 63, § 139. 24 & 25 Vict. c. 61, § 24.

This latter jurisdiction might well be extended to greater amounts, although as the dealing will ordinarily be with small properties and comparatively small works, it will seldom happen that the repayment of any large amount will have to be enforced.

See. 21 & 22 Vict. c. 98, § 62.

Until payment, every owner's liability should be not only recoverable against the owner, but should be a distinct and preferential charge on the property in respect of which it arises, and should be raisable out of it by mortgage or sale through the instrumentality of the County Court, in exercise of its equitable jurisdiction, and we suggest that a high rate of interest should be made payable in respect of all such expenditure, so as to work out a more complete indemnity to the Authority, and render it the interest of the party charged so to conduct himself as to render the execution of works or other expenditure by the Authority unnecessary.

The power to make a "private improvement charge" is one exerciseable in most cases, and we presume might be made exerciseable in all cases, in which the law may authorise the imposing of "private improvement rates," leaving the adoption of the one or the other in the discretion of the Authority.

We would add, however, that we think the like provisions should also apply to costs and expenses under an order of Justices which should be raiseable in the same manner.

See 18 & 19 Vict. c. 121, § 19.

Private improvement rates.

Private improvement rates are assessed on the occupier of the premises "improved," of such amount as will be sufficient to discharge the expenses of the improvement, together with interest within such period, not exceeding 30 years, as the Authority may determine; and in the event of the premises becoming unoccupied, the rate becomes a charge on the owner. An occupier, holding at not less than rack rent, is entitled to deduct from his rent three fourths of the amount paid by him, and if holding on other terms, is entitled to make an equitable deduction with reference to such terms; and there is further provision for securing the just incidence of this rate, as between the immediate and any superior landlord. The existing law also provides for the redemption of private improvement rates, and for the creation of rent-charges in favour of parties advancing money for private improvement expenses, and thus enables arrangements by which a rate may be avoided.

11 & 12 Vict. c. 63, §§ 90, 91.

21 & 22 Vict. c. 98, §§ 58, 59.

Anticipating that under an amended state of the law Authorities may more frequently interpose to enforce payment of "private improvement" expenditure, it appears clearly desirable to arm them with every facility in this respect, and having rendered their interposition easy, to render it also easy for them to recover "in a summary manner," or otherwise, every direct and incidental expense, with full indemnity in the shape of interest, against occupiers (with proper provisions for their recoupment by owners), against owners, notwithstanding a change of ownership, and against the property.

Reference to the Public Health Act, 1848, the Local Government Act, 1858, and the Sanitary Act, 1866, will show how, in one instance at least of private improvement expenses, it has been found necessary to strengthen the hand of the Local Authority, and how desirable it is that the amended law should carefully provide for such cases. The first of these Acts gave jurisdiction to Local Boards of health, enabling them to insist that occupiers of houses, without a proper supply of water, should, where a water supply could be furnished to them at not exceeding 2*d.* a week, accept such supply and do all works necessary for enabling them to accept it; enabling the Authorities also, on failure of due action by the tenant, to execute the necessary works, and recover the cost as private improvement expenses, that is to say, by a rate sufficient to discharge them in not exceeding 30 years, an almost illusory remedy, however, in the case of the small properties and small sums likely to be within its operation.

11 & 12 Vict. c. 63, § 76.

The Act of 1858 extended this jurisdiction to all such houses if they could be supplied at a rate not exceeding that mentioned in the Act of 1848, or the rate authorised by any local Act in force in the district,—enabled also the Local Board to deal with the owners of such houses instead of the occupiers,—and declared the expenses recoverable from the owners:—whilst the Act of 1866 pointed the remedy by making them recoverable in a summary manner (by order of justices, under the Administration of Justice Act, 1848).

21 & 22 Vict. c. 98, § 51.

29 & 30 Vict. c. 90, § 50. 11 & 12 Vict. c. 43.

These scattered provisions should of course be brought together in the amended law.

General district rate.

The "general district rate," which local boards acting in exercise of the Acts of 1848 and 1858 are empowered to levy, falls on all descriptions of property assessable for the relief of the poor, and is of equal incidence, but the following are only assessable at one fourth part of their net annual value:*—Arable, meadow, or pasture grounds, woodlands, tithes, tithe commutation rentcharge, market gardens, or nursery grounds; land covered with water, canals and their towingpaths, and railways constructed by statute for public conveyance.

Properties within the district, assessable under any Local Act for any of the purposes for which a district rate is applicable, are justly exempted from assessment to the general district rate for the same purposes.

The part exemptions in the case of arable land, &c. doubtless originated in the consideration that those peculiar classes of property were, in comparison with house and other property, incapable of receiving the same amount of benefit from the expenditure provided for by the rate, in any greater proportion than one to four, but there is no

* "(See Public Health Act, 1848, sec. 88, now repealed, also 14 & 15 Vict. c. 50, and Local Government Act, 1858, sec. 55.)"

doubt that they have created or aggravated objections to the voluntary adoption of the Acts of 1848 and 1858, and they will deserve to be more considered, if the future Sanitary Law shall be of universal application, and not operative only when voluntarily adopted. But whatever objections may be entertained against these part exemptions, or to the extent of them, it has to be borne in mind that they have been allowed and exist in all the now numerous districts which are governed by Local Boards of Health, that all those districts have been formed on the faith of them, and that they also form part of the taxation scheme of the very numerous modern Improvement Acts.

The general district rate being applicable for defraying every lawful expense of Local Boards, except private improvement expenditure, and those expenses which the water supply rate is intended to replace, may, therefore, be applied in providing for the construction and maintenance of sewers, in the purchase of property for street improvements, in the purchase or construction of waterworks, in the provision of markets, in scavenging and cleansing, in street keeping, &c., &c., in fact for purposes of great permanence, and purposes entirely current and temporary. It is entirely charged on the occupier, and there is no provision for repayment to him of any part of the rate by the owner, nor for any contribution by the latter towards the repayment of any money borrowed on the security of the rate. Without doubting that such a rate, although wholly paid by the occupier, must fall indirectly, either in part or wholly, on the owner, it would seem (in accordance with the opinion in this respect of the Select Committee on Local Taxation, 1870) that in a well considered amendment of any branch of local law which may involve rating, "it is expedient to make owners as "well as occupiers directly liable for a certain proportion of the rates." How this may be effected without injustice, as between owners and occupiers, where there happen to be arrangements of permanency between them, made with reference to the existing state of the law, is a question of great interest and some difficulty, but the Report of the Select Committee to which we have referred seems to show that its solution is not beyond the reach of equitable legislation; and if the recommendation be one of value in the case of rates levied to meet merely current expenses, it must be still more worthy of consideration in cases where the objects of expense are largely of a permanent character, and in which it is so desirable to enlist the interests of the better instructed classes. We are, therefore, of opinion that any alteration in the incidence and administration, as between owners and occupiers, of our general local taxation must include so much of the taxation for health purposes, as may from time to time be borne locally; and it will not be overlooked, that owners as well as occupiers and ratepayers vote in the election of Local Boards of Health, and are qualified as owners to sit upon such Boards.

11 & 12 Vict. c. 63, § 20. 21 & 22 Vict. c. 98, § 24.

Highway Rate.

Amongst the principal objects for which a general district rate is leviable is repair of highways, and considerable differences and difficulties have from time to time arisen, and have been aggravated by the fact that a highway rate (proper) falls equally on all property assessable to the relief of the poor, whilst the general district rate allows the part exemptions to which we have already referred. If these differences have arisen whilst the Local Government Acts have been operative only after voluntary adoption, and after the district has had the opportunity of previously considering how its adoption will work, the subject seems to deserve fresh consideration when it is proposed to make the new law universal in its operation, and thus (unless the new legislation in this respect diverge from the old) to merge highway management in other matters of local government, and highway rating in the general district rate. The idea of simplicity of course favours this merger and lures towards the sinking of all distinctions not really important for obtaining unity of rating. On the other hand, it is clear that if there be but one rating or collecting hand in each rating area, then, although there may be several rates levied within the district or separate parts of the district, all or almost all the economical advantages of having one consolidated rate may be obtained by keeping up one or more additional columns in the rate book, and demanding the sum of the whole through the same hand at the same time, with particulars showing how much is demanded on account of each rate in respect of each property, and the time or date of making each rate. So that if it were considered more just that a rate for highway repair should continue to be levied on all properties without exemption, whilst the general district rate continued to be levied with exemptions, there would seem to be no sufficient ground, on the mere plea of simplicity, for foregoing in the amended law that which might appear to be the more just arrangement.

* See Resolutions of Select Committee on Poor Rates Assessment, 1268.

Water supply rate.

The water supply rate leviable by Local Boards acting under the Acts of 1848 and 1858 is one which is imposed only on those who choose to take a supply from the sources of the Authority, including, however, those on whom a supply may have been forced under the 76th section of the Act of 1848, or the 51st section of the Act of 1858. It is assessed on the net annual value of the premises; is strictly an occupiers' rate paid for an enjoyment exclusively his, and paid only during such enjoyment, and being carried to the credit of the account of the general district fund, goes towards discharging the general expenses of the Local Board. This rate is more in the nature of the water rent, which a water tenant pays to a water-purveying company than of a public rate. The provisions of the existing law respecting it must, in the New Statute, be maintained with any amendment likely to facilitate the relations of the Authority and its water tenants, and the recovery by the latter of its dues. Some such amendments might probably be affected by the incorporation, with necessary adaptation, of provisions from the Waterworks Clauses Consolidation Acts.

Rates leviable by nuisance authorities.

The only general rate at present leviable by a "Nuisance Authority" as such, is that which is authorised by the Nuisance Removal Act, 1855, in cases in which it is deemed necessary to lay down a sewer or other structure in place of a ditch or drain conveying sewage, and becoming a nuisance. In such case the "Nuisance Authority" incurs the expenditure, and proceeds thereafter to assess every property using the ditch, drain, or sewer, to such payment "either immediate or annual, or distributed over a term of years," as it thinks just, and is authorised to recover the sum assessed in the same manner as highway rates may be recovered; that is to say, against the occupier. The remedy for nonpayment of highway rates is referred to, doubtless because by the Act of 1855 the Rural Nuisance Law was administered through the Highway Authorities, but although they were by the Act of 1860 displaced, and Boards of Guardians substituted, the above-mentioned remedy for any such unpaid assessment was left as in the Act of 1855.

18 & 19 Vict. c. 121, § 22.

This power is only exerciseable to the extent of 1*s.* in the £ on the assessment to the highway rate, a restriction upon which we make the general remark that when a public duty is imposed there should be no incompatible restriction on the means of defraying the expense of performing it.

In other cases of remedial or preventive action by "Nuisance Authorities," the expenses are fixed upon and made recoverable from the party, owner or occupier, against whom an order of Justices may, at the instance of the Nuisance Authority, be made; the just principle of the law being that the offending party shall bear the charges he occasions. This principle can scarcely be too sharply or widely applied; but, notwithstanding its application, there will necessarily be expenses which will not be in fact wholly so provided for or repaid, and which must fall on the Authority.

23 & 24 Vict. c. 77, §§ 4, 5. 29 & 30 Vict. c. 90, § 33.

Expenses of this nature are, by the existing law, not to be met by rates levied for the purpose, but are fixed upon and directed to be paid out of funds at the disposal of the particular Authority in some other capacity; *e.g.*, where a Local Board of health is the Nuisance Authority, out of its general district rate, and where a Board of Guardians is the Nuisance Authority, out of the poor rates, with special direction for so allocating the expense as to fasten it upon the purse of the particular parish or place in or in respect of which it may have been incurrred.

When, as we propose, the nuisance law shall throughout the country be administered by the Health Authorities, as part of the general health law, expenditure in correction or prevention of nuisances will necessarily have to be provided for, as the case may be, either by private improvement charges or private improvement rates, or out of the funds raiseable by the Health Authorities for their general purposes; and as the amended law must doubtless then as now enable the Authority to lay its general rate upon the whole or on part only of its district, as may be found necessary and just, the localization of any particular expenditure, not absolutely in the nature of a private improvement, will so be sufficiently provided for.

See 11 & 12 Vict. c. 63, § 89.

Rates leviable by sewer authorities.

In the anticipation that all the powers now exerciseable by a "Sewer Authority" under the Sewage Utilization Acts will, as amended, be hereafter exercised by the Local Health Authority, it is scarcely necessary to observe upon the rating powers for private improvement expenses or more general purposes which "Sewer Authorities" now possess. Sewer Authorities in any separate condition will cease to exist, and any rating powers now specially possessed by them will, except so far as it may be necessary to keep them on foot for the protection of mortgage creditors, cease. It is, however, pertinent to remark that by the Sewage Utilization Act of 1865, which may be said to have first carried active or anticipatory sanitary legislation into rural districts, the

28 & 29 Vict. c. 75. *Sched.* 30 & 31 Vict. c. 113, § 17.

poor rate of the particular parish was declared to be the fund to which the Vestries, &c. must exclusively resort. In 1867 the law was in this respect altered, and the Sanitary Act, 1866, having in the meantime authorised the carving of "special drainage districts" out of Sewer Authority areas, the Act of 1867 enacted that, instead of direct resort to the poor rate, the Sewer Authority should by precept call on the Overseers of the parish to raise the necessary amount by a separate rate similar in all respects to a poor rate, but conceding the part exemption to the same classes of property as we have before noticed, and limited in the case of special drainage districts to the area of those districts. Thus a Sewer Authority's rating power became virtually the same as that of a Local Board of health in respect of its general district rate, but without any complication or difficulty in respect of highway repair (highways not being within the jurisdiction of Sewer Authorities), and thus also a very recent general Act affirms the legislative practice of giving the part exemptions to which such frequent allusion has been made. How far on other grounds it may or may not be deemed expedient in the future to facilitate or permit the formation of "special drainage districts," or districts analogous to them, has been discussed elsewhere, but the Act of 1867 seems to point out a course—the directing of a precept by the Sewer or Health Authority to the Overseers and the collection of the rate by them—by which the inconvenience due to the necessary separate rating for a special district, is reduced to a minimum, and ceases to be a sufficient reason against such legislation in respect of special districts as may, on other considerations, seem fitting.

Whilst the general rate leviable by the Local Elective Boards, whether administering the urban or rural provisions of the amended law, will correspond closely with the general district rate now leviable by Local Boards, there will need to be careful provision as to the funds required by Boards of Guardians acting as Health Authorities under the New Statute. There will be cases in which the Boards of Guardians will exercise sanitary authority over their entire union, and very frequent cases in which parts of the poor law union will not, for health purposes, be under their jurisdiction. All probable varieties of circumstance in this respect appear to be contemplated in the "Nuisances Removal Act, 1860," and the "Sanitary Act, 1866," Acts and reference to those will probably suggest all that is necessary to be borne in mind when defining in what proportions and by what machinery the several parishes or places, within the health jurisdiction of Boards or Committees of Guardians, must be made to contribute towards the expenditure of those functionaries, either directly out of the rates for poor relief, or by special rates, with the exemptions of the Local Government Act.

23 & 24 Vict. c. 77, §§ 4, 5. 29 & 30 Vict. c. 90, § 33.

Rating by combined districts.

Having thus observed upon the rating powers of the existing Authorities in ordinary cases, and how they may probably stand in the future, we proceed to notice the special cases arising out of the combination from time to time of districts heretofore separate, for all or part of the purposes of local government, including those difficult cases where districts in possession of greater powers (whether by adoption of the Local Government Act or by special legislation) and subject also to closer restrictions, and probably to a higher rate of taxation, seek to bring adjacent areas within their jurisdiction, or such adjacent areas seek what they may assume to be the advantage of such a combination. In all cases in which the districts concerned are agreed, the terms of the union may probably be well enough defined, and made of permanent obligation by the order of the Central Authority (whether absolute in the first instance, or provisional and subject to the confirmation of Parliament), and the rating incidents will follow, including, probably, power for the Board of the combined district to rate directly its several component parts; but as it is unnecessary in the case of combinations or extensions of area by consent, so it seems impossible in cases where consent is wanting, to anticipate and lay down by any general legislation, principles or plans of taxation applicable to the varying circumstances which must be inseparable from contested combinations. It would seem that the difficult questions of rating and of exemption which must arise in such cases can only be settled after full hearing of parties by the provisional order of the Central Authority confirmed by Parliament; or by Parliament acting in the first instance, and in exercise of its ordinary private bill jurisdiction.

Rating under Burial Acts.

Allusion has been already made in other parts of our Report to the Burial Acts, as intimately connected with sanitary regulation, and although we fear that it is beyond our power to do more than recommend their separate consolidation, it may still be right and feasible that the incidence of the expenses incurred by burial boards should in the future at least not be exceptional. Where a Local Board of Health or statutory Improvement Commissioners are constituted a Burial Board, their expenditure becomes a charge upon their general district rate or improvement rate, and so fastens itself upon and is collected from the properties or persons liable to those rates; but in the cases of burial

Boards appointed by Vestries the expenses are paid directly from the poor-rate, and thus whilst (*e.g.*) agricultural land within the district of a Local Board of health is, as to three-fourths of its annual value, exempted in respect of burial expenditure, an adjoining field, outside the boundary of that district, is taxed to its full value, and for a matter, with reference to which (if exemptions are to be at all allowed), it could certainly plead strongly for exemption.

Rating of small tenements.

Immediately incident to the subject of rating, is the system of dealing for rating purposes with small tenements.

In the case of rates by a "Local Board," the present law on this subject will be found in the 55th section of the Act of 1858, or in the special local Act relating to the district; in the case of any rate made by a "Nuisance Authority" the question scarcely arises, but the 23rd section of the Act of 1855 would more or less directly declare or lead up to the law affecting it; and in the case of rates by "Sewer Authorities," since their rates are to be laid in the same manner as poor rates, it may be contended that they would be amenable to all provisions affecting those rates.

30 & 31 Vict. c. 113, § 17.

It is unnecessary, however, for any purpose we have in view to trace the effect of these several sets of provisions more minutely. Our object rather is to point out that the small tenements legislation should for every purpose of rating be everywhere the same, except where local Acts exist, and that every care should be taken, as opportunity arises, to make these latter conform with the general law.

Acts at Variance.

How little correspondence there is between the provisions of the Local Government Act of 1858 and of the General Statute Law in this respect may be readily seen.

21 & 22 Vict. c. 98, § 55.

By the Act of 1858 the Local Authority may assess the owner instead of the occupier in the case of tenements not exceeding 10*l.* of annual rateable value, or where the tenement of whatever annual value is let to weekly or monthly tenants, or where it is let in apartments or the rent is made payable at less than quarterly periods; and in any case in which the Local Board so deal with the owner the premises are to be assessed at a reduced value, being not less than two thirds nor more than four fifths of the annual rateable value. And if payment is to be made whether the premises are occupied or not, then the reduced assessment is to be set at one half of the annual rateable value.

32 & 33 Vict. c. 41.

Whereas by the Assessed Rates Act of 1869, where owners of tenements not exceeding 8*l.* of annual rateable value* *agree* to be rated for and pay the poor rate, the overseers may allow to them a commission not exceeding 25 per cent. on the amount; if such owners are, by resolution of the Vestry, so rated instead of the occupiers, they are entitled to a deduction of 15 per cent. from the amount of the rate, and if they agree to compound for and pay the rates, whether the premises be occupied or not, they are entitled to a further deduction of 15 per cent.

So that in the limit of annual value, and every other incident and consequence of the enactments, the two Acts are at variance.

13 & 14 Vict. c. 99.

Nor would a comparison with the Small Tenements' Rating Act of 1850, (which although superseded for the purposes of the poor rate, is still in force in the case of highway rates), give a more satisfactory result, for the limit of annual value at which the owner can be rated in that Act is 6*l.*, the assessment on him being on three fourths, and when he compounds on one half of the annual rateable value.

Incidence of local taxation on real property.

It is impossible to turn from this division of our subject without one word as to the exclusive incidence of this, in common with all other branches of local taxation on real property in entire relief of personalty, and as to the exemption of the property of the Crown from such taxation. With reference to the former of these two points, it is admitted that, having regard to some of the principal purposes for which a general district rate has been and will hereafter be imposed, its incidence on real property is peculiarly fitting; but, as regards others of those purposes, it may be fairly questioned why the expense of benefits so general should be borne by the taxation exclusively of real property. The exemption of Crown property from rates, has, in a case brought under our notice, led to results not less than deplorable, and seems to rest on no satisfactory principle. At Aldershot, as we learn, the War Department is represented on the Local Board of Health, and it appears to us both expedient and just that wheresoever the Crown, or a Government Department, owns or occupies property, which, if it were in other hands, would bear its share of the expenses incurred by the Local Health Authority of the district, there should at least be arrangements by which the Crown, or Government, should contribute towards such expenses, and have due representation in the Local Government of the district.

A. Taylor, 1189, 1191.

* There are exceptions to this limit, *e.g.* in the Metropolis it is 20*l.*, in Liverpool 13*l.*, and in Birmingham and Manchester 10*l.*

In dealing with a limited portion of a larger general subject, it does not become us to do more than glance at either of these anomalies, or to suggest, with reference to rating for sanitary objects, any departure from that which, in the wisdom of Parliament, may be the general law in respect of cognate subjects; but it cannot be otherwise than pertinent to remark that instances are not wanting in which local expenditure and taxation have been largely relieved by grants from the imperial exchequer; and thus, though roughly and imperfectly, the public funds arising from other sources than real property have been brought to contribute in aid of burdens in other respects locally imposed on real property alone.

There are, for example, State contributions towards certain expenses in connexion with the relief of the poor; for instance, the salaries of the auditors and the poor-house school teachers, and one half the salaries of the medical officers are paid by the imperial treasury, which also contributes largely to the expense of prosecutions and of county and borough police.

Large amounts are annually voted from the Consolidated Fund for school buildings and educational purposes, on the principle that matters of so general concern cannot be left to unaided local efforts, and that, as the result of local neglect would be a national mischief, so the prevention of such a result is matter for national interference, and to be purchased in part at the national expense.

To the extent at least which these precedents indicate, and until this whole subject may be capable of exhaustive treatment, and the undue incidence of local taxation on real property may be remedied, it seems desirable that the State should aid the local interests in securing efficient sanitary administration. This is a matter of imperial importance; and is also, in its turn, too likely to be overlooked and neglected if left entirely to local effort, and too likely also when neglected to cause national, and not merely local mischief. In any degree, therefore, in which an amended health law may lead to greater expenditure, by an improved system of inspection, by imposing greater medical supervision and securing further medical aid, by improved registration, or by any other measure not purely or necessarily local in its origin and effect, it seems expedient and just that the localities should receive assistance from the State.

Borrowing Powers.

Principles laid down.

Among the powers which the Legislature must entrust to Local Authorities is that of borrowing money on the security of local resources for the construction of works necessary or desirable for the advancement of the community. These powers must be given with much caution. So long as they were sought by a few towns under local Acts, or by private companies for the sake of public undertakings such as docks or railways, the question did not reach imperial proportions, although in some instances, such as that of the Mersey Dock and Harbour Board, interests of gigantic importance were affected. But when every community in the country is enabled to exercise these powers, even under control, the burden may become national.

The principles which should regulate the granting of such powers may be briefly stated.

The debt should not continue outstanding beyond the time during which the works will endure and continue useful to the community.

When the works have perished, or ceased to be useful, they no longer represent the outlay, and any debt incurred n consequence of their construction becomes a dead weight to the district. The same result will arise in proportion as they decay, or become less in accord with the discoveries of science, or less suited to the requirements of the community.

Unless the debt be discharged in due time the inhabitants will be called upon to clear off so much as may remain unpaid while reaping no advantage therefrom, and perhaps incurring new liabilities in order to meet the wants of their own age. The pressure upon the community of the twofold obligation will discourage its growth, and drive to more fortunate districts the industries and populations which create wealth.

In order to prevent these inconveniences a limit should be assigned to the amount which the community may borrow under any circumsances.

No loan should be raised by a Local Authority for any works until the Central Authority have sanctioned the plans of the works, and the application of any loan to the purpose for which it has been sanctioned should be enforceable by the Central Authority, and the money so raised should not be diverted from such purpose.

Letter from Mr. Denison, Q.C., vol. iii.

Amount to be borrowed and time for repayment.

In reference to local inquiry before sanction being given to a loan, the present system cannot be regarded as satisfactory, inasmuch as although on application for a loan the Local Government Act Office now institutes an inquiry by an inspector, that inquiry is not obligatory under Statute. The New Statute ought in terms to secure investigation on the spot by an inspector, full notice of this visit of inspection, and ample opportunities of taking exception to the proposals of the Local Authority. His duties in the conduct of the inquiry should be well defined.

According to the existing law the Local Authority may borrow for permanent works an amount—

(1.) Not exceeding one year's assessable value, by consent of the Secretary of State.
(2.) Up to two years' assessable value, under provisional order issued by the Secretary, duly confirmed by Parliament.

We think this latter power might be usefully extended to three years assessable value in the case of loans for recreation grounds, sewage farms, and waterworks, care being taken that the money is expended on the permanent portion of such works.

Provisions for repayment.

In the cases where we have recommended powers to borrow up to the amount of three years assessable value, we think that the period of repayment should be extended to 75 years.

There are several means by which repayment may be effected:—

(1.) Sinking Fund.
(2.) Annual Instalments.
(3.) Terminable Annuities.
(4.) Redemption of stock, the debt (or some portion thereof) having been originally stock or converted into stcok.

A sinking fund involves the district in unprofitable and unnecessary expenditure, because the money carried to the credit of the sinking fund is ordinarily invested at a lower rate of interest than that at which the money has been originally obtained, and a loss ensues which is not made up by the compound interest. It is therefore desirable that Local Authorities be not compelled to set apart a sinking fund, but should be permitted to reduce and ultimately liquidate the debt by payment of instalments, or by means of terminable annuities. The Local Government Act would indicate that Local Authorities are to have the option of determining which of the two methods they will adopt. 21 & 22 Vict. c. 98, § 57.

Terminable Annuities differ in name rather than substance from payments by instalments. There appears to be no reason why Local Authorities should not be enabled, under the sanction of the Central Authority, to convert debt into terminable annuities. The accounts are simple, and the working sure. This method of repayment is occasionally adopted by the Public Loan Commissioners. Willink, 1629.

There remains the liquidation of debt by redemption of stock, stock having been originally created or produced by the conversion of debt into that form.

The Metropolitan Board of Works, under a statute of 1869, took powers to create capital stock, subject to such conditions, with such dividends, and redeemable (at the option of the board) at par, at such times and on such conditions as the Treasury before the creation thereof might from time to time approve and might, under similar regulations, convert existing securities into consolidated stock. The debt was to be repaid within a period named. The Act also gave additional powers with reference to the managers of the metropolitan asylum district. The Metropolitan Board of Works were enabled to lend to them a sum not exceeding 500,000*l.*, and to create an additional amount of consolidated stock, for the purpose of raising the money so lent; the amount to be repaid within 60 years. This mode of creating and liquidating a debt affords many advantages, and subject to strict supervision by some central department, Local Authorities should be enabled to arrange their finance on this basis. The capital accounts are necessarily simple in their character, and the periodical liquidation of debt by redemption of stock at terms previously arranged affords an easy method of reducing the debt. The Authority would be relieved from the necessity of continually re-borrowing, often at an unfavourable period, in order to discharge debts due to creditors who have advanced money for limited terms, and would thus effect a considerable saving in the management of the debt. 32 & 33 Vict. c. 102. § 4. § 32. § 37.

Government facilities for borrowing.

We have hitherto had in view the exercise of borrowing powers by obtaining money in the open market. But as imperial considerations have induced Parliament to authorize borrowing powers, those powers ought to be subject only to such restrictions as may secure the discharge of the debt and payment of interest at a reasonable rate.

In our *Analysis of evidence* we have sufficiently given the statutes under which the Public Works Loan Commissions act, their mode of action, and the dissatisfaction with which their policy is regarded.

16 & 17 Vict. c. 40. The statute of 1853, under which the powers of the Public Loan Commissioners were amended, enabled them to advance money at less than 5 per cent., but not less than 3*l.* 10*s.* per cent., and the Treasury continued to possess the power of reducing the rate of interest. We have had evidence to show that great obstacles are thrown in the way of public improvements by the high fixed rate of interest charged by the Public Works Loan Commissioners, and the unwillingness shown by them to advance money in many cases.

We have given in our *Analysis of evidence* the substance of statements made by witnesses of experience and authority, to prove the injury done to the public health by these impediments. While we fully admit that the rate should be such that the nation sustain no loss from the transaction as a financial operation, we believe that increased facilities for the raising of loans will considerably extend the construction of works productive of advantage to the sanitary condition of the people.

Audit.

But no system of borrowing, however advantageous in theory, can in practice work satisfactorily unless under the superintendence of an effective audit.

The audit of sanitary accounts is now conducted as follows:—

Lambert, 4593–4. (*a.*) When the Local Board is a Town Council the accounts are audited by their own auditors, who are elected by the burgesses. When the Local Board is constituted under the Public Health Act or the Local Government Act the accounts of Local Boards are audited by the Poor Law auditor of the district, and when any Board of Commissioners has acquired powers of rating or borrowing money under the Local Government Act, 1858, the accounts of such Commissioners are in like manner required to be audited by the Poor Law auditor.

21 & 22 Vict. c. 98, § 15.

24 & 25 Vict. c. 61, § 3.

(*b.*) When the Guardians are the Local Authority, and pay any moneys out of the common fund of the union for sanitary purposes, the amounts would be entered in the accounts of the Guardians, and would be submitted to the Poor Law auditor. When however they make a special rate as the Nuisance Authority, it is very doubtful whether they are bound to submit the accounts respecting that rate to any audit.

Lambert, 4620. (*c.*) Where the Vestry is the Local Authority, no audit is provided for by law, except in cases where the Act known as Hobhouse's Act has been adopted, which requires that the Vestry shall annually elect five of the ratepayers to audit the accounts of the Vestry. Some Local Acts, however, provide for the election of auditors by the Vestry.

1&2 Will. IV. c. 60.

The *Analysis of evidence* under the head of "Audit" shows the inconvenience of the present uncertain and inconsistent procedure; and in order that the accounts of all Local Authorities should be subject to a uniform system of audit we recommend that, following the precedent of the Education Act, 1870, the New Sanitary Statute should place all the accounts under auditors who should hereafter be appointed by the Central Authority, in the same manner as the Poor Law auditors are now appointed by the Poor Law Board. They will be officers appointed by the new department which we propose should be created, and from their position and experience will be competent to perform these duties with impartiality and also with discrimination and accuracy. The Central Authority should be empowered to fix the remuneration of the auditors, and to make the necessary regulations as to the mode of conducting the audit, and the form in which the accounts of the Local Authorities should be kept.

33 & 34 Vict. c. 75, § 60.

The local taxation returns made to the Home Office contain general figures respecting the finances of the Local Authorities, but afford no complete information as to many items of expenditure. The payments of "loans and interest" form one item, which therefore does not explain the actual progress made during the year in the reduction of debt; and other items are so general in their character as to be of comparatively little value for exact statistical purposes. Thus, when the highways are repaired out of the general district rate, there is nothing to show what amount is levied for the highways; and under the head "public works," public works of every description which the Local board is authorized to execute are included without any distinction or explanation.

Until recently the abstracts of the accounts of the municipal Boroughs, returned to Parliament, lay unarranged, and were not printed. The President of the Poor Law Board drew attention to this negligence in February 1868, and the accounts are now published as a Parliamentary Paper, though in an incomplete form. Hansard 190, p. 1013.

The collection and publication of these returns form one of the miscellaneous functions of the Home Office; and among collateral improvements, which will indirectly result from the departmental reforms which we recommend, will be the complete supervision and the reduction to an uniform and efficient state of all local accounts.

Old Corporations.

The Municipal Corporations Act, 1835, did not affect all the corporations included within the inquiry of the Commissioners. That Act brought into one uniform system 183 Municipal Corporations. There were 99 visited by the Commissioners, which the government did not insert in the Act.* There were also other places which the Commissioners did not visit, or which gave no account of themselves. A few of those corporations serve no municipal purpose. Others were corporations only for particular purposes, with which it was not at that time thought necessary to interfere; they remained unaffected, as far as the provisions of the Act are concerned.

The time appears now to have arrived when the 99 corporations which were not the subjects of legislation in 1835, should occupy the attention of Parliament. With rare exceptions they have survived the purposes for which they were originally created, and the state of society and of local circumstances which rendered them beneficial. In some cases they possess property from which the public derive no advantage, in others they continue to exercise certain rights and jurisdictions which should be either abolished or transferred to other authorities.

We recommend that none of these old corporations should stand in the way of the complete system of Local Authorities which we have suggested.

Concluding Observations.

We cannot conclude this part of our report without giving expression to our profound conviction that no Code of Laws, however complete in theory, upon a matter of such importance and complexity as the health of the community, can be expected to attain its object, unless men of superior education and intelligence, throughout the country, feel it their duty to come forward and take part in its working.

The system of self-government, of which the English nation is so justly proud, can hardly be applied with success to any subject, unless the governing bodies comprise a fair proportion of enlightened and well-informed minds; and if this be true as a general proposition, it is especially true in regard to matters affecting public health. This is not only shown by the evidence which we have taken, but is manifest from the nature of the case. For in the first place, there is at present among the great body of the people very insufficient information on such questions. A more vigorous and intelligent public opinion on sanitary matters has yet to be created in many places, and until it is created the action of the Authorities will be more or less hesitating and inconsistent. In the next place, many sanitary questions of vital importance are from their very nature incapable of being completely provided for by any amount of legal enactment, however minute and explicit. So large a discretion must of necessity be left to Local Authorities as to details, that in practice much will always depend on the energy and wisdom of those who compose such Authorities. Moreover there are limits to the power of any Central Authority to remedy the evils produced by local inefficiency. It may control, stimulate, and in some cases supplement the efforts of local bodies, but it cannot be a substitute for them.

