

(No. 58.)



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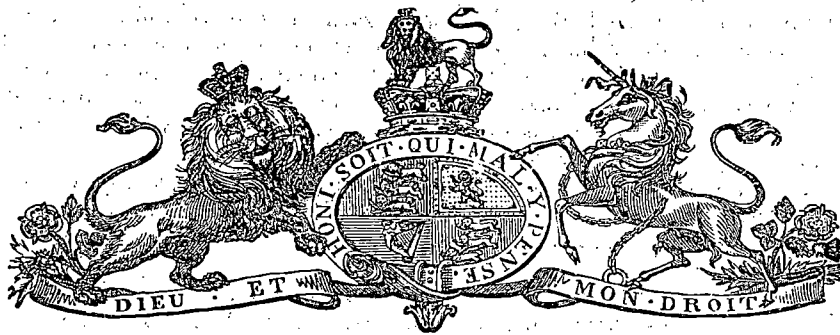
PARLIAMENT OF TASMANIA.

LOCAL GOVERNMENT BILL, (No. 1):

REPORT OF JOINT COMMITTEE OF BOTH HOUSES
OF PARLIAMENT.

Brought up August 24, 1899, and ordered by both Houses of Parliament to
be printed.

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JOINT COMMITTEE of both Houses of Parliament appointed on the 18th day of August, 1898, to consider and report upon "The Local Government Bill."

MEMBERS OF THE COMMITTEE.

Legislative Council Members.

MR. COLLINS.
MR. DODERY.
MR. GRANT.
MR. PIESSE.
MR. LAMB, succeeded by
MR. PERKINS.

House of Assembly Members.

MR. ATTORNEY-GENERAL.
MR. LEWIS.
MR. REIBEY.
MR. WOOLLNOUGH.
MR. AIKENHEAD, succeeded by
MR. DAVIES.

DAYS OF MEETING.

Wednesday, August 24, 1898; Thursday, September 15, 1898; Wednesday, September 21, 1898; Thursday, September 29, 1898; Friday, October 7, 1898; Friday, October 28, 1898; Wednesday, May 31, 1899; Thursday, June 1, 1899; Wednesday, June 7, 1899; Friday, July 7, 1899; Friday, August 18, 1899.

R E P O R T.

THE Joint Committee of the Legislative Council and House of Assembly have the honour to report:—

1. That the Bill mentioned in their Progress Report of 31 May last has been completed, (See Appen x "C,") and is now submitted to the consideration of your Honourable Houses.

2. Your Committee embody herein the Report of their Sub-Committee on Drafting, which has been adopted by your Committee, and have caused—

- (i.) A Paper entitled "Information compiled for the Sub-Committee on Drafting, as to various Local Government Systems;" and
- (ii.) The Synopsis of the Acts proposed to be repealed, with references to the corresponding Clauses in the new Bill (mentioned in Paragraph 6 of the Report of the Sub-Committee on Drafting) to be made Appendices to this Report. (Appendices "A." and "B.")

3. Your Committee have not been able to overtake the important work of defining the Areas to be constituted under the Bill, and recommend that this should be entrusted to a Commission, as proposed in Clause 616 of the Bill.

REPORT OF SUB-COMMITTEE ON DRAFTING.

Appointment and Meetings of Sub-Committee.

(1.) YOUR Sub-Committee were appointed on 28th October last, and have since held 20 meetings.

Consideration of the Bill referred to Joint Committee.

(2.) After deliberation upon the Bill referred to the Committee, it was unanimously agreed that, having regard to the voluminous character of the existing Statutes relating to Local Government, the provisions of which in some cases overlap, and may be construed in contradictory senses, it was undesirable to add a merely supplementary Act, as the Bill referred would be, and that the proper course to take was to consolidate existing legislation and prepare a Bill embodying with the present law such alterations in the system of Local Government, and such further powers and provisions as might appear desirable, which conclusion was reported to you and embodied in a Second Progress Report presented to Parliament on 31st May last.

The New Bill.

(3.) Your Sub-Committee are now enabled to present such a Bill which, having been drafted by their Chairman, has had a partial consideration from the rest of the Committee, the time at the disposal of its Members having prevented them from thoroughly dealing with all its Clauses.

Acts proposed to be repealed.

(4.) It will be found to provide for a repeal of—

- | | |
|-------------------------------------------------------------------|------------------------------------------------------------------|
| 12 Acts relating to Rural Municipalities and Municipal Districts. | } except as to portions mentioned in paragraph 7 of this Report. |
| 7 Acts relating to Police Government. | |
| 5 Acts relating to Public Health. | |
| 3 Impounding Acts. | |
| 5 Acts relating to Roads— | |
| The Town Boards Act, 1896. | |
| The Trespass to Lands Act, 1862. | |
| The Rural Voting Act. | |
| The Local Public Works Loans Act, 1890. | |
| The Act to amend Law relating to Public Libraries. | |
| And part of The Devonport Corporation Act, 1892. | |

References made to facilitate comparison.

(5.) To facilitate comparison and examination of the new Bill with these Statutes proposed to be repealed, marginal references will be found to their provisions. These references are not made to every Act in all cases, but this omission is where the subject matter is of a formal nature, and common to two or more Sections of the Acts repealed.

Synopsis of existing Sections with corresponding Clauses in new Bill.

(6.) Looking to the importance of the subject of the Bill, and its attempt to deal with so large a mass of important law, it is very desirable that every opportunity should be given for comparison with that law, and to that end the Chairman has prepared a synopsis of the Acts proposed to be repealed, in which will be found, opposite to the number of the existing Sections, the Clause or Clauses in the new Bill dealing with the same subject matter. This synopsis your Sub-Committee present herewith, and suggest that it be printed for circulation with the Bill.

Portions of Police Acts and of Public Health Act yet to be dealt with.

(7.) It will be noted that sundry Sections of the Police Acts relating to such subjects as Suppression of Drunkenness, Vagrants, Chain Droppers, Begging, Obscene Language, the Observance of the Lord's Day, Regulation of Bathing, Drowning of Animals, Dogs at large, Places of Public Resort and Disorderly Houses, Disorderly Persons and Riotous Conduct, and Part III. of "The Public Health Act, 1885," relating to Infant Life-protection, have not been dealt with in the Bill now presented, and that before it becomes law a short Bill embodying these enactments should be prepared.

Bill as it affects the Cities of Hobart and Launceston.

(8.) The repeal of the Police Acts and of the Public Health Acts necessitates the application of portions of the Bill to the Cities of Hobart and Launceston. There are also powers in the Bill which may be considered advisable to confer upon the Corporations of these Cities, either in place of, or in addition to, those they already possess. Clause 6 in the Bill has been left incomplete until it be determined to what extent the provisions of the Bill are to apply to Hobart and Launceston.

Contents of the Bill.

(9.) In drafting those portions of the Bill which are not consolidations of existing enactments, the endeavour has been to keep in view the principles embodied in the first Report of the Joint Committee presented to both Houses

of Parliament on 7th October last, and also to give such fuller powers to the Local Authorities of the future as have been suggested by our own experience in the past, or by consideration of the Local Government Acts of Great Britain, and of other British Colonies.

(10.) The time, appears opportune, for three other Australasian Colonies besides Tasmania have recently had, or still have, under consideration important measures of consolidation relating to Local Government. Thus, from South Australia, New Zealand, and Queensland, especially from the 1897 Bill of the last-named Colony, great assistance has been derived, and not a few hints have come from the Local Government Acts of 1888 and 1894 of England, and the Municipal Act (1887) of Ontario.

Aid from legislation of other Countries.

(11.) The definition of the larger areas contemplated by the Bill, and of such other minor areas as may need consideration to that end has not been attempted, but is proposed to be remitted to a Commission constituted as set out in Clause 616. A considerable amount of information has been gathered in the replies furnished to a series of questions circulated amongst Members of the various Local Bodies throughout the Colony, and others, but the Sub-Committee entrusted with this branch of your work have not been able to report upon the subject, for they in part comprised Members of this Committee, whose time, as already noted, proved inadequate to enable them to overtake fully the work of drafting.

Boundaries.

(12.) It is not expected that the boundaries of any of the existing Towns under the Town Boards Act will need to be altered, and that these, with certain of the Towns long since proclaimed under the Police Act, 1865, of considerable importance, but in which little local action has taken place, may be at once constituted Towns within the meaning given by the Bill to that term. So with most of the existing Road Districts, whose present boundaries will probably be found suitable to allow of their being constituted Rural Districts, with the autonomous powers the Bill provides, but as to any of these not desiring so complete a measure of local responsibility, and as to any "Towns" so called under the Police Act, 1865, not dealt with as above suggested, their necessities may be found to be provided for by leaving their concerns generally in the care of the Shire Council within whose Area the Town or District is situate, but taking advantage of the provisions of the Bill as to Local Districts and Local District Committees for the attainment of such local control, and the exercise of Local Government functions over such subjects as the inhabitants may desire.

Existing Areas.

(13.) The Bill will thus be found to give opportunities for the exercise in Towns and Rural Districts of very full powers by their Councils wherever the people are ready to take upon themselves the contingent responsibility, and also to meet cases where, because the population is smaller or less ready to be burdened with the cares of administering to the fullest extent the Municipal Law now proposed to be placed at their disposal, they are content for a while with a more centralised form of Local Government, but not shut out from caring for such of their own immediate local concerns as they, by being constituted Urban or Local Districts, may secure under the provisions of the Bill the right, through their own Local Committees, of controlling and managing.

Bill attempts to provide for the fullest local control where such is desired, but gives opportunity also for a centralised administration with a more limited application of Local District management of local concerns.

(14.) It is not possible in the Report to deal with the several functions of the Local Authorities contemplated by the Bill, but the Shire Councils are expected to control larger areas than the average of existing Municipalities, as to their care is proposed to be entrusted the Main and Common Roads, the smaller parts of all the minor areas within the Shire, and the collection of rates levied by the included Local Authorities, besides many powers as to Loans, Water Conservation, and larger Local Works, regulation of matters concerning Health, and other matters which will be found in the various Parts of the Bill.

Functions of Shire Councils.

(15.) An important feature of other Australian Local Government measures is not found in this Bill. It is very desirable that the principles upon which subsidies should be granted in the future to Local Authorities be determined by Parliament, and either embodied in this Bill or dealt with in a separate measure.

Subsidies not dealt with.

(16.) Although the volume of the Bill is considerable, it may be noted that, besides taking the place of some 1200 Sections of Acts now on the Statute Book, it provides (with some regard to needs of important Towns already developing and likely yet to be developed), what are expected to be fairly complete powers in

The Bill as contrasted with existing legislation.

regard to such subjects as—

Water Supply,
Prevention of Fire,
Sewerage and Drainage,
Lighting and Power,
Public Recreation and Instruction,
Tramways,
Destruction of Pests and Noxious Weeds,
Joint Undertakings, &c., &c.,

not hitherto so fully dealt with in any Act of general application, besides amplifying many of the powers in the existing Police Government and Health Acts, and providing for the transfer of the functions of the multifarious smaller Boards which, under the various names of Fruit Boards, Cemetery Trusts, Water Trusts, Marine Boards, Trustees of Recreation Grounds and Public Halls, and Boards of Advice call for so many different members of our small rural communities, or call upon the same men on different days and at different places to discharge small Acts of Local Government, which, in the contemplation of the Bill, can be done at one time, in one place, under one management, with one set of officers, with greater efficiency, at less cost of time and money.

F. W. PIESSE, *Chairman*.

N. E. LEWIS.

D. C. URQUHART.

J. B. W. WOOLLNOUGH.

17 August, 1899.

4. Minutes of the Meetings of your Committee are appended..

5. Your Committee desire to place upon record their appreciation of the valuable services rendered by the Honourable F. W. Piesse in the drafting of the Bill now submitted.

THOS. REIBEY, *Chairman*.

*Committee Room, House of Assembly,
18th August, 1899.*

MINUTES OF PROCEEDINGS

WEDNESDAY, AUGUST 24, 1898.

The Committee met at 11 o'clock.

Members present.—Mr. Dodery, Mr. Grant, Mr. Collins, Mr. Lamb, Mr. Piesse, Mr. Reibey, Mr. Lewis, Mr. Woollnough.

The Orders of the Legislative Council and of the House of Assembly appointing the Committee were read by the Clerk.

Mr. Reibey was appointed Chairman.

Resolved, That the Committee proceed to frame Resolutions indicating generally the principles upon which, in the opinion of this Committee, the Local Government Bill should be based. (*Mr. Lewis*.)

Resolved, That a Sub-Committee, consisting of the Chairman, Mr. Piesse, and Mr. Woollnough, be requested to frame Resolutions for the consideration of this Committee. (*Mr. Lewis*.)

The Committee adjourned *sine die*.

THURSDAY, SEPTEMBER 15, 1898.

The Committee met at 11 o'clock.

Members present.—Mr. Reibey (Chairman), Mr. Attorney-General, Mr. Dodery, Mr. Collins, Mr. Piesse, Mr. Lamb, Mr. Lewis, and Mr. Woollnough.

The Minutes of last Meeting were read and confirmed.

Mr. Piesse apologised for the absence of Mr. Grant, who was unable to be present owing to a previous engagement.

The Chairman brought up Report of the Sub-Committee appointed at the last Meeting, and the same was read by the Clerk.

The Committee proceeded to take the said Report into consideration, paragraph by paragraph.

The Committee adjourned till 2.15 to-morrow.

WEDNESDAY, SEPTEMBER 21, 1898.

The Committee met at 11 o'clock.

Members present.—Mr. Reibey (Chairman), Mr. Lamb, Mr. Grant, Mr. Piesse, Mr. Lewis, and Mr. Woollnough.

The Minutes of last Meeting were read and confirmed.

Resolved, That Mr. Piesse be appointed Deputy-Chairman.

The Committee proceeded to further consider the Sub-Committee's Report.

The Committee adjourned *sine die*.

THURSDAY, SEPTEMBER 29, 1898.

The Committee met at 11 o'clock.

Members present.—Mr. Reibey (Chairman), Mr. Dodery, Mr. Piesse, Mr. Lamb, Mr. Lewis, Mr. Woollnough, and Mr. Grant.

The Minutes of last Meeting were read and confirmed.

The Committee proceeded to further consider the Sub-Committee's Report.

The Committee adjourned *sine die*.

FRIDAY, OCTOBER 7, 1898.

The Committee met at 11 o'clock.

Members present.—Mr. Reibey (Chairman), Mr. Dodery, Mr. Collins, Mr. Piesse, Mr. Lewis, Mr. Woollnough, and Mr. Grant.

The Minutes of last Meeting were read and confirmed.

An apology was offered for the absence of Mr. Lamb.

Mr. Piesse brought up from the Sub-Committee new paragraph 11 (in place of paragraphs 11 and 12 in original Report).

The Committee proceeded to consider the said new paragraph 11.

Resolved, That the following Progress Report be agreed to.

The Joint Committee of the Legislative Council and House of Assembly, appointed to consider the provisions of "The Local Government Bill," have the honour to present a Progress Report of the result of their inquiries—

(1.) The Committee, having held several meetings, find that they have only, as yet, been able to determine upon some of the principles which, in their opinion, should be embodied in such an important measure as that under consideration.

(2.) So far as they have been able to arrive at conclusions upon the matter, they have now the honour to recommend—

1. That Parliament constitutes certain Municipalities in addition to those already constituted.
2. That some of the existing Municipalities may be amalgamated.
3. That Municipalities be divided (by Parliament) into Ridings in the first instance. Subsequent alterations to be made, on petition to the Municipal Council, by a majority of persons interested, and, if approved by the Municipal Council, to be submitted for approval of the Governor in Council.
4. That the Municipal boundaries to be defined by the Bill march wherever possible with Electoral boundaries.
5. That, generally, no new Municipality be constituted with a less annual rateable value than £10,000.
6. That, in constituting a new Municipality or amalgamating existing Municipalities, the main consideration in determining an area be the common interests of the people, in so far as they could be conveniently dealt with by a central authority, having special regard to outlets for produce, with main roads leading thereto.
7. In regard to Towns and Rural Districts in Municipalities, the Committee recommend that the Bill provides as follows :—
 - (a) The provisions of "The Town Boards Act, 1896," which are not already included in the Bill, be made part of it :
 - (b) Towns already under that Act to continue to be managed in regard to their special local concerns by their own Boards, unless the Electors vote for vesting control in Council of Municipality :
 - (c) Other proclaimed Towns to which the provisions of "The Police Act, 1865," are applicable, and which provisions it is desirable should also be included in the Bill, or Towns constituted in any way the Legislature may prescribe (provided there be a certain number of people within a defined area, the limit of which to be fixed by the Bill) to have liberty to take on a similar measure of local government :
 - (d) In default of this action by the inhabitants of any such Town, the Council to exercise therein certain of the powers now given by the above-mentioned Acts, and which shall be specified in the Bill :
 - (e) The rest of the Municipality to be constituted into Rural Districts (determined mainly by community of interests as regards local roads), which Rural Districts may be controlled, if the Electors so determine and the Governor approves, by Rural District Boards, of whom the Councillors representing the Rural District shall be *ex officio* Members :
 - (f) The Council in all such cases to be authorised, upon the Electors of the Town or District so determining, to levy separate local Rates to be spent entirely for their benefit upon Recreation Grounds, Libraries, Public Halls, and other local objects under the immediate supervision of the Rural District Boards :
 - (g) To Town Boards and Rural District Boards may also be entrusted the administration of such of the general functions of the Municipality within their respective areas as the Electors may desire and the Council from time to time determine :
 - (h) Whenever the Town or Rural District is sufficiently important, it shall constitute a Riding or Electoral District of the Municipality :
 - (i) These Electoral Districts need not necessarily be on an equality as to size, population, amount of rateable value, or number of Representatives on the Council, nor is it necessary that every Municipality should

contain exactly the same number of Ridings, or be controlled by the same number of Councillors; but the final recommendations of the Committee in regard to these details are deferred pending the obtaining of fuller information:

- (j) All Towns and Rural Districts to be liable to be rated by the Council for the general expenses of the Municipality, and especially for expenditure upon Main Roads (serving more than one Municipality), Roads common to the whole Municipality, including Bridges and Jetties forming part of such Roads, and any other works for the common good of the Municipality;
 - (k) The services of the Council's Surveyors and Road Engineers or Inspectors and the use of any road-making machinery belonging to the Council should be available for local undertakings of Town Boards and Rural District Boards, provided the Council has first approved of the work;
 - (l) Health Officers of Municipalities to be Health Officers of the Towns therein, unless any Town has appointed its own Officer of Health.
8. That the Committee be authorised to sit during the recess.
 9. That Two Members of each House shall form a quorum."
- The Committee adjourned *sine die*.

FRIDAY, OCTOBER 28, 1898.

The Committee met at 11:30 o'clock.

Members present.—Mr. Piesse (Deputy Chairman), Mr. Lamb, Mr. Grant, Mr. Lewis, and Mr. Woollnough.

The Minutes of last Meeting were read and confirmed.

Mr. Lamb handed in three letters from the Wardens of Sorell, Glamorgan, and Spring Bay, with their views on the Bill.

Ordered, That the letters which have been received from various gentlemen throughout the Colony containing their views and making suggestions, be filed and circulated among Members.

The Committee considered the question raised as to their power to sit during a recess of Parliament (*vide Todd's Colonies*, 2nd ed., p. 695, and *May*, 10th ed., p. 43), and it was—

Resolved, That, as each House had ordered its Members to continue to act, it was their duty to carry out such Order, but that the important Constitutional point involved in the practice be brought before both Houses with a view to its not being drawn into a precedent.

Ordered, That a Circular be prepared and sent with a copy of the Questions which have been printed to the Chairmen of Road Trusts, Wardens of Municipalities, Chairmen of Town Boards, Stipendiary Magistrates, and any other persons likely to be able to afford assistance to the Committee in framing the Bill. (*Mr. Lewis.*)

Ordered, That a Sub-Committee on Drafting be appointed, and that Mr. Attorney-General, Mr. Lewis, Mr. Piesse, Mr. Woollnough, and Mr. Collins be of the Committee. Mr. Piesse to be Convener of the first meeting.

Ordered, That a Sub-Committee on Boundaries be appointed, and that Mr. Woollnough, Mr. Grant, Mr. Davies, Mr. Lamb, and Mr. Piesse be of the Committee. Mr. Grant to be Convener of the first meeting.

The Committee adjourned *sine die*.

WEDNESDAY, MAY 31, 1899.

The Committee met at 11:30 o'clock.

Members present.—Mr. Reibey (Chairman), Mr. Dodery, Mr. Piesse, Mr. Grant, Mr. Attorney-General, Mr. Lewis, and Mr. Woollnough.

The Minutes of last Meeting were read and confirmed.

The Clerk laid upon the Table information compiled for the Sub-Committee on Drafting as to various Local Government Systems, by the Deputy-Chairman, the Honourable F. W. Piesse.

Ordered, That the said information be attached to the Report of the Committee. (Appendix A.)

Mr. Piesse, from the Sub-Committee on Drafting, laid upon the Table Parts I. to VII. of the Bill.

Resolved, That the following Progress Report be presented to both Houses. (*Mr. Piesse.*)

"The Joint Committee of the Legislative Council and House of Assembly, appointed to consider the provisions of 'The Local Government Bill,' have the honour to present a further Progress Report—

"(1.) The Committee have been engaged in preparing a measure embodying the principles stated in their Report of 7th October last, and also consolidating the existing Acts relating to Local Government.

"(2.) The work of the Committee is not yet complete, and they now report progress with a view to your Honourable Houses giving such further authority to continue their work as may appear expedient."

The Committee adjourned *sine die*.

THURSDAY, JUNE 1, 1899.

The Committee met at 11 o'clock.

Members present.—Mr. Reibey (Chairman), Mr. Dodery, Mr. Piesse, Mr. Perkins, Mr. Woollnough, Mr. Grant, and Mr. Davies.

The Chairman made a statement on behalf of the House of Assembly Members of the Committee, informing the Committee of the reappointment by the House of Assembly of the original Members of the Committee, and of his statement to the House of Assembly when the Committee would be likely to report the Bill.

Mr. Piesse made a statement on behalf of the Legislative Council Members of the Committee, informing the Committee of the reappointment by the Legislative Council of four of the original Members of the Committee together with Mr. Perkins in place of Mr. Lamb.

The Minutes of last Meeting were read and confirmed.
 The Committee entered upon a discussion of the Bill.
 The Committee adjourned till Wednesday next at 11 o'clock

WEDNESDAY, JUNE 7, 1899.

The Committee met at 11 o'clock.

Members present.—Mr. Piesse (Deputy Chairman), Mr. Perkins, Mr. Grant, and Mr. Woollnough.

Mr. Piesse stated that he had received a communication from the Chairman (Mr. Reibey) apologising for his inability to attend.

The Committee lapsed for want of a quorum.

FRIDAY, JULY 7, 1899.

The Committee met at 11 o'clock.

Members present.—Mr. Piesse (Deputy Chairman), Mr. Dodery, Mr. Lewis, Mr. Davies, and Mr. Collins.

Mr. Piesse took the Chair in the absence of the Chairman.

The Minutes of the two last Meetings were read and confirmed.

Mr. Reibey took his seat.

The Committee deliberated as to procedure to be adopted, and it was resolved that the Drafting Committee prepare a Report with the Draft Bill as prepared by Mr. Piesse.

The Committee adjourned *sine die*.

FRIDAY, AUGUST 18, 1899.

The Committee met at 3 o'clock.

Members present.—Mr. Reibey (Chairman), Mr. Piesse, Mr. Woollnough, Mr. Grant, and Mr. Perkins.

The Minutes of the last Meeting were read and confirmed.

Mr. Davies took his seat.

Mr. Piesse brought up the Report of the Sub-Committee on drafting, which was read.

Mr. Lewis took his seat.

Resolved, That the Report of the Sub-Committee be received and adopted as part of the Report of the Joint Committee. (*Mr. Davies.*)

The Committee deliberated.

Draft Report of the Committee brought up, and agreed to.

The Committee adjourned *sine die*.

APPENDIX A.

TO

REPORT OF JOINT COMMITTEE APPOINTED BY THE HOUSE OF
ASSEMBLY AND LEGISLATIVE COUNCIL OF TASMANIA TO
CONSIDER THE PROVISIONS OF THE LOCAL GOVERNMENT BILL,
1898 :

BEING

INFORMATION COMPILED FOR THE SUB-COMMITTEE ON DRAFTING
AS TO VARIOUS LOCAL GOVERNMENT SYSTEMS,

BY

THE HONOURABLE F. W. PIESSE, M.L.C.,

Chairman of the Sub-Committee.

APPENDIX A.

SUMMARY OF TABLES COMPILED FROM NOTES UPON VARIOUS LOCAL GOVERNMENT STATUTES.

1. THE accompanying Notes and Tables are the result of a not too thorough examination of—

The Local Government Act, 1894, (Imperial), 56 and 57 Vict., c. 73.

The Municipal Act, Ontario Revised Statutes, 1897, c. 223.

The Local Government Act, 1890, of Victoria, No. 1112.

The District Council's Act, 1887, of South Australia, No. 419.

The Queensland Local Authorities Bill of 1897.

The New Zealand Local Authorities Bill, No. 114, of this year.

2. Bearing in mind the volume of this legislation, and, therefore, that what has been attempted can only be accepted as a very partial view of the particulars submitted, these comprise—

Tables (a) The Local Government District (outside of Cities and Towns).

(b) The Council and its Head.

(c) The Elector.

(d) The Primary Unit of Local Government in England.

(e) The Primary Unit in Canada and Australasia.

(f) The Superior and Intermediate form of Local Government Bodies in England and Ontario.

(g) Supplementary Note *re* "Township" and "County" in the United States.

And five sets of Notes, some of which are embodied in above-mentioned Tables, giving sundry particulars as to the various Local Governing Bodies in Victoria, South Australia, as well as those proposed for Queensland and New Zealand.

3. After consideration of this information, and bearing in mind the progress Report of the Committee, it would appear that some modification of the English and Canadian system will meet the municipal conditions proposed for Tasmania; that is to say—

(1.) Provision for a moderate exercise of power by small communities as to their local concerns:

(2.) Accompanied by a provision for including these same communities in the larger municipality which shall have in charge those interests which are common to wide areas.

4. Victoria is furthest away from this duality. Her Shires and Boroughs are quite distinct, and the only provision for joint action appears to be in regard to boundary roads and bridges.

5. South Australian legislation is much on the same lines, but, apparently, provision is made for a much smaller and less powerful municipal body than in Victoria. There is one advance upon the Victorian plan, in that Associated District Councils Board of Main Roads may be constituted where four or more District Councils are interested in the same Main Road.

6. The Queensland proposal is very elastic, leaving it to the Governor in Council to make such Districts as he pleases. This may, probably, lead to a highly decentralized system. To guard against the evil that may arise from such a system carried to extremes, the Bill contains very full provisions for joint Boards constituted of Representatives from the "constituent Local Authorities," to which Boards ample power is given to control public works for common benefit of the area of joint local authority, including power to levy contributions by precepts. This system is not new in Queensland, being found in existing legislation, and is but an extension and improvement of our own but rarely-used legislation, of which the latest form is Sect. 235 of the Town Boards Act, 1896.

7. New Zealand is apparently proceeding on somewhat diverse lines to those proposed for Queensland, for Bill No. 114 aims at constituting only large Districts, and evidently contemplates the absorption of existing Town and Borough Districts, which, while losing separate governing powers, will continue as "Borough Districts" under the direct management of the County Council acting therein as though it were a Borough Council.

The desirableness of securing a certain measure of local action is not overlooked, however, for Committees may be appointed who need not all be Councillors to whom the County Council may delegate many of its powers.

8. Either Queensland or New Zealand would furnish workable precedents. The first-named could be adopted with the least change, but it is desired to make a departure from present system.

New Zealand would make a complete change; but, perhaps, looking to the tenacity with which our people will cling to the local organizations to which they have been used so long, a too complete change to suit our circumstances, though the Committee System, which is also found in the English Local Government Act, 1894, is worthy of remembrance.

9. The remaining precedents are those to be found in Ontario and English legislation, and if we can constitute districts sufficiently large to furnish as well the men as the means to organize a moderately powerful Municipality, we may hope to get the common needs of each such District well looked after, and, probably, give the opportunity for instituting a better system both of allocation and expenditure of Public Works votes.

10. Side by side, or rather contained, within these larger Districts, and following the precedent of the English Parish and the Canadian Incorporated Village and Township Municipality, will be the Urban and Rural Districts already proposed by the Committee, who will have distinct though limited functions, and have in charge the more strictly local concerns of such smaller Urban and Rural Communities as already exist or may hereafter be organized.

F. W. PIESSE.

24th November, 1898.



TABLES AND NOTES.

THE LOCAL GOVERNMENT DISTRICT—

I. Name of District.	II. Is it defined in the Statute?	III. How is definition made when not stated in Statute?	IV. Area required.	V. What provision for alteration of Districts, or for New Districts?	VI. Is there any provision for subdivision of District?
In ENGLAND— <i>a</i> County <i>b</i> Rural or Urban District <i>c</i> Parish	Administrative County defined by L.G. Act, 1888. Not defined " "	ve County defined ct, 1888. Generally speaking, by reference to existing Territorial definitions of Districts bearing similar names	In several cases Eng. County is subdivided, as, <i>e.g.</i> , all four Ridings Yorkshire are made administrative Counties	<i>a</i> L.G. Board has power to alter boundaries of a County, unite Borough to County, &c.: Sect. 54 <i>b c</i> Subject to certain restrictions, general power as to defining areas vested for two years in County Council. After two years L.G. Board to act: Sect. 37. <i>b</i> New Urban District may be constituted by County Council: Sect. 57 of Act, 1888. Areas may be extended by County Council and by L.G. Board: Sect. 54 of Act 1888 <i>c</i> See Sect. 36 (Sub-sects. 7 and 8) as to order of County Council (to be confirmed by L.G. Board) for altering the boundaries of a Parish	<i>a</i> County divided into E. Districts, not Wards. See "The Council" (Col. ix.): Sect. 2 (2c) <i>b</i> Districts may be divided into Wards: Sect. 23 (3). See also 1st Note Col. ix. <i>c</i> Wards may be constituted by County Council if parish sufficiently large: Sect. 18
In ONTARIO— <i>a</i> County <i>b</i> Towns not separated from County <i>c</i> Incorporated Villages <i>d</i> Townships <i>e</i> Township Munic.	Not defined " " "		Except <i>c</i> no area stated; but surveyed Townships are 36 sq. miles, 6 miles each side <i>c</i> Not more than 500 ac. unless population 1000, then must have 1000 for every additional 200 ac. after first 1000. Sect. 12 <i>c</i> In Territorial Districts when "unsurveyed into Townships" not exceeding 20,000 ac. Chap. 185, Sect. 1.	<i>b c d</i> Councils of any of these Municipalities may pass Resolutions, and then Lieut.-Governor can issue proclamation: Sects. 24, 26 <i>d</i> See Col. VII.	Similar to v.
In SOUTH AUSTRALIA— District Council	Defined	—	Not specified.	Governor, on petition, Sect. 34, may create new District, unite Districts, sever or annex Districts, &c.: Sect. 15	On Petition, Sect. 34, Governor may subdivide into Wards: Sect. 15
In VICTORIA— <i>a</i> Shire <i>b</i> Borough	Defined "	—	<i>a</i> "Any part of Victoria." Sect. VII. <i>b</i> Not exceeding 9 sq. miles. Sect. VII.	Similar to S.A. See L.G. Act, 1890: Sects. 14, 34, 35	The like.
In QUEENSLAND— Shire Town	Not defined "	All left to Gov.	in-C., who has full power	to create and alter or unite Shires or	Towns. Cls. 8 and 9.
In NEW ZEALAND— <i>a</i> County <i>b</i> Borough	Not defined "	Entrusted to Commissioners. Four elected by existing Local Bodies, 1 nominated by Governor	<i>a</i> No definition: Sect. VII. <i>b</i> Not more than 9 sq. miles	—	<i>a</i> Each County Nine Ridings: Sect. VII. <i>b</i> Borough "separated from County" may be divided into Wards

OUTSIDE OF CITIES AND LARGE TOWNS.

VII. What Limits, if any, upon Authority entrusted with power of definition?	VIII. Does District include any Minor Municipalities having semi-independent functions?	IX. Provision for Joint or United Action.	X. Notes.
<p><i>b c</i> See Sect. 37 as to restrictions to be complied with in exercise of power vested in County Council. See Col. v.</p> <p><i>c</i> Upon application of P.C. or one-tenth of Electors, if reasons sufficient: Sect. 18</p> <p><i>c</i> L.G. Board must confirm County Council's action in altering boundaries of a parish</p>	<p>Yes. Boroughs are included in County, and County Council has general jurisdiction over whole of County, including the Districts and Parishes (<i>b & c</i>) Each District and Parish has, however, its own separate independent sphere of action, in which it is quite uncontrolled</p> <p>There are also functions exercisable by the Minor Bodies under control of the County Council</p>	<p>Each Parish to have a Representative on Dis. Council: Sect. 79</p> <p>See Sect. 26 of L.G. Act, 1894, for sundry provisions as to Joint Action</p> <p>Joint Committees for boundaries: Sect. 36. (11)</p>	<p>(1) When Parish not important enough to have its own Council, it may be grouped with other Parishes with a Common Council, but each retaining its separate Parish Meeting: Sect. 38.</p> <p>(2) References are in general to L.G. Act, 1894.</p> <p>(3) Committees may be appointed by either Parish or District Council, consisting of members or others, for exercise of any delegated power</p>
<p><i>b</i> Towns must have 2000 inhabitants: Sect. 19</p> <p><i>c</i> Incorporated Villages, 750—incorporated by By-law of County Council</p> <p><i>d</i> So soon as Township has 100 resident freeholders and householders, County Council to make it a separate Corporation: Sect. 28</p> <p><i>d</i> This may be done in certain cases where only 50 such Electors: Sect. 29</p> <p><i>e</i> "Population" of not less than 100 persons: Chap. 185, Sect. 1</p>	<p>Yes. County Council has jurisdiction over all the County; but what may be called Local Functions, including general provisions as to Health, Regulation of Town Life, Local Streets and Roads, are left to the care of the included Towns, Villages, and Township Municipalities</p> <p>See Notes x. "The Police Village." "The Hamlet."</p>	<p>(1) Aid may be given to County by any other Municipality, 567</p> <p>(2) County may aid a Township, 566</p> <p>(3) County can compel included Local Bodies to act, 556</p>	<p>Reference is to Ontario Statutes, 1887, Ch. 184; 1897, Ch. 223</p> <p>"The Police Village," having three Trustees, but not incorporated, who have certain limited Local Powers. See Chs. 223 and 225. Sect. 31.</p> <p>"The Hamlet." A settlement in a "Township" set apart, but governed still by Township Council for Town purposes</p>
<p>District must yield, at 1s. in £ on annual value, £200 a year: Sect. 15</p> <p>Wards must not exceed 10: Sect. 27</p> <p>Petitions move the Governor: Sect. 34</p>	<p>No. The provision is apparently for small self-contained Districts. But see Col. ix.</p>	<p><i>a</i> Boundary Roads—One Dis. Council may require another to join in making. Sect. 284</p> <p><i>b</i> Main Road Joint Boards may be constituted. Sect. 287</p>	<p>Reference is to Act 419 D.C. Act, 1887, Municipal Council, relating to Cities and Boroughs. M.C. Act, 1890, No. 497.</p>
<p><i>a</i> Having at a 1s. in £ an annual revenue of £500</p> <p><i>b</i> Not less than 300 inhabitant householders</p> <p>Petitions move the Governor; but he may refuse the prayer, or grant only part of it: Sect. 34</p>	<p>No.</p>	<p>Not apparent, except it be in regard to a road or bridge on the boundary of two Districts: Sect. 419.</p>	<p>Both S.A. and Victoria leave the initiative of any change in Districts constituted by the Statutes with the Electors. See Sect. 34 of each Act.</p>
<p>After 3 months' notice, unless sufficient cause is shown to Gov.</p>	<p>No. See Col. ix.</p>	<p>Joint Boards may be constituted of Representatives from constituent Local Authorities and entrusted with control of any Public Work or any By-law for common benefit of area of Joint Local Authority: Cls. 479-511</p>	<p>Reference is to Queensland Bill, Sess. 1897.</p>
<p><i>a</i> Not more than 20 nor less than 15 Counties in each Island.</p> <p>Population not less than minimum to return a Member of H. of R.</p> <p>Riding of County not less than 500 people</p> <p><i>b</i> Ward of B. to have population of 1000</p>	<p>No. The only provision for Local action is apparently the system of Committees to whom may be delegated powers of Council (<i>except Rating</i>)</p> <p>Committee-men need not be Councillors</p> <p>Joint Committees for District comprising portions of two or more Counties: Cl. 73.</p> <p>See Notes Col. x. <i>re</i> B. Districts. Compare No. 3 Notes, Col. x.</p>	<p>Provision is made for joint maintenance, &c. of Boundary Roads: Cl. 224</p> <p>When Joint Committees appointed (<i>see</i> Col. viii.) Representatives to be chosen as nearly as may be in proportion to relative rateable value: Cl. 73.</p>	<p>Reference is to Bill No. 114. This Bill contemplates absorbing existing small "Town and Borough Districts" into the new Counties where such will be "B. Districts" governed by the County Council as though it were the Borough Council: Cl. 5, Div. 3.</p>

THE MEMBERS.