It seems therefore peculiarly incumbent on those who have leisure to take their share in administering these laws. In this work not only will prejudices have to be overcome and inactivity quickened to exertion, but a sound judgment must be exercised as to the extent to which, and the limits within which, considerations of public welfare ought to interfere with the absolute rights of private owners of property, and even with the personal liberty of individuals. It is work therefore which cannot be performed without effort; but it is hoped that it will be zealously undertaken, when the nation becomes fully alive to the importance of the subject.

* See Speech of Lord John Russell in introducing the bill. Hansard, vol. 28 (1835) p. 548.

We trust, therefore, that those who possess the necessary qualifications for the work may be induced to aid in working out within their own localities measures so largely affecting public interests. Such labours may be crowned with little honour, and will be rewarded with no emolument; but if they should hold out small temptation to ambition, there are higher motives for them in public spirit and a sense of duty. No institutions of voluntary benevolence are more popular or more efficiently administered than hospitals. Not only money, but time and a large amount of personal superintendence, is given by their supporters; and it may fairly be asked whether to prevent disease is not as worthy an object as to remove it, and whether it can be better prevented than by giving full effect to the laws enacted for that purpose.

III. Suggestions for New Statute.

In an early stage of our inquiry we were, by the exertions of one of our members, furnished with an "Arrangement of the Sanitary Statutes," grouped in ten "PARTS," and bringing all the corresponding provisions of the several sets of Statutes into juxtaposition. *See* Table of Contents.

We examined these provisions thus grouped, section by section, for the double purpose of certainly bringing the whole under consideration, and of collecting into one series in similar parts the materials of a Consolidated Statute, together with annotations on points requiring amendment or addition.

Thus arose the following (1) "*Summary of the existing Law*," with notes, and (2) "*Recommendations*," which we have more briefly entitled "SUGGESTIONS FOR NEW STATUTE."

We have thought it most convenient to print these on opposite pages, so that the reader should be able to see at a glance (1) the Law as to each particular subject as it now stands on the Statute Book, and (2) such alterations or additions (if any) as we have to recommend with reference to that subject.

Where the right-hand page is blank, it must be understood that we recommend the re-enactment in a consolidated form of the various provisions of the existing Statutes which are referred to on the left hand page.

It will not fail to be observed that the first *five* parts of this work are in less detail than the *sixth and following* parts of it, and that our general "OBSERVATIONS" on the same *five* earlier divisions of the subject are more full.

This has arisen mainly because, as regards the subjects treated of, in the first five "Parts" of our "Arrangement of the Sanitary Statutes," the provisions of the New Statute must, to a great extent, diverge, in principle as well as in order and expression, from those of the existing Law.

Therefore whilst the matter embraced in the latter "PARTS," especially Part VI. (on the detailed powers of Local Authorities) seemed to suggest a closer analysis, quotation, and amendment of the existing Acts as the actual material of the proposed New Statute, that embraced in "PARTS" I.–V. seemed more for general treatment in our "OBSERVATIONS," than for any such close handling as has been applied in "PARTS" VI.–X.

I.—PREAMBLE AND REPEAL OF ACTS.*

The Preamble of **A.** asserts the expediency of further and more effectual provision for "the sanitary condition of towns and populous places."

The Preamble of **B.** asserts only the expediency of amending the Public Health Act of 1848, and "of making further provision for the local government of towns and populous districts."

The Preambles of **R.** and **X.** only assert "the defective condition of the existing Law," and "the expediency of further provision in that behalf."

The Preamble of **M.** asserts "the expediency of removing difficulties under which public "bodies having the care of Sewers labour in disposing of the Sewage of their districts," and "for facilitating arrangements for applying Sewage to agricultural purposes."

These Acts and those by which they have been from time to time amended may be said to constitute the Public Sanitary Code of England and Wales (exclusive of the Metropolis).

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* See the "Arrangement of Sanitary Statutes." The division of the subject matter as there made has been followed in the following pages.

STATUTES AND MARKS OF REFERENCE.

The letters **A. Aa.** refer respectively to the Public Health Acts of 1848 and 1858.
„ **B. C. D.** „ Local Government Act of 1858, and its Amendment Acts of 1861 and 1863.
„ **San. E. F. G.** „ Sanitary Acts 1866, 1868, 1869, and 1870.
„ **L. Ll.** „ Common Lodging Houses Acts, 1851, 1853.
„ **M. N.** „ Sewage Utilization Acts, 1865 and 1867.
„ **R.** refers to the Diseases Prevention Act, 1855.
„ **T.** „ Towns Improvement Clauses Act, 1847.
„ **X. Y. Z. Zz.** refer respectively to the Nuisance Removal Act, 1855, and its Amendment Acts of 1860, 1863, and 1866.

In the following List the several Acts are arranged in the order of their dates.

Letters of Reference.	Chapter.	Title.	Year.	Extent of Act.
T.	10 & 11 Vict. c. 24	Towns Improvement Clauses†	1847	England and Ireland.
A.	11 & 12 Vict. c. 63	Public Health Act	1848	England, except Metropolis.
L.	14 & 15 Vict. c. 28	Common Lodging Houses Act†	1851	England.
Ll.	16 & 17 Vict. c. 41	Common Lodging Houses Act†	1853	England.
R.	18 & 19 Vict. c. 116	Diseases Prevention Act	1855	England.
X.	18 & 19 Vict. c. 121	Nuisance Removal Act	1855	England.
Aa.	21 & 22 Vict. c. 97	Public Health Act	1858	England.
B.	21 & 22 Vict. c. 98	Local Government Act	1858	England.
Y.	23 & 24 Vict. c. 77	Nuisance Removal and Diseases Prevention Amendment Act	1860	England.
C.	24 & 25 Vict. c. 61	Local Government Act (1858) Amendment Act	1861	England.
D.	26 & 27 Vict. c. 17	Local Government Act (1858) Amendment Act	1863	England.
Z.	26 & 27 Vict. c. 117	Nuisance Removal Act (1855) Amendment Act	1863	England.
M.	28 & 29 Vict. c. 75	Sewage Utilization Act	1865	Great Britain and Ireland.
Zz.	29 & 30 Vict. c. 41	Nuisance Removal Act (No. 1)	1866	England.
San.	29 & 30 Vict. c. 90	Sanitary Act	1866	Great Britain and Ireland.
N.	30 & 31 Vict. c. 311	Sewage Utilization Act	1867	Great Britain and Ireland.
E.	31 & 32 Vict. c. 115	Sanitary Act	1868	England.
F.	32 & 33 Vict. c. 100	Sanitary Loans Act	1869	England.
G.	33 & 34 Vict. c. 53	Sanitary Act	1870	

† These three Acts are not included in the "Arrangement of Sanitary Statutes."

I.—PREAMBLE AND REPEAL OF ACTS.

All these Acts, so far at least as they apply to England and Wales (exclusive of the Metropolis), should be repealed, and the Preamble of the New Statute will probably assert the expediency of doing so, and of enacting consolidated, amended, and extended provisions for promoting the Public Health, (not only in "towns and populous places," but) throughout every part of England and Wales (exclusive of the Metropolis); and the first or a leading enactment of the New Statute will accordingly be the absolute repeal, from a day to be fixed, of—

The Public Health Act, 1848; **A.**
The Local Government Act, 1858; **B.**
The Local Government Amendment Act, 1861; **C.**
The Local Government Amendment Act, 1863; **D.**

and the repeal, *so far as they affect England and Wales* (exclusive of the Metropolis), of—

The Towns Improvement Clauses Act, 1847; **T.**
The Common Lodging Houses Acts, 1851 and 1853.
The Nuisances Removal Act, 1855; **X.**
The Diseases Prevention Act, 1855; **R.**
The Public Health Act, 1858; **Aa.** — 22 & 23 Vict c. 3.
The Act of 1859 making the last-mentioned Act perpetual.
The Nuisances Removal and Diseases Prevention Act, 1860; **Y.**
The Nuisances Removal Amendment Act, 1863; **Z.**
The Sewage Utilization Act, 1865; **M.**
The Nuisances Removal Act (No. 1), 1866; **Zz.**
The Sanitary Act, 1866; **San.**
The Sewage Utilization Act, 1867; **N.**
The Sanitary Act Amendment Act, 1868; **E.**
The Sanitary Loans Act, 1869; **F.**
The Sanitary Act Amendment Act, 1870; **G.**
And all those sections of Provisional Orders Confirmation Acts which are general in their operation;

and will also provide that between the passing of the New Statute and the day fixed for its coming into operation, there should, in exercise of any power in the existing Acts, be no further voluntary adoption of **A.** or **B.**, nor any creation of any "special drainage district," nor any "combination" or "union" of districts for limited purposes or otherwise.

The New Statute should make provision that notwithstanding the repeal of the General Acts under which they may have been constituted, or from which they may have adopted provision, it is expedient to save and continue,

All Local Board of Health Districts,* and all the Local Boards acting therein, whether Town Councils, Commissioners, or Local Boards constituted under **A.** and **B.**, with slight amendments of their constitutions; also,
All Special Drainage Districts, providing for their future government by, and carrying over their property and liabilities to, Elective Boards, appointed as the New Statute will provide.
All acts theretofore done by any Authority in exercise of any of the powers of the repealed Statutes.

As by the repeal of the Acts under which they derive their powers Nuisance Authorities and Disease Prevention Authorities, as such, and Sewer Authorities (Vestries), and United Sewer Authorities, as such, and possibly some other Authorities, will cease, it is necessary that provision be made by the New Statute for carrying over, with proper adaptation of powers and duties, the works and property, contracts, and liabilities of all such discontinued authorities, to the authorities constituted under the New Statute in respect of the same area.

On repeal of **T.**, provision will be necessary respecting those Acts which have incorporated any of its Sections.

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* This will include districts combined for *all* purposes; and, as all liabilities and contracts will be preserved, arrangements of *part* combination will be thereby preserved.

Ia.—INTERPRETATION SECTIONS.

The principal "Interpretation" Sections of the existing Acts are—

2 A. [pp. 2, 4, and 6].*
7 B. [p. 6].
2 X. [p. 3].
15 Y. [p. 3].
3 M. [p. iv.]
1 San. [p. iv.]
14 San. [p. iv.]
11 E. [p. 2].
10 F. [p.].
12 & 13 Vict. c. 94, § 10 (as to the meaning of a Corporate Borough).

Although the Interpretation Section may stand first in order in a completed Statute, it is probably the last which is completed in the construction of a Statute, and this because until the whole Statute is built up, it cannot be known what expressions in it need "interpretation."

For this and other obvious reasons, the Commission are unable to make more than a very few "Suggestions" in the way of "interpretation."

II.—ADOPTION OF ACTS AND CONSTITUTION OF LOCAL HEALTH AUTHORITY.

Adoption of Acts.

8, 9, and 10 A. [superseded by B.] empowered the General Board of Health, upon petition of inhabitants, or upon a death-rate exceeding 23 in 1,000 of the population, to make public local inquiry, and to report to Her Majesty, who, by Order in Council, might apply the Act, or any part of it, to the city, town, or place; but when there were questions involving boundary or a Local Act, then the Board was empowered to make a provisional order for the application of the Act, or any part of it, and for the repeal, alteration, extension, or future execution of a Local Act; provisional orders being always subject to confirmation by Parliament.

31 A. [p. 22] provides specially for Oxford and Cambridge, and 82 B. [p. 22] and 4 Y. (proviso) [p. 137] relate specially to the local government and special circumstances of those places.

B. (to be construed with and form part of A.), although it did not actually repeal, virtually superseded 8, 9, and 10 A., which provided for the official application of that Act, and substituted 12 B. [p. 6] and 15 B. [p. 10] for the voluntary adoption

(*a*) Of the whole or any part of its provisions;
1. In corporate boroughs, by a resolution of the Town Council if invested with powers under a Local Act;
2. In places under the jurisdiction of elective Improvement Commissioners, by a resolution of such Commissioners; but in the case of Commissioners elected for life, subject to reformation of their constitution; and

(*b*) Of the whole Act;
In other places having known or defined boundaries, by a resolution of owners and ratepayers.

See also 2 C. [p. 10].

* The references to pages within square brackets [ ] refer to the pages of the "Arrangement of Sanitary Statutes."

Ia.—INTERPRETATION SECTIONS.

Under the new law it will of course be desirable that the one Sanitary Authority having jurisdiction in each health area, urban or rural, should, in the capacity of Sanitary Authority, have one and the same name, "Local Health* Authority."

Several words and terms heretofore "interpreted" may probably not be used in the New Statute, and "Nuisance Authority," "Sewer Authority," and the like, would be entirely abolished. The term "Central Authority" might be interpreted to mean that branch of the Executive Government having the supervision and control of the Local Health Authorities.

By 2 A. [p. 6] the word "sewer" has a general signification assigned to it, which it might be well to retain, and "drain" has the arbitrary meaning assigned to it of "the drain of *one* building, &c." It will in the New Statute be necessary to speak of works for receiving and conducting foul fluids, and of those for conducting un-polluted water. The word "drain" should in the New Statute be interpreted to mean "any channel or conduit for receiving and drawing off unpolluted water,"† or the like, whilst "sewer" (whether main-sewer, connecting-sewer, or house-sewer) might be interpreted to mean "any channel or conduit for sewage," or the like.

A like distinction might be preserved between "sewerage" and "drainage." In 2 A. [p. 6] "drainage" seems almost to assume the same meaning as "sewage," whereas "drainage" ought to be co-relative with "sewerage;" and drain water (un-polluted) with sewage (polluted).

The word "House" is, in A. [p. 6], interpreted to include schools, factories, and other buildings, in which more than *twenty* persons are employed at the same time. If thus used in the new Statute, we suggest that the number 20 should be reconsidered and a less number inserted.

The New Statute will, doubtless, continue the present Statutory Nuisances (given in 8 X. and 19 San. [p. 61], &c.), and add to them; but this must be considered direct legislation, and not mere interpretation.

II.—ADOPTION OF ACTS AND CONSTITUTION OF LOCAL HEALTH AUTHORITY.

Adoption of Acts.

We suggest:—

1. That the provisions of the new law should *per se* attach in every place to which the Statute shall make them applicable, consequently the whole principle of "adoption," as found in the existing Statutes, will fall to the ground.
2. That in the exceptional cases of Oxford and Cambridge it seems unnecessary further to notice the provisions of A. B. being of voluntary adoption, only provided that the Improvement Commissioners, acting in Oxford and Cambridge respectively, under Local Acts, should be the bodies *authorized to adopt* the Act in those places. A Local Board of Health has been constituted in Oxford, and all or part of B. has been adopted there; and the Local Authority there must assume the powers and duties of the New Statute, instead of the powers and duties adopted from the existing law. Cambridge has not yet constituted a Local Board, and is understood to be exclusively governed by Commissioners under its Local Act, and will probably again need special treatment in the New Statute.
3. That as in the existing Acts, so in the New Statute there should be careful provision for making additions to, and separations from, districts, and other cognate provisions.
4. That the principle which pervades the Acts for "Removal of Nuisances," "Prevention of Disease," and "Sewage Utilization," (that of universal obligation instead of voluntary adoption), will, as before noticed, be the principle of the

* It would seem that "Health" must be expressed in the title, or else the name of the Authority might be capable of being confounded with the name of some other Authority of local function.

† *Un-polluted* is used throughout to mean all water other than that fouled by sewage, domestic use, &c., and must be understood to include surface drainage, &c.

13 B. [p. 8] makes provision for the manner of summoning, and the conduct of the business and the voting at meetings as to the adoption of the Act.

16 B. [p. 12] makes provision for the adoption of the Act in places without known or defined boundaries.

17 B. [p. 12], and some following Sections as also 3 D. [p. 14], provide for appeals against the adoption of the Act.

77 B. [p. 18] makes provision (in cases where desired by a majority of the Local Board, and of the owners and ratepayers in the district to be added or separated) for additions to and separations from districts; and (where so desired by the Local Board) for the future execution of a Local Act within its district; the machinery prescribed being petition to the Secretary of State, public local inquiry, evidence of consent in public meeting, and confirmation by provisional order of Secretary of State, and finally by Parliament.

This section also confers a power for the alteration, or entire or partial repeal of Local Acts by a like provisional order.

29 C. [p. 20] (for removing doubts which had arisen) enacts in the case of Local Boards, constituted by Local Acts, that all the provisions of B., C., of X., R., and Y., and of every future Act amending or repealing any of those enumerated Acts, should apply to such Local Boards; *except* in respect of provisions in the enumerated General Acts, opposed to or restrictive of the provisions of the Local Acts, and *except* where the General Acts and the Local Acts might contain provisions for similar objects, in which case each Local Board was empowered to proceed either under its own Act or under the General Acts.

In respect of places having less than 3,000 inhabitants, 2 D. [p. 16] makes the consent of the Home Secretary necessary to the adoption of the Act; and 4 D. [p. 16] makes provision for its abandonment, and 5 D. [p. 18] for the dissolution of districts in certain places and circumstances.

X., Y., San., M., N., and E., in every place operated on by their particular provisions, create an Authority, or declare an already existing body to be the Authority for administering them in each locality, and leave no discretion as to adoption; and R. and Y., when called into action by the Privy Council, also fasten their provisions upon designated Local Authorities (11 Y. [p. 7]), and leave no discretion as to adoption.

Constitution of Local Health Authorities.

A. (12th and following Sections [pp. 24–30]), points out the bodies which, where the Act might be applied, are to be the Authorities for executing it, and makes provision for the election, rotation, and re-election of members of Local Boards; for the qualification and the number of members (as to which a discretionary power was made exerciseable by the Privy Council when applying the Act by Order in Council or by Provisional Order), and for the selection of members for particular purposes in special cases.

It also enacts certain qualifications.

A. also (20th and following Sections, [pp. 32–38]) makes provision for the qualification of electors of Local Boards (ratepayers and owners),—prescribes a scale and the mode of voting,—gives direction as to the manner of conducting elections,—and furnishes divers incidental regulations.

B., without specifically repealing any of these enactments, supersedes some of them and makes additional provision in respect of others.

24 B. [p. 38] makes further provision as to the qualification of members for Local Boards. They must be at the time of election, and during continuance in office, resident within the district, or within seven miles thereof, and must, in districts containing less than 20,000 inhabitants, be possessed of real or personal estate, or both, to the value of 500*l.*, or rated to the relief of the poor on an annual value of not less than 15*l.*, and must, in districts containing 20,000 inhabitants or more, be possessed of real or personal estate, or both, to the value of 1,000*l.*, or rated to the relief of the poor on an annual value of 30*l.*

25 B. [p. 30] alters (by relaxing) some of the disqualifications of A., and empowers the Secretary of State to dispense with others of those disqualifications.

The manner in which, and the conditions under which A. became applicable to particular districts, being changed by B. in favour of voluntary adoption in all cases, to the

New Statute; and as another principle of that Statute will be to constitute *in every place one* Authority *and one only* for all sanitary purposes, the powers and duties of "Nuisance Authorities," "Diseases Prevention Authorities," "Sewer Authorities," &c., will with necessary Amendments be executed by the one new Authority, and the Authorities, by these several names at least, will be heard of no more.

Constitution of Local Health Authorities.

1. With reference to the Local Authorities, upon which the duty of executing the new Law will be imposed, our suggestions will be found in the following table; * in which an attempt is made to express our views in a synoptical form, embracing—
   1. District to be covered;
   2. Authority to act within it; and
   3. Duty and power to be exercised.
2. With reference to the qualification and disqualifications of candidates to sit on the Elective Boards and of the Electors, the scale and mode of voting, and of conducting elections, there is little to suggest beyond consolidation; but the following specific points require attention:—

   A. gave a discretionary power to the Privy Council, as to the number and qualification of members, but this was superseded by B., and whilst the number of members on each particular Board was to be fixed by the resolution adopting the Act, an arbitrary rule turning upon the presence or absence of a population of 20,000, was introduced as to the qualification of candidates.

   The A. scale of voting remains untouched by subsequent legislation.

   On considering the varying circumstances of the districts which will be called upon by the New Statute to elect Boards, it appears to us desirable that the New Statute should be framed with some elasticity as to the number of members to compose each Board, and the qualification of members to sit on it; but whilst it is suggested that the number of members may and must

* The table is printed on page 81 in order that the reader may have the whole statement before him, and the paragraph at the foot of the page is continued on p. 83.

exclusion of compulsory application in any case, 24 B. [p. 38] also prescribes that the duty of carrying the Act into execution should be vested in a Local Board, and that such Local Board should be—

In Corporate Boroughs - -	The Town Councils;
In places under the jurisdiction of Elective Improvement Commissioners - - -	The Board of Commissioners; with reformation of constitution in cases where elected for life;
In other places - - -	Elective Boards composed of such a number of members as should be determined by resolution of the owners and ratepayers.

7, 8, & 9 N. [pp. 12–14] invest the Secretary of State with powers of control over the formation of certain special drainage districts.

The "Nuisance Authority" which now executes the Nuisances Removal Acts (in all places except the Metropolis) is described by 2 Y. [p. 7], and the Sewer Authority by the Schedule to M. [p. 8], and by 2 N. [p. 2], which extends the definition of 'Sewer Authorities'; the latter section adds "Local Boards" and erects into a 'Sewer Authority' any Collegiate or other Corporate body, required or authorised by or in pursuance of any Act of Parliament to divert its sewers or drains from any river, or to construct new sewers, and any Public Department of the Government.

5, 6, and 7, San. [p. 12] provide for the formation of Special Drainage districts. See also 7, 8, and 9, N. pp. 12 & 14], and 3 & 4 G. [p.].

District.	Authority.	Powers and Duties.
I. URBAN.		
Boroughs (*a*) and Districts under a Special Act, with or without application or adoption (part or entire) of A. or B.)	The Town Council; and in districts within which there is no such body, the Commissioners or other body administering the Special Act (*d*).	The urban powers and duties which are either (1.) *Contained in* such of the provisions of the New Statute as may be enacted in the room of the sections (if any) which have been incorporated by the Special Act from the existing *General* Acts, *or* (2.) *Contained in* such of the provisions of the New Statute as are not opposed to or restrictive of the provisions of the Special Act, with power for the Local Authority in case the New Statute and the Special Act contain provisions for effecting the same or a similar object, but in different modes, to proceed under the New Statute or the special Act; and with further power for the Local Authority in case of discrepancy, confusion, or inconvenience, to obtain the abrogation by Provisional Order of such part of the Special Act as occasions the discrepancy, confusion, or inconvenience (*e*).
All other Boroughs (*a*) (with or without application or adoption of A or B.)	The Town Council	The urban powers and duties of the New Statute.
All other Local Board of health Districts (by adoption of A. or B.)		
All Places (*b*) not being such Boroughs or places as are before mentioned, but having known or defined boundaries, and certified by the Central Authority as containing not less than 3,000 inhabitants, unless upon his own motion, or on petition, the Central Authority otherwise order on the ground of sparseness of population.	A Local Board to be elected as by the New Statute prescribed.	
All Areas (*c*) not being such Boroughs, Districts, or Places as are before mentioned, and not having known or defined boundaries, but to which defined boundaries shall for the purposes of the New Statute be assigned by the Central Authority, and certified by him as containing not less than 3,000 inhabitants.		
II. URBAN OR RURAL.		
All special drainage Districts constituted under **San.**	A Local Board to be elected as by the New Statute prescribed.	The urban or the rural powers and duties of the New Statute as the Central Authority shall prescribe.
All Places (*b*) or Areas (*c*) not from time to time within any of the above-mentioned conditions, but which the Central Authority may from time to time in his discretion, by absolute or Provisional Order (and with or without local application to him) constitute an Elective Board District.		
All Places (*b*) or Areas (*c*) not from time to time within any of the above-mentioned conditions.	The Board of Guardians of the poor law union comprising such places, excluding those guardians elected in respect of areas within the union, but which may be from time to time under other local government within one or other of the eight preceding conditions.	The rural powers and duties of the New Statute; but with power for the Central Authority to confer on the Local Authority powers and duties of executing all or any of the urban powers and duties of the New Statute in any particular parts of their districts.

(*a*) "Boroughs" means throughout only the scheduled boroughs of the Municipal Corporation Act, 1835, and such as have been incorporated subsequently. All other boroughs or corporations are simply "places." See also 12 & 13 Vict. c. 94. § 10.

(*b*) The word "place" is here used in the same sense as the same word in sub-sections 2 & 3 of B. §. [p. 6].

(*c*) The word "area" is used in order to avoid a term having a specific (either technical or popular) signification, or pointing at any known or separated jurisdiction (such as a "township," "parish," &c.), the notion being that the "area" might be a combination, for the purposes of the Act, of places heretofore unknown in combination, or an elimination of places heretofore unknown in a separate condition.

(*d*) If such Commissioners be elected *for life*, their constitution should be altered.

(*e*) Power to alter or repeal Local Acts by Provisional Order (as now provided for by 77 B. [p. 18]) is assumed to be continued.

III.—POWERS TO COMBINE FOR ALL OR ANY PURPOSES.

27 B. [p. 42] gives power to combine districts by agreement, sanctioned by the Secretary of State.

28 B. [p. 42] enables a Local Board, with consent of an adjoining district or place, to execute works therein, and upon such terms as to payment by the one to the other and otherwise as may be agreed on.

9 M. [p. 42] gives Local Boards, as well as Sewer Authorities, power to combine for the purpose of executing and maintaining works; but this power also is one only exerciseable on agreement.

10 N. [p. 42] provides for the union of Local Boards as well as of Sewer Authorities, respectively representing adjoining districts, for the purpose of carrying out the objects of M. and N., or any of those objects;—one such Board or Authority making application, with the consent of the others, to the Secretary of State, who is empowered to make order thereon.

11 N. [p. 42] provides that the intention to form a united district shall be advertised.

12 N. [p. 44] makes provision in such cases for the constitution and action of a Joint Board, to consist of members of each Authority, and for its incorporation, and empowers it to hold lands for its purposes.

be fixed by the Central Authority (with power to vary it from time to time in case of material change in the circumstances of a district), we are of opinion that the other incidental particulars should be settled by the New Statute,—as to the scale of voting, as in A.,—and as to qualification of candidates, as in B., permitting residence, however, within 15 miles instead of within seven miles.

25 B. [p. 30] shows that the too rigid disqualifications to which it points had worked inconveniently. In the numerous small communities which the New Statute will call upon to make elections, this may be especially felt. We therefore suggest cautious relaxation in the New Statute, or the giving of a discretionary power to the Central Authority similar to, and probably wider than, that in B. See several recent Local Acts, *e.g.*, Wolverhampton Act, 1869. Barrow Act, 1868. St. Helens Act, 1869. 32 & 33 Vict. c. cxxxi., § 391.

3. Whereas under 24 (4) B, [p. 38], a Local Board may, with the sanction of the Central Authority divide the district into wards, and declare what numbers are to be elected for each ward; the New Statute should contain a section enabling the Central Authority to change the boundaries of wards, subdivide wards, or alter the numbers of members, but it should be carefully framed so that the fullest regard be had to the number of inhabitants and the rateable value, area being also taken into consideration. 31 & 32 Vict. c. civ., § 249. 32 & 33 Vict. c. cxx., § 430.

   A *material* change should be proved before any alteration can be made by the Central Authority. See the Education Act, 1870, and the Metropolis Local Management Act, 1855. 33 & 34 Vict. c. 75. § 39. 18 & 19 Vict. c. 126. § 33.

4. See a Provisional Order Confirmation Act, 1852, as to the definition of "year." This section must be repealed, the substance being retained in the New Statute. 15 & 16 Vict. c. 42. § 14.

5. The further representation, by membership, of owners on Local Government Boards, might have an important bearing on the administration of the Sanitary Laws.* It must considerably depend on what may in the future be the direct incidence of local taxation.

6. On omission of any Local Health District to elect members to such Board as prescribed by the New Statute, the Central Authority should have power to appoint persons (qualified for election in the ordinary course) to be members thereof, and should have power to annul the appointment of such persons so soon as the Local Health District should have duly elected members for itself; the appointed members in the meantime to exercise all the powers of members elected in the ordinary course.

7. Better provision is necessary for ensuring an accurate register of Electors in all cases.

8. Where Guardians are the Local Health Authority, it is desirable that the Guardians should be elected for three years, with fit provision for the annual retirement of a part of the board.

III.—POWERS TO COMBINE FOR ALL OR ANY PURPOSES.

We suggest,

1. That in agreed cases of 'combination' of districts for limited purposes, or of 'union' for all purposes, of their constitution, the Central Authority should have power by an absolute order to effect or sanction such 'combination' or 'union,' and that in opposed cases he should also have power after a public hearing of all parties interested to make a Provisional Order for such 'combinations' or 'unions' as he may approve.
2. That a similar power should be given in respect of the 'dissolution' of districts.
3. That when it may be desired to incorporate, for the purposes of the New Statute, a suburban district or part of one with an urban district the Central Authority should have power to effect or sanction such an incorporation by Provisional Order after hearing all parties interested, and by such Provisional Order to assign such boundaries and make such provision for the constitution of the Authority to govern in the enlarged district as he shall deem right.

N.B.—It must always be desirable to preserve singleness of authority within the same area, and therefore in such cases of corporations, &c., as this suggestion includes, an amended charter or a Special Act may be found the preferable course.

* See Observations and Report of the Select Committee on Local Taxation, 1870, p. iii. and iv.

13 N. [p. 44] confers on such Joint Board the same powers as it might exercise if it were the only Sewer Authority of the united district (except the power of making a rate), and enables it to delegate certain of its powers to the Sewer Authority of any of the component districts such powers of superintendence or otherwise as such Joint Board may see fit.

14 N. [p. 44] makes provision for the expenditure of the Joint Board by subjecting each component district to contribute towards the expenditure in proportion to the rateable value of each district, or in such other proportion as the Secretary of State may, with the consent of the component districts, determine.

All these powers are operative in cases of agreement alone, or have been so considered.

IV.—MODE OF CONDUCTING BUSINESS, COMMITTEES, OFFICERS, &c.

34 A. [p. 44] makes provision as to the meetings of Local Boards, and their mode of transacting business at their meetings. Oxford and Cambridge are excepted from some of the prescribed details.

35 A. [p. 46] directs the provision by the Local Authority of proper offices, and prescribes regulations as to the sealing and signing of documents.

36 A. [p. 46] empowers Local Boards to appoint Committees for any purposes deemed convenient, and requires that the Acts of every such Committee should be submitted to the Local Board for approval.

41 and 42 A. [p. 46] require every Local Board to provide a map exhibiting a system of sewerage for effectually draining their district, and to keep it at the office of the Board, open to the inspection of the ratepayers of the district.

37 A. [p. 46] *directs* every Local Board to appoint a Surveyor, Inspector of Nuisances, Clerk, Treasurer (the Clerk and Treasurer never to be the same person), Collectors of Rates, and other necessary officers and servants, and to make byelaws for regulating their duties.

40 A. [p. 48] *empowers* Local Boards from time to time if they shall think fit, to appoint "a legally qualified Practitioner or a Member of the Medical Profession to be and be called the Officer of Health," who shall be removeable by the Local Board.

14 Y. [p. 49] authorises Boards of Guardians to cause Sanitary enquiries, and procure Sanitary Reports, and pay for same, and 20 San. [p. 49] *directs* all Nuisance Authorities to make inspection with a view to abatement of nuisances and to enforce provisions of X. and Y. and of any Act requiring consumption of smoke.

By 4 San. [p. 46] a Sewer Authority is empowered to appoint Committees out of its own body, or out of contributing ratepayers, and to delegate to them "with or without conditions or restrictions, all or any powers of the Sewer Authority," and is authorised to "revoke, add to, or alter all or any powers so given to a Committee."

There appears to be no Statutory direction, nor any express Statutory power for a Sewer Authority to appoint officers, &c.

5 X. [p. 47] authorises Local Authorities to appoint Committees to become the Authorities to receive notices, take proceedings, and in all or specified respects to execute the Act.

(But the "Nuisances Removal Committee," which the vestry was enabled to appoint by 3 X., and which became the Authority to execute that Act, was abrogated by 3 Y. and 17 San. except in the case of the Metropolis).

By 5 Y. [p. 47] the Board of Guardians (then become the Nuisance Authority) is authorised to appoint a Committee of their own body to act in one or more parishes, with full power to execute the Nuisances Removal Acts there "in all respects," "unless its power be expressly limited by the terms of the appointment."

By 139 and 140 A. [pp. 48, 50] provisions are made for the protection of officers acting in execution of the Act, whilst 38 A. [p. 50] imposes penalties upon officers if and when improperly interested in contracts, or taking or exacting fees, &c., beyond their assigned remunerations, and 39 A. [p. 50] provides that officers, &c. entrusted with moneys should give security, and render accounts.

42 X. [p. 49] extends the above protection to the officers of Nuisance Authorities.

30 X. [p. 49] enables the Local Authority to direct any proceedings to be taken at law or in equity coming within the purview of the Act, and to order proceedings to be taken for recovery of any penalties, punishment of offenders, &c.

4. That as the existing restriction against giving any direct power of rating to Boards having jurisdiction over "combined" or "united" districts, appears to stand in the way of efficient action. The New Statute should confer powers of direct rating.
5. That in addition to the powers of the combination *inter se*, Local Health Authorities should be empowered, with the consent of the Central Authority, to take part in the formation of Boards, under the Land Drainage Act, 1861, or otherwise, for carrying out more extended operations of drainage and water economy than can be effected within their respective districts, and that each Local Health Authority within such extended jurisdiction should be represented by one or more members of its own body on the Board.

IV.—MODE OF CONDUCTING BUSINESS, COMMITTEES, OFFICERS, &c.