Country.	I. Who may be Members.	II. How many.	III. For what term.	IV. Are all elected at the same time.
ENGLAND— Parish C.	Any elector, male or female. Act 1894 : Sect. 3 (2)	As fixed by County Council, but not less than 5 nor more than 15	One year	Yes : Sect. 3 (1-3). 15 April
District C.	The same : Sect. 20 (2), Sect. 24 (4)	The same as number of Guardians for area : Sect. 24 (2)	Three years* : Sect. 20 (6), Sect. 24 (4)	½ annually.* 15 April
County C. for every "Administrative County	Any elector, including clerks in Holy Orders, Peers expressly qualified, (women disqualified) : Sect. 2 (2)	Council is composed of Aldermen and Councillors. No. of Councillors and apportionment between "Boroughs" having sufficient population to return 1 Councillor, and rest of County shall be such as L.G. Board directs : Sect. 3	Three years	Yes, every 3rd year : Sect. 2 (2*)
ONTARIO— All Municipalities but Counties	Every male resident ratepayer possessing one of the several "freehold or leasehold" qualifications for the several grades of Municipalities : Sect. 73, chap. 184	<i>In Towns</i> , 3 for every Ward where there are less than 5, 2 for every Ward where there are more than 5 Wards ; Sect. 69 <i>Incorporated Villages</i> } One Reeve and 4 Councillors : Sects. 70 and 71 <i>Townships</i> } (See next item in this column.)	One year	Yes : Sect. 84, Sect. 95-223. 1st Monday, January : Sect. 95-223
County C.	The Reeve and Deputy Reeves of the Townships and Villages within the County, and also of the Towns "not separated" from the County : Sect. 64	<i>Note</i> .—For every 500 freeholders and leaseholders a Reeve is elected who represents his Municipality on the County Council, and is also a member of the local body : Sect. 69	Two years : Sect. 94-223	All biennially, 15 January : Sect. 94, 223
NEW ZEALAND— County C.	Any elector, male or female, of the District : Cl. 62	Not less than 9 nor more than 15. At least 1 for each Riding, but to be according to its population : Cl. 60	Two years : Cl. 70	All biennially : Cl. 70
VICTORIA— Shires and Boroughs	Every male person liable to be rated for property worth £20 at least	Determined by Governor : Sect. 16. 3 for every sub-div. of a divided district, but anyhow not less than 6 nor more than 24 : Sect. 12	Three years : Sect. 54	½ annually : Sect. 54
QUEENSLAND—	Every male person who is a ratepayer of area : Sect. 20	"Towns," not more than 12, nor less than 6 : Cl. 17 "Shires," not more than 9, nor less than 5 : Cl. 18	Three years : see Cl. 24	½ annually, but see Cl. 24
SOUTH AUSTRALIA— District Council	Any male ratepayer : Sect. 47	Not less than 5, nor more than 10 : Sect. 9	Two years : Sect. 50	Half annually : Sect. 50
Municipal Council	Qualified male citizen : Sect. 22	Mayor and 2 Councillors for each Ward : Sect. 21. Number of Wards fixed by Governor : Sect. 9	Two years	Half annually : Sect. 27

GENERAL NOTES.—(1) In all cases Wards or Ridings are either compulsory or permitted.

(2) Though not mentioned in Col. I. above, minor and ordinary disqualifications for membership are specified in every Statute quoted.

COUNCIL.

THE CHAIRMAN OR HEAD.

I. By whom elected.	II. From whom chosen.	III. Term.	IV. Salary, if any.	Notes.
By the Council; Sect. 3 (8)	From Members or from other persons qualified to be Coun- cillors: Sect. 3 (8)	One year: Sect. 3 (8)	No provision	Ccl. i. "No person shall be disqualified by sex or marriage:" Sect. 3 (2), Sect. 20 (2). Ccl. i. Chairman of District Council, if a woman, is not to be a Justice: Sect. 22. Ccls. III. IV.* If $\frac{2}{3}$ of Members ask it, County Council may direct all District Councillors to retire together every third year, Sect. 23 (6). The references for first two bodies are to the L.G. Act. 1894, 56 and 57 Vict., c. 73. References for C. Council to the L.G. Act, 1888, 51 and 52 Vict., c. 41. County Council Aldermen and Councillors elected generally as Council of a Borough, (subject to provisions of L.G. Act, 1888, Sect. 2). The references are in most cases to the Ontario Revised Statutes, Chap. 184, 1887, but occasionally the corresponding Sect. in Chap. 233, Ontario Revised Statutes, 1897, is given.
By the Council; Sect. 20 (8), Sect. 24 (4)	Ditto: Sect. 20 (8), Sect. 24 (4)	Query not stated, probably one year	"	
By the Council	From Members	"	---	
"Mayor" of the City or Town; and "Reeve" of every Township and incorporated Village; qualifi- cation as in Sect. 73; by rate- payers: Sect. 243	From electors pos- sessing the several qualifications men- tioned in Sect. 73, Chap. 184	One year	In discretion of the Council in each case Sect. 232. Councillors may also be paid at per diem rates specified: Sect. 231	The references are in most cases to the Ontario Revised Statutes, Chap. 184, 1887, but occasionally the corresponding Sect. in Chap. 233, Ontario Revised Statutes, 1897, is given.
"Warden" of the County, by the Councillors: Sect. 225	From Members	One year	"	
By electors: Cl. 47	From persons quali- fied to be electors: Cl. 47 (4)	One year	Not exceeding £400	Note.—References are to Bill 114, which does not contemplate any other authority such as the P. and D. Councils of England or the Minor Municipalities of Ontario. See, however, as to Committees, Cl. 73. The references are to The Local Government Act, 1890, No. 1112.
By Councillors: Sect. 60	From Members: Sect. 60	One year: Sect. 61	Not exceeding 3 per cent. of gross in- come: Sect. 65	
By Councillors: Cl. 109	From Members: Cl. 109	One year: Cl. 109	"Allowance" may be granted: Cl. 112	The references are to Queensland Bill for 1897.
By Council: Sect. 56	From Members: Sect. 56	One year	—	References are to The District Councils Act, 1887, No. 419.
By citizens: Sect. 42	From citizens: Sect. 42	One year: Sect. 42	In discretion of Coun- cil, but to be fixed within 10 days after election: Sect. 102	References are to the Municipal Councils Act, 1890, No. 497.

THE ELECTOR.

Country.	Who are Electors.	How many Votes to each on General Questions?	On Loans?	Does the Owner vote as well as the Occupier?
In ENGLAND— Parish Council	Each "Parish Elector," <i>without distinction of sex</i> . "Elector" embraces all names on Parliamentary Register	Has "one and no more:" Sec. 2 of L.G. Act, 1894	Loans voted on at Parish Meetings, "one and no more"	Yes: Sect. 44, L.G. Act, 1894 (1-2).
District Council	The same	The same: Sec. 23 (4)	—	The same.
County Council	<i>In Boroughs</i> , the Burgesses under the M. C. Act, 1882. Elsewhere, the "County Elector," which includes any person possessing qualification like to a Burgess, also any person occupying land or tenement to value of £10. Sect. 3 of 51 Vict. No. 10, and Schedule	The same	In some English Boroughs where the Elector owns and occupies a property he has double votes on questions as to debts	
In ONTARIO— At all Municipal Elections, including Towns, Incorporated Villages, Townships, &c.	1. Owners and occupiers (including unmarried women) of property in Townships worth \$100; Incorporated Villages, \$200; Towns, \$300; Cities, \$400. Voting power exercised by husband of a married woman holding property 2. Income voters. 3. Farmers' sons, where property sufficient for more than one qualification	Number of votes not specified, therefore presumably <i>one vote</i> to each elector	In voting as to debts, Electors 2 and 3 do not vote	Yes—(see Ontario Revised Statutes, 1887, Chap. 184, Sect. 79).
In QUEENSLAND— Town and Shire Councils	Every person, male or female, occupier or owner: Cl. 32 of Bill Sess. 1897	1, if property assessed at under £300 2, if property assessed at under £700 3, if property assessed at over £700	The same. Majority decides: - Cl. 429	Yes.
In SOUTH AUSTRALIA— District Council	Every person whose name appears as a ratepayer: Sect. 74 D. C. Act, 1889, No. 419	One	Regulated by assessed value from 1 to 6 votes. Under £25 annual value, 1 vote; over £65, 2 votes: Sect. 171	Yes; and occupier's right to vote protected if he has paid rent to owner, the owner being under contract with occupier to pay the rates: Sect. 76.
In VICTORIA— Shire and Borough Councils	Same as in South Australia	From 1 to 3. Under £50 in Boroughs, or under £25 in Shires, (1); under £100 in Boroughs, or under £75 in Shires, (2); exceeding £10 in Boroughs, or exceeding £75 in Shires, (3). All on annual value. No vote for under £10, unless voter resident on the property: Sect. 66 One vote: Cl. 28 (2)	—	No. (a) In no case shall person in occupation and the owner be both separately enrolled: Sect. 66. (b) Person in occupation of any rateable property entitled to be enrolled in place of owner thereof.
In NEW ZEALAND— County Council	Every person, male or female, who is— 1. Freeholder in the Riding, capital value £25, and notwithstanding, &c.—(see 5th col.) 2. Has a Rating qualification within the meaning of the Rating Act, 1894, of any rateable property within the Riding 3. Has a Residential qualification, that is, is a tenant or sub-tenant of whole or any part of any house, &c., rent not being less than £10 4. Resides in Borough, and is a holder of a Miner's Right—(see Bill No. 114, 1898)	One vote: Cl. 28 (2)	The same, but no vote allowed for a "Mining" or "Residential qualification" on loans—(see 5th Schedule)	Yes; "and notwithstanding there is also an occupier who may be enrolled": Cl. 19.

THE PRIMARY UNIT OF RURAL LOCAL GOVERNMENT IN ENGLAND.

(Local Government Act, 1894, 56 and 57 Vict., c. 73.)

I. Country.	II. Nature of the Governing Authority.		III. Conditions precedent to forming.	IV. How constituted.	V. Functions, with control upon exercise.— (See also VII., IX., XII.).	If incorporated, what incidents?
			Area required—Population—Rateable Value.			
In ENGLAND may be (a)	(a) Direct only, <i>i.e.</i> , without a Parish Council	The Parish Meeting.— “There shall be a Parish Meeting for every Rural Parish : L.G. Act, 1894, Sect. 1 Meeting at least twice a year : Sect. 19 (2) : Chairman for the year or any 6 parochial electors may call a meeting at any time : Sect. 45	Not defined, further than that “There shall be a Parish Meeting for every Rural Parish”	By the L.G. Act, 1894, Sect. 1	(1) All powers, &c. of “Vestry,” except those strictly Ecclesiastical, and except such as Act confers on any other authority : Sect. 19 (4) (2) “Adoptive Acts” may be adopted by Parish Meeting : Sect. 19 (5) ; which may consent to sale or exchange of any property : Sect. 8 (3) Appoints “Overseers” (4) Chairman of Meeting appointed for a year, and with Overseers becomes a Body Corporate : Sect. 19 (6) (5) In this Corporate Body vests all property that would otherwise vest in a Parish Council (6) Right to stop ways, and especially consent to declaring highways not repairable by Highway Authority—see Sects 13 & 19 (8) (7) County Council may confer <i>any powers of Parish Council.</i> <i>See also Schedule I to Act, &c.</i> (1) Parish Meeting retains two of above ; all others vest in Parish Council (2) Parish Council may let properties : Sect. 8 (2) (3) May act for District Council : Sect. 15 (4) As to recreation grounds, libraries, public offices, springs, &c.— see Sect. 8	(1) Sect. 4 of Functions, by means of Chairman and Overseers of Parish. (2) Any act of Parish Meeting may be signified by instrument executed at the meeting <i>under</i> their hands, or, if requiring seals, of the Chairman and two other Electors.
or						
may be	(b) Direct and in- direct	<i>i.e.</i> , The Parish Meeting with its Parish Council	(1) For every parish of 300 “there shall be a Parish Council :” Sect. 1 (2) If Parish Meeting of Rural Parish of 100 people vote for a Parish Council, the County Council shall take steps to establish a Parish Council (3) If County Council so determine, and Parish Meeting consent, a Parish Council may be established where there is less than 100 people resident	By Act By County Council	No power to make roads, except as to public footpaths <i>not being</i> <i>padis</i> at the side of a public road. <i>Parish Meeting</i> has a veto power on any proposal of P.C. involving a rate exceeding 3d. in & for any local financial year, or which will involve a loan : Sect. 11. Committees may be appointed either by Parish Meeting, 19 (3), or by Council : Sect. 56.	(b) P.C., a body corporate by name of Council and Parish. (2) As above. (2) by 2 Councillors in place of 2 Electors, and at a Council Meeting.

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THE PRIMARY UNIT OF RURAL LOCAL GOVERNMENT IN ENGLAND.—*continued.*

Country.	VI. Rating Power.	VII. Borrowing Power.	VIII. Special Provisions for extra Local Action.	IX. Alteration and Abolition.	Subdivision.	X. Number and Term of Office.	XI. Electors' Votes.	XII. What is relation to other L.G. Authorities.
ENGLAND— P. Meeting only	(a) For "Expenses" (including any under Adoptive Acts) Rate not to exceed <i>6d.</i> : Sect. 19 (9)	None, as a matter of course, except thro' No. 7 of Functions	Scottish Local Government By Orkney and Zetland Local Small Harbours and Ports Act, 59 and 60 Vict., No. 32:— Ten Electors may move District Council to consider proposal for constructing harbour	See III., 2 and 3. May be grouped with "adjoining Parishes" under one Council, but each with its own Parish Meeting: Sects. 1, 38	Parishes may be subdivided by County Council into wards on application of Parish Council, or one-tenth of parish electors, if reasons sufficient—see Sect. 18 (1) Then separate election for each ward—see also Sect. 49	Number fixed by County Council not less than 5 nor more than 15: Sect. 3. May be either sex Term of Office, One year: Sect. 3	All Parliamentary electors or persons on Roll of Local Government Register, either male or female: Sect. 2—One vote each elector	(1) Except as to loans, on all the functions noted apparently independent within the limits of the Statute (2) But both P.M. and P.C. have various powers of influencing the District Council and the County Council—(see especially Sect. 26 in enforcing public rights of way, &c.) (3) See Functions (6) and (3) <i>b</i> (4) Each Parish to have (subject to Order of County Council) a representative on District Council: Sect. 79 (2) (5) See also " <i>The Superior Form of Local Government in England and Ontario.</i> "
P. Council	(b) For Expenses of Local Financial year, <i>6d.</i> in <i>£</i> <i>other</i> than expenses under Adoptive Acts: Sect. 11 (1) <i>Note.</i> —"Expenses" includes any annual charge, whether of principal or interest, in respect of any loan: Sect. 11 (3) Demand note to distinguish what rate is levied under the Adoptive Acts, Sect. 13 (v)	With consent of County Council and Local Government Board (after Parish Meeting approves): Sect. 11 Parish Council may borrow for purposes set forth in Sect. 12 to the extent of "half" of the assessable value."		(b) If population falls below 200, Parish Meeting may petition for dissolution, and County Council may order dissolution: Sect. 39				

THE PRIMARY UNIT OF LOCAL GOVERNMENT IN CANADA AND AUSTRALASIA.

The Municipal Act, Ontario: Chap. 223 (= 1887, Chap. 184). Municipal Institutions in Territorial Districts: Chap. 225 (= 1887, Chap. 185).

I. Country.	II. Nature of the Governing Authority.	III. Conditions precedent to forming			IV. How constituted.	V. Functions, with control upon exercise. <i>See Note as to "By-law."</i>	If incorporated, what Incidents?
		Area required.	Population.	Rateable Value.			
CANADA—say Ontario—	a All indirect, i.e., through Representatives The Township Municipality: Chap. 225, Sect. 1 A Reeve and four Councilors	(1) "Township" in named "Territorial" District; or (2) Any "locality" in such District: not more than 20,000ac.	Not less than 100 Ditto	— —	(1) Petition of 30 "Inhabitants." District Judge or Stipendiary Magistrate (if no Judge) calls meeting to decide, and appoints Chairman to preside, who reports results to him. If favourable, Judge or Magistrate arranges for Election, but 30 "Electors" must have voted for establishment 30 people may take initiative	a Council in such Municipalities may pass "By-laws" such as are authorised to be passed by Council of Townships under The Municipal Act: Chap. 225 (31) Also other "By-law" Powers, e.g., in respect of matters named in certain Sects. of The Municipalities Act, namely, Cl. 1 of Sect. 533, Cl. 1 of Sect. 534, &c. (32) Any such By-law may have partial operation, i.e., only in a defined portion of the Municipality.	a Incorporated, 185 (7) a A Township Municipality has many of the powers of other Municipalities, 225: Sect. 31
	b The "Police Village," three Trustees. (The smallest independent Authority)	A Territorial Division, but not described in the Act.	Ditto	—		b Prevention of Fire, Nuisances in Streets, Chap. 184; but by later Act, Chap. 225, may get Township Council to pass By-law for acquiring public Park, &c. Police Trustees left in charge In "Territorial Districts" see Chap. 225, Sect. 31, the Police Trustees have many of the powers of the other Municipalities	b Not incorporated: Sect. 185 (7) b Controlled by Township Municipality if situate in one, as to Loans: Ch. 225, 786 Also Rates collected by Township Municipality
	c "The Hamlet"	An "Unincorporated" Village or Settlement in a Township, "set apart" by Council of Township, but governed still by Council of certain "Town Laws" may be operative—Sects. 664, 687 for instance. The Municipal Act, Chap. 225, Sect. 37.					Township, and in which
	d Incorporated Village "formed out of a Township"	Not more than 500 a. unless population 1000, then must have 1000 for every additional 200 ac. after first 1000: Sect. 12	Must contain 750 inhabitants	—	Petitioned for by at least 100 resident freeholders and tenants: Sect. 11. Incorporated by By-law of the County Council.	d Similar to Towns, but Incorporated Village may become unincorporated on Resolution of its inhabitants, and consent of adjoining Municipality: 19 of Ch. 223	
	e Township Council	"Townships" are Territorial Areas covering 36 sq. miles. Where unsurveyed into Townships area not to exceed 20,000 ac.: Chap. 185, Sect. 1	Not less than 100 resident freeholders and householders: Sect. 28. Less will do in certain cases, but minimum 50: Sect. 29.	—	By Statute as to the existing. As to these coming after, by By-law of County Council on population reaching the stipulated number: Sect. 28	e Until separately incorporated, see Cols. III. and IV., Township forms part of a union of Townships which is incorporated as a Union: Sect. 27 e Functions of Township Council are those which may be called "Minor Town Council Powers": See Sect. 489. These include providing Schools, By-laws, and "Public Morals," Nuisances, Local Roads, &c.	Township Councils are incorporated County Council has power to assume Roads in Towns, Townships, and Villages as County Roads: Ch. 184, 532 Public Roads, Bridges, or other highways vested in the Municipality of the City, Township, Town, or Incorporated Village: Ch. 184, 527. Other Roads in separate Municipalities.
	f Town (not separated from County) Council		Incorporated Village having over 2000 inhabitants may be erected into a Town: Sect. 19	—	By Lieutenant-Governor, after Council of Village have given requisite notices: Sect. 19.	All purely Local Town functions, County attending to County Roads and Bridges: Sects. 532, 534, 535	(1) Note freehold is in Crown or in private owner: Sect. 525 (2) Provisions for Joint Action: Sects. 554, 555. This does not apply to Counties, 567; only applies to Townships helping adjoining County. (3) But there are County Roads in Local Municipalities: Sect. 566 (6) (4) County Council has power to close and sell original Road Allowances. Opening and altering Roads: Sect. 566. County may take control.
SOUTH AUSTRALIA— VICTORIA— QUEENS LAND— NEW ZEALAND—	In the sense that a Primary Unit of Local Government not only has certain autonomous powers, but is organically, by Representatives in some cases of its District as such, as well as by its Electors being also Electors of a Secondary, or superior form of Local Government—there is no such thing as a Primary Unit in the Australasian Systems. Victoria provides for a very meagre degree of Joint Action, in so far only as a Boundary Road or Bridge is concerned: Sect. 419 of L.G. Act, 1890. South Australia has this and goes a little further, by providing for creation of Main Road Joint Boards: Sects. 284 and 287 of Act 419. Queensland has complete provision for enforcing Joint Action by creation of fully empowered Joint Local Authorities, Cls. 479-511, while New Zealand has also provision for Joint Maintenance of Boundary Roads, &c. in Cl. 224, and seeks to give scope for Local Interest, and secure the advantage of Local knowledge and experience by her system of Committees: Cl. 73, &c.						

THE "SUPERIOR" LOCAL GOVERNMENT BODY IN ENGLAND AND ONTARIO.

I. Name.	II. How formed.	III. Provision for New Creations.	IV. Functions.	V. Rating Power.	VI. Relations to the Minor Local Government Bodies.	VII. Notes.
The ENGLISH— County Council	By L.G. Act, 1888, constituting Administrative Counties		<ul style="list-style-type: none"> (1) As to area and boundaries of Minor Bodies, see Col. III., District Councils, Sec. 36 (2) Entire management of Main Roads, Sect. 11, but see Col. VI. (1) (2) (3) Dividing into Wards, Sect. 18: and Grouping of Parishes, Sect. 1 (b) (4) Establish Parish Councils in Rural Parishes having less than 100 people upon, &c.: Sect. 1, 36, and 39 (5) Dissolution of Parish Councils: Sect. 39 (6) Consenting to borrowing by Parish Council: Sect. 11 (7) Fixing and altering the number of Parish Councillors, Rural District Councillors, and the Scale of Election Expenses, and the Names of Districts or Parishes (8) Compulsory acquisition of land by Parish Councils, and for allotments by District Councils (9) Establishment, &c. and Contributions to Reformatory and Industrial Schools (10) The borrowing of money for County, District, and Parish purposes: Sect. 3 (11) Power over Roadside Wastes: Sect. 26 of Act, 1894 (6) 	County Council has control of all Rates for its own service as well as for all included Local Bodies: Sect. 3	<ul style="list-style-type: none"> (1) Urban Authority may claim to retain powers of maintaining and repairing a Main Road within its District, and County Council then to make an annual contribution: Sect. 11 (2) County Council and District Council may contract for the making, &c. of any Main Road by the latter. Surveyor to report before payment is made: Sect. 11 (3) County Council may contribute to cost of maintenance and repair of any highway or public footpath in the County, although the same is not a Main Road. Sect. 11 (4) See Items (1) to (8), Col. IV. Also Col. V., Rates (5) County Council may compel District Council to act on complaint of Parish Council that public right-of-way endangered: Sect. 26 (4). Also as to defaults in road-making and sanitary work: Sect. 16 (6) Differences between County Council and District Council under Items (1) and (2), if either Council so require, to be referred to arbitrament of Local Government Board: Sect. 11 (9) 	<p>References are to Local Government Act, 1888⁴ Local Government Act, 1894.</p> <p>As to the "District Council" and Voters, see separate Memoranda.</p> <p>Provision is made for County Council receiving Licence Fees of various kinds, also share of Estate Duties as in reduction of Local burthen</p>
ONTARIO— County Council	Existing Territorial definitions made by the M. Act (Revised Statutes, Ch. 223), the territory for a County Council		<ul style="list-style-type: none"> (1) Regulate use of Harbours: Sect. 479 (2) Guaranteeing Debentures for any Municipality within the County: Sect. 511 (3) Attend to County Roads and Bridges: Sects. 532, 534, 535 (4) Help a Township to make Road, &c.: Sect. 566 (5) (5) Has power to close and sell original Road allowances (6) Controls all Bridges crossing streams over 100 ft. wide in any Incorporated Village, and connecting any Main Highway: Sect. 532 (7) Providing for destitute insane, &c. 	Ontario County Council only levies Rates for its own purposes. For "Local Improvements" Special Rate may be levied by a Council on locality: Sect. 631	<ul style="list-style-type: none"> (1) Where Township fails to make By-Road the adjoining aggrieved Township may apply to County Council to enforce joint action: Sect. 556 (2) May require County Road within a Local Municipality to be opened, repaired, and maintained by such Municipality: Provided, Municipal Council consents or Lieut.-Governor approves: Sect. 566 (6 and 7) (3) See Col. IV. 	References to Revised Statutes, Ontario, 1887, Ch. 184.

INTERMEDIATE LOCAL GOVERNING BODY IN ENGLAND.

Rural and Urban District Councils	By the L.C. Act, 1894, Urban Districts formed in lieu of existing Urban Sanitary Authority: Sec. 21 Rural District Councils, in lieu of Rural Sanitary Authority: Sec. 21	Area & boundaries. &c. generally in control of County Council for 2 years after passing of Act, then in care of Local Government Board: Sec. 36	(1) Highways under control of Rural District Councils: See (2) above, also (1) & (2), Col. vi. (2) Duty to protect all Public Rights-of-way: Sec. 26 (3) All powers of Rural Sanitary Authorities transferred to Rural District Councils: Sec. 25 (4) Certain Licensing powers vested in District Council: Sec. 27 (5) District Council has power to charge Highway Expenses under exceptional circumstances on a contributory place: Sec. 29 (c) (6) Sufficient Sewers and Water to be supplied to Parishes by District Council: Sec. 16	No separate Rating Power. All Rates for Sanitary and Highway purposes, &c. are raised as part of the "Poor Law Rate." Expenses incurred by District Council are to be paid thereout: Sec. 29. The Rural District Council taking the place of Rural Sanitary Authority, mentioned in the Section	(1) District Council to aid Parish Council in maintaining Public Right-of-way: Sect. 26 (2) Rural District Council may delegate to Parish Council any power which may be delegated to a Parochial Committee under the Public Health Acts: Sec. 15 (3) County Council may assume powers of District Council as to Sanitary Matters, Water, &c., and Highways, after complaint of a Parish Council of neglect: Sec. 16.	Reference is to 56 and 57 Vict. Ch. 73, Local Government Act, 1894.
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NOTE.—The above is not to be taken as a complete Epitome of Functions, &c., but the Items are given as Specimens of the varied powers entrusted to the several Corporations.

SUPPLEMENTARY NOTE *RE* "TOWNSHIP" AND "COUNTY" IN THE UNITED STATES.

Prevalence of
"Township"
and "County."

1. Among the various forms of Local Government in the United States, that of the "Township," with its wide range of functions limited to its own district, and the "County," embracing many Townships, and exercising a jurisdiction in regard to objects "common" to the whole area, have apparently the greatest vogue.

Growth of
the principle
of local self-
government.

2. Even in States, as Missouri and Illinois, where no Township Corporations were organised in the early years, these are now found spread over the greater part of their territories—having been adopted after amendment of State Constitutions permitting a County to organise Township Municipalities whenever a majority of its voters should so determine, and so Jefferson's advice has come to be accepted very generally. It is more notable, as he was himself of Virginia, where "Townships" were unknown. He said: "These Wards, called Townships, in New England, are the vital principle of their governments, and have proved themselves the wisest invention ever devised by the wit of man for the perfect exercise of self-government. . . . As Cato then concluded every speech with the words '*Carthago delenda est*,' so do I every opinion with the injunction, 'Divide the Counties into Wards!'"

Functions of
Township
Corporations.

3. The Functions of the Township (which is incorporated) vary, but amongst those functions are—

- (1.) Raising money for and organising schools.
- (2.) Extirpation of noxious animals and weeds.
- (3.) Care of local highways and bridges.
- (4.) Health and sanitary matters.
- (5.) Appointment of town constables.
- (6.) Collection of State, County, and Township taxes.
- (7.) Care of the poor of the town.
- (8.) Regulation of weights and measures, partition fences, &c.

Functions of
the County.

4. The County—

- (1.) Builds the County court-house and jail, and keeps them in repair.
- (2.) Apportions the County taxes among the Towns (or Townships).
- (3.) Lays out, alters, and discontinues highways within the County.
- (4.) Organises Township, Municipalities, &c.

Direct
government
by the
people.

5. That Townships are generally (if not invariably) governed in America subject to the direct control of the electors in Township Meeting assembled, is an incident doubtless of prime importance, but the essential fact is that so great a scope is given by the universal distribution of this institution for the development of popular interest in and control of local matters, so that in some of the Western States, where the admirable system of land survey by defining territorial blocks convenient for the purpose, greatly facilitates local self-government, it is now possible for "25 legal voters" to petition the County Commissioners and obtain Township organisation, even though the adjacent Townships in the same County should remain under County government only.

The smallest
possible body
for self-
government.

The relation
of the County
to unorgan-
ised Town-
ships.

6. The summing up of this information being, then, that the County is always organised to care for the whole of the District, and looks after

- (a) The "general or common" needs of all subdivisions at *all* times,
- (b) Also the special and particular wants of localities,

until the local electors express their desire to have the care of themselves in those respects, and then the power is surrendered by the Council to be exercised by the people themselves.

Dr. Bryce's
judgment.

7. The opinion of a qualified and thoroughly independent English critic may fittingly close this short note. Dr. Bryce, in his work "The American Commonwealth," remarks: "Of the three or four types or systems of local government which I have described, that of the Town or Township is admittedly the best. It is the cheapest and most efficient; it is the most educative to the citizens who bear a part in it. The Town Meeting has been not only the source, but the school, of democracy. The action of so small a unit needs, however, to be supplemented, perhaps also in some points supervised, by that of the County, and in this respect the mixed system of the middle States is deemed to have borne its part in the creation of a perfect type." And he concludes the chapter from which this passage is quoted by venturing the opinion that there will prevail one system, uniform in its outlines, over the whole Country, with the Township for its basis, and the County as the organ called upon to deal with matters too large for Township management.

SUPPLEMENTARY NOTES OF VARIOUS PROVISIONS, EXISTING OR PROPOSED, IN LOCAL GOVERNMENT LEGISLATION OF VICTORIA, SOUTH AUSTRALIA, QUEENSLAND, AND NEW ZEALAND.

(a) VICTORIA.

(From Victorian Local Government Act, 1890, 55 Victoria, No. 1112.)

1. There are three kinds of Local Government bodies in Victoria, each in every sense distinct from and independent of the others—

- (1.) The City of Melbourne and Town of Geelong, which, except when specially mentioned not under this Act. *See* Sections 140, 427, 429.
- (2.) The Borough, including cities, as Ballarat City. Towns, as Brighton, annual revenue £10,000. Boroughs, as Ararat, down to Browns and Scarsdale, which is mentioned as having a revenue of £413, derived from 189 ratepayers, representing a total population of 700.
- (3.) The Shire. Any part of Victoria which, at a 1s. rate, will yield £500: Sect. 14.

2. The functions of each appear to be distinct; but there are only 57 Boroughs, including Ballarat and other cities with their suburbs; so that the Shires must include many Urban Districts.

3. A distinction is drawn between Roads in a Shire and Streets in a Borough—*see* Div. VII., Sect. 434—but otherwise the Council of every “Municipality” may make, &c. public highways, streets, roads, &c. within its District, and, with the consent of Governor in Council, in any part of Victoria: Sect. 401.

(b) SOUTH AUSTRALIA.

1. Two classes only—(a) Municipal Councils: *see* Act 497 (1890). (b) District Councils: *see* Act 419 (1887)—each complete in its own jurisdiction, and having generally a more clearly marked difference of functions than is apparent in provisions of Acts of Victoria, New Zealand, or Queensland. The most marked instance of this is in the by-law powers conferred on District Councils. Enumeration takes about three pages: Sect. 290. The Municipal Councils, 12 pages: Sect. 314.

2. *As to Roads.*—Main Roads are vested in the respective Councils of the Districts who receive the Government subsidy towards maintenance: Sect. 217 of Act 419, and 109, 110, of 497. The Governor, on Address of both Houses, may, by Proclamation, add to or strike off from Schedule any Main Road or portion of Road.

Boundary Roads.—One District Council may require its neighbour to join in repairing: Sect. 284.

“Associated District Councils Board of Main Roads” may be constituted of four or more District Councils, to control a Main Road: Sect. 287.

No apparent provision for any action by a portion of a District. This is like Victoria, but unlike any other system examined.

3. *The Powers* of District Councils are referred to many included Acts, Sects. 217–265—*see* “Roads Act” mentioned, Sect. 277; but there is clearly a wider difference in South Australia between the functions of the two Local Authorities than in New Zealand or Victoria.

“Constables” may be enrolled from among Ratepayers by the District Council—Sect. 221 of 419; but this does not do away with the Provincial Constable.

“Manufacturing Districts” may be defined by District Council: Sects. 266–273.

4. *Other provisions not noticed in other Acts—*

- (a) Voter who has a Receipt for his Rent to vote: 76 of 419, 51 of 497.
- (b) New Streets in a “Township:” Owners may be made to pay half cost, which is limited by the Act: Sect. 109.
- (c) Licences may be issued to take “profit” from Crown Land, for the benefit of the District Council: Sects. 123, 124, 129.
- (d) Assessments distinguish between large and small blocks of Unimproved Land: Sect. 133.
- (e) Votes usually one voter one vote—Sect. 74; but in voting for or against Loan, according to the Assessment—Sect. 171.
- (f) Any Councillor who is a Shareholder in a Company, voting on any question in which Company interested, liable to a penalty of £20: Sect. 304.

(c) QUEENSLAND.

1. Two Classes only: *see* Bill (Sess. 1897).

(a) "Town," meaning "Municipality" under the old law, or a "Town" or "City" under the Bill: Clauses 7-10.

(b) "Shire," a division constituted, &c., but no specification as to size or population.

Each complete in its own jurisdiction, and (in complete contrast with South Australia) having generally, and practically without exception, the same functions which cover the widest possible scope for Municipal action. The only distinction noticed in hasty perusal of Bill is as to levels of streets and roads—*see* Clause 150, (1) and (2),—but even here it is doubtful what difference is intended.

All Local Authorities, for instance, can make sewers (225), attend to scavenging (249), regulate buildings by By-law powers (page 90), lodging-houses (260), tramways (443), supply light or hydraulic power (159), test meters (159); and each has exactly the same powers as to By-laws.

2. *Roads*.—Certain roads may be excepted by Government (Clause 14), and Local Authority "not authorised" to interfere with any road, &c. not constructed by itself and excepted by Proclamation from its authority; otherwise Local Authority is "charged with the construction, maintenance, &c. of all roads within its area."

3. *Joint Action*.—Provision is made in Parts XXI. to XXIV. in regard to Boundary Roads, Main Roads, or any public work or any By-law for common benefit of Joint Local Authority: Clause 497. The governing body in such cases is a Joint Local Authority composed of representatives from the several constituent Local Bodies: Clause 500. Expenses obtained by precept to constituent Authorities (511) to be made proportionate to the benefit, not necessarily equal upon each District: Clause 510.

(d) NEW ZEALAND.

Two Bills are now under consideration—No. 113, "The Municipal Council Corporation Bill, 1898," having reference to "Boroughs," and No. 114 to "Local Authorities" other than Boroughs.

1. "Boroughs" include—

(a) The five New Zealand cities: Clauses 5. 113.

(b) Boroughs recognized as complying with the Act by the Governor after its passing, and before it comes into operation:

(c) Boroughs constituted under the Act having area of not more than nine square miles, and containing not less than 1000 people, each having its own Council.

2. The only other Local Authority is the County Council, which is independent of the Borough, as the Borough is of it: Clause 5 (4), Bill 113. One exception only may be made by the Commissioners for defining boundaries in favour of certain existing Road Districts. All other existing Corporations of Counties, Road, Town, River, Drainage, and Water Supply Districts, and every Local Board of Health constituted in connection with any of these, and all other Districts created for purposes of Highways or Local Government, are to be absorbed in the new Counties, or, where possible, in new Boroughs. "The number of Local Bodies of all sorts in New Zealand exceeds 550. The cost of management alone (that is to say, office salaries, advertising, and other purely management expenses, altogether exclusive of engineers and works) is more than £107,000." It is anticipated that the number may be reduced by more than three-fourths, and the cost of administration by one-half.

3. *Committees*.—A small measure of local action is provided for in provisions for appointing Committees, who may or may not be Councillors, and to whom the County Council may delegate powers (except Rating). Joint Committees may also be appointed for Districts comprising portions of two or more Counties, the Representatives to be chosen as nearly as may be in proportion to relative rateable value. The Chairman may be nominated by the Council or Councils making the appointment: Clause 73 (114).

4. *Main Roads*.—In addition to what has been noted above in regard to Road Districts, New Zealand has a considerable number of Main Roads excluded from County control, and which have to be maintained by the Government: Clauses 236. 237. Thirty-one such roads, specified in the Schedule (9.), and any road over which the mails are carried, may be declared a "Government Road."

a. The principle as to Roads appears to be—

(a) Main Roads or Railways are affairs of the General Government.

(b) County Roads, being roads common to the County, are left to the care of the Council. The Government may declare a Road through a Borough a County Road, Borough paying part of expense: Clause 226.

(c) Borough Roads are the affairs of the Borough Council: but see provisions, Clause 224, for joint making and maintenance of Boundary Roads, &c.

6. *Differentiation of Functions.*—While the two Bills are *facsimiles* in most of their provisions, yet distinctions are made in such matters as Lighting and Sanitation, Rates for which may be levied by a Borough Council, not by a County Council. Similarly, Part XXX. of Bill 113, "Lighting and Gas," is not found in Bill 114, nor are provisions as to Unhealthy Buildings, overcrowding in Dwellings, &c.: Clause 374 of 113. "Water Works," in Bill 113, are different powers from those under head "Water Supply," Bill 114, but health powers and provisions for Harbour Rates and Hospitals, &c. are common to both. By-law powers are in each case similar, but are given in very general terms, contrasting very markedly with Queensland, Ontario, Victoria, and especially South Australia, with 12 pages of subjects in Act 497, Section 314.

SUMMARY OF NOTES.

1. New Zealand, South Australia, and Victoria may be classed together as types of Centralised Local Power. England, Ontario, and Queensland possibly are examples of decentralized or diffused Local Power, accompanied, in the extra Australian instances, side by side with a larger Authority having direct responsibility to the people of the local district as portion of the population of the embracing Superior District. The citizen in these countries may be said to have two Municipal loyalties, one to his village or township, as the case may be, the other to his County; but in Queensland he has only one, for even when there is a Joint Local Authority instituted the individual ratepayer has no direct relation to it. There are differences between New Zealand, South Australia, and Victoria, as there are between each of the other group of three.