We suggest,

1. That every Local Authority should be enabled to appoint committees out of their own body for the transaction of all such matters as the Authority may from time to time be of opinion would be better so managed or regulated, and that the acts of such committees should be reported in writing to the appointing Authorities, and should be absolute, or should require confirmation, as the Authority should when appointing the committee direct.
2. That no such committee should have power to impose a rate; or, without the previous sanction or subsequent confirmation of the appointing Authority, to make, by contract or otherwise, more than a (to be) *limited* expenditure; but, subject to such or the like limitations, it seems convenient that the spirit of the later Acts (in favour of large delegation of powers), rather than that of A., should be followed in the New Statute.
3. That the power given by 40 A. [p. 48] to every Local Authority for the appointment of a Medical Officer of Health should by the New Statute be turned into an obligation to appoint one such officer or more, as may be required; that the amount and terms of the remuneration and appointment of all such Officers should be such as the Central Authority approves, and that they should not be appointed, nor removed, except in case of emergency, without the sanction of the Central Authority.
4. That Inspectors of Nuisances should be removable by either the Central or the Local Authority.
5. That every Medical Officer of Health should have the powers of an Inspector of Nuisances and should be authorized to call for reports from any Inspector of Nuisances in his district, and that every Report made by an Inspector of Nuisances to the Local Health Authority should also be made to the Medical Officer of Health of that Authority.
6. That the directions given by 4 A. [p. 46] as to the providing of maps should be extended, so that there may be, in the office of every Authority for public inspection proper maps, showing not only a prospective "system of sewerage," but also all sewers, street improvements, and other works executing and executed by the Authority.
7. That the sections of A., &c., as to the protection and correction of officers, will need to be re-enacted with the amendments mentioned in Part VI., Chap. xvii., on "Powers of Entry" (see p. 141, *infra*).
8. That the provisions of 14 Y., 20 San., and 30 X. should be extended to all Authorities.

V.—SUPERVISION AND CONTROL OVER LOCAL HEALTH AUTHORITY.

6 A. authorised the appointment by the Privy Council of superintending inspectors for conducting inquiries previous to the application of that Act in any locality, and 121 A. clothed such inspectors with large powers as to bringing before them and examining all persons, books, documents, &c., deemed necessary; providing for previous tender of expenses to persons summoned, and that no one should be obliged to obey any summons if it called on him to travel more than ten miles from his residence.

76 B. [p. 52] provides that Local Boards shall yearly report to the Secretary of State all works executed and monies received and expended.

79 B. [p. 52] directs the Secretary of State to report annually to Parliament on the execution of the Act; to make such "enquiries," and to appoint such officers, &c. (at salaries fixed by the Treasury), as he sees fit.

80 B. [p. 52] carries over to Inspectors appointed by the Secretary of State for the purposes of that Act the powers of the 121 A. [p. 52].

81 B. [p. 52] declares all orders of the Secretary of State made in pursuance of the Act to be binding in respect of the matters to which they refer, and invests him with power to make orders as to costs in cases of appeal before him.

By 16 San. [p. 53] the Secretary of State is authorised, on the default of a Nuisance Authority, through the Chief Officer of Police in any place, to take any proceeding which the Nuisance Authority might institute for the removal of nuisances.

49 San. [p. 54] provides, that on complaint made to the Home Secretary that a Local Board of Health or Sewer Authority has made default in supplying or maintaining sewers, or (in cases of apprehended danger) in supplying water, or that a Nuisance Authority or a Local Board has made default in enforcing the provisions of the Acts they severally ought to administer, the Secretary of State, if, after due inquiry satisfied of such default, should order the performance within a fixed time of the neglected duty, and if the default continues, should appoint a person to remedy it, and direct the expenses to be paid by the defaulting Authority.

2 N. [p. 54] provides that the person acting under the appointment of the Secretary of State for the last-mentioned purpose, should for that purpose have all the powers of the defaulting authority except the power of levying rates.

8 E. [p. 54] and 4–10 F. [p.], pursuing the same subject matter, facilitate the recovery by the Secretary of State of the expenses so incurred by him.

By 75 and 77 B. the Secretary of State derives large powers and functions with relation to Provisional Orders.

The former of those Sections (75 B.) [p. 114] authorises him on application of a Local Board (extended to Sewer Authorities by 7 M. [p. 114]) to direct local inquiry and make a Provisional Order, in respect of specified lands, for the exercise by the Local Board or Sewer Authority of the powers of the Lands Clauses Consolidation Act, for the acquiring of land otherwise than by agreement;—such Provisional Order being without validity until confirmed by Parliament, and the Secretary of State being authorised to proceed for an Act giving such confirmation.

The latter Section (77 B.) [p. 18] authorises the Secretary of State in the event of a Local Board or of owners and ratepayers affected, &c., petitioning that there should be an addition to or separation from a district, or on the petition of a Local Board asking that provision should be made for the future execution of a Local Act in its district, or that any such Local Act, or any exemption of rating derived therefrom, or that any Provisional Order, or Order in Council applying A., or that any Act confirming any such Provisional Order should be wholly or partly repealed or altered, to make such Provisional Order as he may see fit after or without enquiry in the district: Provided that if the application involve addition to or separation from a district, an inspector must proceed to the places affected, convene public meetings, and obtain such consents as the Section specifies, the Provisional Order falling in the absence of such consents. Provisional Orders, under this Section, being also of no validity until sanctioned by Parliament, the Secretary of State is authorised to proceed for an Act giving such confirmation.

By 57 (3) B. [p. 150], the sanction of the Secretary of State is made necessary in respect of the exercise of its borrowing powers, &c. by a Local Authority on security of their rates, and a Provisional Order is required in cases of borrowing beyond one year's assessable value.*

* 14 C. [p. 56] substitutes the sanction of the Secretary of State for that of the General Board of Health in certain cases of borrowing and mortgaging of rates by Local Boards, &c.

V.—SUPERVISION AND CONTROL OVER LOCAL HEALTH AUTHORITY.

We suggest

1. That a New Minister should be appointed, who should be the Central Authority for the administration of the laws affecting Public Health and the Relief of the Poor, and that all existing Departments for these purposes should be transferred to him.*
2. That such New Minister should have a proper staff of officers under him.
2. That the officers of the Central Authority should have power of summoning and compelling the attendance of witnesses *from whatever distance;* and,
3. That the Central Authority should have clear statutory power to engage occasionally or permanently, at his discretion, as he may find most economical and efficient in each case, the services of officers of high professional or scientific attainment.
4. By the reports to it of Local Authorities on the matters mentioned in 76 B. [p. 52], and by the reports it will receive from the Medical Officers of Health throughout the country, from his own Medical Officer or staff (fulfilling the duties of the Medical Officer of the Privy Council), from the Registrar General, and from other sources, the Central Authority will in the future possess, under its own hand, a mass of important information, which, however, will be comparatively useless, if not duly arranged and published with a view, not only to its appreciation by scientific men, but also for popular comprehension. We recommend that the New Statute should empower and require the Central Authority to take measures accordingly.
5. The powers conferred on the Central Authority by the 16 San. [p. 53], and 49 San. [p. 54], and by N. and E., in respect of the performing of duties neglected by Local Authorities, should be continued with amended and strengthened powers, so that, on default of a Local Health Authority,
   (*a.*) The Central Authority may have clear power to proceed for the enforcement of any penalty or by attachment;
   (*b.*) To perform any duty and to execute any work by such agency as appears to it fitting; and
   (*c.*) To recover the expenditure against the defaulting district by the imposing of rates, borrowing on the security of them, or by such other course as may appear to him most convenient.

   Such powers should relate not only to Public General Acts (as now), but also to Local Acts.

   The Central Authority should be enabled to exercise this jurisdiction on report of an Inspector as well as on complaint.

   And should have power to correct *excess* as well as *defect* in the action of Local Authorities.
6. The important powers exercised by Provisional Order, not only in respect of the objects for which 75 B. [p. 114] and 77 B. [p. 18] make provision, but for the other purposes noticed in our "Observations" and herein, must be preserved, and the New Statute should impart to it every additional efficiency and facility of action.

   The New Statute should contain a provision enacting that Public Local Inquiry take place in each case.
7. The provisions of A a., and the Act of 1859, will require especial consideration. We have already suggested their repeal, so far as they affect England and Wales, taken exclusively of the Metropolis, but this only with a view to the re-enactment of their powers (with necessary modifications), especially in respect of the continuance of a Central Medical Officer and the carrying over of those powers to the Central Authority.
8. That the jurisdiction of the Secretary of State as to certain provisions of Local Acts (14 C. [p. 56]), with amended powers, should be transferred to the Central Authority.
9. That there be powers of appeal to the Central Authority from the decisions of the Local Authorities in certain cases.†

* As to Quarantine, however, see "Observations," page 49.

† See "Observations," (on Appeals), p. 56, and (on Buildings, Streets, and Highways) p. 47, and "Suggestions for New Statute," Part VI. Chap. xii. (Slaughter Houses and Offensive Trades), p. 127).

7, 8, and 9 N. [pp. 12, 14] invest the Secretary of State with powers of control over the formation of certain "Special Drainage Districts." See Part II. *supra*.

10–14 N. [pp. 42, 44] confers on the Secretary of State like powers in respect of the union of districts for the purposes of the Sewage Utilization Acts. See Part III.

By 2 A a. [p. 58] (a temporary Act, but which was made perpetual by an Act of 1859, 22nd and 23rd Vict. c. 3), the Privy Council acquire certain powers in relation to Public Vaccination. 3 A a. [p. 58] gives power to direct inquiries as to any matters concerning the Public Health, or as to the observance of regulations issued by them under that Act. By 4 A a. [p. 58] the power to appoint and remove a Medical Officer, theretofore vested in the General Board of Health, was transferred to the Privy Council; and they were empowered to employ such other Officers as it might deem necessary for the purposes of the Act.

5 and 6 A a. [p. 58] direct an annual Report by this Officer to the Privy Council, and the submitting of such Report to Parliament.

NOTE.—In preparing an abstract of the remaining provisions of the existing Acts, care has been taken to bring out the leading feature of each section, avoiding as far as possible the use of technical language. The omission of some points of detail must not lead to the inference that they are intended to be omitted in the New Statute. In the summary of the existing law given in the following pages, the powers are as far as possible stated under each head, one Authority alone being supposed to exist in any given place. It must be understood that every power is treated as vested both in the urban and in the rural Authorities, except where the contrary is stated.

Each chapter is accompanied by short paragraphs explaining the amendments which in our opinion should be made. By this means we have been enabled to make recommendations without entanglement or embarrassment from formal phraseology, either in the existing law or in suggestions. The bill will readily be made to incorporate the new matter with the existing enactments.

It has not been our office to deal with provisions of minute detail, but care must be taken, *e.g.*, that powers are not exhausted by use on one occasion.

The Public Health (*Scotland*) Act, 1867, may with advantage be referred to as containing valuable suggestions on arrangement and details, as also in some points, even on principle. There are also "The General Police and Improvement (*Scotland*) Act, 1862," which treats of many subjects included within the Public Health Act, the Towns Improvement Clauses Act, &c. &c.; as also "The Towns Improvement (*Ireland*) Act, 1854." 30 & 31 Vi c. 101. 25 & 26 Vi c. 101. 17 & 18 Vi c. 103.

The terms "ordinary" rate, fund, &c., are used provisionally as equally applicable to poor rate, district rate, or any other fund which may hereafter be charged for the purposes of the new Act.

As to "Private Improvement Expenses," see 90 A. [p. 156] and the chapter on Expenses and Rates.

Sections are occasionally either broken up with a view to an arrangement of the matter under more appropriate heads, or are more than once mentioned, ordinarily with cross references, when they naturally fall under more than one head.

VI.—MATTERS, IN RELATION TO WHICH POWERS ARE GIVEN TO AUTHORITIES, THE NATURE OF THOSE POWERS, AND THE MODE OF EXERCISING THEM IN CERTAIN CASES (including so much of Part VII. as refers to "Nuisance Authorities." See p. 144.)

Chap. i. On Water Supply.

(1.) 75 A. [p. 104.] The Local Authority may provide their district with such supply of water

(*a.*) As may be proper and sufficient for the purposes of the Act, and
(*b.*) For private purposes to the extent required by Act.

For such purposes they may contract with any person, or purchase, take on lease, or hire, or construct, &c. such waterworks, and do and execute all such works, &c. as may be necessary.

They may provide and keep in any waterworks constructed or laid down under the Act a supply of pure and wholesome water;

And the water may be constantly laid on at such pressure as will carry the same to the highest dwelling-house.

N.B.—Any Waterworks Company may

(1.) Contract with Local Authority, to supply water in any manner whatsoever, for the purposes of the Act, or
(2.) Sell, &c. or lease their waterworks to any Local Authority willing to take the same.

Provided always—

(*a.*) Before constructing or laying down any waterworks under this Act, within any limits within or for which any Waterworks Company shall have been established for supplying water, the Local Board shall
  (1.) Give notice in writing to every Waterworks Company within whose limits the Local Board may desire to lay on or supply water; and
  (2.) State the purposes for and extent to which water is required by the Authority.
(*b.*) It shall not be lawful for the Local Authority to construct and lay down waterworks within such limits so long as the Company are willing to lay on water proper and sufficient for all reasonable purposes for which it is required by the Local Authority, and on reasonable terms.

N.B.—The General Board of Health, now abolished, was to certify, upon report of a superintending inspector, what terms were reasonable; and in case the Company were dissatisfied with the certificate, the terms were to be settled by arbitration in manner provided by the Act.

N.B.—The abolition of the General Board would seem to have left arbitration as the sole means of deciding any dispute.

In case any difference arise as to the water which the Company is able and willing to supply, or the reasonableness of the purpose, the matter was to be settled by arbitration under the arbitration clauses of the Act.

84 A. gives power of compulsory purchase of land for these purposes under Provisional Orders.

11 San. [p. 104.] They may supply water, if they think it expedient, for the use of district:

(*a.*) By digging wells;
(*b.*) Making and maintaining reservoirs;
(*c.*) Doing any necessary Acts, and take land for such purposes under Provisional Order.

They may themselves furnish the water, or contract with any person or Company.

N.B.—11 San. would appear to relate primarily to works for supply of parts of district as distinguished from comprehensive systems of waterworks. The clause now refers to a Sewer Authority only.

(2.) 76 A. and 51 B. [p. 104.] Where it appears to Local Authority, upon report of a surveyor, that any house is without a proper supply of water, and that such supply of water can be furnished thereto at an expense not exceeding twopence, or the water rate authorized by this Act or any Local Act.

VI.—MATTERS, IN RELATION TO WHICH POWERS ARE GIVEN TO AUTHORITIES, THE NATURE OF THOSE POWERS, AND THE MODE OF EXERCISING THEM IN CERTAIN CASES (including so much of Part VII. as refers to "Nuisance Authorities." See p. 145).

Chap. i. On Water Supply.

As to power to purchase land compulsorily for purposes of water supply, see Chap. xix., p. 142.

We recommend that the New Statute should contain certain clauses of the Waterworks Clauses Acts, 1847 and 1863, and other clauses now ordinarily inserted in local Waterworks Acts, as explained in our "Observations." We have there recommended other modifications of the law on this subject.

See "Observations," pp. 38-42.

The powers thus given by 11 San. are precisely one of the instances in which the Central Authority should have power to interfere if needful, and insist on the Local Authority doing such of these acts as may be necessary in default of any other and better water supply.

The Local Authority shall (qy. may) give written notice to the owner (51 B. [p. 106]), requiring him to obtain a proper supply of water, and to do all works necessary for the purpose.

On default, the Local Authority may, if they think fit, do such works and obtain such supply accordingly, and make and levy water rates on the premises, not exceeding in the whole the water rate authorized by this Act, or the Local Act, as if the owner had demanded a supply of water, and were willing to pay water rates.

N.B.—76 A. [p. 104] renders necessary a preliminary report of the surveyor, that the house is without a proper supply of water. It is understood that Local Authorities have, in some cases, construed 51 B. [p. 106] as superseding the necessity of this preliminary report.

50 San. [p. 106] Expenses may be recovered in a summary manner.

(3.) 20 C. [p. 106], where no Water Companies are established by statute, Local Authorities

(*a.*) May make agreements for supply of water to persons on such terms as may be agreed upon; and

(*b.*) Shall have the same powers for recovering water rents under such agreements as they have for recovering water rates.

(4.) The Local Board are enabled to supply water from any waterworks purchased or constructed by them under this Act

(*a.*) To any public baths or wash-houses; or

(*b.*) For trading or manufacturing purposes,

upon such terms and conditions as may be agreed upon. 77 A. [p. 106.]

(*c.*) To all existing public cisterns, wells, &c., for gratuitous supply of inhabitants.

They may

(*a.*) Maintain the same (*i.e.*, public cisterns, &c.), or

(*b.*) Substitute, &c., and supply with water other such works equally convenient, and

(*c.*) May construct any number of new cisterns, &c., for gratuitous supply of baths and wash-houses established otherwise than for private profit, or supported out of any poor or borough rates. 78 A. [p. 106.]

(5.) 52 B. [p. 106.] The Local Authority, when supplying water, have the same power for carrying water mains which they have for carrying sewers.

(6.) 53 B. [p. 106.] The Local Authority are enabled to purchase, and the directors of any Waterworks Company, with authority of three-fifths of the shareholders who may be present (personally or by proxy) at a general meeting specially convened, are enabled to sell, on terms to be mutually agreed upon, all rights, &c., and all premises, &c., and works, &c., of company, subject to all prior claims.

N.B. For water rates, &c., see "Expenses and Rates."

(7.) 79 A. [p. 106.]

(*a.*) For wilfully or carelessly breaking, injuring, or opening locks, cocks, wastepipes, or waterworks, belonging to or under control of Local Authority, or constructed, &c. under the Act in a place where there is no Local Authority; or

(*b.*) For unlawfully flushing, drawing off, &c., or taking water from any waterworks belonging to or under control of Local Authority, or constructed, &c. under the Act in any such place, or from any waters by which waterworks are supplied; or

(*c.*) For wilfully or negligently wasting any water with which a person is supplied,

Penalty not exceeding 5*l.*, and further continuing penalty of 20*s.* per day after notice.

Provided,

Nothing herein contained shall prevent the owner or occupier of any premises through or by which stream flows from using the same, as they would have been entitled to do had the Act not been passed.

(8.) 80 A. [p. 107] provides

For bathing in, washing any animal in, or in sundry ways fouling water of waterworks, belonging to or under control of the Local Authority.

Penalty not exceeding 5*l.*, and a further continuing penalty of 20*s.*, for each day during which the offence is continued after written notice.

In case anyone, being gas proprietor or employed or engaged in the manufacture of gas, causes or suffers the bringing or flow of gas washing or other substance produced in the manufacture or supply of gas, into any stream, &c., belonging to or under control of the Local Authority.

Penalty 200*l.*, and further continuing of 20*l.* per day after 24 hours' notice in writing.

And also, in case the said waters be otherwise fouled by the gas of any such proprietor.

Penalty not exceeding 20*l.*, and further continuing penalty not exceeding 10*s.* per day after notice in writing.

The Local Authority may open pipes, &c. from which gas is supposed to escape. Costs to be borne by the proprietor or the Local Authority according to the result.

N.B.—As to fouling *any* waters with gas washings, &c., *see* 23 X., 24 X., 25 X. [p. 63], chapter ii. *infra*.

Those sections should appear in such a form as to render unnecessary sections relating to waters belonging to or under control of the Local Authority.

Chap. ii. On Pollution of Waters.

(1.) *Generally.*

(1.) 10 M. [p. 110]. A Local Authority, with sanction of the Attorney General, may either in its own name or the name of any other persons take proceedings to protect a watercourse within the district from pollutions arising from sewage either within or without the district.

Costs to be paid from ordinary funds.

(2.) There are provisions against the pollution of streams by sewage works of Authorities, *e.g.* 11 M., 4 C., and 45 A. [p. 62], above mentioned.

(3.) 8 Y. [p. 169]. If any person do any act whereby any fountain or pump is wilfully damaged, or the water of any well, fountain, or pump is polluted or fouled, he shall forfeit

Penalty not exceeding 5*l.*, and further continuing penalty of 1*l.* per day after written notice from the Authority.

Proviso. Nothing herein contained shall extend to any offence provided against by 23 X. [p. 63].

(2.) *Gas Washing.*

(4.) 23 X., 24 X., 25 X. [p. 63], prohibit the bringing or flow of gas washing or other substance produced in making or supplying gas into any stream water, &c., or any drain communicating therewith, or the wilful doing of any other act in making or supplying gas whereby water shall be fouled.

Penalty, two hundred pounds, and a further continuing penalty of twenty pounds per day, the latter to be recoverable after 24 hours' notice of the offence, served by the Local Authority or the person into whose water the washing, &c. is brought or flows, or whose water is fouled thereby.

Procedure.—Proceedings may be taken in any Superior Court by the person into whose water the washing, &c., is conveyed or flows, or if there be no such person, or on default of proceeding by such person by the Local Authority, after notice to that person that in case of his default they intend to proceed.

Chap. iii. A. As to (1.) Vesting of existing Sewers in Authority. (2.) Acquisition, Construction, and Maintenance of Sewers.

(1.) All sewers, saving certain rights, as is more particularly set forth in 43 A. [p. 62], are vested in the Local Authority.

N.B.—The exceptions are, sewers made by any person or persons for his or their profit, or for the profit of proprietors or shareholders, and except sewers made and used for the purpose of draining, preserving, or improving land under any local or private Act of Parliament, or for the purpose of irrigating land and sewers under the authority of any Commissioners of Sewers appointed by the Crown.

Chap. ii. On Pollution of Waters.

Closing of Unwholesome Wells.

A clause to the following effect is recommended: "where a supply of water from a well "or pump used, or likely to be used by human beings for drinking purposes, or for the "preparation of human food, is so foul as to be injurious to health, the Local Authority "may, by notice, require the well or pump to be temporarily or permanently closed, and "if the occupier fails to comply with such notice, the Justices may, on application of "the Local Authority, order the work to be done." T. Taylor. Appendix to first Report, page ix.

(2.) *Gas Washings.*

These clauses should be kept alive. The whole subject of river conservancy being referred to another Commission, we confine ourselves to the expression of a strong opinion that it must be made the imperative duty of some Local Authority to protect all watercourses from pollution.

As to gasworks, gas washings, &c., the powers require strengthening, and there should be power to enter gasworks. Other noxious substances should be treated in the same manner, in accordance with the recommendations of the Rivers Pollution Commission.

A clause should be added, based on the provision contained in the Thames Navigation Act, 1866, "The Conservators shall cause the surface of the Thames to be (as far "as is reasonably practicable) effectually scavenged, in order to the removal therefrom "of substances liable to putrefaction," and giving a similar power to all Authorities. 29 & 30 Vict. c. 89 § 52.

It should be made the duty of all Local Authorities or Conservancies not only, as now, not themselves to pollute, but to search out and redress all pollutions of streams. And any such Authority injured by the negligence of an Authority higher up a stream should be made responsible for applying a remedy by legal proceeding or otherwise, or for calling upon the Central or other proper Authority to apply a remedy at the cost of the injuring party.

Chap. iii. A. As to (1.) Vesting of existing Sewers in Authority. (2.) Acquisition, Construction, and Maintenance of Sewers.

(1.) Local Authorities should have power to construct a watercourse for unpolluted as distinguished from polluted water, and to reserve same for passage of unpolluted water exclusively. This will necessitate the use in the New Statute of some word signifying an artificial course (open or covered), for polluted water; and we suggest that, departing from the interpretation section of A. "drain" in the New Statute should be "interpreted to mean such a course, and that sewer" and "house sewer" should "have the meanings assigned to sewer" and "drain" respectively in A.

(2.) The Authority is to have power to—

(*a.*) Purchase any right of making sewers. 44 A. [p. 62].
(*b.*) Contract for use of sewer.
(*c.*) Purchase any sewer with or without buildings, works, &c., appertaining thereto.

N.B.—In order to render more complete these powers of purchase, persons having ownership or control are relieved from disabilities and are empowered to sell.

Any person having the perpetual right to use a sewer is to continue the use of the sewer, or of any sewer substituted in lieu thereof, notwithstanding such purchase.

(3.) The Authority may construct such sewers as they may think necessary for effectually draining their district and keeping the same cleansed and drained. 44 and 45 A. and 4 M. [p. 62].

N.B.—By A. The Authority *must* make the necessary sewers. By M. they are *enabled* to make such sewers as they think necessary.

(4.) The Authority shall repair a sewer vested in them. 45 A. [p. 62].

(5.) The Authority may carry sewers through, across, or under any turnpike road or "street" (see Definition 2 A. [p. 45]), or under any cellar under pavement of any street, or after reasonable notice in writing, if it appear necessary upon the report of a surveyor, through any lands (45 A. [p. 62]). They may enlarge, lessen, alter, arch over, or otherwise improve any sewer vested in them, or discontinue any such sewer, provided that the discontinuance of any sewer be not so done as to create a nuisance, and that if any person be thus deprived of the lawful use of any sewer, some other sewer as effectual for his use as the old one be provided.

(6.) (*a.*) Authority shall cause all sewers vested in them to be—

(1.) Constructed.
(2.) Covered and kept.
(3.) Cleared, cleansed, and emptied,

so as not to be a nuisance or injurious to health. 46 A. [p. 66].

N.B.—See the section (as to other powers provided therein) below.

And (*b.*) No sewer is to be made so as to drain direct into any watercourse. 11 M. [p. 62].

(*c.*) In the clause (4 C.) enabling the Authority to execute works for outfall, &c. beyond a district it is "Provided that nothing in the Act (C.) "contained shall give or be construed to give power to any Local "Authority (Board) to construct or use any outfall, drain, or sewer "for the purpose of conveying sewage or filthy water into any "natural watercourse or stream, until such sewage or filthy or refuse "water be freed from all excrementitious or other foul or noxious "matter such as would deteriorate the purity and quality of the "water in such stream or watercourse." 4 C. [p. 62].

N.B.—It may here be remarked generally, that full compensation is to be made out of the ordinary fund for injury done in the exercise of any of the powers, 144 A. [p. 124], the amount to be settled by arbitration in the event of dispute.

B. Powers for Disposal and Distribution of Sewage.

(1.) For the purpose of clearing, cleansing, or emptying sewers, the Local Authority may, within its district,—

(*a.*) Construct such reservoirs, sluices, engines, &c. as may be necessary;
(*b.*) Cause sewers to communicate with, and be emptied in to, such places as may be fit and necessary; or,
(*c.*) Cause the sewage and refuse therefrom to be collected for sale. 46 A. [p. 66].

N.B.—See the section (as to other powers provided therein) above.

(2.) They may do without their district what they may do within their district under 45 A. [p. 62], (see 4 C. [p. 62], given above), or under 46 A., but only if—

(a.) Done for outfall and distribution.
(b.) Done for the purpose of receiving, storing, disinfecting, or distributing sewage (3 N. [p. 66]).

N.B.—They are at all times subject to restrictions of 4 C [p. 62] against causing a nuisance and as to notices, appeal, &c. See 3 N. [p. 66].

(2.) In so far as any of the new Authorities may be distinct from the Highway Authorities, the former should always have jurisdiction over sewers and drains in the highways, and should have power to break up the surface of the highways for such purpose, subject to giving notice to the Highway Authorities before breaking up the highways, and to their supervision during the progress of the works, so as not to endanger the safety of the public.

With respect to the power to "drain" thus left discretionary with the Local Authority, their discretion in this as in other matters should be liable to appeal to, and correction by, the Central Authority.

(3.) The distinction which has been introduced by the different language of A. and M. between Rural and Urban Authorities, by which the former is *enabled* to make such sewers as they think necessary, and the latter are *compelled* to make the necessary sewers, must be done away with in the New Statute, and it must be equally compulsory on both Authorities to make the necessary sewers under our new interpretation.

(4.) The Authority should be enabled to carry sewers or drains *through* any cellar under pavement of any street.

(6.) We recommend that the effect of 33 T., as to trapping and ventilating sewers, which is not incorporated in the existing Acts, should be introduced into the New Statute.

(7.) The same remark applies to 32 T. as to taking provisions for the safety of the public during the construction of works of sewerage and drainage.

(8.) There is a section (of Oldham Local Act, 1865) imposing a penalty on throwing rubbish into sewers, which we think should be adopted. 28 & 29 Vict. c. cccxi. § 67.

B. Powers for Disposal and Distribution of Sewage.

In this as in other matters the Local Authority should be liable to appeal to, and correction by, the Central Authority.

N.B.—Due compensation, to be settled in manner provided by 144 A. [p. 124], must be made. (30 (1), B. [p. 66], and 4 C. [p. 62].)

(3.) They may (4 N. [p. 66]) for purpose of receiving, &c. sewage, and of construction of any works for receiving, &c. sewage, or of constructing any sewer or drain, or for any of the above purposes, purchase or take on lease any lands within or without the district, and shall have powers (75 B. [p. 114]) of taking land by provisional order.

Local Boards have now power to take lands, &c., by Provisional Order for any purposes of the Local Government Acts. Should corresponding power be given to all local authorities by the New Statute, it will be unnecessary to repeat the power under the different heads.

(4.) They may (5 N. [p. 66]) deal in such manner as they deem most profitable with any land held by them for the purpose of receiving, &c. sewage—

(*a.*) By leasing the same for a period not exceeding seven years for agricultural purposes;

(*b.*) By contracting with some person to take the whole or part of the produce of such land;

(*c.*) By farming and disposing of produce;

subject to this restriction, that in any appropriation of land for this purpose care must be taken that *all* the sewage be thus received, stored, disinfected, or distributed.

(5.) They may contract for or take on lease any lands, buildings, engines, materials, or apparatus for the purpose of receiving, storing, disinfecting, or distributing sewage. (30 (3) B. [p. 66].)

Provided always that these things shall be done so as not to create a nuisance.

(6.) Three months' notice shall be given to owners, lessees, and occupiers of lands affected by operation under 4 C [p. 62] (see paragraph 2, above), (5 C. [p. 64]), and to those exercising authority over roads through which these outfall or distribution works pass (5 C. [p. 64]). Proper provisions are made for maps, publication in newspapers, service of notice, &c.

(7.) If objection is taken (6 C. [p. 64]), provision is made for appeal to the Central Authority, who may (7 C. [p. 64]) send an inspector to make inquiry on the spot, and, after hearing both sides, to report. The proposed work shall not be commenced without the sanction of the Central Authority.

(8.) They may contract with any company or person for—

(*a.*) The sale of sewage; or,
(*b.*) The distribution of it over any land. (30 (2.) B. p. [66.])
(*c.*) Works to be made for any of these purposes. (14 M. [p. 60.])

N.B.—The following provision from 14 M. appears to be sufficiently included in the above: "The Local Authority may, for the purpose of utilizing their sewage, "agree with any person or body of persons, corporate or incorporate, as to "supply of sewage and works to be made for that purpose" (14 M. [p. 60]).

(9.) They may contribute to the cost, and become shareholders (15 N. [p. 60]).

N.B.—By 15 N. "any corporate or other body under any power enabling them in "that behalf or by any agreement confirmed by Parliament, having entered "into agreement, may contribute to the cost and become shareholders."

(10.) They may not contract (under 14 M. [p. 50], *for supply of sewage*) for more than 25 years.

N.B.—There is no such limitation in 30 B. [p. 66], a clause giving the same or a similar power.

(11.) They may defray any expenditure incurred under 8, 9, and 10 (14 M. and 15 N. [p. 60]) out of ordinary fund.

(12.) 15 M. [p. 2], provides that the making of works of distribution and service for the supply of sewage to land for agricultural purposes shall be deemed an "Improvement of Land" authorized by the "Land Improvement Act, 1864."

27 & 28 Vict. c. 114.

C. Use of Sewers by Owners, &c.

(a.) *Facilities given to Owners.*

(1.) Any owner or occupier of premises *within* district of the Local Authority shall be entitled to cause his drains to empty into sewers of that Authority on giving notice. He must give notice to the Authority and execute works of communication in compliance

(4.) The Central Authority should have power to authorise leasing for this purpose for any term which he may think fit.

We think there should be no restriction on dealing with a portion only of the sewage of a town in a particular manner, provided that all so dealt with is disposed of effectually.

It is unnecessary to repeat this *proviso* in each place, as a general proviso carefully drawn will hereafter cover all cases.

C. Use of Sewers by Owners, &c.

(1.) Consent in writing should be made necessary before connecting private sewers, so as to prevent the unknown discharge of noxious matter from manufactories.

with their regulations, and under the control of any person appointed by them. (8 San. and 47 A. [p. 68.])

Penalty for noncompliance not exceeding 20*l.* Power is given to the Sewer Authority to close communications made in breach of this section.

N.B.—47 A. [p. 68], prohibits the new erection of any building over any sewer of the Local Authority, or the new building or construction of any "vault, arch, or cellar" under the carriageway of any street without written consent of the Authority.

(2.) Any owner or occupier of premises *without* the district may do the same on such terms and conditions as may be agreed on. Dispute, if any, to be settled under arbitration sections, 9 San. [p. 68], and see 48 A. [p. 68].

(3.) And in case any sewage of premises *without* the district (8 C. p. 68), flows directly or indirectly into the sewer of the Authority, yearly payment may be demanded and dispute settled by two Justices.

N.B.—(*a.*) Payment is suspended during time when flow ceases.
(*b.*) Yearly sum shall be regarded as private improvement expenses.
(*c.*) Where owner is entitled to use sewer without payment, no payment becomes due under this section.

(b.) *Power to compel Owners to use Sewers, making Drains as necessary.*

(4.) If any "dwelling house" within district have no sufficient drain, the Local Authority may, on report of a surveyor, compel the owner,—

(a.) To drain into any sewer which the Authority is entitled to use, and with which the owner is entitled to make a communication, provided that the necessary communication do not exceed 100 feet in length (10 San. [p. 68]). See also 49 A. [p. 68], an [inferior provision]; or,

(b.) If there be no such means of drainage within that distance, then to empty into any covered cesspool, or other place, not being under any house, and not being within such distance from any house, as the Authority may direct. 10 San., and 49 A. [p. 68].

These drains are to be made to the satisfaction of the surveyor as regards materials, size, levels, and workmanship.

Power of entry.

On default the Authority has power to execute the works after due notice, and recover expenses in a summary manner; or, by order of the Local Authority, shall be declared private improvement expenses, and be recoverable as such in manner hereinafter provided. 49 A. [p. 68], at end of clause.

N.B.—It will be noted that the above paragraph is derived partly from 10 San., partly from 49 A. The latter clause renders necessary the report of the surveyor, and mentions "the sea" as a place into which an owner may be compelled to drain if within 100 feet.

(5.) No houses *hereafter to be built or to be rebuilt after having been pulled down to or below the ground floor* may be lawfully built, rebuilt, or occupied, unless and until such drain be made as is described in the above paragraph, discharging either into sewer or cesspool, as the case may be. 49 A. [p. 68]. The sea is here also mentioned as a place for discharging.

Power entry.

On default the Authority has the same remedy, after due notice, as is above described, from 49 A. [p. 68].

These drains are to be made to the satisfaction of the surveyor as regards materials, size, levels, and workmanship.

N.B.—Compare 34 B. [pp. 72 and 98]. It would appear that the latter clause and the part of 49 A. [p. 68], here cited, ought to refer to the same buildings.

(6.) 34 B. [p. 72]. And with respect to—

(1.) Provisions for sewerage of new streets, and
(2.) The drainage of buildings and also waterclosets, privies, ashpits, and cesspools in connexion with buildings,

Byelaws may be made, and provisions laid down for observance.

N.B.—See Chap. ix. on New Buildings and Streets, where 34 B. is set out at length.

7. 54 A. [p. 74]. The Local Authority shall see and provide that—

All drains whatever, waterclosets, privies, cesspools, and ashpits are constructed and kept so as not to be a nuisance and injurious to health.

On default the surveyor may, on written authority, which may be given on written application, showing that a drain, &c., is a nuisance or injurious to health, from any

(2.) This power of agreement should be continued, but an absolute *veto* should be given to the Authority to which outfall sewer belongs, as it may otherwise be destroyed by the discharge into it of more than it was calculated to receive.

See 34 T.; the Oldham Local Act, 1865, § 66, and other recent Local Acts. 28 & 29 Vict. c. ccexi.

(4.) For "dwelling house some more comprehensive term should be used, in order to bring in all premises, from which it may be necessary that sewage should be removed.

4. (b.) See the Metropolitan Building Act, 1862, where the words run, "a covered water-tight cesspool or tank or other suitable receptacle." Any receptacle, whatever the name, should be to the satisfaction of the Local Authority. 25 & 26 Vict. c. 102. § 66.

Discharge into the sea should be allowed only in the last resort.

To meet the case of there being no surveyor in certain districts, the words should be "surveyor, or if there be no surveyor some officer duly authorized in that behalf."

See Barrow-in-Furness Local Act, 1868, where the principle is suggested "that extra "expense occasioned by the construction of a sewer of a larger size, or with materials "other than would have been necessary merely for the purpose of the drainage of "the particular street or court, or of the buildings or lands therein, should be borne "and paid by the Corporation." This principle appears to be right. 31 & 32 Vict. c. civ. § 64.

Power of entry.

person (1.) after 24 hours notice in writing, or (2.) in case of emergency without notice, enter and examine, and open such drain, watercloset, &c., and

(a.) If the drain, &c. be found in proper order, he shall order the ground to be closed, and any damage made good;

(b.) If the drain be found in bad order, he shall order the ground to be closed (see 33 B. [p. 74]), unless the necessary works are undertaken forthwith, and shall serve notice in writing requiring execution of the works.

Power of entry.

On default there is continuing penalty not exceeding ten shillings per day, and the Local Board has the same remedy after due notice as is above described from 49 A. [p. 68].

CHAP. iv. PROVISIONS FOR PRIVIES, WATERCLOSETS, AND EARTH CLOSETS.

(1.) 51 A. [p. 70]. If any house, whenever built, appears to the Local Authority, on the report of its surveyor, to be without a sufficient watercloset, or privy and ashpit, furnished with proper doors and coverings, notice shall be given to the owner or occupier requiring him to provide the same.

Power of entry.

On default the Authority has the same remedy, after due notice, as is above described (from 49 A. [p. 68]).

The Local Authority, where one watercloset or privy has been or is used in common by the inmates of more than one house, or where in their opinion a watercloset or privy may be so used, need not require the same to be provided for each house.

The above provisions apply to all houses hereafter to be built or rebuilt, down to or below the ground floor.

(2.) 7 E. [p. 72]. Any enactment requiring the construction of a watercloset shall, with approval of the Local Authority, be satisfied by construction of an earth-closet or other place for the reception and deodorization of fæcal matter made and used in accordance with any regulations* from time to time issued by the Local Authority.

In the case of houses where such earth closets, &c. are in use with their approval, the Authority may dispense with the supply of water required by any contract or agreement to be furnished to the waterclosets. The Authority may contract for supply of earth, &c.

The Local Authority may construct or require to be constructed earth-closets or such other place as aforesaid in all cases where they may construct or require the construction of waterclosets or privies.

Provided no person shall be required to construct earth-closets or other such place in a house if he prefer a watercloset, and there be water for other purposes supplied to the house;

and that he shall not be put to greater expense in constructing an earth-closet than he would otherwise have been liable to.

(3.) 52 A. [p. 72]. The Local Authority may require the construction of a sufficient number of waterclosets or privies for the separate use of each sex, in any house which appears, from the report of a surveyor or other officer duly authorized, to be used or intended to be used as a factory or building in which persons of both sexes and more than 20 in number, are employed or intended to be employed at one time in any manufacture, trade, or business.

On default penalty not exceeding 20*l.*, and continuing penalty of 40*s.* per day.

(4.) As to the provision that it shall not be lawful to newly erect any house without a watercloset, &c., see 51 A. [p. 70] [Chap. ix. § 4] p. 114, *infra*.

(5.) 57 A. [p. 76]. Local Authorities *may* provide and maintain public waterclosets, &c., and defray the expenses out of their ordinary funds.

CHAP. v. STAGNANT DITCHES, COLLECTIONS OF OFFENSIVE REFUSE, &c.

(1.) 58 A. [p. 76]. N.B.—The above paragraphs relate to drains, &c. in connexion with houses, and do not affect stagnant waters or collections of filth not necessarily connected with houses.

The following provision relates to all "Ponds, pools, open ditches, sewers, drains, "and places containing or used for the collection of any drainage, filth, "water, matter, or thing of an offensive nature or likely to be prejudicial "to health."

CHAP. iv. PROVISIONS FOR PRIVIES, WATERCLOSETS, AND EARTH CLOSETS.

(2.) All such *"regulations" should be included in byelaws.

(3.) A similar provision should be made to meet the case of schools.
We recommend that the limit of 20 should be omitted in the New Statute.

CHAP. v. STAGNANT DITCHES, COLLECTIONS OF OFFENSIVE REFUSE, &c.

(1). It must be made clear that this clause extends to *all* ponds, whether public or private.

The Local Authority shall drain, cleanse, cover or fill up, or cause to be drained, &c., all such ponds, &c., according to the following

Procedure.—They shall cause written notice to be given to the person causing such nuisance, or to owner or occupier, requiring him to remedy the mischief within time specified, constructing a sewer or drain if case require.

Power of entry. *On default* the Local Authority may execute the works, and the expenses may be recovered in a summary manner, or by order of the Board may be declared to be private improvement expenses, &c., as in 49 A. [p. 68].

Provided that part or whole cost of constructing any drain which is required may be defrayed from ordinary fund

(2.) 59 A. [p. 78]. If inspector of nuisances at any time think that

Any accumulation of manure, dung, soil, or filth, or any offensive or noxious matter whatever, ought to be removed,

He may give notice to occupier to remove same, and

Power of entry. *On default* at end of 24 hours the matter referred to becomes the property of the Local Board, and shall be sold by them, the proceeds to be carried to ordinary fund. See also 32 B. p. 76 (5).

(3.) 31 B. [p. 78]. Where watercourse or open ditch lying near to or forming boundary between the district of one Local Authority and that of an adjoining Local Authority is foul or offensive so as to injuriously affect the district of the former Local Authority, any Justice for the county or city in which the adjoining Local Authority is situate may, on application of the former Local Authority, summon the adjoining Local Authority to show cause against an order for cleansing the watercourse, &c., and for executing permanent or other structural works.

On hearing, or in case of non-appearance, the Justices may make an order with reference to (1) the execution of works, (2) the persons to execute them, (3) the costs of works, which shall be a charge on the rates of the adjoining parish or place.

(4.) 21 X. [p. 77]. Surveyors (of highways) or district surveyors may make, cleanse, &c., ditches, &c., in or through any lands adjoining to or near the highway, on paying any damages to the owner or occupier.

The damages to be assessed as in case where materials for highways are taken out of enclosed lands.

(5.) 22 X. [p. 79]. The Local Authority, although not executing the office of surveyor of highways, *shall* lay down sewer or other structures along course of or instead of ditch, &c. used or partly used for conveyance of any water, sewage, &c. from any house, and which is a nuisance and injurious to health, and which, in their opinion, cannot otherwise be rendered innocuous. They may maintain sewer, &c.

5&6 Will. IV. c. 50, §§ 67, 68. For this purpose they have the powers of a highway board as provided under the Highway Act, 1835, and may assess the house, &c., using the ditch, &c. But the assessment shall never exceed one shilling in the pound on assessment to highway rate, if any.

(6.) 53 San. [p. 69]. As to the periodical removal of manure, &c., from mews, stables, and other premises.

Where notice has been given by the Local (Urban) Authority or their officers for the periodical removal of such matter, and the person to whom it belongs does not so remove the same, or permits further accumulation,

Penalty twenty shillings per day, to be recovered in a summary manner.

N.B. This clause, as will appear from the above parenthesis, has hitherto been confined to Urban Authorities.

Chap. vi. Cleansing of Houses.

As to 1. *Swine.* 2. *Stagnant Water.* 3. *Filth, generally.*

Power of entry (1.) 59 A. [p. 78]. Under the existing law the "Local Board" alone has power to *enter and remove of its own authority* the following conditions:

(*a.*) Swine or a pigstye,

(a.) in any dwelling house, or

(b.) kept so as to be a nuisance to any person.

(N.B.—Compare 8 X. [p. 61]).

We think that this peremptory power of dealing with this kind of nuisance [(1) and (2)] should be confined to cases where the medical officer of health, or any two medical practitioners, shall certify that the case is one of urgency, and that any delay would be dangerous, leaving other cases to be dealt with through the Justices under such provisions as are now contained in the Nuisance Removal Acts.

(3.) The words in 59 A. making the matter referred to the property of the Local Board should be strengthened by express power being given to the Local Boards to enter, take, sell, or dispose of the same.

(6). This clause must continue to apply to urban districts only.

Chap. vi. Cleansing of Houses.

As to 1. *Swine.* 2. *Stagnant Water.* 3. *Filth, generally.*

(1.) (*a.*) This provision with regard to swine should be extended to certain other animals, such as goats and poultry.

(*b.*) Waste or stagnant water in any cellar or place within any dwelling house, after 24 hours' written notice from local board to remove same, or

N.B.—There does not appear to be provision in the Nuisance Removal Acts wholly covering the same ground.

(*c.*) Allows the contents of any watercloset, privy, or cesspool to overflow or soak therefrom. (Compare 8 X. [p. 61].)

Penalty not more than forty shillings, and further continuing penalty of five shillings per day:

And moreover on such default local board shall abate or cause to be abated the nuisance, and the expenses may be recovered in a summary manner.

N.B.—It will be observed that the above powers to enter and abate are absolute. The defendant has no opportunity of being heard before any tribunal. There is, moreover, power to enter private property and residences without authority expressly given on cause shown. We have elsewhere suggested precautions against undue and vexatious exercise of these powers.

(2.) 60 A. [p. 80]. Compare 22 San. [p. 63]. If on the certificate of the officer of health (if any), or of any two medical practitioners, it appear to "Local Board" that a house or part of a house is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, notice shall be given, and

Penalty.—Continuing penalty not exceeding ten shillings (N.B. 22 San., nor less than *one* shilling) per day.

On default local board may do the work and recover expenses from owner or occupier, as the case may be, in summary manner.

N.B.—The provisions against infection contained in 60 A. [p. 80] are not here repeated, it being thought that they are sufficiently provided for in 22 San. [p. 63], as set forth in chap. xiii. (page 126, *infra*) on provisions against infection.

Chap. vii. Scavenging and Cleansing.

32 B. [p. 76].

(1.) Local Authorities may themselves undertake or contract with any person for—

The proper cleansing and watering of streets;

The removal of house refuse from premises;

The cleansing of privies, ashpits, and cesspools;

either for the whole or any part of their district; and all matters thus collected by the Local Board or contractor may be sold or otherwise disposed of, and any profits thus made by the Local Board shall be carried to the ordinary fund.

(2.) If any person, *not being the occupier* of a house within the district, removes, or obstructs the Local Board or contractor in removing, any matters hereby authorized to be removed by the Local Board,—

Penalty not exceeding five pounds for each offence.

If any person, *being the occupier* of a house within the district, removes, or obstructs the Local Board or contractor in removing, any such matters (except in cases where such matters are produced on his own premises, and are removed for sale or for his own use for manure, and are in the meantime kept so as not to be a nuisance),—

Penalty not exceeding forty shillings for each offence.

(3.) *Byelaws*.—In parts where the Local Board do not themselves undertake or contract with any person for—

The cleansing of footways and pavements adjoining any premises;

The removal of refuse from any premises;

The cleansing of privies, ashpits, and cesspools;

they may make *byelaws* imposing the duty of such cleansing or removal on the occupier of any such premises.

(4.) *Byelaws*.—The Local Board may make *byelaws* for the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish within their district, or of the keeping of animals, so as to be injurious to the public health.

(5.) Whenever the Local Board have removed any noxious or offensive accumulation under 59 A. [p. 78], the expenses of removal, so far as the same are not covered by the sale of the said accumulation,—

(*a.*) Shall be recoverable in a summary manner from the occupier, or, where there is no occupier, from the owner of the premises on which such accumulation existed, or from the person causing such accumulation; or,

(*b.*) May, by order of the board, be declared to be private improvement expenses.

Chap. vii. Scavenging and Cleansing.

The New Statute should empower the owner or occupier to give 48 hours' notice to any Authority which has undertaken such removal, to remove, and on default the owner or occupier should have the right to remove.

The Oldham Local Act, 1865, inflicts a penalty of 10*s.* per day on the Corporation, if they do not within *seven* days "empty any privy, cesspool, or ashpit after written notice from occupier." We recommend a similar provision, the time being altered from seven to three days, provided that the removal at the time when such a notice was given be made to appear to the Court to have been necessary. 28 & 29 Vict. c. cccxi. § 76.

56 A. [p. 76]. The Local Authority may, in their discretion, provide, in proper and convenient situations, boxes or other conveniences for the temporary deposit and collection of dust, ashes, and rubbish, and also fit buildings and places for the deposit of the sewage, soil, dung, filth, ashes, dust, and rubbish collected by such Authority; and,

Penalty.—Whosoever, without the consent of the said Local Authority, collects or removes (from any such boxes or other conveniences, or from such fit buildings or places) any sewage, soil, dung, filth, ashes, dust, or rubbish belonging to them, shall for every such offence be liable to a penalty not exceeding forty shillings. (See 32 B. [p. 76].)

Chap. viii. Highways and Streets.

(A.) *Highways.*

(1.) 117 A. [p. 86]. The Local (urban) Authority within the limits of their district shall, exclusively of any other person whatsoever, execute the office of the Surveyor of Highways.

The inhabitants of the district shall not in respect of any property situate therein be liable to highway rate or the like, not being a toll, for roads or highways in any parish, &c., or part of any parish, &c., beyond the district.

Proviso in the nature of a saving clause that the old surveyors may recover rates made, may reimburse themselves any expenses incurred, and pay debts, carrying the balance to the ordinary fund of the Authority.

5&6Will.IV. c. 50. *Proviso** that neither the allowance by Justices nor signature by the Local Authority shall be necessary in case of a rate made by the Local Authority under this Act.

5&6Will.IV. c. 50. § 69. (2.) 10 C. [p. 88]. Any "powers, authorities, and discretion" belonging to the Vestry under the Highway Act, 1835, shall be transferred to the Local (urban) Authority.

Proviso saving acts, &c., done by the Local (urban) Authority.

(3.) 26 C. [p. 88]. The section of the Act of 1835, guarding highways against encroachments, shall apply to all encroachments on highways under a "Board of Improvement Commissioners," or other Local Authority exercising any powers of A.

(4.) 6 D. [p. 88]. When the district of any Local (urban) Authority, or any other place, is surrounded by or adjoins a highway district constituted under the Highway Acts, such first-mentioned place shall for the purpose of any meeting of the Highway Board be deemed to be within such highway district.

(5.) 39 B. [p. 92]. It shall be lawful for any Local (urban) Authority to agree with any persons for the making of "roads for public use" through the lands of such persons, and that the roads shall be, on completion, public highways maintainable and repairable at the public expense.

The expenses of making the road are to be paid by such persons, or with the consent of two thirds of the Local (urban) Authority, any portion may be paid by the Authority out of the funds at their disposal for public improvements.

(6.) 40 B. [p. 92]. The Local (urban) Authority may agree with proprietors of canals, railways, or tramroads, or with landowners or other persons willing to bear the first expense for construction or alteration of bridges, &c., over or under canal, railways, or tramroads, and for purchase of any property necessary for foundations or approaches, and that such bridges, &c. become, on completion, public streets or roads maintainable and repairable at the public expense.

By consent of the proprietors or other persons interested, the Local (urban) Authority, on such terms as shall be agreed upon, may adopt any existing bridges, &c., over or under canals, &c., as parts of "public streets or roads maintainable at public expense."

The expenses are to be defrayed as in 39 B. [p. 92], viz., wholly by private persons, or by consent of two thirds of the Local Authority "any part" may be paid by the Authority.

(7.) 41 B. [p. 94]. A Local (urban) Authority may, by agreement—

(a.) With trustees of turnpike road, or,

(b.) With any corporation or person liable to repair any street or road, or part thereof, or,

(c.) With surveyors of county bridge,

(a.) take upon themselves the maintenance, repair, cleansing, or watering of any such road, or of any road over any such bridge, and the approaches thereto, or of any part of any such roads; and

Chap. viii. Highways and Streets.

(A.) *Highways.*

(1.) In so far as the New Authorities may become the Highway Authorities this limitation to urban districts would cease. It should be made clear that the Local Authority which has charge of highways shall be liable to indictment for neglect of repairs. See 49 T. (p. 167 *infra.*)

In the New Statute this latter proviso* will probably be included in some general clause describing the ordinary procedure for levying rates.

(2.) The draftsman will take care that all these powers and all powers under the Highway Act, 1864, are duly vested in the Local Authority.

(3.) The necessity for this section is not obvious, as the "Local Board" had, under 117 A. [p. 86], and 10 C. [p. 88], all the powers of the former Surveyors.

(4.) This section is an amendment of the Highway Acts, and is wholly out of place in a Local Government Act. It should (with a view to its being embodied in a Highway Act Consolidation Bill) be placed in a schedule with other sections which will require to be re-enacted, but which should be kept distinct from the body of the New Statute.

(b.) remove any turnpike gates within two miles from the centre of any town or place within that district and substitute others.

Proviso for debts, payments of sundry kinds, and words enabling persons under disability to consent.

If the agreement involves any payments, they may be secured on the ordinary rate.

(8.) 43 B. [p. 94]. Saving clause (with certain reservations) in favour of certain roads near the Metropolis.

(2.) *Streets.*

15 & 16 Vict. c. 42. § 13.

N.B.—The term "highway" in 68 A. and 69 A. [p. 88], is interpreted by a Provisional Order Confirmation Act, 1852, to mean "highway repairable at the public expense." The same interpretation is put by 38 B. [p. 90], upon "highway" in 70 A. [p. 90]. In the following sections, therefore, where this interpretation applies, the words "highway repairable at public expense" are printed instead of "highways."

(1.) 68 A. [p. 88]. All streets being highways repairable at public expense, and the pavement, stones, and other materials, together with all buildings and implements provided for the highways by any Surveyor of highways, shall vest in and be under management of Local Authority (whenever that Authority, exclusively of any other person whatsoever, executes the office of the Surveyor of highways).

The Authority shall level, pave, channel, &c., and may change levels, &c., keep in repair fences for safety of foot passengers.

Penalty for interference not more than five pounds, and a further sum of not more than five shillings for every foot of pavement displaced, &c.

(2.) 69 A. [p. 88]. If any street (whether carriageway or footway, 38 B. [p. 90], or part thereof (not being highway repairable at public expense, 38 B.), whether or not a part be or may be a public footpath, or repairable at public expense, be not sewered, levelled, paved, flagged, and channelled to satisfaction of the Local Authority, and (38 B.) be not supplied with means of lighting, metalling, and making good the same, the Local Authority may give notice to the respective owners or occupiers requiring them to execute the above-mentioned works, or one or more of them.

On default, the Local Authority may execute the works, the expenses to fall according to frontage, or as settled by the Surveyor, or on dispute by arbitration, to be subject to same provisions as to costs as are found in 49 A. [p. 68].

(3.) 16 C. [p. 90]. Before giving such notice, (viz., that provided by 69 A. [p. 88], and 38 B. [p. 90]) the Local Authority shall prepare and deposit for public inspection, at their office, plans of not less than 1 inch to 38 feet horizontal, and 1 inch to 10 feet vertical, and in case of sewer showing depth of same.

(4.) 17 C. [p. 90]. The notice may be in form given in the schedule.

(5.) 70 A. and 38 B. [p. 90]. After such works have been executed to the satisfaction of the Local Authority they may, by notice in writing put up in any part of the street, declare same to be a highway repairable at the public expense, and the same shall be repaired by them out of their ordinary fund.

Proviso.—No street shall so become a highway repairable at public expense if, within month of such notice so put up, the proprietor or his representative, or, 42 B. [p. 92], the majority of proprietors (as the case may be), by written notice objects.

N.B.—For this purpose joint proprietors are reckoned as one.

Proviso.—38 B. [p. 90]. No incumbent or minister of any church, chapel, or place appropriated to public religious worship, and by law now, (1858,) exempt from rates, shall, as owner or occupier thereof, or of any churchyard or burial place attached thereto, be liable to any expense under 69 A. [p. 88], 70 A., and 38 B. [p. 90], nor shall any such expense be deemed a charge on such church, &c., and the Local Authority may themselves undertake the works.

(6.) 71 A. [p. 92]. The Local Authority, if they deem it necessary for the purposes of the Act to raise, sink, or otherwise alter the situation of any water or gas pipes, &c., or other waterworks or gasworks laid in or under any street, may, by notice, require persons to whom they belong to do the work, at cost of the Authority.

On default, the Local Authority may make the alteration, at the charge of their ordinary fund.

Proviso.—No such alteration shall be made as will permanently injure pipes, &c., or prevent usual flow.

And also that where the expenses of raising, sinking, &c. of pipes, &c. are by the Local Act directed to be borne by the person to whom they belong, that liability shall continue.

(2.) *Streets.*

In the re-enactment of 68 & 69 A. Highway must have the same interpretation given to it as in the Act of 1852, a section most improperly introduced into a Provisional Order Confirmation Act. 15 & 16 Vict. c. 42. § 13.

(2.) Some provision should be made for *adjusting levels of adjoining streets* as may be necessary, paying compensation to owners and occupiers. See Oldham Local Act, 1865, and other Local Acts. 28 & 29 Vict. c. cccxi. § 22.

The power of 38 B. [p. 90], to compel the means of lighting and metalling seems a power capable of being abused, and may require revision.

Where the owner has once paved, &c. a street on the requisition and to the satisfaction of the Local Authority, such Authority should be bound to take to such street, provided the owner thereupon require them to do so.

(3.) Provisions similar to those contained in the Public Works Manufacturing Districts Act, 1863, with respect to (1) the preparation and deposit of *estimates* as well as of plans and sections, and (2) the proceedings in case of objections, should be inserted in the New Statute. 26 & 27 Vict. c. 70. § 10.

(5.) The proprietor or proprietors of larger proportion of frontage instead of mere majority in number should have the power of *veto*.

The principle of 55 T. (see page 186 *infra*), should form part of the New Statute.

Chap. ix. Regulation of New Buildings and Streets.

New Buildings.

(1.) 35 B. [p. 96]. When any house or building has been taken down in order to be rebuilt or altered, the Local (urban) Authority may—

(*a.*) Prescribe the building line.

(*b.*) Pay compensation to the owner or other person immediately interested for loss, in consequence of his house or building being thrown back.

Value to be settled according to provisions of Lands Clauses Act, 1845.

8 & 9 Vict. c. 16.

(2.) 28 C. [p. 98]. It shall not be lawful within district of Local (urban) Authority without previous consent of such Authority to—

(*a.*) Bring forward any house or building forming part of street, or any part thereof, beyond front wall of the house or building on either side thereof, or,

(*b.*) To build any addition thereto on either side of the same as aforesaid.

(3.) 34 B. [p. 98]. Every Local (urban) Authority may make *byelaws* with respect to the following matters; (that is to say,)

(*a.*) With respect to the level, width, and construction of new streets, and the provisions for the sewerage thereof;

(*b.*) With respect to the structure of walls* of new buildings for securing stability and the prevention† of fires;

(*c.*) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings;

(*d.*) With respect to the drainage of buildings,‡ to waterclosets,§ privies, ashpits, and cesspools in connexion with buildings,‖ and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation:

And they may further provide for the observance of the same by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the Local Board, and as to the power of the Local Board to remove, alter, or pull down any work begun or done in contravention of such byelaws:

Provided always, that no such *byelaw* shall affect any building erected before the date of the constitution of the district:

But for the purposes of this Act the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework shall be left down to the ground floor, or the conversion into a dwelling house of any building not originally constructed for human habitations, or the conversion into more than one dwelling house of a building originally constructed as one dwelling house only, shall be considered the erection of a new building.

N.B. The above section is set out at length, as much turns on the precise language.

Attention may with advantage be directed to repealed clauses, 53 A. and 72 A., for which 34 B. [pp. 72 and 98] was substituted.

According to those clauses the person intending to build or rebuild gave written notice to Board, showing—

(*a.*) Level of cellar or lowest floor, and situation and construction of privies and cesspools to be built or used, 53 A., or,

(*b.*) Level and width of intended street, 72 A., as case might be.

The following sections of the Towns Improvement Clauses Act will find their place in this part of the New Statute, viz.:—

64, 65 T. As to naming streets and numbering the houses.

69–74 T. As to removing obstructions in streets.

75–78 T. As to ruinous or dangerous buildings.

79–83 T. Precautions during the construction and repair of sewers, streets, and houses.

52 T. As to placing fences to footways, &c. should also be referred to. The same matters are provided for but less perfectly in 68 A. [p. 88].

Of the preceding Summary and Suggestions on the subject of highways and streets, the following provisions should *not* apply to rural districts:—

a. The provisions relating to *highways*, except in so far as the new Health Authorities become Highway Authorities.

b. All the provisions relating to *streets*.

Chap. ix. Regulation of New Buildings and Streets.

New Buildings.

(1.) and (2.) These sections, 35 B. [p. 96], and 28 C. [p. 98], should not apply to rural districts.

(3.) (*b.*) * After "walls" add "and ground floors."

† After "prevention" add "of damp and."

(*d.*) ‡ After "buildings" add "and for securing dryness of site and with respect."

§ After "waterclosets" add "earth closets."

‖ After "buildings" add "and for securing proper facilities for emptying and cleansing the same," and omit the words at the end "and to the closing of * * * * such habitation."

The portion of the building byelaws relating to the closing of buildings, &c., should be made matter of amendment of the existing law on the subject.

Add a sub-section in the following sense:

(*e.*) "With respect to providing adequate means of ingress and egress in the case of all buildings used for public worship, public entertainments, public meetings, and the like," see St. Helen's Local Act, 1869. 32 & 33 Vict. c. cxx. § 141.

The Local Authority should approve or disapprove of plans within one month from the time of deposit, and in case of neglect so to do it should be taken to have approved the same.

The provisions for the observance of the building byelaws should include words preventing encroachment at any time, without the express leave of the Local Authority, upon the space around buildings which has been assigned for the purpose of ventilation.

A power of imposing a penalty should be added to that of pulling down.

In the rural districts deposit of plans should not be required, nor the power to pull down, but only the power to fine in case of violation of the byelaw by building or subsequent conversion.

(4.) 51 A. [p. 70.] It shall not be lawful newly to erect any house or to rebuild any house pulled down to or below the ground floor without a sufficient watercloset or privy and an ashpit furnished with proper doors and coverings, see chapter iv. (4). p. *supra.*

Penalty not more than 50*l.*

On default, Local Authority has same remedy after due notice as is above described from 49 A. [p. 68].

N.B.—The Local Authority may permit same privy or watercloset to be used in common by inhabitants of more than one house.

(5.) 47 A. [p. 68.] It shall not be lawful to cause any building to be newly erected over sewer of the Local (qy. urban) Authority, nor to cause any vault, arch, or cellar to be newly built or constructed under the carriageway of any street without the written consent of the Local Authority. Chapter iii. C. (1) p. 98 *supra.*

Chap. x. Lodging Houses, Overcrowding, &c.

1. LODGING HOUSES.

(1.) 66 A. [p. 82]. No common lodging house shall be kept unless registered according to provisions of the Act.

The Local Authority shall—

(1.) keep a register of common lodging houses, which shall contain the name of the person applying for registration and the situation of each house;

(2.) make *byelaws* for fixing number of lodgers, for promoting cleanliness and ventilation therein, with respect to inspection, and the conditions and restrictions under which such inspection shall be made;

(3.) have access by persons producing written authority for the purpose of inspection, or introducing or using any disinfecting process. The cost of introducing or using the process to be recoverable by summary process.

Penalty for not registering, or for not admitting between 11 a.m. and 4 p.m. the person authorized, not more than forty shillings. But this restriction as to hours does not apply to the Common Lodging House Act, 1851.

14 & 15 Vict. c. 28. § 16. N.B.—It must be noted that so much of this section, 66 A. [p. 82], as relates to byelaws, is included by reference in the provisions of the Common Lodging Houses Act, 1851.

" § 19. (2.) 41 San. [p. 85]. In any proceedings under Common Lodging House Act, if the inmates of any house or part of a house allege that they are members of the same family, the burden of proving such allegation shall be on the persons making it.

(3.) 43 X. [p. 169], enacts that Local Authorities constituted under and for the purposes of the Common Lodging Houses Acts of 1851 and 1853 shall for the purposes of those Acts have all the powers of Local Authorities under X.

2. OVERCROWDING OF HOUSES.

(1.) Let in lodgings or occupied by members of more than one family.

35 San. [p. 83]. On application by Local Authority (in certain cases named in the section, see N.B. below), the Central Authority may, by notice to be published in "London Gazette," declare the following enactment to be in force in the district, and from and after the publication the Authority shall be empowered to make regulations, *subject to confirmation of Central Authority*, for the following matters subject to confirmation by the Central Authority.

(1.) For fixing the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family:

(2.) For the registration of houses thus let or occupied in lodgings:

(3.) For the inspection of such houses, and the keeping the same in a cleanly and wholesome state:

(4.) For enforcing therein the provision of privy accommodation and other appliances and means of cleanliness in proportion to the number of lodgings and occupiers, and the cleansing and ventilation of the common passages and staircases:

(5.) For the cleansing and limewhiting at stated times of such premises.

Penalty not exceeding forty shillings, with further continuing penalty not exceeding forty shillings per day.

Proviso.—The above section does not apply to common lodging houses within the Act of 1851, or any Act amending the same.*

Chap. x. Lodging Houses and Overcrowding, &c.

1. LODGING HOUSES.

The Common Lodging Houses Acts should form part of the New Statute, the Local Authority being the same as that which executes the New Statute.

These Acts must be carefully compared with 66 A. [p. 82], which they practically amend.

The common lodging houses should be under more stringent control. The Justices should be empowered to take such houses off the register after conviction, and they should thereupon cease to be common lodging houses till re-registered.

We are of opinion that the Rural Authorities may undertake the duties under the Common Lodging Houses Act.

2. OVERCROWDING OF HOUSES.

35 San. We submit as an amendment to the *proviso* which is contained in the concluding words of the clause to add (*after "amending the same") the words "or to any case in which more than one room is ordinarily comprehended in one letting or occupation."

36 San. [p. 85], enables justices after two convictions under the above clause, 35 San. [p. 83] to direct the closing of the premises.

35 San. [p. 83] can be put in force in London or in any municipal borough, or of any place under the Local Government Act, 1858, or any Local Improvement Act, or of any city or town at any time containing, according to the last census, a population of not less than 5,000, and in no other place.

(2.) Generally.

29 X. [p. 85.] On certificate of medical officer, if there should be one, or, if none, of two qualified medical practitioners, that any house inhabited by members of more than one family is so overcrowded as to be dangerous or prejudicial to the health of the inhabitants,

The Local Authority shall cause proceedings to be taken before the justices to abate such overcrowding, and the justices shall make such order as they may think fit, and may inflict

Penalty not exceeding forty shillings.

N.B.—19 San. [p. 61] includes in the technical definition of "nuisances" "any house or part of a house so overcrowded as to be dangerous or prejudicial to the health of the inmates."

3. OCCUPATION OF CELLARS.

67 A. [p. 85.] [Inasmuch as the words of this section are of considerable importance they are printed at length.]

And be it enacted, That it shall not be lawful to let or occupy or suffer to be occupied separately as a dwelling any vault, cellar, or underground room, built or rebuilt after *the passing of this Act, or which shall not have been so let or occupied before the passing of this Act;* and it shall not be lawful to let or continue to let, or to occupy or suffer to be occupied, separately as a dwelling, any vault, cellar, or underground room whatsoever, unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof, nor unless the same be at least three feet of its height above the surface of the street or ground adjoining or nearest to the same, nor unless there be outside of and adjoining the same vault, cellar, or room, and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof up to the surface of the said street or ground, an open area of at least two feet and six inches wide in every part, nor unless the same be well and effectually drained by means of a drain the uppermost part of which is one foot at least below the level of the floor of such vault, cellar, or room, nor unless there be appurtenant to such vault, cellar, or room the use of a watercloset or privy and an ashpit, furnished with proper doors and coverings, kept and provided according to the provisions of this Act, nor unless the same have a fireplace with a proper chimney or flue, nor unless the same have an external window of at least nine superficial feet in area clear of the sash frame, and made to open in such manner as shall be approved by the surveyor, except in the case of an inner or back vault, cellar, or room, let or occupied along with the front vault, cellar, or room as part of the same letting or occupation, in which case the external window may be of any dimensions not being less than four superficial feet in area clear of the sash frame; and whosoever* lets, occupies, or continues to let, or knowingly suffers to be occupied for hire or rent†, any vault, cellar, or underground room, contrary to this Act, shall be liable for every such offence to a penalty not exceeding 20*s.* for every day during which the same continues to be so let or occupied after notice in writing from the Local Board of health in this behalf: Provided always, that in any area adjoining a vault, cellar, or underground room there may be steps necessary for access to such vault, cellar, or room, if the same be so placed as not to be over, across, or opposite to the said external window, and so as to allow between every part of such steps and the external wall of such vault, cellar, or room a clear space of six inches at the least, and that over or across any such area there may be steps necessary for access to any building above the vault, cellar, or room to which such area adjoins, if the same be so placed as not to be over, across, or opposite to any such external window: Provided also, that every vault, cellar, or underground room in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this Act: Provided also, that the provisions of this Act with respect to the letting and occupation of vaults, cellars, and underground rooms shall not, so far as the same relate to vaults, cellars, and underground rooms which shall have been let or occupied as dwellings before the passing of this Act, come into force or operation until the expiration of one year *from the passing of this Act, nor within any district until the expiration of six months from the time when this Act shall have been applied thereto;* and all Churchwardens and Overseers of the poor shall from time to time after the passing of this Act cause public notice

This provision (35 San. [p. 83]) should be made of general application in the New Statute.