2. New Zealand seems to be the better type of centralised authority, for its system provides more completely for the work to be done, and especially as to Roads, while in its Committee system there is the germ of much possible development of local initiative and interest, one of the most important indirect results of Municipal institutions. Neither the Victorian nor South Australian Statutes seem to provide an encouragement for the smaller local patriotism, which, even if it be concerned only about the village pump, had far better have that reason to exist than have none at all.

3. *As between England and Ontario*, to some extent similar in principle, though the Colony does not give such full scope for local initiative as the Mother Country with its parish meeting to be held "in every Rural Parish," and *Queensland*, these distinctions are noticeable: the older countries have organised more completely, Queensland only providing a simple type of one authority in each district, the districts to be carved out to suit the time, leaving the *found-cut needs of the future* as to works common to more than one local community to be provided for by the plan of Joint Boards. There is one grave objection to this (as shown by English experience), that there is no direct touch between the ratepayer and the Joint Authority, but the principle may work well in Queensland. At any rate, it allows perhaps more elasticity in arranging the District.

4. The principles finding their fullest embodiment in the Canadian and English Local Government systems and, it may also be said, forming the very foundation of the political growth of the great kindred nation of the United States, are those to which, if we can assign any source for the development alike of English national character and aptitude for government, are due all the best elements of our liberties, and we do well, even if it be but by a machine of government, to foster their growth and give opportunities for their development.

APPENDIX B.

ENACTMENTS PROPOSED TO BE REPEALED BY THE LOCAL GOVERNMENT BILL, 1900.

SYNOPSIS of Sections of Rural Municipalities Acts, Police Acts, Health Acts, Town Boards Acts, Roads Acts, Impounding Acts, Local Public Works Loans Act, 1890, Rural Voting Act, &c., to be repealed, showing Clauses in the Bill which refer to the same subject-matter.

RURAL MUNICIPALITIES ACT.

Rural Municipality Act, Sections	See Clauses Local Government Bill.	Rural Municipality Act, Sections	See Clauses Local Government Bill.	Rural Municipality Act, Sections	See Clauses Local Government Bill.
6, 7	8, 9, 12	73	38	188, 189	96
8	590 (4)	74	605	190	87, 111
9	12	75	601 (5)	191	615
10	18 (8)	76	87 (6)	192	614
11	11	80-92	85	193-195	615
12, 13	—	93		196	531
14	94, 115	94	612	197	615
15, 16	10	95		198	602
18, 19	40	97	617 (6)	199	18
20	See Part IV.	99	226	200	4 (6), 18 (8)
21	45	100, 101	273, 582-589, 595	201	4 (7), 18 (7)
22-24	Part IV., Title II.	119	534, 546	202	4 (8)
25	44-50	120	539	203, 204	4 (8), 18 (5)
26	51	121	550	205, 206	—
27	40	122, 123	551	207	147-149
29	56, 59	124	556	208	147
30	58	125	Sch. (35.)		
31	68, Sch. (12.)	126	539	R.M.A. '70, Sections	Clauses L.G. Bill.
32-35	52, 62	128-131	559	3	577
36-38	61	132	601	9, 10	556
39	67	133	553 (2)		
40	69	134	548	R.M.A. '80, Sections	Clauses L.G. Bill.
41	72	135	—	2-4	12, 13
42, 43	70	136	547		
44	76	137-151	Part XIII.	R.M.A. '84, Sections	Clauses L.G. Bill.
45	77	152	111, 92, 93	4	5, 40
46	74	153	—	5	40
47	81	154	111	6	56
48, 49	87	155	112	7	61
51-54	86, 87	156	113	8	30
55	27	157	115	15	111 (6)
56	28	158	114, 577, 578	16-21	544
57	28, 100	159	114		
58	28, 33	160-162	116	R.M. '92, Sections	Clauses L.G. Bill.
59	29, 32	163	118	1, 2	88 (3)
60	33, 37	164	119		
61	32	165	577		
62	33	166	580 (1)		
64	34	168	580 (6)		
65	35	169	99, 530		
66	27	176	—		
67	51	177	—		
68	24, 87	178	99 (6)		
69	80, 601 (5)	179	109, 532		
70	44, 80	180-184	91		
71	79, 80	185	89, 97		
72	79, 38, 39	186, 187	92		

THE POLICE ACT.

Police Act, Sections	See Clauses Local Government Bill.	Police Act, Sections	See Clauses Local Government Bill.	Police Act, Sections	See Clauses Local Government Bill.
5	—	139	330	239	370, 371
6, 7	12-15	140	317, 325	240	370, 371, 382
8	10	141	324	241	370-372
9-22	—	142	316, 331	242	376
23-31	360	143	331, 339	243	607
33-36	—	144, 145	316	244	597
38	318	146	316, 324	245	Part VIII., X.
39	306	147	316	246, 247	174
40	306, 311, 315	148	340	248	257
41	311 (I, II)	149	341	249	249
42	312	150	325	250	242, 244
43	318	151	326, 588 (13)	257	219
44	311 (3)	152	329	258	258 (1) (2)
45	319	153-156	331	259	534
46	327	157	324	260	582-589
47	301, 323	158	303	262	615 (4)
48	314, 315, 301	159	328	263	601
49	314 (5)	160	319	264	615
50	330	161	325	265, 266	615
51	333	162-164	321	267	531
52	334	165	304	268	615 (9)
53	335	166	588 (13)	269-271	
54	330	167	323	272	614
55	329	168	332	273	602 (10)
56	303	169	300		
57	321 (6)	170	343	P.A. '67, Sections	Clauses L.G. Bill.
58	301 (2)	171	342, 343		
59	300	172	344	2, 3	530
60	530	173	345		
61	342	174	346		
62	347	175, 176			
63	302	178	497 (4)	P.A. '72 Sections	Clauses L.G. Bill.
64-80	411	179			
81-83	—	180	173, 406, 487	1	
84	348	181			
85	349	182	305		
86	350, 352	183			
87	353	184	158 & Part IX.	P.A. '79 Sections	Clauses L.G. Bill.
88	350	185-187	111		
89	351	188, 189	158	2-5	—
90	352	190	158, (6) 165, 400	6, 7	314
91	353	191	166	8	336
92	354	192	5, 203, 200	9	173 VII., 497 (4)
93	355	193	5, 202, 203		
94	356	194	201-203		
96	111	195	217, 174		
97-100	437	196	165, 198, 217	P.A. '81 Section	Clauses L.G. Bill.
101	4 (6, III)	197	201		
102	437	198, 199	168	2	173
103	438	200	169	6	407, 408, 607, 599
104	439	201	201	7	407, 495, 607
105	441	202	147	8	407, 607, 608
106	440	203-208	214	9	216
107, 108	421	209, 210	215		
109	445 (3)	211	173		
110	422	212, 213	163	P.A. '83 Sections	
111	442	214	167		
112	443	215	167, 217 (5)		
113	421	216, 217	167	2	582-589
114, 115	588 (13)	218, 219	218, 598		
117	273 & Part X	220	408, 598		
118, 119	308, 311	221	158 (6) 400	P.A. '88 Sections	
120	318, 323	222	400 (3)		
121	311, 301	223	401	1-2	307
122	315	224	397	3	311, 315
123	311	225	401	4	588 (17)
124, 125	320	226	401	5	307
126	311	227	394, 399	6	—
127	323	228	394	7	530
128	301, 314, 315	229	376, 398, 399	8	12
130	323 (3)	230	487		
131	314 (8), 331	231	403, 404		
132	322	232	403, 472		
133	330	233	407	P.A. '91 Sections	
134	337	234	399, 472		
135	338	235	417		
136	333	236	415	1	—
137	334	237	399		
138	335	238	483		

THE HEALTH ACT.

Health Act, Sections	See Clauses Local Government Bill.	Health Act, Sections	See Clauses Local Government Bill.	Health Act, 1887, Sections	See Clauses Local Government Bill.
5	5	113	209, 220	11	492
8-14	366	114	412	12	589 (4)
15	489	115	485	13	421, 471 (11.)
16	490	116	383, 486	14	463
17-20	111	117	371, 372, 374, 376	15	448
21	113	118	374, 376	16	451
22-27	582-587, 589	119	487	17	417
28	611 (5)	120	405, 599 (1)	18	399
29	595	121	376		
30	494	122	484 (2)		
32-35	424, 425	123	218, 598	Sanitary Rate Act, '89.	Clauses L.G. Bill.
36	425	124	394	5-9	540, 543
37, 38	426	125	397	8	540 (3), 543 (2)
39	427	126	396		
40	431	127	398		
41-43	111	128	399		
44, 45	430	129	376 (2)	H.A. '89.	Clauses L.G. Bill.
47-49, 50	430	130-132	406, 487		
51	Sch. 28	133	406	9	12
52	430 (9)	134	444	10	366 (7)
53	430 (1)	135	445	11	588, 589, 201
54	603 (7)	137	382	12	220
55, 56	595	138	404	13	5 "New Building"
57	424 (2) 431 (2)	139	399, 403	15, 16	419
58	431 (2)	140	401	17	591 (VI., VII.)
59	433, 434	141	158 (6) 400	18	420
60, 61	435	142	400, 401	19, 20	147
62-64	421	143	402	22	153 (2)
65-73	*	144	471, 472	23	153 (3)
74	491	145	611	24	420
75	447	146	614	25	418
77	459	147	376 (6) 474	27	467 (7)
78	460	148	376 (6), 408, 474,	28	466
80	447	149	597 (7), 607	29, 30	467
82-84	449	150-157	608	31, 32	589 (4)
85	450	158	5 "Expenses"	33	467 (8)
86	599 (3i)	159	615 (5)	34	468 (1)
88, 89	451	160, 161	597	35	465
90	452	162	600		
91	453	163, 164	595		
92	454	165	603 (5)	H.A. '96 Section.	Clauses L.G. Bill.
93	455	166	601		
94	456	167	610	2	446
95	457	168	482	3	589 (3ii.)
96	414	169, 170	615	4	447
97	415, 416	171	605	5	366 (1)
99	417 (4)	172	615	6	428
100	5 ("Nuisance")	174	530	7	430
101	407, 417			8	451 (IV.)
102	5, 417			9	485
103, 104	471, 472	H.A. '87, Section 4, 5	Clauses L.G. Bill. L.A. is the Health Authority	10	423 (2)
105	478				
106	479				
107	407 (2)	6	137, 488		
108	5 ("Nuisance")	7	111		
109-112	5, 409	9	460		

THE TOWN BOARDS ACT.

Town Boards Act Sections.	See Clauses Local Government Bill.	Town Boards Act, Sections	See Clauses Local Government Bill.	Town Boards Act, Sections.	See Clauses Local Government Bill.
3	4	66	559 (8)	170, 171	273
4	5	70	553 (2), 556 (2)	172	582 (11)
8, 9	12, 13, 18	71	548	173, 176	258, 273, 158 (xiv)
10	11	73	547	177	376 (2)
11	94	74	560	178	191
12	79	75-81	608	179	158, 159
13	19 (2)	79	555	180	208
14, 15	77-88	82-88	544	181	165 (3)
16	50, 56	106	564	182	158, 167
17	78	107	566	183	165
18	51	108	568	184	203
19	50, 56	109	568	185	204
20	59	110	571 (10)	186	199, 203, 588 (10 iv)
21	56	111	575	187-189	607
22	58	112	111	190, 191	569 (2)
23	67, 77 (2)	113	115	193-197	201, 203
24	52	114	577	198	607
25	61, 69	115	114	199	205
26	66	116	116	200, 201	206
27	69	117	99, 114	202	207
28	72	118, 119	116	203	147, 152
29	70	120	118	204	153
30	40	121	119	205	152
32	74	122	28, 111	206	148
33	82	123	577	207	149 (111)
34, 35	85	124, 125	580 (1) (6)	208	158 (x)
36	80	126	578	209-211	149
37	601 (5)	127	580	212	152
38, 39	23, 24, 48, 50	128	578	213	154
40	86	130	158 (7)	214-216	158
42, 43	30, 86	131	156 (5), 157	217	150, 151
44	77 (3)	132	158 (7)	218-226	583-589
45	29	133	588 (16)	227, 231	12, 13
46	35	134	614 (7)	232-236	Part XI., Title II.
47	91	135	156	237	618 (6), 115, 588
48	87	136-146	271, 272	238	530
49	91	147	232	239-244	18
50	100	148-156	224, 225	246	5 ("Advertised")
51	99	158	158 (8)	247	173, 176
52	92, 595 (5)	159, 160	231 (7)	249	602 (2)
53	534, 537	161	231 (6)	250	597 (3)
54	534, 541	162	542, 231 (2, 9)	251	595 (2)
55	539	163	226	252, 255	603
56, 57	551	164, 165	242	256, 259	615
58, 59	550, 556, 559 (7)	166	243	260	530
61	556 (Sch. 34)	167	213	261, 262	602
62-67	559	168	220	263	614
68	601 (2)	169	257		

THE ROADS ACT.

Roads Act Sections.	See Clauses Local Government Bill.	Roads Act, Sections	See Clauses Local Government Bill.	Roads Act, Sections	See Clauses Local Government Bill.
3	5	91-93	116	3, 9, 10	Part IV. & Part VII., 8 (5)
4	156, 180	94	118		298
5-7	618	95	119	11	156
8-11	Part VIII., Title III	96	577, 578	12	273, 158, 156 (v.)
12	618 (6)	27	114	13	588 (16) 5
14	92	98	578, 580	14	' Expenses '
15	99	99	580 (6)		
16	618	100	158 (2)		
17	588	101	109, 530		
18	111	102	524-528	R.A. '89, Sections	Clauses L.G. Bill.
19	158, 618 (6)	103	147		
22	618 (2)	104	153	1	5, 156, 180
24	618 (6)	105	152		
25	Part VIII., Title v., 192	106	148		
	171 (8)	107	150	R.A. '90. Section	Clauses L.G. Bill.
26	192, 193	108	158 (6, x)		
27	194	109-111	149	3	588 (13)
29	12, 13	112	152		
30	156 (II, I) 141, 192	113	149		
32, 33	141	114	154		
34	142	115	148, 150	R.A. '94. Section	Clauses L.G. Bill.
35	141 (6) 120-124	116, 117	158 (XII, XIII.)		
36-45	Part IV., Title II, and Part VII.	118	151	1	Part VIII Title III.
	30	119	618 (6)		
46	91, (3) 87	120, 121	588		
47	87	123, 124	11		
48	91 (5)	125	595		
49	100	126	173		
50	92	127	166, 174		
51	158, 618	128	176		
52	104	129	173 (x)		
53	193, 194	130	615		
54	365	131	28, 100		
55	534	132	614		
56	539	133, 134	615		
57	551	135	530		
58, 59	553	136	615 (9)		
60-62	562	137	612		
63	550, 556, 559 (7)	140	479 (4)		
65	550, 597	141	524-528		
66	556	142	176		
67	559	143	597		
68-72	556, 560	144	111 (10)		
73, 74	547	145	618 (2)		
75	561	146	602 (10)		
76		156	620		
77-85	Part VIII., Title IV.				
86, 87	111				
88	115	R.A. '85, Sections	Clauses L.G. Bill.		
89	577				
90	114	2	Part IV.		

APPENDIX C.

THE LOCAL GOVERNMENT BILL, 1900.

NOTE.—As to Abbreviations in Marginal References to other Statutes.

TASMANIA.

P.A.	means	The Police Act, 1865, 29 Vict. No. 10, Vol. III. Statutes, p. 1594.
P.A., '67	"	The Police Act Amendment Act, 1867, 31 Vict. No. 18, Vol. III. Statutes, p. 1652.
P.A., '72	"	1872, 36 Vict. No. 15, Vol. III. "
P.A., '79	"	1879, 42 Vict. No. 25, Vol. III. "
P.A., '81	"	1881, 45 Vict. No. 22, Vol. III. Statutes, p. 1656.
P.A., '83	"	1883, 47 Vict. No. 6, Vol. V. Statutes, p. 3141.
P.A., '88	"	1888, 52 Vict. No. 41, Vol. V. Statutes, p. 3142.
P.A., '91	"	1891, 55 Vict. No. 46.
H.A.	"	The Public Health Act, 1885, 49 Vict. No. 18, Vol. V. Statutes, p. 3148.
H.A., '87	"	1887, 51 Vict. No. 35, Vol. V. Statutes, p. 3188.
H.A., '89	"	1889, 53 Vict. No. 39.
H.A., '96	"	1896, 60 Vict. No. 38.
S.R.A.	"	The Sanitary Rate Act, 1889, 53 Vict. No. 10.
R.A.,	"	The Roads Act, 1884, 48 Vict. No. 28, Vol. V. 3257.
R.A., '85	"	The Roads Amendment Act, 1885, 49 Vict. No. 38, Vol. V. 3289.
R.A., '89	"	1889, 53 Vict. No. 48.
R.A., '90	"	1890, 54 Vict. No. 3.
R.A., '94	"	1894, 58 Vict. No. 14.
R.M.A.	"	The Rural Municipalities Act, 1865, 29 Vict. No. 8, Vol. III. 1900.
R.M.A., '70	"	The Rural Municipalities Amendment Act, 1870, 34 Vict. No. 14, Vol. III. 1940.
R.M.A., '80	"	1880, 44 Vict. No. 26, Vol. III. 1942.
R.M.A., '84	"	1884, 48 Vict. No. 27, Vol. V. 3293.
R.M.A., '92	"	1892, 56 Vict. No. 2.
Tas.	"	The Local Government Bill, 1898, No. 4.
T.B.A.	"	The Town Boards Act, 1896, 60 Vict. No. 31.
H.C.A.	"	The Hobart Corporation Act, 1893, 57 Vict. No. 11.
L.C.A.	"	The Launceston Corporation Act, 1894, 58 Vict. No. 30.

OTHER COUNTRIES.

E.L.G., '88	The Local Government Act, 1888 ; 51 and 52 Vict., C. 41.
E.L.G., '94	The Local Government Act, 1894 ; 56 and 57 Vict., C. 73.
38 and 39 Vict., C. 55.	The Public Health Act, 1875.
41 and 42 Vict., C. 77.	Highway and Locomotive Amendment Act, 1878.
O.M.A.	The Ontario Municipal Act ; Revised Statutes, Ontario, 1887, C. 184.
Vic. L.G. Act, No. 1112.	The Local Government Act, 1890 (Victoria).
S.A., 419.	The District Council's Act, 1887 (South Australia).
S.A., 497.	The Municipal Council's Act, 1890 (South Australia).
S.A.	New South Australian Bill, introduced 21st December, 1898.
Q.	The Queensland Local Authorities Bill, 1897.
N.Z., 113.	The Municipal Council's Bill (New Zealand).
N.Z., 114.	The Local Authorities Bill (New Zealand).

As amended by the Select Committee.

A

B I L L

TO

Consolidate and amend the Laws relating to A.D. 1899.
Local Government.

WHEREAS it is desirable to consolidate and amend the Laws relating to Local Government in *Tasmania*, and to make better provision for administering the same : PREAMBLE.

Be it therefore enacted by His Excellency the Governor of *Tasmania*,
5 by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

PART I.

PRELIMINARY.