(2.) This section appears to be superseded by 19 San. [p. 61], which deals with overcrowded houses.

The burden of proving the assertion that inmates are members of same family must rest on party alleging it.

3. OCCUPATION OF CELLARS.

The Metropolis Management Amendment Act, 1862, provides with reference to penalties that, "in any proceedings taken to recover the penalty under the one hundred "and third section of the Metropolis Local Management Act, 1855, such evidence as may "give rise to a probable presumption that some person passes the night in such room or "cellar shall be evidence, until the contrary be made to appear that such is the case." 25 & 26 Vict. c. 102. § 62.

A similar provision should appear in the New Statute.

As also should the following, viz., "if any cellar shall have ceased to be occupied during "a certain number of weeks (to be named in the section or determined by byelaw) it "shall not be occupied again, although the term of grace to be given by the New "Statute, or by any Act previously in force, may not have expired."

* After "and whosoever" insert "whether as principal or agent."

† After "or rent" insert "or receives any money for such occupation of."

of the provisions of this Act with respect to the letting and occupation of vaults, cellars, and underground rooms to be given in such manner as may appear to them to be best calculated to make the same generally known.

42 San. [p. 87] applied the section to every place where such dwellings are not regulated by any local Act of Parliament, and in applying it where not in force enacts that the words "this Act" shall mean Sanitary Act. This enactment causes the section to come into operation in those places from the date of the Sanitary Act.

36 San. [p. 85]. On proof that there have been two convictions within three months for the occupation of a cellar as a separate dwelling place, whether the persons convicted were or were not the same, it shall be lawful for any two Justices, by order, to empower the Local Authority to direct the permanent closing of the same in such manner as they may deem fit at their own cost.

4. BUILDINGS UNFIT FOR HUMAN HABITATION.

34 B. [p. 72]. The Local Authority may make

Byelaws with respect to closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation,

And may further provide for observance of same.

Proviso.—No such byelaws shall affect any building erected before the adoption of 34 B. in the locality.

Note also that certain alterations as described in the clause are "considered the erection of a new building." The clause is printed at length, Chap. ix., on regulation of new buildings, &c., and in the New Statute will hereafter be omitted either in this place or in Chapter ix.

CHAP. XI. MISCHIEFS WHICH FALL WITHIN THE DEFINITION OF "NUISANCES," AND THE PROCEDURE FOR THEIR REMEDY.

The clause (8 X. [p. 131]) from which sub-sections (1) (2) (3) of the following definition are taken, relates to much the same subject matter with some provisions contained in the following clauses:—

54 A. and 33 B. [p. 74] (amending same), as to privies and drains.

32 B. [p. 76], which, *with other matters*, sub-sections (1) (2) (3) treats of these.

60 A. [p. 80], and 22 San. [p. 63], as to cleansing houses, house refuse, &c.

58 A. [p. 76], and 59 A. [p. 78], as to ditches and other collections of offensive matter.

59 A. [p. 78], as to stagnant or filthy water in dwellings, and as to swine.

But note that these clauses of A. and B. contain no power to prohibit recurrence, whereas securities against recurrence, as well as provisions for abatement, are found in the clauses of X. and Y.

Compare also 29 X. [p. 85], as to overcrowding, with 19 (1.) San. [p. 61].

(1.) Nuisanc is defined to mean—

(1.) Any premises in such a state as to be a nuisance or injurious to health. 8 X. [p. 61].

(2.) Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit, so foul as to be a nuisance or injurious to health. 8 X. [p. 61].

(3.) Any animal so kept as to be a nuisance or injurious to health, 8 X. [p. 61].
With a proviso protecting accumulations or deposits not kept longer than necessary for purposes of any business or manufacture, if the best available means have been taken for protecting the public from injury to health thereby. 8 X. [p. 61].

(4.) Any house or part of a house so overcrowded as to be dangerous or prejudicial to the health of the inmates. 19 (1.) San. [p. 61].

(5.) Any factory, workshop, or workplace not already under the operation of any General Act for the regulation of factories or bakehouses, not kept in a cleanly state, or not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust, or other impurities generated in the course of the work carried on therein, that are a nuisance or injurious or dangerous to health, or so overcrowded while work is carried on as to be dangerous or prejudicial to the health of those employed therein. 19 (2.) San. [p. 61].

(6.) Any fireplace or furnace which does not, as far as practicable, consume the smoke arising from the combustible used in such fireplace or furnace, and is used

4. BUILDINGS UNFIT FOR HUMAN HABITATION.

This subject ought to be dealt with in the Statute and *not* by Byelaws.

CHAP. XI. MISCHIEFS WHICH FALL WITHIN THE DEFINITION OF "NUISANCES," AND THE PROCEDURE FOR THEIR REMEDY.

In the New Statute these clauses containing definitions of a "Nuisance," (amended as may be necessary,) should be arranged under the heads to which they belong.

As to sub-sections 1 (4) and (5), the term "injurious" should be employed instead of "prejudicial," so that the language may be uniform throughout. The word "dangerous" appears unnecessary.

The procedure and remedies now existing under the Nuisance Removal Act must continue to be applicable to all the cases at present classified by Statute under the head of "Nuisances;" and we recommend that they be also applied to the following cases:—

(1.) "Any inhabited house without an adequate supply of wholesome water, or access to an adequate supply within a reasonable distance."

(3.) "Any inhabited house, or any inhabited part thereof, admitting rain, or other water, so as to be injurious to health."

(2.) After "foul," insert "or in such a condition."

After "health," insert "or any drain inlet requiring to be trapped, not properly trapped."

(3.) After "so kept," insert "or kept in such a situation."

A cellar inhabited contrary to the provisions of 67 A. [p. 85], should be added to the category of nuisances.

within the district of Nuisance Authority for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, or gaswork, or in any manufactory or trade process whatsoever. 19 (3.) San. [p. 63].

(7.) Any chimney not being the chimney of a private dwelling house sending forth black smoke in such quantity as to be a nuisance:

Provided, first, that in places where at the time of the passing of the Sanitary Act, 1866, no enactment is in force compelling fireplaces or furnaces to consume their own smoke, the foregoing enactment as to fireplaces and furnaces consuming their own smoke shall not come into operation until the expiration of one year from the date of the passing of the Sanitary Act, 1866, *i.e.* August 7th, 1866:

Secondly, that where a person is summoned before the Justices in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used in such fireplace or furnace, the Justices may hold that no nuisance is created within the meaning of this Act, and dismiss the complaint, if they are satisfied that such fireplace or furnace is constructed in such manner as to consume as far as practicable, having regard to the nature of the manufacture or trade, all smoke arising therefrom, and that such fireplace or furnace has been carefully attended to by the person having the charge thereof. 19 (3.), San. [p. 63].

With a view to the abatement and prevention of recurrence, the following provisions have been made:—

(2.) Notice of nuisance may be given to Local Authority by any of the following persons, viz.:—

(*a.*) Any person aggrieved thereby.
(*b.*) The sanitary inspector, or any paid officer of Local Authority.
(*c.*) Two or more inhabitant householders.
(*d.*) The relieving officer.
(*e.*) Any constable or officer of constabulary.
(*f.*) In case the premises be a common lodging house, any person appointed for the inspection of common lodging houses.

The Local Authority may take cognizance of any such nuisance *after entry made* as herein-after provided, or in conformity with any Improvement Act under which the inspector has been appointed. 10 X. [p. 125].

(3.) With a view to further proceedings against nuisances as above defined—

Power of entry.

(*a.*) The Local Authority has power of entry, 11 X. [p. 125]—

(1.) To ground proceedings.

When the Authority or officer have reasonable grounds for believing that a nuisance exists they may demand entrance between 9 a.m. and 6 p.m. (or at any hour when the business in respect of which the nuisance arises is in progress or is usually carried on (31 San. [p. 127]), and on refusal, or if no person having custody can be discovered—

The Justices may, on proof upon oath, after due notice in case admission be not granted, of belief in the existence of the nuisance, and if no person in custody can be discovered, on the like proof of that circumstance, authorize entrance by order.

N.B. This order once issued shall continue in force until the nuisance has been abated, or the work for which the entry was necessary has been done. 31 San. [p. 127].

(2.) To examine premises where nuisances exist, to ascertain the course of drains, and to execute or inspect works ordered by justices to be done under this Act.

For these purposes, whenever under the provisions of the clauses now under review a nuisance has been ascertained to exist, or when an order of abatement or prohibition under this Act has been made, or when it becomes necessary to ascertain the course of a drain, the Local Authority may enter on the premises, by themselves or their officers, between the hours aforesaid, until the nuisance shall have been abated, or the course of the drain ascertained, or the works ordered to be done shall have been completed, as the case may be.

(3.) To remove or abate a nuisance in case of non-compliance with or infringement of the order of the Justices.

For this purpose the Local Authority or their officer may from time to time enter the premises where the nuisance exists, at all reasonable hours, or at all hours during which business is carried on on such premises, without notice.

(4.) To examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour exposed for sale, or deposited in any place for the purpose of sale or

(4.) These provisions should be extended to the case of food already sold before its condition is discovered, and a penalty should be enacted for having sold it.

of preparation for sale, and intended for the food of man, proof to the contrary resting with the party charged.

2 Z. and 3 Z. [p. 127]. For this purpose, the medical officer of health or inspector of nuisances may enter any place where the above-named articles are exposed or deposited as described in the preceding lines, at all reasonable hours, or at all hours during which the business is carried on.

Penalty not exceeding five pounds is provided for obstruction to those executing this Act as to food, 3 Z. [p. 127], but it is remarkable that the penalty clause does not mention obstruction to examination, &c., of "game, fruit, vegetables, corn, bread, or flour."

[It may be here stated by way of parenthesis that—

If any articles of food as above enumerated, 2 Z. [p. 127,] appear to the medical officer or inspector of nuisances diseased or unsound, or unwholesome, or unfit for the food of man, he may seize or carry away the same in order that they may be dealt with by a Justice, who may—

Penalty:

(1.) Order them to be destroyed, or disposed of so as to prevent their being exposed for sale or used for such food, and,

(2.) Punish person to whom the articles belonged, or in whose possession or on whose premises they were found, by fine not exceeding 20*l.* for *each article*, or by imprisonment without option of fine.

N.B.—The fine attaches to each *piece* of meat, *e.g.*, to each of any number of pieces into which a carcase may have been cut, and to each *parcel* of fruit, vegetables, &c.]

(*b.*) The Local Authority or (where the powers of 16 San. [p. 131] are exercised) the chief officer of police shall next serve a notice on the party by whose act or default the nuisance arises or continues; or if such person cannot be found, on the owner or occupier, calling on him to abate the same, and for that purpose to execute such works and do such things as may be necessary, within a time to be specified in the notice. Provided:

First. That where nuisance arises from the want or defective construction of any structural convenience, or where there is no occupier, notice shall be served on the owner.

Secondly. That 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 occupier of the premises, then the Nuisance Authority may itself abate the same without further order, and the cost of so doing shall be part of the costs of executing the Act, and borne accordingly. 21 San. [p. 129].

(*c.*) Justice shall issue a summons for appearance before two Justices in petty sessions, to (*a*) person by whose act or default the nuisance arises or continues, or (*b*), if such person cannot be found or ascertained, the owner or occupier, on complaint made by—

(1.) The Local Authority which has ascertained (as above provided) the existence of the nuisance, or which is of opinion that the nuisance did exist at the time when original notice was given, and although removed or discontinued, is likely to recur on the same premises. 12 X. [p. 127]; or,

(2.) Any inhabitant who complains of nuisance on private premises in the parish or place. (13 Y. [p. 129].)

Provided in the latter case that the Justices may adjourn the hearing until examination of premises by officer of the Authority, whose entry for that purpose they may authorize, as in 11 X. [p. 125].

(*d.*) On the hearing the Justices may, if satisfied that—

(1.) the nuisance exists,

(2.) or did exist at time when original notice was given,

(3.) or if removed or discontinued since that notice, that it is likely to recur or be repeated,

make an order—

Order of abatement.

(1.) For abatement or discontinuance and prohibition of the nuisance; and,

(2.) For payment of all costs up to hearing or order (12 X. [p. 127]), and 13 X. [p. 131], may require person in order to *abate the nuisance*—

(1.) to provide sufficient (*a.*) privy accommodation, or (*b.*) means of drainage or ventilation;

(2.) to make safe or habitable, or to pave, cleanse, whitewash, disinfect, or purify the premises which are a nuisance or injurious to health, or part thereof specified in the order;

(3.) to drain, empty, cleanse, fill up, amend, or remove the injurious pool, &c. (see 8 X. [p. 61]), which is a nuisance or injurious to health, or to provide a substitute;

Some such words as the following are suggested, viz.:—

"In case any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour, which has been sold to a purchaser as human food, shall be proved to the satisfaction of a Justice to have been diseased, unsound, or unwholesome, and unfit for the food of man when so sold as aforesaid, the party who shall have sold the same shall be liable to the said penalties herein-before contained, although no such seizure of the same, or any part thereof, may have taken place as herein-before mentioned, and the Justice may at his discretion order the purchase money to be refunded."

There is a section in the Glasgow Police Act, 1862, by which a warrant may be granted by the magistrates to search suspected places for animals which are believed to have died of disease, unwholesome fruit, or vegetables, &c. 25 & 26 Vict. c. cciv. § 275.

The New Statute should contain a clause to the same effect.

Paragraph (*b*), being 21 San. [p. 129], requiring the service of a preliminary notice, should not be re-enacted, but there should be a clause added to 19 X. [p. 139], (see p. 154), enabling the Justices to refuse costs when they think the case was not one of urgency, and that notice ought to have been given before taking proceedings.

Paragraph (*c.*), sub-section (2), being 13 Y. [p. 129], must be amended by removing the word "private;" there can be no reason why nuisances on *public* premises should not form the subject of complaint.

In lieu of (*c.*) (2) insert "Any inhabitant of the parish or place, or any other person "(if such other person be aggrieved thereby) who complains of the existence of any "nuisance."

12 X. [p. 127], and 13 X. [p. 131], should be so extended as to enable the Justices to give proper orders in each of the new cases; *e.g.*, there should be power to make an order—

"To provide such supply, or access within such distance as they shall deem reasonable to such supply, of wholesome water, as they shall deem adequate."

(4.) or to carry away the accumulation or deposit which is a nuisance or injurious to health;

(5.) or to provide for the cleanly and wholesome keeping of the animal kept so as to be a nuisance or injurious to health;

(5.) or, if it be proved to the Justices to be impossible so to make provision as above described, then to remove the animal, or any or all of these things (according to the nature of the nuisance), and to do such other works or acts as are necessary to *abate* the nuisance complained of, in such manner and within such time as in such order shall be specified in order to prohibit recurrence;

Order of prohibition.

(6.) If of opinion that such or the like nuisance is likely to recur, the Justices may further *prohibit a recurrence of it, and direct the works necessary to prevent such recurrence;*

(7.) And if the nuisance proved to exist be such as to render a *house or building*, in the judgment of the Justices, *unfit for human habitation*, they may *prohibit the using thereof* for that purpose until it is rendered fit for that purpose in the judgment of the Justices; and on their being satisfied that it has been rendered fit for such purpose, they may determine their previous order by another, declaring such house habitable, from the date of which other order the house may be let or inhabited.

Penalty—14 X. [p. 131].

(1.) For want of diligence in carrying out *order of abatement*, continuing penalty not more than 10*s.* per day;

(2.) For acting knowingly and wilfully contrary to *order of prohibition*, continuing penalty of not more than 20*s.* per day.

Power of entry to remove or abate nuisance condemned or prohibited.

And Local Authority may, under the powers of entry given by the Act, enter and remove or abate the nuisance, and do any necessary acts, charging costs to the person on whom the order is made.

(4.) When it appears to the Justices that the person by whose act or default the nuisance arises, or the owner or occupier of the premises is not known or cannot be found, then order may be addressed to and executed by the Local Authority, and the costs defrayed out of the ordinary rates. (17 X. [p. 133].)

(5.) And any matter removed by the Local Authority in pursuance of these clauses may be sold by authority at once, in case where delay would be prejudicial to health, otherwise after notice, and the proceeds devoted to costs, balance, if any, being paid on demand to owner. In the former case the Justices may direct the immediate removal, destruction, or sale of the matter. (18 X. [p. 133].)

(6.) In the order of abatement, where it appears to the Justices that execution of structural work is required for the abatement of a nuisance, they may direct such works to be carried out under the direction, or with the consent or approval, of any public board, trustees, or commissioners having jurisdiction in respect of such works. (16 X. [p. 131].)

Power of appeal.

(7.) From the above order as to structural works there is an appeal (16 X. [p. 131]), as also from order of prohibition (15 X. [p. 131]).

N.B. But against order of abatement, where no structural works are required, there is no appeal, nor ought there to be any, as these matters are urgent, and delay may spread or even introduce disease.

(8.) In order to provide a remedy against inaction on the part of the Local Authorities—

The chief officer of police within any district may, under directions of Central Authority, on its being proved to his satisfaction that the Local Authority has made default, institute any proceedings which Local Authority may institute under these clauses with respect to the removal of nuisances: Provided that no officer of police may enter dwelling house without consent of the inhabitant or the warrant of a Justice. (16 San. [p. 131].)

CHAP. xii. SLAUGHTER HOUSES AND OFFENSIVE TRADES.

62 A. [p. 80]. The Local Authority (in urban districts)
(*a*) may provide slaughter houses and
(*b*) shall make byelaws for (1) the management and (2) charges for use, and (3) the keeping in cleanly state of same.

(*h.*) The New Statute should enable the Justices to prohibit by their order the use of any part, as well as of the whole house.

(8.) The words "proved to his satisafction" impose too severe conditions; "on representation made" would appear sufficient.

It is suggested that sections 16 San. [pp. 53 & 131] and 49 San. [p. 54] should form one clause, power being given to Central Authority to employ any person he may think fit, whether police or not. The chief officer of police need not be named.

Generally there should be power to charge the premises, when proceedings are taken under these clauses, with the costs of carrying out order.

CHAP. xii. SLAUGHTER HOUSES AND OFFENSIVE TRADES.

The provisions of 62 A. [p. 80] should not apply to rural districts.

Provided that there be no prejudice to rights, &c. of any persons previously incorporated by Act of Parliament for the purpose.

The section enabled Local Boards to make byelaws as to *all* slaughter houses, but this power was removed by 48 B. [p. 80] from the words of the section, probably because that Act enabled Local Boards (45 B. [p. 98]) to adopt the clauses 125, &c., of T., which enabled Authorities acting under them to make byelaws for regulation of slaughter houses.

63 A. [p. 80]. As this clause deals with "animals, carcases, and meat," and follows the preceding in the "Arrangement of Sanitary Statutes," it may be here stated that the provisions of 11 X., 31 San., and 2 Z. [pp. 125 and 127], as re-enacted with or without amendments will probably supersede the clause.

64 A. [p. 80]. The business of a blood-boiler, bone-boiler, fellmonger, slaughterer of cattle, horses, or animals of any description, soap-boiler, tallow-melter, tripe-boiler, or any other noxious or offensive business, trade, or manufacture, shall not be newly established in any building or place after the application thereto of A., or the adoption of B., without the consent of the Local Authority.

Penalty, Fifty pounds, and further continuing penalty of forty shillings per day.

Byelaws may be made in order to prevent or diminish the noxious or injurious effects of any such business.

This clause will hereafter take effect from the time when 64 A. came into operation in the district, or from the passing of the New Statute, whichever shall have first happened.

N.B.—It may be well to extend or amend the above list of noxious trades, in order that the following section may have reference to the same trades.

27 X. [p. 81]. If any candle house, melting house, melting place, or soap house, or any slaughter-house, or any building or place for boiling offal or blood, or any manufactory, building, or place used for any trade, business, process, or manufacture causing effluvia, be at any time certified to the Local authority by any medical officer, or by two legally qualified medical practitioners, or a requisition in writing under the hands of any ten inhabitants (18 San. [p. 83]), to be *a nuisance or injurious to health*, the Local Authority shall direct complaint to be made, and if it be proved on summons and hearing before two Justices that the trade is a nuisance or causes any effluvia injurious to the health of the inhabitants, and that the best practicable means have not been used by the person by whom the work is carried on for abating such nuisance or preventing or counteracting such effluvia.

Penalty on owner or occupier, or foreman, or other person employed, not more than five pounds nor less than forty shillings, on second conviction not more than ten pounds, and on each subsequent conviction double penalty of preceding conviction, with a maximum of two hundred pounds.

Proviso (1.) The Justices may suspend their final determination if the person complained of undertakes to adopt within a reasonable time such means as they shall judge to be practicable and order to be carried into effect for abating such nuisance or mitigating or preventing the injurious effects of such effluvia, or shall give notice of appeal with proper recognizances, and shall appeal accordingly.

Proviso (2). The provisions herein-before contained shall not extend or be applicable to any place without the limits of any city, town, or populous district.

Proviso (3). 28 X. [p. 83]. If the defendant object to have the matter determined by the Justices, and enter into recognizances with sufficient sureties, the Local Authority shall thereupon abandon all proceedings before the Justices, and shall forthwith take proceedings at law or in equity in Her Majesty's superior courts for preventing or abating the nuisance complained of.

Chap. xiii. Provisions against Infection.

(1.) If the Local Authority be of opinion on the certificate of a legally qualified medical practitioner that the cleansing and disinfecting of any house, or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious or contagious disease, *it shall be the duty* of the Authority to give notice in writing requiring the owner or occupier of each house, or part thereof, to cleanse and disinfect the same, as the case may require.

Power of entry.

Penalty.—Continuing penalty not less than one shilling, nor more than ten shillings, per day.

125–131 T., with respect to slaughter-houses should be re-enacted in this place.

The powers in the Act of 1786, under which the Justices of the peace license knackers yards, &c. should be transferred to the Local Health Authority. See 'Slaughter Houses' in the interpretation clause of A. 26 Geo. 3. c. 71. § 1.

64 A. [p. 80]. Where the consent of the Local Authority is withheld, there should be a power of appeal to the Central Authority.

Where consent is given there should be a corresponding power of appeal on the part of any person aggrieved by such consent.

Subject to the above and to the other recommendations, the provisions of the New Statute should be in substance as follows:—

(I.) *As to New Establishments.*

1. No noxious or offensive trade should be anywhere newly established without consent of Local Authority, unless the Central Authority shall otherwise direct on appeal.

(II.) *As to Old and New Establishments.*

Any trade or business whatsoever (including those excepted in 44 X. [p. 171]), whether newly established or not, should be liable to proceedings similar to those in 27 X. [p. 81], so far as to ensure the adoption of the "best practicable means," and it should not be necessary to prove that such trade or business causes effluvia, if in any other way it is proved to be a nuisance, or injurious to health. And in all cases the onus of proving that the best practicable means have been employed must lie on the party complained against, any local or special Act to the contrary notwithstanding.

It should not be necessary that the 10 persons signing the requisition be *inhabitants* exclusively. Any owner though not an inhabitant should be competent to sign.

The penalty and provisoes (1.) and (3.) referred to in the text should reappear in the New Statute.

We recommend that the words of proviso (2) disappear from the Statute Book.

Chap. xiii. Provisions against Infection.

On default the Authority shall do the work, and,

(a.) May recover expenses from owner or occupier in default, in summary manner; or,

(b.) In case of poverty or other inability of owner or occupier to effectually carry out the section, may, with his consent, do the work at its own cost. (22 San. [p. 63].)

(2.) The Authority in each district may provide means of disinfection for woollen articles, clothing, or bedding, and may disinfect without charge any article brought for disinfection. (23 San. [p. 65].)

(3.) The Authority may provide and maintain carriages for conveyance of persons suffering under any contagious or infectious disease, and may pay expense of his conveyance therein to hospital, &c., or to his own home. (24 San. [p. 65].)

(4.) If any person suffering from any dangerous infectious disorder shall enter any public conveyance, he shall previously notify same to owner or driver, who shall not be required to convey the person until paid amount sufficient to cover all losses and expenses.

Penalty on failing to notify, not more than five pounds, and compensation to owner and driver for losses and expenses. (25 San. [p. 65].)

Penalty on owner or driver not disinfecting after having with knowledge conveyed any person so suffering, not more than five pounds. (38 San. [p. 67].)

(5.) Where a hospital or place for reception of the sick is provided within the district, a Justice may order, on the certificate by a legally qualified medical practitioner, that any person suffering from dangerous contagious or infectious disorder, being—

(a.) Without proper lodging or accommodation; or,

(b.) Lodged in a room occupied by more than one family; or,

(c.) Being on board ship or vessel.

Be sent at cost of the Local Authority to such hospital, &c., if the Authorities be willing to receive the person. (26 San. [p. 65].)

(6.) Any Local Authority may, with the sanction of the Central Authority, signified in manner provided by Public Health Act, 1858, lay down rules for removal to any hospital to which such Authority is entitled to remove patients, and for keeping in such hospital so long as may be necessary any persons brought within their district by any ship or boat who are infected with a dangerous or infectious disorder. (29 San. [p. 65].)

Penalty not more than five pounds for breach of these rules.

(7.) Any person who—

(a.) suffering from any dangerous infectious disorder wilfully exposes himself without precaution against spreading disorder in any street, public place, or public conveyance;

(b.) being *in charge* of one so suffering so exposes the sufferer;

(c.) being owner or driver of public conveyance does not disinfect his carriage immediately after having with knowledge conveyed such sufferer;

(d.) without previous disinfection gives, lends, sells, transmits, or exposes any bedding, clothing, rags, or other things which have been exposed to infection from such disorder,

shall be liable to

Penalty not exceeding five pounds.

Provided that no proceedings be taken for transmission with proper precautions for purpose of disinfection. (38 San. [p. 67].)

(8.) If any person knowingly lets any house, room, or part of a house in which any person suffering from any dangerous infectious disorder has been to any person, without having such house, room, or part of a house, and all articles liable to retain infection, disinfected to the satisfaction of a qualified medical practitioner, as testified by a certificate given by him, such person shall be liable to

Penalty not exceeding twenty pounds.

For the purposes of this section the keeper of an inn shall be deemed to let part of a house to any person admitted as a guest into such inn. (39 San. [p. 67].)

CHAP. XIV. EXTRAORDINARY MEASURES FOR PREVENTION OF EPIDEMIC DISEASES.

(1.) (5 R. [p. 53].) Whenever any part of England appears to be threatened or is affected by any *formidable epidemic, endemic, or contagious disease*, the Central Authority

(2.) This section should be amended by giving to the Central Authority power to *compel* the Local Authorities (when in its judgment it appears necessary) to provide. It must be made clear that "provide" includes provision by hiring.

It appears to be at least desirable that means of disinfection be everywhere within reach, and that the Central Authority be empowered to ensure a supply of such means *within reach of every person*, though not of necessity within every district.

A power to destroy infected articles, where necessary, should be added.

(3.) The above remark, as to compulsion and provision by hiring (if the carriage be *solely* used for the purpose), applies to this paragraph.

(4.) The language of this clause should be so modified as to impose the duty and penalty on person *in charge* of the sick when the latter is of tender years, or is incapacitated by bodily or mental disease. *See* 38 San. [p. 67], *infra*.

(5.) The like power should be given in reference to hospitals, &c. *not within the district.*

(6.) These rules will be hereafter signified in such manner as the New Statute shall prescribe.

(7.) (a.) After "public place" add "or other place where persons in health, being members of more than one family, are assembled."

(b.) After "in charge of" add "or having the control or direction of," and after "sufferer" the words "or causes him to expose himself."

(d.) In all cases when the Local Authority requires disinfection of bedding or clothing, or of dwellings, the possessors thereof, on due completion of disinfection, should be entitled to receive a certificate that the regulations of the Authority have been complied with.

The language of these penalty provisions should be made to reach the person causing the offence, as well as the person directly acting in the matter.

e.g. One who sends by a public conveyance his servant "in charge" of a fellow servant or of a child having an infectious disorder.

The master or parent should be liable to the penalty as well as the person "in charge."

The sections on "supervision and control over Local Authority" should arm the Central Authority with power to enforce the due execution by the Local Authority of these as of other powers.

CHAP. XIV. EXTRAORDINARY MEASURES FOR PREVENTION OF EPIDEMIC DISEASES.

(hitherto the Privy Council may, by order, direct that the extraordinary provisions of this chapter be put in force in England, or in any part thereof,

And (40 San. [p. 43]) may *compel* two or more Local Authorities to combine for the execution of these powers, and may prescribe the mode of such joint action.

The order,

(1.) May be extended, revoked, or renewed.

(2.) Subject to such revocation and renewal, shall be in force for six months, or less, as therein stated.

(3.) Shall be published in "London Gazette."

N.B.—(11 R. [p. 55].) The order may extend to parts and arms of the sea lying within the jurisdiction of the Admiralty (see under directions, &c., below).

(2.) (6. R. [p. 53].) While the order is in force the Central Authority,

(*a.*) May from time to time issue directions and regulations—

1. For the speedy interment of the dead.
2. For house to house visitation.
3. For the dispensing of medicines, guarding against the spread of disease, and affording to persons afflicted by or threatened with such epidemic, endemic, or contagious diseases such medical aid and such accommodation as may be required.
4. (11 R. [p. 55].) For cleansing, purifying, ventilating, and disinfecting, and providing medical aid and accommodation, and preventing disease, in ships and vessels upon arms and parts of the sea lying under the jurisdiction of the Admiralty, to which orders of the Central Authority may extend (see as to orders, above), as well as upon inland waters.

(*b.*) May revoke, renew, alter, such directions, &c.

(*c.*) May extend the area wherein they have effect.

(*d.*) Shall publish same in "London Gazette." (7 R. [p. 53].)

(3.) (10 R. [p. 55].) Every such order and every such direction and regulation shall be laid before Parliament—

Forthwith during session.

Otherwise within fourteen days after commencement of the next session.

(4.) (12 R. [p. 55].) Medical attendance on ships in compliance with any such regulation shall be remunerated as follows:—

(1.) In case of poor law medical officer, according to ordinary rate of allowance for services.

(2.) In case of other medical men for services rendered on board, and extra remuneration for distance at charge ordinarily made by medical practitioner for patients of the class attended on board.

These charges, together with any reasonable expenses for treatment, shall be repayable by the captain on behalf of owners.

In event of Dispute

Amount up to 20*l.* to be settled summarily by a Justice, as in the case of seamen's wages up to 50*l.*, and to be assessed according to the accustomed rate for patients of like class.

(5.) (8 R. [p. 55].) The Local Authority shall

(1.) superintend and see to execution of such directions and regulations.

(2.) (*a*) appoint and pay such medical or other officers and persons.

(*b*) do and provide all such acts, matters, and things as may be necessary for

(α) mitigating the disease, or

(β) executing or aiding in execution of such directions and regulations.

(3.) (9 R. [p. 55]) direct any prosecutions, &c. for wilful violation or *neglect* of directions and regulations.

(6.) (14 R. [p. 167].) *Penalty* for obstruction of the Authority, or wilful violation of direction or regulation, not more than 5*l.*, to be appropriated to fund for executing these provisions.

N.B.—It may be noted that this penalty does not accompany mere *neglect.* 9 R. (above cited) enables the Local Authority to direct prosecutions, &c., for *wilful neglect.*

(7.) (4 R. [p. 61].) The Local Authority shall have powers of entry for executing or superintending the execution of these powers.

N.B.—Hitherto these exceptional powers have been executed by (11 Y. [p. 7]).

(1.) Boards of Guardians.

(2.) Overseers where there was no such Board.

(3.) Any body other than Guardians or Overseers acting as Local Authority under Nuisance Removal Acts, *if duly authorized by Privy Council.*

(6.) Wilful neglect should be punishable.

(7.) The provisions of 11 Y. [p. 7] will now become unnecessary, as the Local Authority constituted under the New Statute will doubtless be intrusted with the extraordinary powers now under consideration, on being duly set in motion by the Central Authority.

A similar remark applies to 12 Y. [p. 61], enabling the Local Authority to provide carriages (that clause having been made general by 24 San. [p. 65]), and to 15 R. [p. 133], incorporating into R. certain provisions of X. relating to procedure and recovery of penalties.

Chap. xv. Ships and Vessels.

Complaint having been made that the language of the two following clauses is obscure, the words are given at length, the term "Local" being substituted for "Nuisance" Authority.

(1.) 30 San. [p. 67]. For the purposes of this Act, any ship, vessel, or boat that is in a place not within the district of a Local Authority shall be deemed to be within the district of such Local Authority as may be prescribed by the Central Authority, and until a Local Authority has been prescribed then of the Local Authority whose district nearest adjoins the place where such ship, vessel, or boat is lying, the distance being measured in a straight line; but nothing in this Act contained shall enable any Local Authority to interfere with any ship, vessel, or boat that is not in British waters.

(2.) 32 San. [p. 67]. Any ship or vessel lying in any river, harbour, or other water shall be subject to the jurisdiction of the Local Authority of the district within which such river, harbour, or other water is, and be within the provisions of this Act, in the same manner as if it were a house within such jurisdiction, and the master or other officer in charge of such ship shall be deemed for the purposes of this Act to be the occupier of such ship or vessel; but this section shall not apply to any ship or vessel belonging to Her Majesty or to any foreign government.

6 Geo. IV. c. 78 § 2.

(3.) 52 San. [p. 67]. According to the Quarantine Act, 1825, vessels being H.M. ships of war, as well as others, coming from or having touched at any place declared by Privy Council infected, and all vessels, &c. receiving persons or articles from any such vessel, whether such first-named vessels (1) had or had not come from, or (2) were or were not bound to any place in United Kingdom or islands, shall be liable to quarantine.

This section (52 San.) extends the definition of ships so liable to quarantine to vessels having on board any person affected with a dangerous or infectious disorder, although such vessel has not commenced her voyage, or has come from or is bound for some place in the United Kingdom, and enables the Privy Council to make regulations and orders, and also to determine the Local Authority by which they shall be executed. The expenses incurred are to be defrayed from ordinary funds.

(4.) 51 San. [p. 169,] enables the Justices or Court having jurisdiction to reduce the penalties to such sum as they think just.

(5.) 11 R. and 12 R. [p. 55,] (see Chap. xiv. on extraordinary measures for prevention of epidemic diseases), relate to ships, and enable the Central Authority to issue orders extending over parts and arms of the sea within Admiralty jurisdiction, to issue directions and regulations for cleansing, &c. ships upon such waters, and for medical aid and remuneration.

Chap. xvi. Local Improvements.

(1.) *Clauses from "Police Clauses Act."*

10 & 11 Vict. c. 89.

44 B. [p. 98]. The provisions of "The Towns Police Clauses Act, 1847,"
(1.) With respect to obstructions and nuisances in the streets,
(2.) With respect to fires,
(3.) With respect to places of public resort,
(4.) With respect to hackney carriages,
(5.) With respect to bathing,
shall be incorporated with this Act.

(2.) *Clauses from "Towns Improvement Clauses Act."*

10 & 11 Vict. c. 34.

45. B. [p. 98]. The provisions of "The Towns Improvement Clauses Act, 1847," with respect to the following matters, that is to say,
(1.) (64 and 65 T.) With respect to naming the streets and numbering the houses,
(2.) (66–74 T.) With respect to improving the line of the streets and removing obstructions,

Chap. xv. Ships and Vessels.

As to 30 San. and 32 San. [p. 67], the Commission recommend,

(1.) That as far as practicable the Authority for sanitary purposes in the adjacent urban district should be the Authority for like purposes in the adjoining Harbour docks and ships in the latter being considered as houses, &c. in the former.

That to secure unity of action powers should be given to the Central Authority to add to such urban Authority the Harbour Authority or representatives of it to act for sanitary purposes in the Harbour.

(2.) That in maritime districts sanitary areas should be extended beyond the area of the harbour jurisdiction by the order of the Central Authority after local inquiry, and with such other procedure (if any) as may be necessary under the New Statute in cases where a change of boundary takes place.

(3.) That in roadsteads under no Harbour Authority the Central Authority should decide under what Local Authority such roadsteads shall be put.

The two Sections 51 and 52 of the Sanitary Act being amendments of the Quarantine Act, 1825, should, with other sections which belong to other subjects, be set out at full length in a schedule either to the New Statute or to a separate Act. Subsequent legislation will deal with these sections thus placed in a schedule, and the provisions of the New Statute will remain unaltered. By this means the Sanitary Code which the Commission desires to produce in the form of a permanent Consolidation Act will not be confused as the existing Acts have been by interpolation of matter having no close or proper relation to the Laws affecting Public Health.

6 Geo. IV. c. 78. See p. 141.

Chap. xvi. Local Improvements.

(1.) *Clauses from "Police Clauses Act."*

We do not recommend that the sections incorporated by 44 B should be introduced into the New Statute. They are on police subjects, and only two of them have reference to *sanitary* matters, which, however, we think are otherwise provided for.

(2.) *Clauses from "Towns Improvement Clauses Act."*

We have placed at the end of this part of our report a complete analysis of T. The New Statute should contain the sections numbered in 45 B as (1), (2) [except 66, 67, and 68 T, *see* Chaps. ix. and xix., where corresponding provisions will be found], (3), and (4).

(3.) (75–78 T.) With respect to ruinous or dangerous buildings,
(4.) (79–83 T.) With respect to precautions during the construction and repair of the sewers, streets, and houses,
(5.) (121–124 T.) With respect to the supply of water, except the proviso thereto,
(6.) (108 T.) With respect to the prevention of smoke,
(7.) (125–131, T.) With respect to slaughter-houses,
(8.) (143 T.) With respect to clocks,

shall be incorporated with this Act, subject to this qualification, that the above-mentioned provisions with respect to the prevention of smoke shall not extend to compel the consumption of all smoke in the case of all or any of the processes following; that is to say, to the coking of coal, the calcining of ironstone or limestone, the making or burning of bricks, earthenware, quarries, tiles, or pipes, the raising of any mines or minerals, the smelting of iron ores, the refining, puddling, shingling, and rolling of iron or other metals, or to the melting and casting of iron into castings, or to the manufacture of glass, in any district where the provisions of the said Act for the prevention of smoke are not now in force, in which the Local Board shall resolve that any one or more of such processes should be exempted from penalties for not consuming all smoke for any time specified in such resolution, not exceeding ten years, which may be annually renewed for a similar or any shorter period, if the Board shall think fit.

Penalty.—Any Justice or Justices before whom any person shall be summoned may remit the penalty in any case within such district in which he or they shall be of opinion that such person has adopted the best known means for preventing any nuisance from smoke, and has carefully attended to the same, so as to consume, as far as possible, the smoke arising from any process so exempted during such time as any such resolution shall extend to, unless an order shall be issued by the Central Authority directing that such exemption shall no longer be continued in such district to such processes or any of them, after a time specified in such order.

(3.) *Lighting and Watching.*

3 & 4 Will. IV. c. 90.

46 B. [p. 100.] Where the Lighting and Watching Act, 1833, has been adopted in any district conterminous with the district of any Local (urban) Authority, the said last-mentioned Act shall be superseded by B., and all lamps, lamp-posts, gas pipes, fire engines, hose, and other property vested in the inspectors for the time being under the said Act, shall, in all such districts from and after the passing of B., vest in the Local Authority.

The Lighting, &c. Act directed the Churchwardens, on application in writing from three or more ratepayers, to convene a meeting to determine for or against adoption of
§ 17. that Act in the parish. In the event of adoption the ratepayers were to appoint
§ 39. inspectors, having rated qualification of 15*l.*, who were to appoint and employ watchmen,
§§ 44, 45. provide fire-engines, put up lamp-irons or lamp-posts against houses or in streets, and cause them to be lighted with gas, oil, or otherwise.
§ 71. Parishes might adopt the part of the Act relating to either (*a*) watching or (*b*) lighting, or both parts. On the other hand, parts of parishes might adopt the Act, or either part thereof.

The Act contains sections relating to gas pipes, escape of gas, gas washings, contamination of water by gas, &c.

5 & 6 Will. IV. c. 76.
§ 88.
§ 87.

The Municipal Corporations Act, 1835, has a section enabling Corporations, where there is no local Act for the lighting of the town, to assume the powers of inspectors under the Lighting, &c. Act, so far as relates to lighting, and where a local Act extends to a part only of their area, to make an order that the remaining part be included within the provisions of any local Act for the lighting thereof.

12 & 13 Vict. c. 94.

N.B.—By a section introduced into a Local Government Provisional Order Confirmation Act in 1849, Local Boards of health are authorised to contract for a period not exceeding three years with any company or person for supply of gas, &c. for lighting streets, &c., and may provide lamps, &c.

(4.) *Baths and Wash-houses.*

The observations last made apply to baths and wash-houses.

9 & 10 Vict. c. 74.
10 & 11 Vict. c. 61.

By 47 B. [p. 100], "Local Boards" may, where the Baths and Wash-houses Acts, have been adopted by the Vestry, be, at the option of the Vestry, the Commissioners for executing the Act; and by 43 San. Act [p. 100], "Local Boards" may adopt the Act. The expenses are to be paid out of the ordinary fund. There seems to be no reason why Urban Authorities should not retain the powers now possessed by "Local Boards;" but in districts of Rural Authorities the adoption of parishes appears to be a more

(5.) 121, 122, 123 T are superseded by 78 A. and 20 C. [p. 106], and the latter section contains an important reservation in favour of water companies which must be preserved.

124 T relates to fireplugs, &c., and the supply of water for the extinction of fire. But if certain sections of the Waterworks Clauses Act are incorporated according to our recommendations this section would become unnecessary. See §§ 38–43 of Waterworks Clauses Act, 1847. (*See also* a Poor Law Act of 1867, as to provision of fire-engines, &c. by the Vestry. The powers under this section should be transferred to the Local Authority by the New Statute.)

10 & 11 Vict. c. 17.
30 & 31 Vict. c. 106, § 29.

(6.) 108 T. and the qualification contained in 45 B. should not be re-enacted, as it is superseded by a better clause 19 (3) San. [p. 62].

(7.) We have already recommended that this should form part of the New Statute.

(8.) This might also be included.

(3.) *Lighting and Watching.*

All Authorities which may execute the Act should be enabled to contract for supply of gas under a section of a Provisional Order Confirmation Act, 1849, which should be withdrawn from that Act and made part of the New Statute or of a Police Act. This is a most incomplete mode of dealing with this subject, which in fact lies beyond the province of the Commission, although unfortunately included in a Statute which must be fully dealt with. With respect to 46 B. [p. 100], the Lighting and Watching Act ought to be repealed, and such parts as are within the province of the Local Authorities should be introduced into the New Statute, and would thereupon apply to the Local Authority in every urban district.

12 & 13 Vict. c. 94. § 13.

In urban districts there would be no difficulty in giving to the Local Authority the same powers as are given by the Municipal Corporations Act to Town Councils, but these powers are not adapted to the Authorities which are recommended for rural districts, where the power to adopt the Lighting Act in *individual parishes* appears desirable.

(4.) *Baths and Wash-houses.*

It is proposed that—

(*a.*) In any urban district where the Vestry may have adopted or shall adopt the Baths and Washhouses Act, and amending Acts, the Local Authority may, at the option of the said Vestry, be the Commissioners for the execution of the Act.

9 & 10 Vict. c. 74.

(*b.*) Urban Authorities may adopt the Acts in districts where they are not already in force.

9 & 10 Vict. c. 74. convenient method. By the Act of 1846 the Council of any Borough may adopt the Act, and in other cases not included under 43 San. [p. 100], the adoption rests with the Vestry.

(5.) *Public Pleasure Grounds.*

74 A. [p. 102]. The Local Authority may provide public pleasure grounds and support or contribute towards premises provided for such purposes by any person.

(6.) *Markets.*

50 B. [p. 102]. The Local Authority shall have power in non-corporate districts, with consent of owners and ratepayers, to express by resolutions as in the Act provided, and in corporate district by a majority of two thirds, to do the following things, or any of them, in their district:

(*a.*) To provide a market place and construct a market house and other conveniences for the purpose of holding markets:
To provide houses and places for weighing carts:
To make convenient approaches to such market:
To provide all such matters and things as may be necessary for the convenient use of such market:
To purchase or take on lease land, and public or private rights in markets, and tolls for any of the foregoing purposes:
To take stallages, rents, and tolls in respect of the use by any person of such market house.

But no market or slaughter-house shall be established in pursuance of this section so as to interfere with any rights, powers, or privileges enjoyed within the district by any person, chartered joint stock or incorporated company, without his or their consent:

(*b.*) For the purpose of enabling any Local Authority to establish markets in manner aforesaid, or to regulate markets already established in any corporate borough before the constitution of a Local Board therein, there shall be incorporated with this Act the provisions of "The Markets and Fairs Clauses Act, 1847," in so far as the same relate to markets:
With respect to the holding of the market or fair, and the protection thereof; and
With respect to the weighing goods and carts; and
With respect to the stallages, rents, and tolls; and
With respect to byelaws;

10 & 11 Vict. c. 14.

Subject to this proviso, that all tolls leviable by the Local Board in pursuance of this section shall be approved by one of Her Majesty's Principal Secretaries of State.

According to the present law where there is a Local Board but no Town Council, the consent to establish a market must be expressed by resolution in the manner provided by B. with respect to resolutions for the adoption of the Act.

(7.) *Hospitals of Medicine and Medicine.*

37 San. [p. 102]. The Local Authority may provide for the use of the inhabitants within its district hospitals or temporary places for the reception of the sick, and

10 E. [p. 102], with sanction of Central Authority may make provision for temporary supply of medicine and medical assistance for the poorer inhabitants.

The Local Authority may itself build such hospitals or places of reception, or make contracts for the use of any existing hospital or part of a hospital, or for the temporary use of any place for the reception of the sick.

It may enter into any agreement with any person or body of persons having the

(*c.*) Where the Authority is not urban, and in other cases where the Vestry does not assent to the execution of the Acts by the Local Authority, the provisions of the Act of 1846, and amending Acts, shall remain in force, with the modification that it be sufficient that the resolution be carried by a majority of votes given on the question, according to the manner in which the members of the Vestry are entitled to vote at such vestry shall have been given for such resolution."

9 & 10 Vict. c. 74, § 5.

(5.) *Public Pleasure Grounds.*

The Urban Authority under the New Statute must execute other Acts relating to places for public exercise or recreation. Such are "The Recreation Grounds Act, 1859," the powers, however, given to trustees under that Act must be retained; the Public Improvements Act, 1860, by which the Authority, which may adopt and administer the Public Baths and Wash-houses Acts, is invested with nearly the same powers in relation to places of recreation, &c.; and the Act of 1863 for the protection of certain garden or ornamental grounds in cities and boroughs.

22 Vict. c. 27. 23 & 24 Vict. c. 30, § 3. 26 & 27 Vict. c. 13.

The Local Authority should in all these cases have power to make byelaws regulating, &c. such grounds, subject to any conditions of trust deeds.

(6.) *Markets.*

A majority present at a meeting specially summoned should be sufficient under the New Statute, provided that the consent of the Central Authority be required.

(7.) *Hospitals of Medicine and Medicine.*

We think that 37 San. [p. 102] might in the New Statute be extended to the admission of persons on payment of the expenses, in cases of infectious diseases or accident.

The power to *provide or contract for the use of hospitals* should not be exercised without the consent of the Central Authority, but when exercised it should extend to the furnishing and maintaining such hospitals as may be provided by the Local Authority, and to the providing of medicines, attendance, food, and other necessaries therein.

The power to combine should extend to providing a common provision for the temporary supply of medicine. If the clause providing for combination is properly drawn, no mention of combination need occur in this place.

management of any hospital for the reception of the sick inhabitants of its district on payment by the Local Authority of such annual or other sum as may be agreed upon.

* * * * * * * *

Two or more Authorities having respectively the power to provide separate hospitals may combine in providing a common hospital, and all expenses incurred by such Authorities in providing such hospital shall be deemed to be expenses incurred by them respectively in carrying into effect the purposes of this Act.

(8.) *Reception Houses for the Dead.*

N.B.—The details of the provisions of the following sections of the San. Act are so important that it has been judged expedient to set them out at length. The term "Local Authority" has been substituted for the term "Nuisance Authority."

Mortuaries. 27 San. [p. 111]. Any Local Authority may* provide a proper place for the reception of dead bodies, and

Where any such place has been provided, and any dead body of one who has died of any infectious disease is retained in a room in which persons live or sleep, or any dead body which is in such a state as to endanger the health of the inmates of the same house or room is retained in such house or room, any justice may, on a certificate signed by a legally qualified medical practitioner, order the body to be removed to such proper place of reception at the cost of the Nuisance Authority, and direct the same to be buried within a time to be limited in such order; and unless the friends or relations of the deceased undertake to bury the body within the time so limited, and do bury the same, it shall be the duty of the relieving officer to bury such body at the expense of the poor rate, but any expense so incurred may be recovered by the relieving officer in a summary manner from any person legally liable to pay the expense of such burial.

Byelaws.—81 A. [p. 110] enables Local Boards also

(*a.*) to make *byelaws* with respect to the management and charges for the use of such rooms, and

(*b.*) On proper application, and subject to such regulations and at such rates and charges as shall be prescribed by any such byelaws, to make all necessary arrangements for the decent and economical interment of any corpse that has been received into any rooms so provided.

N.B.—In the above paragraphs it has not been thought necessary to set out the purpose described in 81 A., viz., the prevention of the manifold evils occasioned by the retention of the dead in the dwellings of the poor.

Reception Houses for bodies during post-mortem Examination. 28 San. [p. 111]. Any Local Authority may provide a proper place (otherwise than at a workhouse or at a mortuary house as lastly herein-before provided for) for the reception of dead bodies for and during the time required to conduct any post-mortem examination ordered by the Coroner of the district or other constituted Authority, and may make such regulations as they may deem fit for the maintenance, support, and management of such place; and where any such place has been provided any Coroner or other constituted Authority may order the removal of the body for carrying out such post-mortem examination and the re-removal of such body, such costs of removal and re-removal to be paid in the same manner and out of the same fund as the cost and fees for post-mortem examinations.

(9.) *Burial Grounds.*

(1.) 82 A. [p. 110], provides that on representation of the Local Board, and on inquiry by a "superintendent inspector," and after such other inquiry as the General Board of Health may think fit, the Board may publish certificate in the Gazette that any burial ground is dangerous to health of neighbourhood, or that any church, &c. is dangerous to those frequenting the same in consequence of state of vaults or graves within the same, *and that sufficient means of interment exist within convenient distance from church or burial ground.*

Then from time named in certificate, no further burial shall occur in the burial ground or church, &c., as case may be.

Penalty.—For each offence 20*l.*

16 & 17 Vict. c. 34. Under the Burials Act, 1853, s. 1, Her Majesty in Council, on representation of the Home Secretary, may order that no "new burial ground shall be opened (in any city or "town or within any other limits) without previous approval of the Secretary, or that "after time named burials (in the city, &c.) be discontinued wholly, or subject to any "exceptions or qualifications mentioned in the order, and so from time to time as "circumstances shall require."

(8.) *Reception Houses for the Dead.*

The Central Authority should be enabled to compel Local Authority to provide a mortuary.* After "may," insert "and, if required by the Central Authority, shall."

Even where there is no mortuary, the justice should be enabled in the cases specified in the 27 San. [p. 111] to give an order for removal of the body from the house.

To facilitate the acquisition of parts of closed burial grounds or of land in cemeteries for mortuaries, the Local Authority should be empowered, in the case of any closed burial ground, to purchase by contract any part of such burial ground from those in whom the site and control thereof are vested (but in the case of a consecrated burial ground of the Church of England, not without first applying for and obtaining a faculty, which the Ecclesiastical Court having jurisdiction in the matter should be enabled to grant, if in its discretion it shall see fit), for the purpose of erecting thereon a mortuary, and (if needful) a residence for the keeper thereof.

Provisoes to be inserted.

(1.) That this shall not authorise the purchase of any piece of land if it necessitates the disturbance of bodies already buried.

(2.) Nor if the piece to be purchased cannot be approached without passing through any other part of the closed burial ground.

(3.) No religious service shall be held or celebrated in any mortuary erected in any closed burial ground.

(4.) Such mortuary and residence house (if any) shall be separated by a wall or fence from the rest of the burial ground.

The same powers and provisoes should extend to cemeteries, the owners and managers of which should be authorised to sell portions thereof for such purposes, or to erect mortuaries and demise them to the Local Authority, notwithstanding any limitations of their powers by their special Acts.

The New Statute should contain the two sections of the Sanitary Act, and add as in 81 A. [p. 110], power to make

Byelaws, and to bury on proper application.

9. *Burial Grounds.*

The sections 82 A. [p. 110] and 83 A. [p. 112] ought to be abolished as being already superseded by the Burial Acts, if not actually rendered wholly inoperative by the abolition of the Board of Health.

(2.) 83 A. [p. 112], forbids—

(*a.*) The construction of any vault or grave within or under any church, &c., built in any district (where the section is applied or adopted), after the passing of A;

(*b.*) The formation of any burial ground within any such district without consent of the General Board of Health.

Saving.—Rights under local or special Acts.

Penalty.—For each offence 50*l.*

(3.) 21 C. [p. 112], Local Authorities constituted burial boards may repair walls surrounding, and take measures to prevent desecration and secure due regulation of burial grounds discontinued as such within their jurisdiction; and where the burial boards are a Local Board of health they may make

Byelaws—for the preservation and regulation of all burial grounds.

(4.) 49 B. [p. 112], where Vestry of one or more parish in district or place having known or defined boundary has adopted the Burial Acts, the Local Authorities may, at the option of the Vestry, act as the Burial Board for that parish.

Proviso.—If the parish or parishes coincide with one or more wards, then the members elected for the ward or wards shall constitute the Burial Board.

N.B. The clauses contain proper provisions as to rates.

(5.) 44 San. [p. 114]. A Burial Board having a district conterminous with Local Authority may, by resolution of Vestry and agreement between Burial Board and Local Authority, transfer all their powers, duties, and liabilities to the Local Authority.

(10.) *Licensing, &c. Horses, Boats, &c. for Hire.*

Byelaws under 25 C. [p. 118] may be made by the Local Authority for licensing and regulating horses, ponies, mules, or asses standing for hire in the district, and for prescribing and regulating the stands, and fixing the rates of hire and ordering the conduct of the drivers or attendants thereof, and also for licensing, regulating, and fixing the rates of hire of pleasure boats or vessels, and the persons in charge of the same.

(11.) *Execution of Minor Works by Overseers.*

(1.) 50 A. [p. 70]. This section (inserted during passage through Parliament of A.) by which not less than three fifths of the rated inhabitants of place of less than 2,000 inhabitants, where A is not applied, can, by means of Churchwardens and Overseers, do certain minor works, appears to be wholly superseded by the erection of an Authority in every district and the general extension of powers.

(2.) The clauses 7 Y. [p. 110], and 13 San. [p. 110], by which "wells, fountains, and pumps," provided 50 A. [p. 70], are vested in the Nuisance or Sewer Authority (as case may be), must be reproduced in such a form as to vest such pumps, &c., in the Local Authority.

CHAP. xvii. POWERS OF ENTRY.

(1.) These powers are given in connection with the subjects in relation to which entry may be effected, *e.g.*

45 A. [p. 62]. To carry sewers across property.

49 A. and 10 San. [p. 68]. To make connecting drain to dwelling house.

51 A. [p. 70]. To make proper watercloset or privy and ashpit.

52 A. [p. 72]. The like in factories.

58 A. [p. 76]. To drain all ponds, open ditches, sewers, &c., containing collections of drainage filth, &c.

59 A. [p. 78]. To remove any accumulation whatsoever of manure, &c.

59 A. [p. 78]. To remove

(*a.*) swine, &c. or pigstye from dwelling house,

(*b.*) waste or stagnant water in any cellar or place within any dwelling house,

(*c.*) contents of any watercloset, &c. or cesspool overflowing or soaking therefrom.

22 San. [p. 63]. To cleanse houses in certain cases to prevent infectious or contagious disease.

The powers of entry on an order of the magistrates are described in Chap. xi. p. 118, *supra*.

(2.) 143 A. [p. 64], is more general, and (as extended by 5 M.) enables Local Authority to enter, examine, or lay open lands, &c., for the purpose of making plans,

(2.) 83 A. [p. 112], may probably be regarded as inapplicable to the new order of things. The adoption of this section has hitherto been permissive and has been confined to certain Local Board Districts. Henceforward such portion as may be retained will apply to all urban if not likewise to all rural districts. The same remark again applies as to the General Board of Health.

21 C. [p. 112]. This section should be included in the proposed schedule of sections, in order that it may hereafter form part of a consolidated Burial Act. See page 133.

49 B. [p. 112] does not appear to have been acted upon and should be abolished.

CHAP. xvii. POWERS OF ENTRY.

The Local Authority, or their duly appointed officer, should have power "for the purposes of the Act," to demand admission into private houses between the hours of 9 a.m. and 6 p.m., for the purpose of inspecting sanitary defects referred to in the Act, upon reasonable suspicion of the existence of the same; but the owner or occupier should be entitled to require the production of a written proof of official character, signed by the clerk or other principal officer of the Local Authority. In the event of admission being refused without sufficient cause on the production of such authority, the officer should be empowered to apply for a special order from the Local Authority and demand admission within the same hours, and on a second refusal, without sufficient reason, the owner or occupier should be liable to a penalty, to be recovered before a Justice. Should admission be required at other hours a Justice's order should be required, and thereupon a refusal should render the owner or occupier liable to the same penalty.

For the execution, or to prepare for the execution, of works which the Local Authority may undertake, or call upon the owner or occupier to execute, the Local Authority should be required to serve a written notice, specifying the nature of the works, and when, in the absence of written notice of objection delivered at the office, they will be commenced, and such formal notice shall not expire.

In case of improvements or alterations (under *a* and *b*) within seven days.

In case of remedial works (under *c*) within 48 hours.

surveying, measuring, taking levels, examining works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and (5 M. [p. 64]) of keeping in repair any works made or to be made for them.

Procedure.—In case the owner or occupier refuse, two Justices may grant an order to enter, &c., for the purposes specified in the order, between the hours of 10 a.m. and 4 p.m.

Proviso.—Except in case of emergency, no entry shall be made or works commenced until 24 hours after notice of the entry and of the object thereof shall have been given to occupier.

Chap. xviii. Byelaws.

(1.) 115 A. [p. 118]. *Byelaws* made by the Local Authority shall be
(1.) in writing and under common seal;
(2.) not repugnant to laws of England;
(3.) of no effect until confirmed by the Central Authority; and,
(4.) they may be altered under same regulations and restrictions.

The *byelaws* may impose

Penalty, any amount less but not more than five pounds for each offence, and further continuing penalty of any amount less but not more than forty shillings per day.

Proviso.—Byelaws shall not be confirmed until a month's notice of the intention to apply for confirmation has been published in a local newspaper.

For a month at least before confirmation a copy shall be kept open without fee to ratepayers during office hours at the office, and copies shall be sold to every ratepayer at a price to be fixed in the Act.

(2.) 116 A. [p. 120]. Byelaws shall be—
(1.) printed;
(2.) hung up in the office; and
(3.) delivered to every ratepayer on application.

Chap. xix. Compulsory Purchase.

(1.) 73 A., 84 A., and 36 B. [p. 96]. The Local Authority in urban districts may take land under Provisional Order under sundry sections of the Acts for purposes described there, and also for—
(73 A.) widening, opening, enlarging, or otherwise improving any street.
(36 B.) (with the sanction of the Central Authority) making new streets.
(84 A.) "the purposes of the Acts" (viz.:—A. B. C. D. E. F.), in general terms.

N.B.—The words limiting the power of purchase to purchases "by agreement" are removed from 73 A. and 84 A. [p. 16], by the concluding words of 47 San. [p. 118], which, moreover, enables a "Local Board" to acquire otherwise than by agreement under provisional order *in any case* where by A. B. C. D. E. F. they are authorized to "purchase, provide, use, or take lands or premises for any of the purposes" of these Acts.

(2.) 73 A. 22 C. [p. 96]. The Local (urban) Authority may dispose of any surplus lands so purchased, and the proceeds shall be carried to the ordinary fund. 84 A. [p. 96]. They may sell or exchange any lands or premises for the purposes of the Act.

(3.) 75 B. [p. 114]. Contains the procedure under Provisional Order, which it is not necessary to reprint here, but which must be carefully considered in reference to other legislation and sundry suggestions by witnesses.

N.B.—Certain powers for compulsory purchase hitherto given to the "Sewer Authority" alone, 7 M. [p. 114], are described in certain clauses of the preceding pages as being given to the Local Authority.

The term "take land" has been employed in the above passages as including purchase, lease, and exchange, or any of such modes of acquiring land.

In the event of notice of objection being delivered in either case, the Local Authority should be required to obtain a Justice's order before proceeding; but, except in case of emergency, no entry on such order should be made, or works commenced, until after 24 hours notice to the occupier of the order and of its object.

N.B.—The powers of entry under the provisions of the Nuisances Removal Acts must be retained, subject to such modifications as the above recommendations involve.

An officer conducting himself offensively, or in any manner exceeding his duty, should be liable to a fine.

Chap. xviii. Byelaws.

It should be lawful for the Central Authority to sanction the following clause in *Byelaws:* "Unless in any special case the Local Authority shall otherwise order," and it should be enacted that such order dispensing with or modifying the operatinos of a byelaw in a special case should be in writing, together with the reasons thereof, and that it should be published in the local newspapers, or in some other sufficient manner; and that any inhabitant or owner of land within the district should have the right to appeal to the Central Authority against such dispensing or modifying order.

The Central Authority should not sanction byelaws without a report from their own inspector.

Any owner or inhabitant should be entitled to be heard with reference to any proposed byelaw after publication and before confirmation.

The Central Authority should have power to compel Local Authorities persistently neglecting to pass such byelaws as may be required for the due execution of the Act.

Chap. xix. Compulsory Purchase.

1. *Generally.*

We recommend with reference to 73 A. [p. 96], and other purchase sections, that surplus lands, or abandoned lands, should be disposed of according to the Lands Clauses Act. 8 & 9 Vict. c. 18, § 127, &c.

For all purposes of the New Statute there should be power to acquire land within the district BY AGREEMENT under the facilities afforded by the Lands Clauses Act for such acquisition of land; but where a supply of water is thus obtained there should be the sanction of the Central Authority (see below).

Power to acquire land by COMPULSORY purchase after confirmation by Parliament of Provisional Order should be given *in certain defined cases only, viz.:*
within the district for draining and sewering of the district,
without the district for an outfall drain or sewer,
within and without the district for the purposes of the discharge of drainage, or discharge or utilization of sewage,
within the district for widening, opening, enlarging, or otherwise improving any street.

2. *As to Purchase of Land for Water Supply.*

(1.) To prevent mischief to interests unrepresented either (1) by the Local Authority requiring to obtain a water supply, or (2) by the owner of the land proposed to be taken for the purpose, it is desirable that such purchase be not permitted, either in the district or out of it, by agreement, without the consent of the Watershed Authority representing the watershed from which the water is proposed to be taken, or of the Central Authority in the absence of any such Watershed Authority.

Subject to these consents, the Local Authority should have power to buy land in and also beyond the district for the purposes of water supply by agreement, and also by compulsion under Provisional Order of the Central Authority confirmed by Parliament. Such Watershed Authority as above mentioned if and when constituted should be heard by the Central Authority on the occasion of the local inquiry incident to the proceeding by Provisional Order.

(2.) For entrance for laying, maintenance and repair, of pipes, there should be power to take an easement, paying all fair compensation.

Chap. xx. General.

Under this head are collected provisions which do not conveniently find a place under other headings.

(1.) *Contracts.*

85 A. [p. 118]. The Local Authority may enter into all contracts necessary for the execution of the Act.

Every contract whereof the value or amount is more than ten pounds shall—

(1.) be in writing under common seal (all Authorities being now incorporated, 46 San. [p. 124].

(2.) specify the work, materials, &c., and price;

(3.) contain a time clause;

(4.) contain a penalty clause.

Proviso.—The Local Authority may compound with any contractor liable under a penalty clause for such amount as they think fit.

Proviso.—Before contract the surveyor shall always—

(1.) give an estimate in writing of the first cost and annual expense of maintenance in each case; and

(2.) report whether the execution alone or the execution and maintenance during a term of years or otherwise should be contracted for.

Proviso.—If the value be 100*l.* or upwards, tenders shall be advertised for during ten days, and the Local Authority shall take sufficient security for due performance of same.

N.B.—The above clause has hitherto been applied to Local Boards alone.

(2.) *Arbitration.*

These sections are of necessity highly technical, and depend for their efficient working on a number of minute provisions. It has therefore been thought sufficient to cite them. They are 123 A., and 124 A. [p. 120], 64 B., 125 A., 126 A., 127 A., and 128 A. [p. 122].

(3.) *Compensation.*

144 A. and 8 M. [p. 124]. Full compensation shall be made out of the ordinary fund to any persons sustaining damage by reason of the exercise of any powers of this Act.

Procedure in case of dispute.

(*a.*) By arbitration, or,

(*b.*) up to 20*l.* the amount may be ascertained by and recovered before Justices in a summary manner, as provided by 129 A. [p. 124].

See p. 90.

VII.—COURSE OF LEGAL PROCEDURE (except so far as relates to Procedure taken under the Nuisances Removal Acts).

(1.) *Generally.*

(1.) 46 San. [p. 124]. The Local Authority shall in each case be a body corporate designated by some fitting name, with power to

(*a.*) To sue or be sued in such name, and

(*b.*) To hold lands for the purposes of the Act.

(2.) 48 San. [Act, p. 124]. The Local Authority may appear before any Justice or Justices, or in any legal proceeding, by any officer or member authorized generally, or in respect of any special proceeding by resolution of such Authority, and such person being so authorized shall be at liberty to institute and carry on any proceeding which the Local Authority is authorized to institute and carry on under the Act.

(3.) The following clauses,

(*a.*) 138 A. [p. 128], as to "Proceedings in case of Non-corporate districts; Actions, &c., in name of clerk; Mode of describing property of Local Board; Actions, &c., not to abate; Clerk to be reimbursed expenses," and

Chap. xx. Genlral.

(1.) *Contracts.*

The Local Authority should be enabled to contract without these severe restrictions; it should be allowed to invite tenders from a limited number of persons.

VII.—COURSE OF LEGAL PROCEDURE (except so far as relates to Procedure taken under the Nuisances Removal Acts).

(*b.*) 61 B. [p. 130], as to "Notice by Local Boards to be signed by clerk," and
(*c.*) 150 A. [p. 130], in so far as the clause relates to service of notice upon "Local Board," and
(*d.*) 149 A. [p. 130], as to "consents of Local Board being in writing,"

where not already rendered unnecessary by the incorporation of all "Local Authorities," (a condition which will doubtless be continued in reference to all future Authorities, however constituted,) must be reproduced in some form adapted to Corporate Authorities. In settling these details the draftsman will probably have regard to the laws and usages which now obtain in respect of Municipal Corporations in order that uniformity of law and usage may as far as possible prevail.