1 This Act may be cited for all purposes as “The Local Government Act, 1900.” Short title.

2 Except as herein otherwise provided, this Act shall commence and take effect on a day, or as to different provisions thereof on respective days, to be appointed by Proclamation or Proclamations, but so that all the provisions of this Act shall come into operation no later than the First day of , One thousand nine hundred. Commencement of Act.

[Bill 1.]

A.D. 1899.

Division of Act.

3 This Act is divided into Seventeen Parts, as follows :—

Part	I. Preliminary. (Sects. 1 to 7.)	
Part	II. Municipal Organization—	
	Title I. Definition and Incorporation. (Sects. 8 to 11.)	5
	II. Formation and Alteration of Corporations and future Areas. (Sects. 12 to 21.)	
Part	III. Municipal Councils, how composed—	
	Title I. The Members. (Sects. 22 to 26.)	
	II. Qualifications, Disqualifications, and Exemptions. (27 to 31.)	10
	III. Non-acceptance, Resignation, and Extraordinary Vacancies. (Sects. 32 to 37.)	
	IV. Ouster from office. (Sects. 38 and 39.)	
Part	IV. Municipal Elections—	15
	Title I. Electors. (Sects. 40 to 43.)	
	II. Elections. (Sects. 44 to 86.)	
Part	V. Proceedings of Local Authorities—	
	Title I. Election and Privileges of Chairman. (Sect. 87.)	20
	II. Meetings and Conduct of Business. (Sects. 88 to 95.)	
	III. Committees. (Sect. 96.)	
	IV. Special Meetings and Special Resolutions. (Sects. 97 and 98.)	25
	V. Expenditure. (Sects. 99 to 109.)	
	VI. Proceedings of a Local Authority exercising transferred functions. (Sect. 110.)	
Part	VI. Officers. (Sects. 111 to 119.)	
Part	VII. Local Districts and Local Committees. (Sects. 120 to 135.)	30
Part	VIII. Powers, Jurisdictions, and Duties—	
	Title I. General Powers applicable to all Local Authorities. (Sects. 136 to 153.)	
	II. Powers as to Public Roads and Works. (Sects. 156 to 179.)	35
	III. Main and Common Roads. (Sects. 180 to 186.)	
	IV. Private Ways. (Sects. 187 to 191.)	
	V. Proclaiming New and stopping Old Roads, and Leasing unused Roads, &c. (Sects. 192 to 196.)	40
	VI. Private Roads and unformed Public Roads. (Sects. 197 to 207.)	
	VII. Buildings, Structures, Excavations, &c. (Sects. 208 to 221.)	45
	VIII. Water Supply. (Sects. 222 to 241.)	
	IX. Prevention of Fire. (Sects. 242 to 249.)	
	X. Lighting and Power. (Sects. 250 to 257.)	50
	XI. Public Recreation and Instruction, Markets, and Sundry Public Works and Purposes. (Sects. 258 to 274.)	
	XII. Tramways. (Sects. 275 to 298.)	
	XIII. Vehicles, Places of Public Entertainment, Pests and Noxious Weeds, Registration of Dogs, and Miscellaneous. (Sects. 299 to 365.)	55

	Part IX. Health—	
	Title I. Constitution of Central Board of Health.	
	(Sects. 366 and 367.)	
5	II. Sewers, Drainage Works, and Private Drains. (Sects. 368 to 391.)	
	III. Sanitary Appliances and General Sanitation of Premises. (Sects. 392 to 413.)	
10	IV. Noxious and Offensive Trades. (Sects. 414 to 420.)	
	V. Food and Drugs. (Sects. 421 to 445.)	
	VI. Infectious Diseases, Hospitals. (Sects. 446 to 465.)	
15	VII. Cemeteries. (Sects. 466 to 470.)	
	VIII. Nuisances in General, and Remedies. (Sects. 471 to 487.)	
	IX. Relations of Local Authorities to the Board; Special Powers of the Board; Appeals to the Board, &c. (Sects. 488 to 495.)	
20	Part X. Impounding—	
	Title I. Impounding. (Sects. 496 to 510.)	
	II. Trespass, Disputed Impoundings, and Actions. (Sects. 511 to 516.)	
25	Part XI. United Municipalities, Works on Boundaries, and Joint Undertakings—	
	Title I. United Municipalities. (Sects. 517 to 523.)	
	II. Works on Boundaries of or benefiting more than one Area, and Joint Undertakings. (Sects. 524 to 529.)	
30	Part XII. Ordinary Revenue—	
	Title I. Local Fund. (Sects. 530 to 533.)	
	II. Rates, Charges, &c. (Sects. 534 to 563.)	
35	Part XIII. Loans and Local Works carried out by means of Loans. (Sects. 564 to 576.)	
	Part XIV. Accounts and Audit. (Sects. 577 to 581.)	
	Part XV. By-laws. (Sects. 582 to 589.)	
	Part XVI. Proclamations and Regulations, Legal Proceedings, Offences and Penalties—	
40	Title I. Proclamations and Regulations. (Sects. 590 to 593.)	
	II. Compensation Claims, and various provisions as to Legal Proceedings. (Sects. 594 to 606.)	
45	III. Recovery of Overdue Rates and Expenses, &c. (Sects. 607 to 609.)	
	IV. Powers to be exercised on Enquiries and Inspections. Powers of Health Officers to take Proceedings. (Sects. 610 and 611.)	
50	V. Offences, Penalties. (Sects. 612 to 615.)	
	Part XVII. Bringing Act into operation, Confirming and Saving Clauses. (Sects. 616 to 620.)	

A.D. 1899.

*Repeal.*Repeal.
Schedule (41.).

4—(1.) The Acts specified in the Schedule (41.) to this Act are hereby repealed to the extent in that Schedule indicated.

(2.) All Acts or enactments, By-laws, Orders, or Regulations that are inconsistent with this Act are hereby also repealed.

Saving.

Compare
E.L.G., '94 (89).
E.L.G., '88 (126),
Q, 4.
O.M.A., 4.

(3.) Unless manifestly so inconsistent with this Act as to be incapable of co-existing herewith, no local or personal Act or Ordinance, nor any local or personal enactment (though contained in an Act or Ordinance hereby otherwise repealed), nor any By-law, Order, or Regulation, shall be deemed repealed by this Act; but every such Act, Ordinance, or enactment, By-law, Order, or Regulation shall remain in full force, 10 and may, where necessary or convenient, be carried out subject to the provisions of this Act so far as applicable.

Reference in
other enactments.

(4.) Any enactment or demand referring to any Act or enactment hereby repealed shall be construed to refer to this Act or to the corresponding enactment in this Act. 15

Saving.

(5.) This repeal shall not affect the temporary continuance of any of the said Acts, or of any portions of any of the said Acts, in accordance with any of the subsequent provisions of this Act, nor the continuance of any provisions of any Act hereby repealed, for which other provisions are hereby substituted, until such substituted provisions come 20 into operation.

General saving
Clause.

(6.) Neither the repeal by this Act of any Act, or of any By-law or Regulation under any such Act, nor the revocation at any time of any By-law or Regulation under this Act, shall affect—

i. The validity, invalidity, effect, or consequences of anything 25 at the time of such repeal or revocation already done or suffered; or

ii. Any then existing status or capacity; or

iii. Any Licence, right, interest, or title, liability, rate, moneys, penalty, forfeiture, or punishment then already acquired, 30 accrued, incurred, due, or established, or any remedy or proceeding in respect thereof; or

iv. The proof of any past act or thing.

Legal proceeding.

(7.) Any power, investigation, legal proceeding, or remedy in respect of any such right, interest, or title, liability, rate, moneys, penalty, 35 forfeiture, or punishment as aforesaid, and any such power, investigation, remedy, or legal proceeding, whether pending or not, may be exercised and carried on by or against any Local Authority as if this Act had not been passed.

References in
Acts to Local
Authority.
Chairmen, Mem-
bers, or officers to
apply to Local
Authorities
hereby consti-
tuted.

(8.) References in any Act, ordinance, or enactment, By-law, Order, 40 or Regulation to any Local Body, Local Board of Health, Local Authority, Chairman, Mayor, or officer shall be deemed to refer to the Corporate Body, Council, Chairman, or other proper officer under this Act affected by the subject matter of such Act, ordinance, or enactment, By-law, Order, or Regulation, or exercising similar functions 45 to those mentioned therein; and the Chairman and members of the Council, and the officers of every existing Local Authority continued by this Act, shall be deemed to be the Chairman and members and officers of such Authority as continued under and subject to the provisions of this Act. 50

Town of
Devonport.
56 Vict. No. 29.

(9.) "The *Devonport* Corporation Act, 1892," (as partially repealed by this Act), so far as affects the Town of *Devonport*, is to be read as part of this Act.

Interpretation.

Interpretation.

5 In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively:— 55

"Advertised."

"Advertised" means that the notice is given by publishing the same in some public newspaper generally circulating in the Area :

- "Animals"—Cattle, horses, sheep, goats, swine, and other quadrupeds : A.D. 1899.
 "Analyst"—A Government Analyst or a Public Analyst appointed by the Local Authority : "Animals."
 "Area"—The District or Area in which a Local Authority has jurisdiction, including any place under the control of the Local Authority outside the boundaries of the Area : "Analyst."
 "Assessment Roll"—The Assessment Roll in force for the time being in any Area under "The Assessment Act, 1898," in which any property within the Area is comprised : "Area."
 "Board"—The Central Board of Health hereinafter referred to and hereby continued : "Assessment Roll."
 "Boundary Road"—A road which, or one side of which, forms the boundary between two Areas : 62 Vict. No. 33.
 "Boundary Bridge"—A bridge over a river, creek, or other watercourse which, or one side of which, forms the boundary between two Areas, or a bridge over any such river, creek, or watercourse, situated at a point where two or more Areas, not being all on the same side of such river, creek, or watercourse, are conterminous : "Board."
 "Building" includes any structure which is either wholly or in part enclosed with walls and roofed, whether it be fixed on permanent foundations or not : "Boundary Road."
 "Carcass"—The whole or part of the carcass of any animal : "Boundary Bridge."
 "Cattle"—Bulls, cows, oxen, heifers, steers, and calves : "Building."
 "Cemetery" includes any burial-ground : "Carcass."
 "Cesspool" includes any cesspit or other receptacle for night-soil or for offensive matter below or above ground : P.A., 4.
 "Chairman"—The person acting as Mayor of a City, Warden of a Shire, or as Chairman of a Joint Council, Town Board, or Town or Rural Council : "Cattle."
 "Clerk"—The person appointed by the Local Authority to act as Town Clerk, Council Clerk, Clerk to the Shire, or Secretary or Clerk to the Local Authority, or as Clerk to the Local Committee, as the case may be : "Cemetery."
 "Common Fund"—The common fund of a united Municipality : "Cesspool."
 "Common Lodging-house" includes, in any case in which only part of a house is used as a common lodging-house, the part of such house so used : "Chairman."
 "Common Road" means a road the use and benefit of which is not confined to the inhabitants of any one Area, and which is proclaimed or declared a common road under the provisions of this Act, and so gazetted : "Clerk."
 "Council" includes the Board of any Town constituted under "The Town Boards Act, 1896," or under this Act, also the Trustees of every Road District declared to be a Rural District under this Act : "Common Fund."
 "Conterminous"—When two or more Areas are so situated that each one of the Areas is adjacent to another Area, or is only separated from it by a river, creek, or watercourse, all the Areas are "conterminous" within the meaning of this Act : "Common lodging-house."
 "Drain"—Any drain used for the drainage of one building only, or of premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage approved by the Local Authority, or with a sewer into which the "Common road."
 "Drain." See Sec. 376 (2)

A.D. 1899.	drainage of two or more buildings or premises occupied by different persons is conveyed :	
"Drainage works."	"Drainage Works" includes any waterworks, and the making of any waterworks for receiving water in its natural flow on or from any hills or other lands and diverting the same to prevent its overflow on to any other lands on a lower level, as well as waterworks for carrying off water from any lands :	5
"Drug."	"Drug"—Medicine for internal or exterior use, including tobacco :	10
"Earth Closet."	"Earth Closet" includes any place for the reception and deodorisation of fæcal matter, constructed to the satisfaction of the Local Authority :	
"Elector."	"Elector" means and includes every person—	
R.M.A., '84, 4.	I. Being a natural-born or naturalised subject of Her Majesty :	15
	II. Whether male or female of the age of Twenty-one years, whose name as the owner or occupier of any property within the Area appears—	
	(a) On the Assessment Roll, or	20
	(b) On the Rate Book of the Area.	
	Provided, that where a Rate Book has been prepared within Twelve months of the date of any election, the same, and not the Assessment Roll, shall be used for the purpose of determining who is an elector of the Area :	25
"Expenses."	"Expenses" includes all contributions, prescribed charges, wharfages, fees, tolls, and sums of money other than rates which a Local Authority may under this Act become entitled to receive from any person, also any expenditure of a Local Authority, including wages of its officers or servants employed, as well as compensation for land, cost of materials used in connection with any local work or any work or inspection which by this Act the Local Authority is empowered to undertake in respect to any premises, and also all reasonable costs and charges of any kind, including cost of serving notices in compliance with Section <i>Five hundred and ninety-seven</i> hereof, which may be incurred by the Local Authority in enforcing this Act, or in suing for or recovering any expenses :	30
See Sec. 607.		35
"Ferry."	"Ferry" includes a punt or floating bridge :	40
"Food."	"Food"—Any animal, carcass, meat, poultry, game, flesh, fish, fruit, vegetable, corn, bread, flour, milk, or article used for food or drink by man, other than drugs or water, and including condiments and confectionery :	
"Footway."	"Footway"—so much of any road as is laid out or constructed by the authority of the Local Authority for foot-passengers only, and includes the edging and kerbing thereto in cases in which edging or kerbing either exists or is required by the Local Authority to be made :	45
"Gazette."	"Gazette"—"The Hobart Gazette" :	50
"Gazetted."	"Gazetted"—Published in "The Hobart Gazette" :	
"Governor."	"Governor"—The Governor acting by and with the advice of his Executive Council :	
"Health Officer."	"Health Officer"—The Health Officer appointed by the Local Authority :	55
"Herein."	"Herein" is to be understood as relating to the whole Act, and not only to the particular Section in which it is used :	

- “Horses”—Horses, mares, geldings, colts and fillies, asses and mules: A.D. 1899.
- “House” includes dwellings of any kind, public-houses, schools, and buildings in which persons are employed: “Horses.”
“House.”
- 5 “In writing” includes partly in printing and partly in writing: “In writing.”
- “Local Authority” includes— “Local Authority.”
- I. For the Cities of *Hobart* and *Launceston*, the respective Municipal Councils thereof:
- 10 II. For the Areas of the several Corporate Bodies constituted or continued under this Act, the Council of each such Corporation respectively:
- 15 III. For a United Municipality the Joint Council thereof, to the extent of the powers and duties it is authorised to exercise and perform by the Proclamation constituting the same:
- IV.—(a) Any Authority, Local Committee, or other Committee to whom may be delegated under any of the provisions of this Act the exercise of any functions reposed in the Local Authority by whom the delegated functions would otherwise be exercisable, provided that See Sects. 136 (2), 488.
- 20 (b) Any such Authority, Local Committee, or other Committee shall only be considered as a Local Authority to the extent and within the scope of the Secs. 18 (3), 158 (3).
- 25 the delegated functions, but, so far as may be necessary to the proper discharge of the delegated functions, shall exercise all powers and authorities given by this Act to Local Authorities:
- “Local District”—A Local District mentioned in Section *One* “Local District.”
- 30 *hundred and twenty* of this Act:
- “Local Fund”—The Shire, City or Town, or Rural or Local District Fund, as the case may be: “Local Fund.”
- “Local works” includes all works and any work which a Local Authority may undertake in the exercise of the powers and functions conferred upon Local Authorities under this Act: “Local works.”
- 35 “Main Road” includes— “Main Road.”
- I. Any main road for the time being determined by Parliament to be a main road, and for or towards the maintenance of which provision shall for that time be made by Parliament: 53 Vict. No. 48.
- 40 II. Any main thoroughfare which, passing through the whole or parts of more than one Shire, ends at a port or railway station, and which has been or may be proclaimed as a Main Road: See Sect. 15 of English Highway Act, 41 & 42 Vict., c. 77.
- 45 III. Any road which, upon the request of the Councils of two Shires, testified by each passing a special resolution to that effect, is proclaimed by the Governor in Council a main road:
- “Maintenance” includes the improving, widening, diverting, altering, and repairing any road: “Maintenance.”
- 50 “Member”—A Member of the Local Authority: R.A., 3.
- “Milk” includes cream, butter, and cheese: “Member.”
- “Minister”—The Minister of the Crown for the time being administering this Act or the Part of this Act to which the expression refers: “Milk.”
- 55 “New Building” includes the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the “Minister.”
- “New building.” H.A., 8E, 13.

A.D. 1899.

"Nuisance."
H.A., 100, 102,
108.

Compare
38 & 39 Vict, c.
55, s. 91.

ground floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only : but these definitions shall not be construed as in any way restricting the meaning of the term New Building :

"Nuisance" includes—

- i. Any premises in such a state as to be offensive or injurious to health :
- ii. Any pool, ditch, channel, gutter, watercourse, privy, 10
urinal, cesspool, earth-closet, water-closet, sewer, drain,
or ashpit, so foul or in such a state as to be offensive
or injurious to health, or any cesspool which is not
perfectly watertight :
- iii. Any animal so kept as to be offensive or injurious to 15
health :
- iv. Any accumulation or deposit which is offensive or
injurious to health :
- v. Any house or part of a house so overcrowded as to be
dangerous or injurious to the health of the persons 20
employed therein, or to the inmates, whether or not
members of the same family :
- vi. Any chimney (not being the chimney of a private
dwelling-house) sending forth smoke in such a
quantity as to be offensive : 25
- vii. Any premises from which proceed offensive effluvia,
offensive fumes, vapours, smoke, gases, or dust, foul
liquid, or other impurity, in such a quantity as to be
offensive or injurious to health :
- viii. Any house or part of a house not kept in a cleanly state 30
or not ventilated in such a manner as to render harm-
less 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 to
health, or so overcrowded while work is carried on as 35
to be dangerous or injurious to the health of those
employed therein :
- ix. Any trade, business, or manufacture that is, or is as
carried on, offensive or injurious to health :

"Occupier."

"Occupier"—

40

- i. The person in actual occupation of any property : or
- ii. If there is no person in actual occupation, the person
entitled to possession thereof :

"Occupying
cellar as a
dwelling."

"Occupying cellar as a dwelling"—Any cellar, vault, or under-
ground room, in which any person passes the night, is 45
deemed to be a cellar occupied as a dwelling :

"Offensive
matter."