(4.) 137 A. [p. 128], and 39 X. [p. 135]. No rate and no proceeding whatsoever under the Act shall be bad for want of form, nor [*save where otherwise provided?*] shall be removable by any writ or process to any Superior Court.

39 X. [p. 135]. Proceedings shall not abate by reason of the death of one of the parties.

(5.) 132 A. [p. 126], and 2 Z [p. 133]. No Justice shall be deemed incapable of acting in cases under the Act by reason of being a member of the Local Authority, or contributing or being liable to contribute to the ordinary fund.

(6.) 129 A. [p. 124], as to "recovery of damages, costs, and expense;" provides that where they are to be ascertained or recovered in summary manner—

(*a.*) The same may be ascertained by and recovered before two Justices, together with the costs, &c. at the discretion of the Justices;
(*b.*) The same may be recovered by distress, and imprisonment on failure of sufficient distress.

See Part VIII. Expenses and Rates.

(7.) But as to the recovery of demands, 24 C. p. 124, provides that proceedings for recovery of demands under 20*l.*, which Local Boards are now entitled to recover in a summary manner, may, at option of the Local Board, be taken in County Court as if such demands were debts within the cognizance of those Courts.

(8.) Sundry provisions of 129 A. [p. 124], as to penalties, &c.

130 A. [p. 124], as to "form of conviction," and providing that form in schedule, or to the like effect, be good;

131 A. [p. 126], as to "mode of proceeding before Justices. Distress how be levied not unlawful for want of form;"

Appear to fall within the province of the draftsman rather than of the Commission.

(9.) The same remark applies to
(*a.*) 31 X. and 15 R. [p. 133], and 11 E. [p. 132], "Service of notices, summonses, and orders."
(*b.*) 32 X. [p. 135], "Proof of resolutions of the Local Authority."
(*c.*) 33 X. [p. 135], as to "Proceedings taken against several persons for the same offence.'

34 X. [p. 135]. Providing that "one or more joint owners or occupiers may be proceeded against alone."

(*d.*) 35 X. [p. 135]. "Whenever in any proceeding under the Act, whether written or otherwise, it shall become necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate him as the 'owner' or 'occupier' of such premises, without name or further description."
(*e.*) 41 X. [p. 137], as to forms to be used as in schedule.

(10.) 11 C. [p. 130].
(*a.*) Notice for alterations under 69 A., 70 A., 71 A. [pp. 88, 90, 92].
(*b.*) Directions under 73 A. [p. 96].
(*c.*) Orders under 74 T.

may, at option of the Local Authority, be served on owners instead of occupiers, or upon owners as well as occupiers.

And also costs of works done under any of these provisions, when notices have been so served upon owners, may be recovered from owners instead of occupiers, and when such costs are recovered from occupiers, they shall be entitled to make the same deduction from rents payable for the premises where the work is done, in respect of such cost, as they are entitled to make in respect of private improvements under A. (see 91 A. [p. 156].)

(4.) But this should not prevent the application of the Summary Proceedings before Justices Act of 1857, as to stating a case for the Court of Queen's Bench; the exception is inserted in order to draw attention to and recommend the careful preservation (in substance) of the provisions which secure a decision by a Superior Court, *e.g.*, that by which the defendant in proceedings against noxious trades, 28 X. [p. 83], (see Chap. x.,) may cause the case to be heard by a Superior Court, and 40 X. [p. 135], by which Quarter Sessions are enabled to state facts especially for the determination of the Court of Queen's Bench, when proceedings may be removed by *certiorari* or otherwise.

(7.) The limit of 20*l.* should be extended to the highest amount recoverable in a County Court.

(9.) (*a.*) With respect to the service of notices requiring the sewering, &c. of private streets, attention should be given to the provisions of the Public Works Manufacturing Districts Act, 1863. 26 & 27 Vict. c. 70. § 10 (1).

(*b.*) Some easy mode of proving *Byelaws* should be provided.

(*d.*) In consolidating the law, care must be taken not to weaken any provision which secures to owner or occupier affected full notice and opportunity of being heard.

N.B. The draftsman will take care that the power is limited so as not to include cases where no appeal is intended, *e.g.*, orders for abatement of nuisances where no structural work is required.

Note.—Many particulars connected with procedure are necessarily given in the clauses setting out the matters or circumstances which are the subject of that procedure in each case, and are not repeated in this place.

(2.) *Appeals.*

(11.) 135 A. [p. 126], and 40 X. [p. 135].

Appeals against rates and against orders of the Justices shall be to General or Quarter Sessions held next after the making of the rate, or the accrual of the cause of complaint, unless there be not time to take the steps next mentioned, in which case the appeal shall be to the next following Sessions.

Notice of appeal shall be given within 14 days, together with a statement of the grounds thereof, and within two days after such notice recognizances with sureties shall be entered into. The Court may state a case for the Queen's Bench, and move the cause into that Court.

(12.) Such appeal may relate to

(*a.*) Orders of prohibition or for structural works made under proceedings against matters included within the definition of nuisances, 40 X. [p. 135], see Chap. xi. p.

(*b.*) Any order, conviction, judgment, or determination of, or any matter or thing done by, any Justice or Justices in any case under A, B, C, D, E, and F, in which the *penalty* imposed or the sum adjudged shall exceed 20*l.* 135 A. [p. 126].

(*c.*) Rates made under the Act, 135 A. and 136 A. [p. 128]. The Court has the same power as in other cases of appeal against rates.

Note.—Appeals to the Central Authority from the decisions of the Local Authority come under "Supervision and Control over Local Authority." Appeals to a higher *legal* tribunal are here dealt with.

VIII.—EXPENSES AND RATES.

Note.—This brief statement does not contain the words by which the Authority is empowered to defray the expenses from the different funds. See 87 A., 6 M., 12 San., and 17 N., [p. 136]; 4 Y.[p. 137]; and 15 N. [p. 142].

Rates, &c.

I. Local Boards.

(1.) *Generally.*

87 A. [p. 136]:

(*a.*) The treasurer shall keep a separate account to be called the "District Fund Account."

(*b.*) The Local Authority may levy a rate to be called the "General District Rate."

There are also clauses relating to—

(1.) The mode of assessment of general district rates. (55 B. [p. 138].)

(2.) Provisions for compounding. (55 B. [p. 138].)

(3.) Provisions as to partial exemptions.

(4.) Provisions as to exemptions from rating under Local Acts.

(5.) Access to poor rate books for rating under the Act for purposes of the Act. (56 B. [p. 138].)

6 & 7 Will. IV. c. 96.

(6.) Power of valuation as prescribed by the Parochial Assessments Act, 1836, in case there should be no assessment.

(7.) Power to levy a "Special District Rate" in order to discharge debts *already incurred* on the credit of special district rates. (86 A. and 54 B. [p. 140].)

Where the area is the same, special district rates may be levied as part of and under the name of general district rates. 12 C. [p. 140].

(8.) Power, in cases where the Local Authority has borrowed on security of the special district rate for permanent works, to discharge the debt (with consent, &c.) from the general district rates, raising the amount by loan if necessary. (13 C., p. 140.)

89 A. [p. 142]:

(*a.*) Enables the Local Authority to make and levy the rate prospectively or retrospectively.

(*b.*) Contains certain provisions with reference to properties unoccupied, change of tenancy or ownership, &c.

VIII.—EXPENSES AND RATES.

(*c.*) Enables the Local Authority from time to time to divide their district, or any street therein, into one or more parts for all or any of the purposes of the Act, and to make a separate assessment upon any such part for and in respect of all or any of the purposes of the Act.

(Such part, so far as it relates to the purposes in respect of which the separate assessment was made, shall be exempt from any other assessment under the Act).

Proviso.—If any expenses are incurred or to be incurred in respect of two or more parts of a district in common, the same shall be apportioned between them in a fair and equitable manner.

There are the following miscellaneous provisions on points of detail:

(1.) The Local Board may reduce or remit any rate on account of poverty. (96 A. [p. 144].)

(2.) No existing agreements between landlord and tenant shall be interfered with. (97 A. [p. 144].)

(3.) Before making rates estimate is to be made showing—

(*a.*) The money required for the purposes in respect of which rate is made.

(*b.*) The several sums required for each of such purposes.

(*c.*) The rateable value of the property assessable.

(*d.*) The amount in the pound which it is necessary to make.

The estimate so made shall forthwith be entered on the rate book and kept at the office open to public inspection. (98 A. [p. 144].)

(4.) That public notice be given of intention to make rate and of certain particulars. (99 A. [p. 144].)

(5.) That rates and estimates be open to inspection by any person interested in or assessed the same, with right to make extracts. (100 A. [p. 144].)

(6.) That whenever the name of the owner or occupier is not known it shall be sufficient to assess and designate him as the owner or occupier. (101 A. [p. 144].)

(7.) That rates may be amended in certain particulars, there being the same power of appeal against the amended as there was against the original rate. (102 A. [p. 146].)

(8.) That rates made under the Act be published as poor rates, and collected by such persons, and either together or separately with any other rate or tax, as Local Authority shall appoint.

(9.) Justices may summon for nonpayment, and in default may recover by distress. (103 A. [p. 146].)

(10.) That constables neglecting or refusing to make distress or sale pursuant to the distress warrant, after being required so to do, be liable to penalty.

Form of warrant. (104 A. [p. 146].)

(11.) That certain proportions be paid by the Universities of Oxford and Cambridge. (105 A. [p. 146].)

(12.) That certain books be evidence of rates. (106 A. [p. 148].)

There are also clauses less technical in their character which provide—

(*a.*) That where the Local Board has agreed, or hereafter shall agree, with any person, &c., as to the supply of all or any sewage of any place, and the works to be done for the purpose of that supply, they may—

(1.) Contribute to the expenses, or

(2.) Become shareholders. (15 N. [pp. 142, 148].)

(*b.*) That, notwithstanding the coming into operation of the Act in any district, the liability of any person to defray the expense of making, &c. (1) any sewer, or (2) any walls or works for protecting the land against the sea, or (3) paving or flagging, or putting in order any street or part thereof, shall, if incurred previously to the time when the Act comes into operation, continue, and the same may be enforced as if the Act had not been passed. (118 A. [p. 148].)

(*c.*) If it appears to a Local Board that any premises were sufficiently drained before the construction of any new sewer they may lay down, it shall be lawful to deduct from the amount of rates otherwise chargeable in respect of such premises such a sum and for such time as the Local Board may, under all the circumstances, deem to be just. (29 B. [p. 148].)

(*d.*) The costs of a Provisional Order, incurred by the Central Authority, shall be paid out of the rates (75 B. [p. 114]; 27 C. [p. 148]).

33 & 34 Vict. c. 1.
28 & 29 Vict. c. 27.

But an Act of 1870 provides that a select committee of either House of Parliament, to which a bill for confirming Provisional Orders is referred, may award costs in the same manner as any select committee under the Act of 1865 for Awarding Costs in cases of Private Bills.

(2.) *Water Rate.*

93 A. [p. 142]. So long as any premises are supplied by the Local Authority with water for the purposes of *domestic use, cleanliness, or drainage,*

(*a.*) The Local Authority shall make and levy, in addition to any other rate, a water rate upon the occupier, except as provided by subsequent clauses of A.

(*b.*) The rate shall be assessed on the net annual value of the premises, to be ascertained as in the case of district rates.

(*c.*) When several houses have one pipe they shall be charged in the same manner as if each house had a separate pipe.

(*d.*) Provision for the districts of Oxford and Cambridge. (93 A. [p. 142].)

(*e.*) (1.) The water rate shall be payable in advance. (94 A. [p. 144].)

(2.) The Local Board may cut off water if payment be not made on demand. (94 A. [p. 144].)

Provided that the stopping of any supply of water shall not relieve any person from any penalty or liability.

Note.—As to damages, costs, or *expenses* directed to be ascertained in *a summary manner* :—

(3.) *Charges on Occupiers and Owners.*

i. *On Occupier.*

(*a.*) The same may be ascertained by and recovered before two Justices, together with such costs of the proceedings as the Justices may think proper.

(*b.*) There is power of distress in event of nonpayment, and

(*c.*) Power to imprison before or after issuing warrant for distress if it appear that there is no sufficient distress.

But qy., do the words giving power to imprison extend to expenses, or are they confined to proceedings for penalties and costs? 129 A. [p. 124].

But in certain cases the Local Board are enabled to levy a "private improvement rate."

This "private improvement rate" is charged on the occupier during his tenancy, and on the owner while premises are unoccupied.

As to the circumstances under which expenses are by Act "private improvement expenses," or by Local Authority can be declared such, see 49 A. [p. 68], 54 A. [p. 74], 58 A. [p. 76], 59 A. [p. 78], 76 A. [p. 104].

90 A. [p. 156], gives power to levy the rate.

When the Local Authority have incurred or become liable for any expenses which (1) are by the Act, or (2) are by the Local Authority declared to be private improvement expenses, the Local Authority may make and levy *upon the occupier*, except in certain defined cases, in addition to any other rates, a rate or rates called "private improvement rates," of such amount as will be sufficient to discharge all expenses, together with interest at not more than five per cent., in such period *not exceeding* 30 *years*, as the Board shall in each case determine.

Proviso.—While any premises are unoccupied such rate shall become a charge upon the premises, and shall be paid by owner.

91 A. [p. 156], makes provision for deduction from the rent of a certain proportion of amount so paid by the occupier as "private improvement rates."

92 A. [p. 156]. Special district and "private improvement rates" may be redeemed by payment of the expenses in respect to which they were made, or the remainder thereof.

ii. *On Owner.*

23 C. [p. 158] (see below, affects occupier).

146 A. [p. 156]. Where the Local Authority has incurred expenses for repayment whereof the *owner* is made liable by the Act, the Local Authority

(1.) May allow the owner time for repayment.

(2.) Receive same in such annual instalments, not being less than one thirtieth of the entire sum, as they may, under the circumstances, consider just, together with interest for balance from time to time due at the rate of 5*l.* per cent.

In case of default of payment at times named, the sum due or so much as shall be unpaid shall become recoverable in like manner as the entire sum would have been.

62 B. [p. 156]. In the case lastly above mentioned (146 A.), or where the liability arises on the application of or by agreement with the owner,

Sections 68–74 of the Waterworks Clauses Act, 1847, should be compared with these provisions. 10 & 11 Vict. c. 17.

The expenses

(1.) May be recovered from the person who is the owner when the works are completed in the manner provided by 146 A., and

Charge on property.

(2.) Shall be a charge on the premises in respect of which they are incurred, and shall bear interest at the rate of five per cent.

(In all summary proceedings by the Local Board for recovery of expenses incurred by them in works of private improvement, the time within which they may be taken shall be reckoned from the date of the service of the notice of demand.)

23 C. [p. 158].

(1.) Expenses incurred as private improvement expenses, and also, (2.) expenses stated under 62 B. [p. 156] to be a charge on the premises, with interest after the rate of five per cent.

(1.) May be declared by the Local Authority to be payable by annual instalments, with interest after the above rate, during a period not exceeding 30 years till the whole is paid; and

(2.) May be recovered from owner or occupier as general district rates, and deducted from rent as in 91 A. [p. 156]. (This following affects the occupier also.)

Rentcharge.

58 B. [p. 158]. Where any person has advanced money for any expenses which, (1) by the Act are, (2) or by the Local Authority shall be declared to be private improvement expenses, the Local Authority, on being satisfied that the money is duly expended, may grant a yearly rentcharge on the property of such an amount that the debt and all costs, with interest, shall be repaid within a term not exceeding 30 years.

59 B. [p. 158]. These rentcharges shall be registered as ordinary mortgages under 112 A. [p. 158].

63 B. [p. 158]. The apportionment of the expenses payable by owners shall be conclusive after three months' notice given to them of the amount (see 120 A. [p. 160]).

120 A. [p. 160]. Where Local Authority may recover in summary manner, or declare expenses to be "private improvement expenses," any person aggrieved may within seven days after notice of such decision appeal to the Central Authority (see 63 B. [p. 158]).

151 A. [p. 150], exempts Local Boards from certain stamp duties.

II. Rural (*i.e.* Parish or Poor Law Authorities).

Sewer Authority.

The "Sewer Authority," where not a Local Board or Commissioners entitled to levy a rate by their Act, have hitherto been paid by a separate (precept) rate, with certain partial exemptions not provided in the poor rate (see schedule to M. [p. 8] and 17 N. [p. 136].)

Special Drainage Districts.

5 San. [p. 138], contains, a provision for "special drainage district," according to which for the purposes of a "Sewer Authority" the district becomes a parish as regards rating for the purpose of the "Sewer Authority."

Guardians or Committees of Guardians.

4 Y. [p. 137], contains, in addition to provisions for rating applicable to Urban Authorities under which expenses of Nuisance Removal Acts were defrayed, powers enabling Guardians to levy rates with adaptations to meet different circumstances.

5 Y. [p. 139], enables Guardians, where a Committee or Committees to their own body are appointed for one or more parishes or places, to charge the expenses on the parishes or places.

18 N. [p. 138], provides a penalty for cases of non-payment of rates by the Overseers.

Proviso.—Where any one such Committee has been appointed for all the places to which the Board is the Authority, the charges and expenses shall be contributed as if such Committee had not been appointed (see 89 A. [p. 142]).

33 San. [p. 139]. Where the Guardians are the Authority for one portion of a parish only, a rate in all respects similar to the poor rate may be made in that portion of the parish.

19 X. [p. 139]. Costs and expenses from time to time incurred in—

(1.) Making a complaint;
(2.) Giving notice;
(3.) Obtaining a Justices' order;
(4.) Carrying same into effect;

shall be deemed to be money paid for the use and at the request of the person on whom the order was made,

In the New Statute the provisions of A., B., and C. will assume a simpler form by being brought into one section.

Should "Special Drainage Districts" be continued, the provision of 5 San. [p. 138] will apply, but not otherwise.

or if the order be made on the Local Authority, or if no order was made, but the nuisance was proved to have existed when the complaint was made or notice given, then of the person by whose act or default the nuisance was caused.

And in case of nuisances caused by the act or default of the owner of premises;

(1.) The premises shall be charged with costs, &c., and any penalties incurred until the same be fully discharged (see 62 B. [p. 157]).

Proviso.—Such costs and expenses shall not exceed one year's rackrent.

(2.) The costs, &c., may be recovered in any Court of Justice. The Justices may (*a*) divide such costs, &c., between the persons by whose act or default the nuisance arises, or (*b*) if they think complaint is frivolous or unfounded they may dismiss the case with costs.

20 X. [p. 141], provides for proceedings before the Justices to recover costs, expenses, or penalties.

30 X. [p. 139], enables the Local Authority to order the costs of prosecutions to be paid out of the rates.

34 San. [p. 141]. The Local Authority may require payment of costs or expenses from the owner or occupier, and the occupier who pays may deduct from the rent (see 91 A. [p. 156]).

22 X. [p. 79]. Where a "Nuisance Authority" *has laid down* a sewer or some other structure under this section they may (*afterwards*) assess every house, building, &c., using the ditch, &c., along which the sewer, &c., is laid.

Proviso.—(1.) Where such ditch, &c. is within the jurisdiction of different Local Authorities this enactment shall apply to each only as to so much of the works and expenses as are included within their jurisdiction.

(2.) The assessment shall in no case exceed one shilling in the pound.

III. Combined or Joint Authorities.

9 M. [p. 138], contains a provision in relation to *combined* "Sewer" Authority, enabling each to contribute.

14 N. [p. 138], contains a provision for *joint* Authorities.

In that case there is to be a common fund to be contributed to by the component districts in proportion to their rateable value, or in such other proportion as the Central Authority, with the consent of the Sewer Authority of each component district, may determine.

N.B. The distinction between the powers of combined and of joint Sewer Authorities, as regards rating, is as follows:—

(1.) In case of combination, each Authority agrees to a certain contribution.

(2.) In case of a Joint Authority, that Authority directs each parish, whether willing or unwilling, to pay a contribution.

Highways.

37 B. [pp. 164–166]. The following provisions relate to the rate for the repair of highways:—

(1.) Where the whole district is rated to public works of paving, water supply, and sewerage, or to works for such of these purposes as are provided for in the district, the cost of repair of highways shall be defrayed out of the general district rate. 37 B. [p. 164].

(2.) Where parts of the district are not so rated, the cost of highway repairs shall be defrayed—

(1.) In the parts not so rated out of a highway rate to be separately assessed and levied in those parts by the Local Board.

(2.) In the residue of the district, out of the general district rate. 37 B. [p. 164].

(3.) Where no such works are established, the repair shall be provided for by a highway rate levied over the whole district. 37 B. [p. 164].

(4.) (*a.*) Where part of a township or place not comprised within a "Local Board District," was before the constitution of that district liable to the highway rates of the township, &c., that part shall be considered to form part of that district for all purposes of highway repairs, &c., 9 C. [p. 164].

(*b.*) and (*c.*) The part above referred to may by resolution of ratepayers, summoned in prescribed manner, be considered a parish maintaining its own highways, 9 C. [p. 164].

The provisions of 9 M. [p. 138] should be extended to all Authorities.

When the parishes do not readily assent, it becomes difficult to obtain the contribution which has been directed to be paid. We recommend that the Joint Authority should have power to rate directly instead of indirectly through the different parishes.

(5.) Certain proceedings in connexion with the making, &c., of a rate are simplified in the case of highways. 37 (5) B. [p. 166].
The accounts shall be audited as other "Local Board" accounts. 37 (5) B. [p. 166].

(6.) The surplus of any monies paid by surveyor of highways to the treasurer of the board, and carried to the district fund account under 117 A. [p. 86], shall for every district or part of a district where the roads are to be repaired out of highway rate, be carried to a separate account called the highway rate account. The Act 13 Vict. cap. 35, shall apply to the clerk. 37 (6) B. [p. 166].

Borrowing Powers.

It is sufficient in this place to state that the Guardians, *as Nuisance Authority*, have no borrowing powers, and that the "Sewer Authority" has such powers under 12 M. [p. 150].

The other sections relating to Borrowing Powers are—
57 B. and 78 B. [p. 150].
19 C. [p. 152].
108 A., 109 A., 110 A., and 111 A. [p. 152].
112 A. and 114 A. [p. 154].
and 10 B. [p. 154].

Audit.

It has been thought sufficient to mention the sections which relate to Audit. They are—
60 B. [p. 160].
15 C. [p. 164].
3 C. [p. 164].

IX.—ON PENALTIES.

(1.) 36 X. [p. 167] (see also 14 R. [p. 167].) Whosoever refuses to obey an order of the Justices, under the Act, for admission of the Local Authority on premises; or
148 A. [p. 168]. Whosoever wilfully obstructs any person employed by or acting under or on behalf of *Central* or Local Authority, in the execution of the Act, shall be liable to *Penalty* not exceeding 5*l.*

(2.) 148 A. [p. 168, 37] X. [p. 167]. If the occupier prevent the owner from obeying or carrying out the Act, the Justice may, by order in writing, require the occupier to desist from such prevention, or to permit the execution of works required, provided such works appear to such Justice necessary for obeying or carrying out the Act.
On non-compliance for 24 hours after service of order (148 A. has "reasonable time"), *Penalty*, continuing penalty not exceeding 5*l.* per day.

(3.) 148 A. [p. 168], further provides that the occupier refusing (when duly requested) to state, or wilfully omitting to disclose, or wilfully misstating name of owner, may be summoned by the Justice, upon statement on oath of request and refusal, &c., and in case of
(*a*) Non-appearance, or
(*b*) Inability to show good cause for refusal, or

Borrowing Powers.

We propose that the Local Authority should have the powers now existing, with the following amendments.

i. In the case of
(1.) Recreation grounds,
(2.) Sewage farms,
(3.) Waterworks,
and so far as relates to the *permanent* portions of those works,
a. The power to borrow under Provisional Order should be extended to an amount not exceeding *three* years assessable value.
b. The time for repayment should be extended to a period not exceeding 75 years.

ii. In addition to the repayment by (1) sinking fund, (2) annual instalments, (3) terminable annuities, Local Authorities should be enabled to create with the sanction of the Central Authority capital stock. The debt to be repaid within the same period as in other cases. The Central Authority will exercise supervision. See Metropolitan Board of Works Loans Act, 1869. 32 & 33 Vict. c. 102.

We also recommend that in the cases where the Home Office, either by consent or under Provisional Order confirmed by Parliament, has authorised Local Authorities to borrow money for specified works for a limited period, the new Central Authority be empowered to extend the period, by consent or under the like Provisional Order, as the case may be, provided that the entire period for which any sum may be borrowed in no case exceed the maximum period allowed by the New Statute for works of the same class.

Audit.

We recommend that the accounts of all Local Health Authorities should be audited by auditors who should hereafter be appointed by the Central Authority, in the same manner as the Poor Law auditors are now appointed by the Poor Law Board, and who should be appointed to audit the accounts as well of the Local Health Authorities as of the Poor Relief Authorities of their respective audit districts; and that the accounts of all Local Health Authorities should be subject to a uniform system of audit; and that the Central Authority should be empowered to fix the remuneration of the auditors, and to make the necessary regulations as to the mode of conducting the audit, and the form in which the accounts of the Local Health Authorities should be kept.

IX.—ON PENALTIES.

(1.) *Generally* where power is given to the Local Authority to execute works, or to do any act on default, there should be an alternative to sue for a fine in case of such default. Compare the Metropolis Local Management Act, 1862. 25 & 26 Vict. c. 102. § 64.
The Local Authority should have power to direct the persons to whom pipes, &c. belong to raise, &c. them under penalty. The expenses to be paid by the Local Authority.

(3.) With reference to 12 X. [p. 127], and also to many provisions of A., B., &c., the penalty for, and liability to abate, any nuisance should be made to fall on the person who causes the nuisance, and not on the owner of the premises on which it occurs, if he has not caused it, and has endeavoured to prevent it. If the person causing the nuisance cannot be found, then in such cases the Local Authority must be at the expense of abating it.

(*c*) Proof that there was wilful omission or misstatement, shall be liable to

Penalty not exceeding 5*l*.

(4.) 147 A. [p. 168]. Any person who, upon examination on oath under the provisions of the Act, shall wilfully or corruptly give false evidence, shall be liable to the

Penalties inflicted upon persons guilty of wilful and corrupt perjury.

(5.) Any person who,

(*a*) Wilfully damages any works or property of the Local Authority in cases where no remedy is otherwise provided (45 San., and 66 B. [p. 166]), or,

(*b*) Destroys, pulls down, injures, or defaces any board put up by the Local Authority upon which any byelaw, notice, or other matter is inscribed (148 A. [p. 168]), shall be liable to

Penalty not exceeding 5*l*.

(6.) 133 A. [p. 126] provides,

(1.) That no proceeding for recovery of a penalty incurred under the Act shall be taken by any person other than (*a*) the party aggrieved, or (*b*) the Local Authority in whose district the offence was committed, or (*c*) the Churchwardens and Overseers (where any penalty is directed to be paid to them), without the written consent of the Attorney General.

(2.) That no penalty be recovered unless proceedings be taken within six months.

(3.) That if no special provision is made, one half of the penalty goes to the informer, remainder to the Local Authority.

(4.) That where the Local Authority is the informer, they shall be entitled to the whole penalty.

(7.) 134 A. [p. 126] provides that notwithstanding the liability of any person to any penalty under the Act he shall not be relieved from any other liability. This clause and others on same point are referred to under "Saving Clauses," Part X.

(8.) 133 A. [p. 126], 67 B. [p. 166], and 38 X. [p. 169]. All penalties made payable to the Local Authority shall be payable to the ordinary fund.

(9.) 38 X. [p. 169], and 54 San., and 9 E. [p. 168].

(*a*) Penalties,

(*b*) Expenses directed to be recovered in a summary manner,

may be recovered before the Justices in manner and by the persons (38 X. [p. 169]) provided by the Act of 1848, to facilitate the performance of the duties of justices of the peace, or its amending Act.

11 & 12 Vict. c. 43.

See also 129 A. [p. 124].

(10.) The clauses 8 Y. [p. 169], providing penalties for fouling water, and 51 San. [p. 169], as to quarantine, are referred to in Chaps. ii. p. 94 and xv. p. 132 respectively.

(11.) For the clause 79 A. [p. 106], under which penalties for injury to waterworks, waste of water, &c., may be imposed, see Chap i., p. 92.

X.—SAVING CLAUSES.

(1.) Saving clauses rendered necessary by abolition of Acts, reconstitution of Authorities, changes of administrative areas, &c. &c., are not referred to in the following clauses, but will necessarily form part of the New Statute. Such clauses having become necessary in successive statutes are found there, but are not given in the Arrangement of Sanitary Statutes, with the exception of

9 B. [p. 170]. (Keeping alive "Proceedings, contracts, &c., begun or made under any section of A. which is repealed by B.") and perhaps one or two other sections.

(2.) 43 X. [p. 169]. Saves,

(*a*.) Jurisdiction and authority of Commissioners of Sewers or of Drainage, and any course of proceeding which they might adopt.

(*b*.) Any power to abate nuisances at common law.

(*c*.) Any jurisdiction in respect of nuisances under Metropolitan Smoke Act.

The clause also saves,

(*a*.) Local Acts,

(*b*.) Common Lodging-houses Acts,

(*c*.) Municipal Corporations Act,

(*d*.) Public Health Act,

(*e*.) Any Improvement Act,

(*f*.) Any Act incorporated with such Acts,

(5.) The penalty for injuring property belonging to the Local Authority should be increased, and the Justice should be enabled, in certain aggravated cases, to imprison without option of fine.

Any works, property, or notices of the *Central* Authority should receive equal protection.

X.—SAVING CLAUSES.

(2.) The latter list in 43 X. [p. 169] will have to be dealt with in the New Statute.

and enables the Authorities under those Acts to proceed as they think fit;
it also gives the Local Authorities constituted under the Common Lodging-house Acts, 1851 and 1853, for the purposes of those Acts, all the powers of Local Authorities under the Nuisance Removal Acts.

(3.) (44 X. [p. 171].) The provisions of this Act shall not extend to,
(*a.*) mines of different descriptions, so as to interfere with or obstruct the efficient working of the same, or,
(*b.*) the smelting of ores and minerals, or,
(*c.*) the manufacturing of the produce of such ores and minerals.

N.B. The former sentences of 44 X. are an amended form of certain words in sub-sections (2) and (3) of 68 B. [p. 170], see next paragraph.

(4.) 68 B. [p. 168], and former sentences of 44 X. [p. 171]. Nothing in the Act shall be construed to authorize any Local Authority,
(1.) To use, injure, or interfere with,
(*a.*) any works whatsoever made by Commissioners of Sewers,
(*b.*) any works whatsoever for draining, preserving, improving land, under any local or private Act, or for irrigating land,
(*c.*) any lands or property vested in War Department,
without consent of the Commissioners, persons acquiring rights under such local or private Act, or the Secretary of State for War.
(2.) To interfere with any river, canal, dock, harbour, lock, reservoir, or basin, so as to
(*a.*) injuriously affect navigation or use thereof, or,
(*b.*) interfere with any towing path so as to interrupt traffic,
in cases where any Corporation, &c., or individual, are by Act entitled to navigate or use such river, &c., or to receive tolls, &c., for navigation or use.
(3.) To interfere with any watercourse so as to injuriously affect the supply of water to any river, &c., in the cases above described in (2);
Provided that the corporation, &c., or individuals are entitled to prevent or to be relieved against such interference.
(4.) To interfere with any bridges crossing any river, &c., in cases above described in (2);
(5.) To execute works in, through, or under any wharves, quays, docks, harbours, or basins, to the exclusive use of which, or to receipt of tolls, &c., for use of which, any corporation, &c., or individuals, are by Act entitled;
without consent of the corporation, &c., or individual, in writing or under seal, or under the hand of their clerk, &c., as case may be.

N.B. 44 X. [p. 171], is wider in terms, and extends the restriction so as to prevent the Local Authority from injuriously affecting the navigation of *any* river or canal, or from diverting or diminishing any supply of water of right belonging to *any* such river or canal.

N.B. A saving clause is appended to 68 B. [p. 168] in favour of rights of Local Boards existing when B. was passed.

(5.) (69 B. [p. 170].) Where any things proposed to be done by Local Authority, and which are not within the prohibition aforesaid, interfere with the improvement of river, &c., or towing path, in which corporation, &c., or individuals, are interested, as above described (68 B. [p. 168]),
Notice shall be given to them, and in case of non-consent arbitrators shall decide,
(a.) Whether any injury will arise to river, &c.
(b.) Whether such injury admits of being fully compensated in money.

(6.) (70 B. [p. 172].)
(*a.*) If arbitrators think that no injury will ensue, Local Authority may proceed.
(*b.*) If they think injury admitting of full compensation will ensue, they shall assess the damages, and works may proceed *after payment.*
(*c.*) If they think injury not admitting of full compensation will ensue, work shall not be proceeded with.

(7.) (71 B. [p. 172].) No transfer of powers or privileges under this Act shall deprive any corporation, &c., or individual, authorized by any Act, to navigate or collect tolls in respect of navigation of any such rights.

(8.) (72 B. [p. 172].) Any such corporation, &c., or individual may, on substituting other sewers, and at their own expense, alter or change level of any sewers, &c., or pipes constructed by Local Authority, and passing under or interfering with such river, &c.
Provided that new works be (*a.*) equally effectual, and (*b.*) certified as such by the surveyor of the Authority.

(3.) 44 X. [p. 171]. So much of this saving clause as is here given should be repealed, and the trades named in (*a*), (*b*), (*c*) left to the operation of the clauses against noxious trades in (X.), which must be enlarged if necessary so as clearly to cover these trades.
N.B.—This repeal will in effect subject the operations in question to provisions which enforce the "best practicable means," but to no other restriction.
It will be observed that this saving clause does not, and must not affect any power of giving or withholding consent to the establishment of any trade.
N.B.—The powers as to abating nuisances at common law must be carefully retained.

(9.) (73 B. [p. 172] and 45 X. [p. 171].) Nothing in the Act or any Act incorporated therewith shall enable any Local Authority to injuriously affect any reservoir, river, or stream, or the feeders of any reservoir, river, or stream, or the supply, quality, or fall of water contained in any reservoir, river, or stream, or any feeders of any such reservoir, river, or stream, in cases where,

(*a.*) They belong to or supply any waterwork established by Act of Parliament, (45 X.);

(*b.*) Any company or individuals are entitled, for their own benefit, to the use of such reservoir or stream, or to the supply of water contained in such feeders, (45 X.); or

(*c.*) Any company or individuals are entitled by law to prevent or be relieved against the injuriously affecting such reservoir, &c. (73 B.)

without the consent in writing of the company or corporation or individual, and also of the owners, in cases where the owners and parties entitled to the use are not the same person.

N.B.—It may not be sufficiently clear whether the words "any reservoir or stream," 45 X. [p. 171], are limited by words "belonging to," &c. This uncertainty must be removed in any section which may hereafter take the place of 45 X.

(10.) (74 B. [p. 174].) Arbitration shall ensue in case of dispute,

(*a.*) whether any sewer, &c., or pipe substituted under 72 B. [p. 172], is equally effectual;

(*b.*) whether supply, quality, or fall of water (described in 73 B. [p. 172] and 45 X. [p. 171]) is injuriously affected under circumstances there described, and the proceedings and the questions decided shall be the same as in case of alleged injury to rivers, &c., 69 B. [p. 170] and 70 B. [p. 172].

N.B. It is not clear in this case whether this arbitration is to take place before works are commenced.

Generally as to Nuisances and Penalties.

65 A. [p. 82]. Nothing in this Act shall be construed to render lawful any act, matter, or thing whatsoever, which but for this Act would be deemed a nuisance, nor to exempt any person from any liability, prosecution, &c.

134 A. [p. 126]. 9 E. [p. 168]. Notwithstanding the liability of any person to any penalty under this Act, he shall not be relieved from any other liability to which he would have been subject if the Act had not been passed.

Provided, 9 E. [p. 168], that no person who has been adjudged to pay any penalty in pursuance of this Act shall, for the same offence, be liable to a penalty under any other Act.

XI.—ON THE TOWNS IMPROVEMENT CLAUSES ACT, 1847.

The following is an analysis of the provisions of the Towns Improvement Clauses Act, 1847. [T]

The Public Health and Local Government and their Amendment Acts, are herein described as "later Acts," a term sufficiently explicit for the present purpose.

On the sections of T. which have not been incorporated by the Local Government Act. observations have been inserted in order to indicate how far they re-appear, in substance or in form, on the pages of the later Acts. 21 & 22 Vict. c. 98, § 45.

Reference has been made in one or two instances to the Nuisances Removal and Sewage Utilization Acts.

Clauses of Towns Improvement Clauses Act, 1847. [T]	Explanation of the Manner in which the Clauses, or the Substance of them, are dealt with in the later Acts.
1. Extent of Act.	Not applicable to new circumstances.
2 & 3. Interpretation clause.	Similar to the interpretation clause of the Public Health Act [A.]
4. Form in which portions of the Act may be incorporated with other Acts.	Not applicable to the new circumstances.
6–12. *Officers, Inspector, Surveyor, and Officer of Health.*	
	There is nothing of importance in these clauses which the later Acts do not contain.
12. Duties of officer of health defined. N.B. This clause, with some unimportant verbal alteration, forms § 132 of the Metropolitan Local Management Act, 1855.	This definition of duties is not in the later Acts. 18 & 19 Vict. c. 120, § 132.
13–18. *Surveys and Plans.*	
	41 A. & 42 A. [p. 46] are simpler clauses, and give every necessary power. But see Suggestions, Part IV. p. 84, supra.
19, 20. *Lands.*	
	The matter is sufficiently provided for in the later Acts, 75 B. [p. 114] &c., see Suggestions, Part VI., chap. xix. (on Compulsory Purchase) p. 142, supra.
21. *Compensation.*	
	Sufficiently provided for by the compensation clauses of the later Acts.

22–34. *With respect to making and maintaining the Public Sewers.*

22. All public sewers vest in Commissioners, as does also the management.
23. Drainage districts to be formed within district.

Provided for by 43 A. [p. 62].
Unnecessary, as the general powers fully include this power.

24. Power to Commissioners to construct sewers where none exist, making compensation to owners of property.
25. Commissioners may alter sewers from time to time.
26. Commissioners not to destroy existing sewers without providing others.
Penalty for neglect.

Provided for by 45 A. [p. 62].
Provided for by 45 A., and 4 M. [p. 62].
45 A. [p. 62] deals with this matter.
N.B. But no penalty is inflicted on the Authority in default.

27. Estimates to be prepared.

Provided for by a general clause 85 A. [p. 118].

28. As to the expense of making new sewers.
Deduction to be made where lands, &c. were previously sufficiently drained.
29. As to expense of maintaining and cleaning sewers, &c.

Provided for in 29 B. [p. 148].
The general clauses as to "expenses and rates" either now do or hereafter should contain sufficient provisions.

30. Penalty.

This power is sufficiently provided by 47 A. and 9 San. [p. 68].

31. Vaults and cellars under streets not to be made without consent of Commissioners.

This is dealt with by 47 A. [p. 68]; but recent local Acts have the clause more in the form of T "All such vaults, "arches, and cellars shall be "substantially made, and so "as not to interfere or communicate with any sewers "belonging to the Commissioners."
Not in recent Acts.
Should form part of the New Statute. See Suggestions, Part VI. chap., iii. p. 94.

32. The Commissioners may stop any street and prevent all persons from passing along and using the same for a reasonable time during the construction, alteration, repair, or demolition of any sewer or drain in or under such street.

Not in recent Acts.
Should form part of the New Statute. See Suggestions, Part VI. chap. iii., p. 94.

33. All sewers and drains within the limits of the special Act, whether public or private, shall be provided by the Commissioners or other persons to whom they severally belong with proper traps or other coverings or means of ventilation so as to prevent stench.
34. Sewers may be used by owners and occupiers of land beyond limits of town or district, on terms and conditions to be agreed upon.

48 A., 8 C., and 9 San. [p. 68], contain corresponding provisions.

35–46. *With respect to the Drainage of Houses.*

35. Commissioners empowered to construct drains from house, charging owner, &c. with the expense.

49 A. [p. 68] deals with the same matter (see also 8 San. [p. 68]); but these Acts impose the duty of making this connecting drain on the owner or occupier.

36. No house to be hereafter built without drains being constructed.

49 A. [p. 68] deals with this matter also; and indicates progress, because the section of T., in clear and express terms, points to the construction of the drain into "some "public river into which "the Commissioners are empowered to empty their "sewers."
The general byelaw clause 34 B. [pp. 72 and 98], passed in substitution for 53 A. and 72 A., treats this matter in a better mode.

37. Where houses are rebuilt the level shall be sufficient to allow a drain to be constructed.

34 B. provides for this.
Not in recent Acts.
As to the New Statute, See Suggestions, Part VI. chap. ix., p. 112.

38. Notice of buildings and rebuildings, showing the level, to be given to the Commissioners.
39. Commissioners may within fourteen days signify their disapproval of the level.

34 B. provides for default in giving notice, &c. in case of new buildings.
Not in recent Acts.

40. Houses built without notice and plan, or at level different from that fixed, or contrary to the provisions of this or the special Act, may be altered.
41. If Commissioners fail to signify their approval, &c. within fourteen days, parties may proceed without.
42. Commissioners may require owners of houses to provide privies and ashpits for the same.
43. Owner shall provide privy. Penalty for neglect.
44. Drains, privies, and cesspools to be kept in good order by owners.

51 A. [p. 70] contains corresponding enactments.
This is abundantly provided for under the later Acts, *e.g.*, 54 A. [p. 74], 58 A. [p. 76], 59 A. [p. 78], and the Nuisance Removal Acts.
49 A. [p. 65] and other sections make sufficient provision.

If owners neglect, Commissioners may cause the same to be done, and charge the owners with the expense.
45. As to the inspection of drains, privies, and cesspools.

54 A. [p. 74] provides for inspection and examination. Regard must also be had to the general powers of inspection, which would seem to meet the case in great measure.

46. Penalty on persons making or altering drains, &c. contrary to the orders of the Commissioners.

Not in the later Acts, except so far as such proceedings may infringe building byelaws.

47–56. *Paving and Maintaining.*

47. Management of streets which are or may become highways is vested in the Commissioners.
48. Commissioners to become Surveyors of highways.

Provided for by 117 A. [p. 86], which makes Local Boards inspectors of highways.
Not in the later Acts. This point must be carefully provided for. See Suggestions, Part VI. chap. viii. p. 109.

49. Commissioners liable to inpictment for want of repairs.

See 117 A. [p. 86].

50. Road trustees not to collect tolls within limits of Act, or to pay out money on roads within district.
51. Power to Commissioners to pave, &c. public streets, changing levels as they think fit.

Provided for by 68 A [p. 88.]

52. Commissioners may place fences to footways, &c. The Clause runs thus:—"The Commissioners shall from time to time place such fences and posts on the side of the footways of the streets under their management as may be needed for the protection of passengers on such footways, and they may place posts in the carriageways of such streets, so as to make the crossing thereof less dangerous for foot passengers; and they shall from time to time repair any such fences or posts, or remove the same, or any obstruction to any such carriageway or footway as they think fit."	Provided for by 68 A. [p. 88], but less perfectly.
53. Where streets, although public highways, have not been heretofore paved, Commissioners may cause them to be paved at the expense of the occupiers of the adjoining lands.	Not in the later Acts.
54. If any street, not being a public highway, be paved, &c. to satisfaction of Commissioners, they may, with certain formalities and subject to certain consents, declare same public highway.	This is provided for in 70 A. [p. 90], 38 B. [p. 90], and 42 B. [p. 92].
55. The Clause runs thus:—"If any street, not being a public highway, at the passing of the special Act, be thereafter to the extent of two third parts thereof paved and flagged, or otherwise made good to the satisfaction of the Commissioners, then, on the application of the owners of the lands abutting on such parts of the said street as have been so made good, the Commissioners may require the owners of the buildings or lands abutting on the remainder of the said street, to pave and flag, or otherwise make good to the satisfaction of the Commissioners, such remainder of the said street or such parts thereof as front such last-mentioned buildings and lands, within a reasonable time, to be fixed by the Commissioners; and if such remainder of the said street, or any such part thereof as aforesaid, be not made good as aforesaid within the time so fixed, the Commissioners may cause the part not so made good to be made good, and the expenses which shall be incurred by the Commissioners in respect thereof, shall be repaid to them by the owners by whom such paving ought to have been done respectively, and such expenses, if not forthwith repaid by such owners, shall be recoverable from the occupiers of such buildings and lands as herein-after provided, with respect to private improvement expenses, and when the whole of the said street is paved and made good to the satisfaction of the Commissioners, they shall, by writing, under their common seal if they be incorporated, or if they be not incorporated then under the hands of five of the Commissioners, declare the same to be a public highway, and thereupon the said street shall become a public highway and shall for ever afterwards be repaired by the Commissioners, and such declaration shall be entered among the proceedings of the Commissioners."	Not in the later Acts. The principle of this section should appear in the New Statue, see Suggestions, Part VI. chap. viii. (2) p. 110.
56. Penalty on persons altering pavements without consent of Commissioners.	68 B. [p. 88] deals with this point and satisfactorily.

57–63. *Laying out new Streets.*

Provided for in the later Acts, see Byelaw clause 34 B. [pp. 72 and 98]; but in T the party may proceed if the Commissioners do not fix the level within six weeks.

But see 71 A. [p. 92] as to gas and water pipes.

64, 65. *Naming Streets and Numbering Houses.*

Incorporated.

66–74. *Improving the Line of Streets and removing Obstructions.*

The clause runs thus:—"The Commissioners may allow, upon such terms as they think fit, any building within the limits of the special Act to be set forward, for improving the line of the street in which such building adjacent thereto is situated."	Incorporated, and also in the sections of recent Acts, see 28 C. [p. 98.]
67. Power to purchase to widen streets.	Incorporated; the later Acts also give compulsory powers under provisional order. See 73 A. [p. 96.]
68. Houses projecting beyond line of streets when taken down to be set back.	Incorporated; and also provided for in the later Acts. See 35 B. [p. 96].
69–73. Relate to projections, *e.g.*, porches, doors opening inwards, coverings for cellars.	Incorporated; not in the later Acts.
74. Waterspouts to be affixed to houses or buildings.	Incorporated; not in the later Acts.

75–78. *Ruinous or Dangerous Buildings.*

Among those provisions are certain which deal with the expenses.	Incorporated; not in the later Acts.

79–83. *Precautions during the construction and repair of Sewers, Streets, and Houses.*

Incorporated; not in the later Acts.

84–86. *Objections to Works in certain cases.*

This is a matter of appeal. No corresponding sections appear in the later Acts, (see however 120 A. [p. 160]; but the New Statute should deal fully with the subject of appeals.

87–98. *Cleansing of Streets.*

Provided for by 32 B. and 56 A. [p. 76]. See Suggestions, Part VI., Chap. vii., p. 106, supra.

99–107. *Nuisances.*

99. Stagnant pools of water and other annoyances in a house to be removed.	59 A. [p. 78] is a better clause and is partly copied from 99 T. 58 A. [p. 76] deals with "stagnant pools, ditches, &c."
100. Regulations to prevent accumulations of dung, &c., in any cow-house, stable, &c., not in farm-yard.	See 53 San. [p. 69] (an urban clause), and other sections dealing with accumulations of refuse.
101. Filth to be removed on certificate of officer of health.	59 A. [p. 78] deals with this and more effectively. No certificate is there required.
102. Houses to be whitewashed and purified, on certificate of officer of health, &c.	60 A. [p. 80] in great measure copied from this section, does not deal with drains.
Drains, &c. to be amended on like certificate.	As to drains, see 54 A. [p. 74] and provisions of Nuisance Removal Acts.
103. Interment in any grave without leaving 2 ft. 6 in. clear of soil above the coffin.	Not in the recent Acts.

104–106. Noxious trades.	27 X., 28 X. [pp. 82 and 83] contain provisions in many respects identical, but less satisfactory, because convictions under them are more difficult. It is there made necessary that the *complainant* prove that the "best practicable" means have not been adopted. See also 64 A. [p. 80].
106. Commissioners may direct any public prosecution for any public nuisance whatever, and order the costs to be paid out of rates.	30 X [p. 49] contains similar provisions. The New Statute must give this power to all Authorities.
107. Act not to affect nuisances at common law.	65 A. [p. 82] and 43 X. [p. 169] make similar provisions.
108. *Smoke.*	Incorporated, but in our judgment rendered unnecessary by 19 San. [p. 61].
109. *Construction of Houses for Prevention of Fire.*	Fully provided for in the byelaw section 34 B. [pp. 72 and 98].
110–112. *Ventilation of Public Buildings.*	
Before beginning to build any building intended to be used as a church, chapel, or school, or place of public amusement or entertainment, or for holding large numbers of people for any purpose whatsoever, within the limits of the special Act, the person intending to build the same shall give 14 days notice in writing to the Commissioners, and shall accompany such notice with a plan and description of the manner proposed for its construction with respect to the means of supplying fresh air to such building.	Probably the byelaw section 34 B. [pp. 72 and 98] makes sufficient provision.
113–115. *Cellars.*	
113. Cellars in *courts* not to be occupied as dwellings after Commissioners have given notice to the owners.	Not in the later Acts.
114, 115. Cellars, although not in courts, are not to be let separately, except as warehouse, or to be occupied as dwelling-houses unless of not less than height named.	68 A. [p. 88] deals with cellars, and more effectively.
116–118. *Public Lodging-houses.*	
N.B. Clause 116 defines "a public lodging-house." The clause provides— "It shall not be lawful to keep or use as a public lodging-house within the limits of the special Act, any house not being a licensed victualling house, which shall be rated to the relief of the poor at a lower sum than 10*l.*, nor in any case unless the house shall have been registered as a common lodging-house in a book to be kept by the Commissioners for that purpose; and every house shall be deemed a public lodging-house within the meaning of this Act in which persons are harboured or lodged, for hire for a single night, or for less than a week at one time, or any part of which is let for any term less than one week."	The section [66 A. p. 82] and the Common Lodging-house Acts, 1851 and 1853, contain provisions as to common lodging-houses. The section more especially corresponding to those in T. is 66 A.

119, 120. *Lighting.*	
119. Commissioners may contract for lighting the streets, provide lamp posts, &c. and do necessary works. 120. Provides for deciding disputes as to price of gas.	46 B. [p. 100]. "Where Lighting and Watching Act is adopted in district conterminous with local board district, that Act is superseded by B., and all lamps, &c. vest in local board." 3 & 4 Will. 4. c. 90. A Provisional Order Confirmation Act, 1849, enables all Authorities which may execute the Act to *contract* for supply of gas. 12 & 13 Vict. c. 94. We recommend that urban Authorities be enabled to adopt the Act. See Suggestions, Part IV., chap. vi., p. 104, supra.
121–124. *Water Supply.*	
121. Power to Commissioners to maintain and construct public cisterns and pumps for gratuitous use, and cause same to be supplied with water. Power to supply water to public baths and wash-houses.	These sections (except the proviso) are incorporated with 45 B. [p. 98]. But 78 A. [p. 106] contains provisions closely resembling, and indeed partly a copy of, 121 T.
But the Commissioners may not construct any such new works without the approval prescribed in the Act, or if none be prescribed, without the approval of the Commissioners of Woods. *Provided* that they shall cause local inquiry to be made in manner provided under the Preliminary Inquiries Act, 1846, and shall withhold their inquiry (*sic*) if upon such inquiry they shall be satisfied that an equally good and abundant supply of water for such public purposes can be procured as cheaply by any other means than by the construction of such new works.	*Note.* This proviso is not incorporated with B. (see 45 B. [p. 98]). 9 & 10 Vict. c. 106.
122. Commissioners may contract for such supply of water as they shall think necessary for the purposes of this or the special Act. 123. For ascertaining price in case of dispute.	Incorporated, 45 B. [p. 98], but 75 A. [p. 104] contains these powers.
Fire Plugs.	
124. Commissioners may cause fire plugs, &c. to be provided and maintained.	Incorporated, 45 B. [p. 98], but the Waterworks Clauses Act, 1847, is much more complete. 10 & 11 Vict. c. 17, §§ 38–43.
125–131. *Slaughter-houses and Knacker's Yards.*	
	Incorporated with B. (§ 45, [p. 98]. There is also 62 A. [p. 80], which enables Local Boards to *provide* slaughter-houses (see below, 134 T.).
132, 133. *Provisions as to certain matters authorised to be done by "Special Order only."*	
	These sections are not required in recent Acts, inasmuch as they do not provide any procedure by "special order only." If, however, the legislature restrains the action of the new Authorities by enacting that certain things are to be done by "special order only," provisions in this sense will become necessary.

134. *Slaughter-houses.*

(N.B. Special order required.)

62 A. [p. 80] enables Local Boards to provide slaughter-houses (see above 125 to 131 T).

135. *Commissioners may purchase, &c. Places for Public Recreation.*

(N.B. Special order required.)

Provided for by 74 B. [p. 102].

136–141. *Baths and Washhouses.*

9 & 10 Vict. c. 74.

(N.B. Special order required.)

At present imperfectly provided for by the Baths and Washhouses Act; but the new (urban) Authority must be empowered to adopt that Act.

142. By "special order," Commissioners may make application to Parliament for additional powers, and may defray expenses out of rates.

Not in recent Acts.

143. *Clocks.*

Incorporated.

144, 145. *Execution of Works by Commissioners.*

The clause runs thus:—"The Commissioners shall, for the purposes of this or the special Act, have power by themselves or their officers, to enter at all reasonable hours in the daytime into and upon any buildings or lands within the limits of the special Act, as well for the purpose of inspection, as for the purpose of executing any work authorised to be executed by them under this or the special Act, or any Act incorporated therewith, without being liable to any legal proceedings on account thereof: Provided always, that, except where herein or in the special Act it is otherwise provided, the Commissioners or their officers shall not make any such entry, unless with the consent of the occupier, until after the expiration of 24 hours notice for that purpose given to the occupier.

The later Acts give powers to enter for examination of premises and execution of works in certain cases, *e.g.*, 49 A. [p. 68], 51 A. [p. 70], 58 A. [p. 76]. See also Suggestions, Part VI., chap. xvii., p. 140, and passim.

145. Every person who shall at any time obstruct the Commissioners, or any person employed by them in the performance of anything which they are respectively empowered or required to do by this or the special Act, or any Act to be incorporated therewith, shall be liable to a penalty not exceeding five pounds.

Provided for by 148 A. [p. 168]. See also 36 X. [p. 167], and 14 R. [p. 167].

146–155. *Execution of Works by Owners, Private Improvement Expenses, &c.*

These sections are the basis of the provisions of A. and B. relating to these matters. They are no longer necessary in a "Clauses Act," as the new legislation will make the necessary provisions for all these purposes.

156–184. *Rates.*

The above remarks apply to these sections.

185–190. *Appeal as to Rates.*

Ditto.

191–199. *Recovery of Rates.*

Ditto.

200–207. *Byelaws.*

The provisions as to bye-laws in the later Acts appear sufficient.

208. Penalty on pulling down boards.

148 A [p. 168].

209. Tender of amends.

Not in recent Acts.

210–213. *Recovery of Damages and Penalties.*

210. Clauses of 8 & 9 Victoria, as to recovery of damages, &c.

The New Statute should contain all necessary provisions on these matters.

211. In Ireland, part of the penalties to be paid to guardians.

Not within the range of our inquiry.

212. Things required to be done by two justices may, in certain cases, be done by one.

See San. 54 [p. 168].

213. Penalties of perjury for false evidence.

Provided for by 147 A [p. 168].

214–216. *Access to Special Act, &c.*

Not applicable to the new circumstances.

We conclude our Report by giving the leading features of our scheme in the form of Resolutions, as follows:

iv. RESOLUTIONS.

As to the new Statute Law generally.

1. That it is desirable to make law concerning Public Health as simple and uniform as possible, and, with a view thereto, to repeal, as far as may be practicable, the existing general Acts, and to make amended and more extensive provision, in respect of their subject matter, by one comprehensive Statute.*

2. That classing the existing Acts concerning Public Health as:

(1.) General.
(2.) Subsidiary (such as the Burial Acts, the Baths and Washhouses Act, &c., &c.), and
(3.) Local or Special,

See p. 11.

whilst it will be found practicable at once to repeal and consolidate the provisions of the general statutes, the subsidiary statutes cannot be included in such consolidation, and as regards the Local Acts, the New Statute should be in force concurrently with them, except so far as it may be opposed to, or restrictive of, their provisions: and that power should be given to amend or repeal Local Acts, where expedient, by Provisional Order.

3. That instead of the present scheme of law, under which it rests to a great extent with the localities to adopt, wholly or partly, or to remain without, the provisions of the existing general Acts, it is expedient that there should be no option left with the localities to adopt or escape from the provisions of the New Statute, but that, with necessary exceptions, they should be applicable everywhere.

4. That with a view to adapt, so far as may be, the New Statute to the varying circumstances of localities, it is expedient that such of its provisions as are only applicable to towns or urban districts should be distinguished as "urban," some few provisions, only applicable to rural districts, being also distinguished as "rural"; the rest of the Statute being applicable alike to both urban and rural districts.

As to the present and future Local Health Authorities.

5. That there should be one Local Authority for all Public Health purposes in every place, so that no area should be without such an Authority, or have more than one.

6. That, upon the repeal of the General Acts under which they may have been constituted, or from which they may have adopted provisions, it will be expedient to save and continue existing Local Boards and their Districts,† with their property and liabilities.

7. That as "Nuisance Removal," "Diseases Prevention," "Sewer," and some other Authorities will merge, the New Statute should, with proper modifications of their powers and duties, make provision as to their works, property, contracts, and liabilities.

8. That from the time at which the New Statute shall come into operation, it is expedient that Town Councils, Improvement Commissioners administering special Acts, and Local Boards, each within the limits of the respective jurisdictions from time to time assigned to them, and Guardians of Unions in all other places, should be the sole Local Authorities for administering the provisions of the new Sanitary Law.

9. That it is desirable that the Members of all Local Health Authorities (with the exception of the *ex-officio* members where Guardians are such Authorities), should be elected, and should retire by rotation; and that the provisions in the New Statute as to the number and qualification of the members and electors, the scale of voting, and the mode of election, should be substantially the same as is the case now under the Public Health Act (1848), and the Local Government Act (1858).

10. That where Guardians are the Local Health Authority it is desirable, in order to provide for the continuity of such Authority, that the Guardians should be elected for three years, with fit provision for the annual retirement of a part of the Board.

11. That in all urban districts the duties of the Highway Surveyors should, as provided by the existing law in the case of Local Boards of Health, be executed by the Local Health Authority; and that in rural districts the Local Authority should have power to make and maintain in the highways all sewers and works, and do all acts necessary for Sanitary purposes.

* It will be borne in mind that all these resolutions have reference only to England and Wales exclusive of the Metropolitan area.

† This will include districts combined for *all* purposes, and, as all liabilities and contracts of District Boards will be preserved, arrangements of *part* combination will be thereby preserved.

12. That if, as has been suggested to us, the local administration of—(1) Health; (2) Poor Law Relief; and (3) Highways, should be in the hands of the same Authority in each district, Poor Law Unions and the Highway Districts would require revision.

As to the Central Authority.

13. That it is expedient that the administration of the Laws concerning the Public Health, and the Relief of the Poor should be presided over by one Minister as the Central Authority; whose title should clearly signify that he has charge of both Departments: an arrangement which would probably render necessary the appointment under him of permanent Secretaries to represent the respective Departments.

14. That the Central Authority should have full general powers of supervision and inspection, and defined powers of control and direction over all Local Health Authorities; and with this view it is essential to transfer to it the Medical, and the Veterinary departments of the Privy Council, the Local Government Act Office, the Registrar General's Office, and all sanitary powers and duties now exercised by or under the Privy Council, the Home Office, or the Board of Trade respectively.

15. That the Central Authority, upon or without the application of a Local Authority, or other interested party, should, after local inquiry, have power, by absolute order in unopposed cases, and by Provisional Order in opposed cases, amongst other things:—

1. To unite or combine Districts and Authorities for all or any purposes of their constitution;
2. To divide Districts;
3. To make additions to and separations from them;
4. To dissolve and readjust them;

and in each case by absolute or, as the case may be, Provisional Order, to prescribe the necessary terms and conditions.

16. That the several Reports bearing on Local Administration or Public Health now prepared in separate departments, and such other Reports as may from time to time be held to belong to the department of the Central Authority, should be periodically issued as parts of one series under the instructions of that Authority, and that the information thus obtained should be made available as widely as possible.*

17. That it is desirable that the Central Authority should, with the consent of the managers, inspect hospitals and dispensaries supported by voluntary contributions; and suggest means for the organization of such institutions, and for their co-operation with each other, and with the rate-supported hospitals.

As to the action and powers of Local Health Authorities.

18. That Local Health Authorities, through the absolute order in unopposed cases, and through the provisional order in opposed cases, of the Central Authority, and on terms and conditions approved by it, should have power of union or combination for all or any of the purposes of their constitution; *e.g.* joint sewerage works, extended drainage works, and the like.

19. That for the more convenient performance of their duties, and exercise of their powers, all Local Health Authorities should be enabled to appoint Committees of their own body, and to delegate to them defined duties and powers; and the Acts of such Committees should be reported to the appointing Authority, and be either absolute or require confirmation, as that Authority should on their appointment direct.

20. That every Local Health Authority should have—

(1.) At least one Officer of Health, being a legally qualified medical practitioner, or possessing such other qualification in medical science as shall be declared by the Central Authority to be satisfactory: in Rural Districts the Medical Officers of Health being, as a rule, the Poor Law Medical Officers acting in their respective medical districts: and where this is not practicable or expedient, the relation of the Medical Officer of Health and the Poor Law Medical Officers to each other being arranged by the Local Health Authority with the approval of the Central Authority.
(2.) At least one Inspector of Nuisances
(3.) A Clerk;
(4.) A Treasurer;
(5.) A Surveyor } where necessary;
(6.) Other minor officials }

With the sanction of the Central Authority, more than one of the above offices might be held by the same person, except those of Treasurer and Clerk.

* See "Observations," p. 35.

21. That the Officers of every Local Health Authority should be appointed and removed by such Authority; but Medical Officers of Health should be *appointed* subject to the *veto*, and should not be removed without the sanction of the Central Authority; and Inspectors of Nuisances should be removable either by the Central or the Local Authority.

22. That every Medical Officer of Health should have the powers of an Inspector of Nuisances, and should be authorised to call for reports from any Inspector of Nuisances in his district; and that every Report made by an Inspector of Nuisances to the Local Health Authority should also be made to the Medical Officer of Health of that Authority.

23. That inasmuch as in frequent instances the public health is injuriously affected by the improper holding up of waters, and by flood waters, and by the neglect of proper draining operations, and as this mischief might frequently be remedied or prevented without undue disturbance of other interests, it is expedient that in such cases the Local Health Authorities should be empowered on proper terms to execute works of drainage.

24. That it is advisable that in addition to the powers of combination *inter se* elsewhere recommended, in Resolution 18, Local Health Authorities should be empowered, with the consent of the Central Authority, to take part in the formation of Boards, under the Land Drainage Act, 1861, or otherwise, for carrying out more extended operations of drainage and water economy than can be effected within their respective districts, and that each Local Health Authority within each such extended jurisdiction should be represented by one or more members of its own body on the Board.

25. That in order to secure the due consideration of all interests possibly affected by any such operation as in this Resolution mentioned, there should be no purchase by a Local Health Authority of water, or of land for the purpose of yielding water for public water supply, without the consent of the Water-Shed Board (if any) of the district affected, or of the Central Authority if there be no such Water-Shed Authority, or of the Central Authority on appeal from the Water-Shed Authority; and that in all proceedings before the Central Authority for so acquiring water, or land for yielding water for public supply, the Water-Shed Authority (if any) having jurisdiction in the district should be entitled to appear and to be heard.

26. That subject to the conditions suggested in the foregoing Resolutions, it is expedient that Local Health Authorities should have the power, through application to the Central Authority, and on Provisional Order, made after a public hearing of the parties, to acquire by compulsion water, and land for yielding water, whether within or without their districts, for the purposes of public supply.

27. That in respect of those existing powers and duties of Local Health Authorities which are not specifically referred to, it is recommended that the New Statute should, with necessary amendments, re-enact them.

As to the supervision and control by the Central Authority.

28. That the office of Chief Medical Officer now under the Privy Council should be continued in the new Central Department.

29. That all Local Health Districts should be from time to time visited by Inspectors of the Central Authority.

30. That the additional inspection thus required under the new Sanitary Law may be provided for by the employment of Inspectors already attached to the departments which will be under the Central Authority or new Minister, with such increase of the Staff as may be necessary.

31. That a limited number of Special Inspectors and Referees, with engineering, medical, chemical, or legal knowledge, would be required by the new Central Authority; some to be employed permanently, and some on special occasions.

32. That on the omission of any Local Health District to elect members to such a Board as prescribed by the New Statute, the Central Authority should have power to appoint persons qualified for election in the ordinary course to be members thereof, and should have power to annul the appointment of such persons so soon as the Local District should have duly elected members for itself; the appointed members in the meantime to exercise all the powers of members elected in the ordinary course.

33. That the due action of Local Health Authorities should be secured by penalties on default, recoverable with the consent of, or by, the Central Authority; and that the Central Authority should, on the default of a Local Health Authority, have power to compel its action by legal proceedings and by enforcing penalties; and should also have power to interpose and perform, through such agency as might appear fitting, the neglected duty of the Local Health Authority (including the execution of any works within the powers of the Local Authority which may be deemed by the Central Authority to be necessary), and to provide for the expense by imposing rates, borrowing on the security of them, and taking other necessary measures.

34. That the protection of rivers and water-courses from every avoidable pollution is highly essential and necessary; and whilst functions in aid of such protection must in the absence of other conservancy, be assigned to the Central Authority, it is indispensable that the powers of the New Statute should be so restricted as in no case to authorise or occasion any such pollution through their exercise.

As to the registration of death and sickness.

35. That in addition to the duties prescribed by the existing Registration Acts, it should be made the duty of the Registrar General, and of the District Registrars, to register disease and sickness, or specified cases of disease and sickness.

36. That in every case of death the medical attendant, or where none the District Medical Officer of Health, should certify to the District Registrar the cause of death; and should also in cases of suspicion, but not otherwise, give notice to the Coroner.

As to the audit of accounts.

37. That the accounts of all Local Health Authorities should be audited, by Auditors who should hereafter be appointed, by the Central Authority, in the same manner as the Poor Law Auditors are now appointed by the Poor Law Board.

As to certain old Corporations.

38. That it is expedient, with reference to such Municipal Corporations, existing at the time of the passing of the Municipal Corporation Act of 1835, as were not included in the provisions of that Act, that there should be further Legislation, by which their Authorities and property might be made available for Sanitary Administration.

All which we humbly submit for Your Majesty's gracious consideration.

C. B. ADDERLEY.
ROMNEY.
DUCIE.
ROBT. MONTAGU.
RUSSELL GURNEY.
STEPHEN CAVE.
THO. WATSON.
C. B. EWART, Lt. Col., R.E.
J. R. M'CLEAN.
SAM. WHITBREAD.
JOHN T. HIBBERT.
EVAN M. RICHARDS.
GEO. CLIVE.
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BENJN. SHAW.
JAMES PAGET.
HENRY W. ACLAND.
R. CHRISTISON.
WM. STOKES.
JOHN LAMBERT.
FRANCIS T. BIRCHAM.

WILLIAM H. BIRLEY, Secretary.

For the reasons which I have given in my paper on "Watershed Boards," I dissent from those parts of the Report which are inconsistent with the establishment of such Intermediate Authorities between the Local and Central Authorities.

ROBT. MONTAGU.