"Offensive matter" includes—

- i. Stagnant water, drainage from stables, cow-sheds, pig-
styes, or any place where any animal is kept or
sheltered, and the overflow from any privy or cesspool, 50
or the drainage of any premises which consists of dirty
or polluted water :
- ii. Also any dead animal, blood, offal, manure, dung, soil,
filth, sludge, dust, or dirt of any kind, decaying
vegetable or animal matter : and 55
- iii. Refuse matter of any kind which is unwholesome, offen-
sive, or dangerous to health :

- “Offensive Trade” includes any of the trades, manufactures, or businesses mentioned in Section *Four hundred and fourteen* of this Act, and also any trade, manufacture, or business which, in the opinion of any Court or Justices before whom a complaint is made under this Act, is an offensive trade : A.D. 1899.
“Offensive Trade.”
- 5 “Owner”—The person, other than Her Majesty, who for the time being is entitled to receive the rent of any property, or who, if the same were let to a tenant at a rack-rent, would be entitled to receive the rent thereof, including any Trustee, Administrator, or Mortgagee in possession or otherwise, and any person in possession of any property under any lease or other instrument conferring possession thereof for any term not less than Ten years, without reserving any rent or reserving any annual rent or other periodical payment less than the annual rent that could reasonably be demanded for the use and occupation of such property, but shall not mean or include any mesne tenant : “Owner.”
See also Sect. 197.
Compare H. and L.C. Acts.
- 10 “Path” includes bridlepath and footpath : “Path.”
- 15 “Person,” includes any Company or Corporation : “Person.”
- 20 “Pest”—Any animal infesting or devouring any tree, plant, vegetable, or product thereof, or any insect or fungus infesting or causing disease to any tree, plant, vegetable, or product thereof, or any insect, matter, or thing infesting or causing disease in any animal; which has been declared a pest under this Act; or any disease, fungus, or insect which, by Proclamation under “The Vegetation Diseases Act, 1898,” has been declared to be a disease, fungus, or insect within the meaning of that Act : “Pest.”
- 25 “Police Act”—*The Police Act*, 1865, and all Amendments thereof : “Police Act.”
29 Vict. No. 10.
- 30 “Posted throughout” means that a notice printed or in writing has been affixed on or near the door of at least every Post Office, Police Office, or Police Station in the Area or District affected by the notice : “Posted throughout.”
- 35 “Premises” includes land, and any building or structure thereon, together with any road or private way giving access to any premises, also any floating structure : “Premises.”
- 40 “Prescribed” means prescribed by this Act or any Schedule thereto, or by any Proclamation, Notice, Order, Regulation, or By-law made under its authority, or under the authority of any Act hereby repealed and still continuing in accordance with the provisions of this Act : “Prescribed.”
- 45 “Private road”—
I. Any road laid out on private property but intended for the use of the public generally, and which was not openly acknowledged and used as a public highway before the Second day of *October*, One thousand eight hundred and sixty-five : “Private road.”
L.C.A., 4.
P.A., 192, 193.
- 50 II. Any road hereafter laid out in accordance with this Act as a private road :
- 55 “Private way”—Any way or passage whatsoever over private property the right to use which is conferred or intended to be conferred upon one or more persons or classes of persons, and which is not open or intended to be open to the use of the public generally, and includes the land over which any such right is exercisable : “Private way.”
T.B.A., 4.

A.D. 1899.	
"Proclamation."	"Proclamation"—A Proclamation made or to be made by the Governor under the provisions of this Act and gazetted :
"Proclaimed."	"Proclaimed" means proclaimed by the Governor in a Proclamation :
"Property."	"Property" includes land or building, and land and buildings : 5
"Proprietor."	"Proprietor"—The person owning any animal, or any agent or overseer of such owner :
"Public Health Act."	"Public Health Act"—"The Public Health Act, 1885," and all Amendments thereof :
49 Vict. No. 18.	"Public place"—Every road which the public are allowed or 10
"Public Place."	entitled to use, and whether on private property or not, within the limits of any Area :
"Public road."	"Public road"—As defined in Section <i>One hundred and fifty-six</i> of this Act :
"Road."	"Road" includes every thoroughfare, square, place, road, street, 15 terrace, lane, alley, footway, path, right of access to the foreshore or esplanade of the sea or of any lake or river, and includes every bridge, culvert, sewer, drain, channel, footway, ferry, ford, gate, building, or other thing belonging to any such road, and may be so used in any summons, information, 20 or indictment :
"Roads Act."	"Roads Act" includes "The Roads Act, 1884," and all the Amendments thereof :
"Road District."	"Road District" means a Road District constituted under Part 25
48 Vict. No. 28.	III. of "The Roads Act, 1884" :
"Sewer."	"Sewer" includes—
	I. Any open or covered channel or gutter, whatever its construction, into which at any time flows dirty or polluted water, hereinafter referred to as "sewage water," from any drain, whether such sewer receives 30 or is likely to receive the drainage of one or more properties, and whether the same sewer is partly or wholly constructed on private land, runs across or under, or forms part of, the side-channel of any road :
	II. Also, sewers and drains of every other description, 35 except drains to which the word "drain" as above defined applies :
"Sheep."	"Sheep"—Rams, ewes, wethers, and lambs :
"Shire."	"Shire"—A Shire constituted under the provisions of this Act :
"Special Resolution."	"Special Resolution" means a Resolution passed as provided 40
T.B.A., 4.	in Section <i>Ninety-eight</i> hereof :
Compare	"Steam Roller" includes any mechanical contrivance for
Special Order,	forming, rolling, or flattening roads, which is propelled
Vict. 1112.	or worked by any other means than manual labour or
"Steam roller."	animal power : 45
"Subdivision."	"Subdivision"—A Ward of a Town or a Subdivision of a Shire :
"Surface water."	"Surface-water" includes rain-water from any roof :
"This Act."	"This Act" includes all By-laws, Proclamations, Regulations, and Orders continued or to be made under it : 50
"Town."	"Town"—
	I. Any of the Towns named in the Schedules (43 and 45.) :
	II. Any Town constituted under the provisions of this Act :
	III. Any City to which any of the provisions of this Act are made applicable : 55
"Trustees."	"Trustees"—The Trustees for the time being of the Road
48 Vict. No. 28.	District for which they have been elected :
"Urban District."	"Urban District"—As mentioned in Sections <i>Nine</i> and <i>Twelve</i> of this Act :

- "Vehicle" includes any form of waggon, cart, or carriage, whether drawn by animals or propelled by machinery of any kind; also any form of cycle however propelled: A.D. 1899.
"Vehicle."
5. "Water-closet" shall mean a pan of a patten approved by the Local Authority, with a seat similar to that of a privy, having a trapped and ventilated soil-pipe, and a water supply from a cistern disconnected from any pipe containing water for household use: "Water closet."
"Health Act."
10. "Watercourse" includes every passage or channel on or under ground through which water flows, whether continuously or intermittently, except a navigable river: "Watercourse."
- "Water District" includes— "Water District."
15. i. Any District, whether the whole or part of an Area constituted under this Act, to which water is being supplied at the date of the commencement in such Area of this Act:
- ii. Any Area or part of an Area to which water may be hereafter supplied and as defined by Proclamation as hereinafter provided:
20. iii. Also any District which may be supplied by any Shire Council, or Joint Council or by any Two or more Local Authorities under the provisions of this Act:
- "Waters" includes the water of any lake, river, stream, creek, or watercourse, or any spring, pool, or underground water: "Waters."
25. "Waterworks" includes all waters and all rights appertaining thereto, and all lands, watersheds, catchwater areas, reservoirs, dams, in the bed of or on the banks of rivers, lakes, or elsewhere, locks, tanks, cisterns, pumps, wells, aqueducts, conduits, and pipes, watercourses, races, and branch races, and all buildings, machinery, and appliances of every kind acquired or constructed by or vested in any Local Authority under the authority of this Act for collecting, conveying, or supplying and distributing water for or to the Area of such Local Authority or any part thereof, or any Water District beyond any Area under the provisions in that behalf hereinafter contained; also all surveys, inspections, buildings, erections, machinery, and other works for or in connection with the making, altering, enlarging, improving, cleansing, repairing, or protection of any waterworks. "Waterworks."
- 30.
- 35.

Application of Act to Hobart and Launceston.

40. 6 Except when the word "City" or the word "Cities" occurs this Act, save when expressly so stated, does not apply to the Cities of Hobart and Launceston, but each of the said Cities shall be considered as a Local Government Area for the purposes of this Act so far as may be necessary to apply therein the provisions of this Act which are next
- 45 mentioned, and which are hereby extended to the said Cities with the exceptions stated; viz., Part , Title , Division , Sections to , except Sub-section () of Section ().
- Only certain portions of Act apply to Cities of Hobart and Launceston.

Application of Act to Election of Trustees of Water Districts, &c.

- 7—(1.) In all Statutes and enactments where "The Rural Voting Act, 1884," is referred to, the provisions of Section Forty of this
- 50 Act shall be substituted.
- (2.) Every Election of Trustees for the purposes of "The Campbell Town Water Act, 1878," or any other Act which requires Elections
- Provisions substituted for those of Rural Voting Act, 1884. 48 Vict. No. 26. And for those of Roads Act, 1884, 48 Vict. No. 28.

A.D. 1899.

See also Sect. 15,
Sub-section X.See 48 Vict. No.
26, Sect. 9.

of Trustees to be conducted in the same manner as Elections of Trustees of Road Districts, shall be conducted in accordance with the provisions of this Act so far as the same can be applied to any such election.

(3.) The word "Landholder" used in "The *Campbell Town Water*"⁵ Act, 1878," shall be read without regard to the minimum Annual Value stated in Section One of that Act.

PART II.

MUNICIPAL ORGANIZATION.

Title I. Definition and Incorporation. (Sects. 8 to 11.)

II. Formation and Alteration of Corporations and future Areas. (Sects. 12 to 21.)

TITLE I.—DEFINITION AND INCORPORATION.

Div. I. Existing Areas and Local Authorities. (Sect. 8.)

II. New Areas. (Sects. 9-10.)

III. Incorporation. (Sect. 11.)

Division I.—*Existing Areas and Local Authorities.*

As to existing
Rural Muni-
cipalities.
29 Vict. No. 8.
Schedule (42.).

8—(1.) Each of the Rural Municipalities specified in the Schedule (42.), and heretofore constituted under "The Rural Municipalities Act, 1865," shall constitute a Shire, and the Council thereof shall exercise 10 their functions until the election of the Shire Council or Shire Councils, which shall have jurisdiction over the whole of the Area of such Rural Municipality, and until a Shire Council or Shire Councils is or are elected, which shall have jurisdiction over the whole of the said Area, the Council of such Rural Municipality shall be the Local Authority 15 in regard to so much of such Area as to which a Shire Council or Shire Councils has or have not been elected.

Towns continued.
60 Vict. No. 31.
Schedule (43.).

(2.) The Towns specified in the Schedule (43.), and heretofore continued or constituted under "The Town Boards Act, 1896," shall be and remain Local Government Areas for the purposes of this Act, 20 and shall, so far as may be necessary, be deemed to have been constituted Towns under this Act.

Transformation of
certain Road
Districts into
Rural Districts.
Schedule (44.).

(3.) The Road Districts specified in the Schedule (44.), shall cease to be Road Districts, but shall be and remain Rural District Local Government Areas for the purposes of this Act, and shall, so far as is 25 necessary, be deemed to have been constituted Rural Districts under this Act.

Members of
existing Local
Authority to
continue until
First Election
under this Act.

(4.) The respective Members of the Councils of any Town, or Road District comprehended in the Two preceding Sub-sections of this Section shall, respectively, be the Local Authority of each continued 30 Town, or Rural District, as the case may be, and, notwithstanding any provision in any of the said repealed Acts for retirement of Members by effluxion of time, shall continue in office until the day of the election of the Local Authority taking their place as fixed by Proclamation in manner hereinafter provided.

Extraordinary
Vacancies before
that date.
R.A., '85, 10.
T.B.A., 40-43.

(5.) Any extraordinary vacancies in such Councils occurring prior to but not less than Two months before that day, shall be filled up in accordance with the provisions of such of the said repealed Acts as were intended to apply to Extraordinary Vacancies in Town Boards, 35

and Road Trustees respectively, but otherwise the vacancies shall remain unfilled. A.D. 1899.

(6.) In every existing Area the Local Authority thereof shall (until altered under the provisions of this Act) consist of the number of 5 members of which it consists at the commencement of this Act. Number of Members of existing Local Authorities.

(7.) In every existing Area the Chairman in office at the commencement of this Act shall continue to hold such office thereafter until the day appointed for holding the first meeting of the Local Authority hereinafter appointed to be held after the first election of members 10 under this Act. Chairman of existing Local Authority.

Division II.—*New Areas.*

9—(1.) *Tasmania* shall, in accordance with the provisions hereinafter contained, be divided into Areas to be called Shires, each of which shall be a Shire under this Act; and for which the Shire Council thereof shall be the Local Authority. Shires constituted by this Act. See Sect. 616.

15 Provided, that the jurisdiction and powers of the Shire Council shall not extend to prevent in any Town or Urban or Rural District included in any Shire the due discharge by the respective Local Authorities of such Town or Urban or Rural District of any function reposed in them, or prevent the exercise of any power conferred upon them as 20 such Local Authorities by this Act. Shire Councils not to impede contained Local Authorities in discharge of their proper functions.

(2.) Each of the Areas set out in the Schedule (45.), and every Area hereafter proclaimed as a Town, shall be a Town under this Act, and for which the Town Council thereof shall be the Local Authority. Towns constituted by this Act. Schedule (45.).

25 (3.) Each of the Areas set out in the Schedule (46.), and every Area hereafter proclaimed as a Rural District, shall be a Rural District under this Act, and for which the Rural District Council thereof shall be the Local Authority. Rural Districts constituted by this Act. Schedule (46.).

(4.) Each of the Towns set out in the Schedule (47.), and every 30 Area hereafter proclaimed as an Urban District, shall be an Urban District under this Act, in which the provisions hereinafter contained as to Road Rates and Local Committees shall have effect. Certain Towns under P.A. not constituted Towns under this Act to be Urban Districts. See Part VII. and Sect. 104. Boundaries of Areas may be altered. Boundary marks. Compare R.M.A., 15, 16. Penalty.

10—(1.) The boundaries of all Areas, whether existing or hereby constituted, are alterable in accordance with the provisions made herein 35 in that behalf. See Part VII. and Sect. 104. Boundaries of Areas may be altered. Boundary marks. Compare R.M.A., 15, 16. Penalty.

(2.) Permanent boundary marks of iron, wood, stone, or other durable material may be set up by a Local Authority of any Area in such places as it elects along the lines of the boundaries thereof, and any person wilfully destroying, pulling down, obliterating, defacing, 40 injuring, or concealing any such boundary mark is liable to a penalty, in addition to the value thereof, not exceeding Five Pounds.

Division III.—*Incorporation.*

11—(1.) The Council and Electors of every existing Area incorporated at the commencement of this Act and hereby continued, shall continue to be a Body Corporate. Continuance of existing Corporations.

45 (2.) The Council and Electors—
i. Of every Road District which, under the provisions of this Act, is transformed into a Rural District; and
ii. Of every Shire constituted under this Act with boundaries differing from any existing Rural Municipality; and
50 iii. Of every Town constituted under this Act; and
iv. Of every Rural District constituted under this Act, shall be a Body Corporate. Incorporation of newly created Local Authorities.

(3.) Every Body Corporate continued or created under this Act shall be styled "The Shire Council," or "The Town Council," or Styles of Corporations under the Act.

A.D. 1899.

"The Rural District Council" of [], naming the Area for which the Council is the Local Authority.

Styles of existing Corporations.

(4.) Provided, that any existing Corporation continued under this Act may be styled as at the commencement of this Act, until the name thereof is altered in accordance with the provisions of this Act. 5

Powers of Corporations.
See 52 Vict. No. 21.

(5.) Every Body Corporate under this Act shall have perpetual succession and, except as provided in Section *Ninety-four* hereof, a common seal, and shall, under its corporate name, be capable in law of suing and being sued, and of purchasing, holding, and alienating land and personal estate, and of doing and suffering all such other acts and things as Bodies Corporate may by law do and suffer: Provided that it shall not be lawful for any such Corporation to sell and dispose of or to convey any real estate, or to demise any real estate for any term exceeding Twenty-one years in possession, without the consent in writing in every case of the Governor previously obtained and gazetted, 15 and then upon compliance with the conditions stated in such consent or contained in Regulations made as hereinafter provided; but the Governor may authorise the sale of any land heretofore granted, to be held exclusively for Municipal purposes only notwithstanding any condition to the contrary contained in any Grant Deed relating to such land. 20

Exception.

See Sect. 591.

(6.) The powers of every Body Corporate under this Act shall be exercised by the Council thereof.

Land granted for Municipal purposes.
Compare 52 Vict. No. 21.
To be exercised by Councils.

TITLE II.—FORMATION AND ALTERATION OF CORPORATIONS AND FUTURE AREAS.

- Div. I. Constitution of other Local Government Areas. (Sects. 12 to 17.)
II. Consequences of Absorption or Abolition of Districts and Areas. (Sects. 18 to 21.)

Division I.—*Constitution of other Local Government Areas.*

Governor in Council on petition may constitute, unite, subdivide, or abolish Areas.
See Sects. 13, 15, 120 (5).
Compare Vict. L.G. Act, '90, Q., 8.

12 Subject to the provisions of this Act, the Governor, on petition, as hereinafter mentioned, may, by Proclamation—

- I. Unite two or more Areas into one Area : 25
- II. Divide any Area into two or more Areas :
- III. Subdivide or re-subdivide a Town into Wards :
- IV. Alter the boundaries of a Town or Ward by including in a Town or Ward part of another Town or Ward, or part of an adjoining Rural or Urban District, and excluding it 30 from the latter :
- V. Abolish a Town or the Wards of a Town, or any Rural or Urban District :
- VI. Constitute any portion of the Colony which is not included in a Town, a Town, or Rural District, or Urban District, 35 with such boundaries and by such names respectively as may be specified in the Proclamation :
- VII. Alter the boundaries of a Shire or Subdivision by including in a Shire or subdivision part of another Shire or subdivision, and excluding it from the latter, and that whether 40 the subdivision is part or the whole of an included Town, or Rural or Urban District :
- VIII. Abolish a Shire or the Subdivisions of a Shire :
- IX. Include an abolished Rural or Urban District, or part of it, in a contiguous Town : 45
- X. Constitute the whole or any part or parts of a Rural or Urban District a Town, or constitute a Rural District or part thereof an Urban District :
- XI. Alter the name of an Area :

xii. Constitute United Municipalities as hereinafter provided. A.D. 1899.

Provided, that no Town shall hereafter be constituted by Proclamation of a greater area than Nine square miles, nor unless there be in the proposed Area at least One hundred and fifty Electors, whose 5 properties have an annual rateable value exceeding Five thousand Pounds.

Conditions as to future Towns.

13 The Governor may, by Proclamation—

Further powers of Governor in Council. See Sects. 22, 23, 616.

10 i. Divide a Shire into such Electoral Subdivisions as shall be necessary to comply with the subsequent provisions of this Act relating to Members of Councils of Shires:

Compare Q., 9, and S.A., 5.

ii. Include an abolished Town in a contiguous Rural District, and constitute it an Urban District therein:

15 iii. Give a name or number to any Subdivision, name or re-name any Local District, and re-name or re-number any Subdivision:

iv. Determine or alter the number of Members comprising the Local Authority of any Area, and, if the same is subdivided, the number of Members for any Subdivision therein:

Sundry powers as to Members of Local Authorities and First Elections. See 22 (2).

20 v. Appoint the first Members or additional Members of a Local Authority or for any Subdivision.

See Sect. 617.

vi. Determine that any Members shall cease to hold office in consequence of any changes:

vii. Determine the date when the first ordinary election of Members shall take place:

25 viii. Provide that any Roll of Voters may be altered, or any new Roll of Voters prepared, in any manner that he shall deem fit:

30 ix. Where any road or any portion thereof shall form the boundary or lie along the boundary of or shall adjoin any Area or Areas, add such road or any portion thereof to any of the said Areas.

Boundary road may be included in adjoining Area.

x. Alter the provisions of Part IV., Title II., of this Act—

a. In their application to any Trustees mentioned in Section *Seven* of this Act; or

Modify election provisions to suit Trustees—(see Sect. 7)—or for minor Councils under Act.

35 b. In their application to any Council of a Rural District constituted under this Act;

40 and that either generally or with special application to any one body; and, upon the issue of any such Proclamation, elections of the Trustees and Members of Council affected thereby shall be conducted in accordance with the provisions of this Act as modified or altered by any such Proclamation; and every such Proclamation, until revoked or altered by another, shall be read and construed as part of this Act in applying its provisions to any such Trustees or Members of Council as aforesaid:

45 xi. Exercise the powers of Proclamation in any succeeding Part of this Act conferred, subject only to any precedent conditions stated in connection with any particular case.

Exercise after conferred powers. e.g., s. 18, 120, &c.

14 Except when expressly so provided by the Proclamation, the 50 change arising out of the exercise by the Governor of any of the powers conferred by the last two preceding Sections (when such change involves the holding of an election) shall not go into effect, except as to the provisions of this Act relating to elections, until the conclusion of such election.

When changes involving elections are to take effect. Compare O.M.A., '89.

A.D. 1899.

Petition to constitute a new Area.

Compare S.A., 3.
See Sect. 16 (5.)
Petition to unite Areas.

See Sect. 142.

Petition to alter boundaries of District.

Petition to alter or adjust boundaries.

See (11.) below.

Petition to alter division of an Area.

Petition to alter names.

Petition to abolish.

Petition for one executive act to cover other consequential exercise of powers.

Presented by being left with Minister.
Address for service.

"Area" in this Section includes Urban District.
See Sects. 12-120.
Petitions requiring Special Resolution.

15—(1.) The Petition to constitute a new Area shall set forth—

The name proposed for the Area ;

The boundaries thereof, and, if the Area is proposed to be divided, the boundaries and names of the proposed Subdivisions :
and all other necessary particulars, and shall be signed by a majority 5 of the owners and occupiers of property within the proposed Area.

(2.) The Petition for the union of any Areas shall set forth—

The name proposed for the Area formed by such union ;

The boundaries and names of the proposed Subdivisions, if the Area is to be subdivided : 10

and all other necessary particulars, and shall be under the common seal of the Local Authority of the Areas proposed to be united ; but no petition for the union of any Towns or Urban Districts shall be presented until the consent (ascertained by a poll) of the electors in each of such Towns or Districts has been first obtained. 15

(3.) The petition to alter the boundaries of any existing Area shall set forth—

The boundaries of the land proposed to be severed or added ;

The names of members who should cease to hold office by reason of the severance of portion of the Area ; 20

and all other necessary particulars, and shall be signed by a majority of the owners and occupiers of property situated in the land proposed to be severed or added.

(4.) The petition to adjust the boundaries of adjoining Areas, where no considerable portion of land is proposed to be severed from or 25 added to any Area, shall set forth the boundaries proposed to be adjusted and the new proposed boundaries, and shall be under the common seal of the Local Authority of one at least of the Areas. The Governor may determine whether any petition is subject to the provisions of this sub-section or the preceding sub-section. 30

(5.) The petition to divide or cancel or alter the division of an Area shall set forth—

The boundaries and names of any new proposed Subdivisions ;

The names of the members who should cease to hold office in consequence of any diminution in the number of Subdivisions ; 35 and all other necessary particulars, and shall be signed by not less than one-fifth of the electors of the Area.

(6.) The petition to alter the name of any Area shall set forth the name proposed to be altered, and the name proposed to be substituted therefor, and shall be under the common seal of the Local Authority 40 of the Area.

(7.) The petition to abolish an Area shall also set forth any proposed new Area to be constituted out of that abolished, and shall be signed by not less than one-half of the electors of the Area, except in the cases provided for in Section *Nineteen* of this Act. 45

(8.) A petition may pray for the exercise of any one or more of the powers hereinbefore conferred upon the Governor, and when signed so as to support the exercise of any one of the powers, shall be deemed sufficiently signed to support the exercise of any others which may be necessary for the convenient exercise of the first-mentioned power. 50

(9.) Every petition shall be addressed to the Governor, and left with the Minister, and shall state an address at which notices may be served on the petitioners.

(10.) "Area" in this Section includes an Urban District and the District in which it is proposed that a Local Committee shall have 55 jurisdiction.

(11.) The Common Seal of a Local Authority shall not be affixed to any petition until it has passed a Special Resolution authorising the petition.

16—(1.) The substance and prayer of the petition shall be advertised at the cost of the Petitioners, and the whole petition with the signatures shall be gazetted by the Minister for Three consecutive weeks.

A.D. 1899.

Procedure on petition.

(2.) Any person may show cause against such petition by a counter-petition, which shall be gazetted by the Minister for Three consecutive weeks, and the substance and prayer thereof advertised by the counter-petitioners, the first publication thereof being made within Six weeks from the first publication of any petition in the *Gazette*.

(3.) The original petitioners shall have the right to reply to any counter-petition by petition in reply, which shall be gazetted within Twenty-one days from the first publication in the *Gazette* of the counter-petition, or of the last-published counter-petition, if more than one.

Compare S.A., 7.

(4.) No further petition in reply thereto shall be considered or published.

(5.) The signatures to every petition, counter-petition, or petition in reply, other than the common seal of a Local Authority, shall be verified by statutory declaration.

Signatures to be verified.

17—(1.) Every Proclamation may, if there shall not have been a counter-petition, issue not earlier than Six weeks from the first publication of the petition, or, if there shall have been a counter-petition duly published as aforesaid, not earlier than Twelve weeks from the first publication of the original petition.

Powers of Governor. When Proclamation may issue. Compare S.A., 8.

(2.) The Governor may by such Proclamation grant the prayer of the original petition, or any part thereof, with such alterations, additions, and modifications as may appear to him necessary or expedient.

May modify petitioner's request.

(3.) The Governor may direct any inquiry to be held by one or more Justices concerning any matter connected with any petition, or concerning any question whatever with regard to property, income, rights, contracts, debts, liabilities, or expenses which he shall consider ought to be decided in consequence of the exercise of any of the foregoing powers.

Inquiry may be ordered.

(4.) The Justice or Justices shall report to the Minister within Thirty days; and no Proclamation shall be made in the matter until such report has been received.

(5.) The Justice or Justices shall have power to order costs to be paid to any Local Authority or person by any Local Authority or person presenting any petition, counter-petition, or petition-in-reply, or by any person alleging any claim in respect of any property, contract, or otherwise howsoever, and such costs shall be recoverable as provided in *The Magistrates Summary Procedure Act*.

Costs may be awarded. 19 Vict. No. 8.

Division II.—*Consequences of Absorption and Abolition of Districts and Areas.*

18—(1.) When—

i. By the operation of this Act, at its commencement or at any time afterwards, any existing Rural Municipality, Town, or Road District, or any other District or Board, all of which are in this Section referred to under the term "District," is absorbed into an Area under this Act, or the functions of the Governing Body thereof are by Proclamation devolved upon the Local Authority of any Area under this Act; or

Assets and liabilities of existing Bodies and of Areas under the Act absorbed into another Area to devolve upon such Area.

ii. An Area is abolished and the whole of the Area is included in another Area; or

Compare Q., 11, 12. S.A., 8.

[Bill 1.]

A.D. 1899.

See *e. g.*,
57 Vict. No. 52.
See Sect. 532.
T.B.A., 239.

Trusts and special
purposes to be
respected.
Shire Council's
power to vary
same with Gov-
ernor's assent.

Power for
Minister to ad-
minister pro-
perties, &c., until
change complete.

Apportionment
of assets and
liabilities of
existing Districts
or of Areas when
divided or bound-
aries changed.
See T.B.A., 243,
244.

Power to transfer
Recreation
Grounds and
Water Trusts.
52 Vict. No. 17.

See Sect. 120.

See Sect. 110.

III. Two or more Areas are abolished and the whole of such Areas is constituted one Area ;

the assets, rights of property, interest, and liabilities, including statutory powers and obligations, of the absorbed District, or of any such Governing Body as aforesaid, or of the Area or Areas so abolished, 5- and of the respective Local Authorities in whatever capacity, and whether conferred by the Acts hereby repealed or directly or indirectly by any other Act, shall devolve upon the Area and the Local Authority of the Area in which the absorbed District or the Area or Areas so abolished has or have been included, or upon the newly 10 constituted Area and the Local Authority thereof, as the case may be, but subject (if the Proclamation does not expressly declare to the contrary) as to any property held upon any trust, or for any special purpose to the like trusts and purposes, or as near thereto as the circumstances shall admit: Provided that "the Shire Council 15 may (at the request of any Local Authority within the Shire), by Special Resolution gazetted and approved by the Governor, change the purpose for which any property or chattel vested in the Local Authority is held by such Local Authority.

Provided always, that if the abolition of an Area and its constitution 20 as a new Area, or its inclusion in another Area, as the case may be, are not provided for by the same Proclamation, the Minister may, after such absorption or abolition, and until such constitution or inclusion, collect, get in, sell, and give valid conveyances of the assets of the absorbed District or abolished Area, and apply the moneys realised 25 by such collection, getting in, and sale (after payment thereof of expenses) in discharge of the liabilities of the same District or Area ; and

(2.) When—

- I. A United Municipality is constituted as hereinafter provided ; 30
- II. An Area or District is divided into two or more Areas ; or
- III. A portion is severed from one Area or District and included in another Area ; or
- IV. A portion is severed from one Area or District and is constituted an Area ; or 35
- V. An Area is constituted by the union of portions of two or more Areas or Districts ; or
- VI. In any case, in consequence of the alteration of the boundaries of Areas or Districts, it becomes necessary so to do ;

the Governor may, by Proclamation, declare and apportion the assets 40 and liabilities of the respective Local Authorities, whether old or new, between them as appears to him just.

(3.) When a City, Town, or Urban District, whether constituted at the commencement of this Act or subsequently—

- I. Contains within its Area a Public Recreation Ground, or 45 there is adjoining or near thereto a Public Recreation Ground, managed by Trustees under "The Public Recreation Grounds Act, 1888," for the inhabitants or portion of the inhabitants of such Area ; or
- II. Contains a Water District, or forms the greater part of a Water 50 District ;

the Governor may, by Proclamation, transfer to the Local Authority of such City or Town, (and, in the case of a Public Recreation Ground, to any Local Committee as Local Authority for that purpose), the control of any such Recreation Ground or Water 55 District, and thereafter the same shall be vested in the said Local

Authority for all the estate and interest therein of the Trustees thereof, and such Local Authority shall have all the powers and authorities and be subject to all the liabilities of the same Trustees. A.D. 1899.

And, by any such or subsequent Proclamation, the Governor may extend such of the provisions of this Act as he may deem expedient to any such Water District, and whenever any of these provisions conflict with those of any other Act, he may, by Proclamation, determine which shall prevail. Proclamation may extend provisions of Act to Water District, but shall not affect power to levy Rates.

But the power to levy Rates contained in the Statute under which the Trustees of the Water District acted shall not be altered by any Proclamation, and shall be exercised by the Local Authority as fully as the same could be by such Trustees.

(4.) In any of the cases aforesaid, if any of the Districts or Areas affected is indebted to the Crown in respect of moneys advanced to it by way of loan, the Governor may, by like Proclamation, declare and apportion the liabilities of the respective Local Authorities in respect of such loan, and may declare upon what portion or portions or upon what subdivision or subdivisions of the Area of any of the Local Authorities any part of such loan shall, as between the several portions or subdivisions of such Area, be chargeable, but so that the whole of the apportioned part of the loan shall, as between the Local Authority and the Crown, be chargeable to the whole of the Area of the Local Authority. Crown debts.

(5.) The Governor may from time to time, by any Proclamation—

i. Apportion, settle, or adjust any property, income, contracts, debts, powers, duties, liabilities, or expenses which he shall consider ought to be apportioned, settled, or adjusted in consequence of the exercise by him of any of the powers of this Act; Adjustment of contracts, &c.

ii. Make such arrangements as the Governor may deem just as to the officers of any Local Authority affected by any Proclamation, and if such officers shall be by any Proclamation declared to be continued as officers of any Local Authority they shall be so continued, but subject in all respects to every provision of this Act relating to officers of Local Authorities. Arrange as to officers of affected Local Authorities.

iii. And the Governor may also, by Proclamation, declare that the Local Authority of the Area in which any abolished District or Area, or portion of a District or Area, is included, shall have power to levy a special rate upon the properties within the said District or Area, or portion respectively as aforesaid, for such period or periods and for such amount or amounts as to the Governor may seem just, in liquidation of any liability which the said Local Authority may assume or be charged with under this Section. Power to order Special Rate to be levied upon included District to discharge its liabilities.

(6.) Every such Proclamation shall have the same effect as if it were a part of this Act, so that the rights and liabilities of the respective Local Authorities, and their respective powers, rights, and authorities in respect of their assets, and the rights and liabilities of the respective portions or subdivisions of the Areas of the Local Authorities, shall be as declared by the Proclamation. Effect of Proclamations under this Section.

(7.) When in consequence of the exercise of any powers under this Act any District or Area shall cease to exist, no action, suit, or Suits not to abate.

A.D. 1899.

Constitution of
Areas, &c., not to
be affected.

Compare
R.M.A., 10.

When provisions
of Acts conflict
Governor may
determine which
is to prevail.
See Sect. 110.

Revocation of
Proclamation of
Area where no
Council elected
for Two years.
T.B.A., 13.

By-laws to
remain in force.
Compare
Q., 13.

Change of bound-
aries not to affect
payment of Rates.
Compare
Q., 14.
Tas., 40.

Corporate Bodies,
Funds, &c.,
established by
this Act substi-
tuted for present
Bodies.

proceeding shall be affected or abated unless the Governor by Proclamation shall otherwise determine.

(8.) No Proclamation concerning any District or Area or any sub-division in an Area shall alter or affect the constitution of such District or Area, or the sub-divisions thereof, or the identity of a Local Authority 5 as a corporate body, or derogate from the powers of any Local Authority or the members thereof, or alter or affect the By-laws or Regulations of the District or Area, unless as shall be otherwise expressed by such Proclamation.

(9.) Whenever, as the result of the operations of this Act, a Local 10 Authority is in the place of any formerly existing Authority, Trustees, or Board, and is declared to have the functions of any such formerly existing Authority, Trustees, or Board, but to be subject in any way in the exercise thereof to any other Act than this Act, and whenever any of the provisions of the said Acts are found to be in conflict, or there 15 is found to be any difficulty in determining which is to prevail or be followed by the said Local Authority, the Governor may by Proclamation determine which of the same provisions is to prevail and to be followed by such Local Authority.

19—(1.) The Governor may, by Proclamation to be published in the 20 *Gazette*, revoke the original Proclamation of any Town or other Area whenever in any such Town or Area no Members shall have been elected to the Council thereof for Twenty-five Calendar months.

(2.) All By-laws in force in any such Area shall remain in force, so far as the same are not inconsistent with this Act, in the portion 25 of the Area of the new Local Authority which comprises such Area or portion thereof until they are repealed or amended under the provisions of this Act.

20 When, in consequence of any alteration of boundaries following upon any such absorption, abolition, or alteration as aforesaid, a former 30 District or Area, or a portion of a former District or Area, becomes a new Area or portion of another Area, then all rates which have accrued due in respect of property situate within the District or Area or portion so affected, and which remain unpaid at the date of the alteration of the boundaries, shall be remain due, payable, and leviable, and may 35 be paid to and received, levied, and recovered, by the Local Authority of the new Area or the Area to which such portion is added.

21 Wherever by any Act—

- i. The Municipal Council, or the Municipal Fund, or the Warden or Councillors, or the Warden, Councillors, and Electors 40 of any Rural Municipality ; or
- ii. The Town Board, or the Chairman or Members of the Board of, or the Board and Electors of any Town ; or
- iii. The Trustees of any Road District, Water District, Fruit District, Public Recreation Ground, Public Cemetery, or 45 any similar Body

is or are referred to, the Local Authority, the Local Fund, the Chairman and Members of such Local Authority, and the Corporate Body of the Area of such Local Authority, which, by the operation of this Act at its commencement, or at any time afterwards, is substituted for any 50 of the aforesaid Authorities, Officers, Fund, or Corporate Bodies or Trustees, as the case may be, shall be deemed to be intended.

A.D. 1899.

PART III.

MUNICIPAL COUNCILS, HOW COMPOSED.

- Title I. The Members. (Sects. 22 to 26.)
 II. Qualification, Disqualification, and Exemptions. (Sects. 27 to 31.)
 III. Non-acceptance, Resignations, and Extraordinary Vacancies. (Sects. 32 to 37.)
 IV. Ouster from Office. (Sects. 38, 39.)

TITLE I.—THE MEMBERS.

- 22**—(1.) The Council of every Shire shall consist of such even number of Members, not being less than Ten nor more than Twenty, as the Governor in each case may by Proclamation from time to time determine. Governor to determine number of Members in Shire Councils, E.L.G., '88 (51).
- 5 (2.) The Governor in the Proclamation determining the number of Members to constitute a Shire Council shall set forth the Electoral Subdivisions of the Shire, each of which shall return One Member to the Council. and Subdivisions of Shire, each to return a Member.
- 10 (3.) The number of such Subdivisions shall be such that as nearly as can be it shall equal half the number of Members of the Shire Council. to equal half number of Members.
- 15 (4.) The remainder of the Members shall represent the Shire as a whole, and shall be elected by the Electors thereof voting as one constituency, except in the case of first Council, when such remainder of Members shall be nominated by the Governor as hereinafter is provided. Remainder (except first) to be elected by whole Shire.
- 20 (5.) The Subdivisions of a Shire shall be determined by ascertaining, as nearly as may be, the total number of votes (according to the scale set forth in Section *Forty* of this Act) of the Electors of the Shire, and dividing such number by one-half the total number of the Members of the Shire Council. The result shall be the quota of Electors entitled to a Representative in the Shire Council. General rule for constituting Subdivisions.
- 25 (6.) Provided that, though this rule is intended to guide the Governor generally in determining which shall be the subdivision of the Shire, it shall be lawful to constitute any existing Area within a Shire a Subdivision of the Shire if the votes of the Electors of such Area are approximately near to or exceed the quota. Governor may vary rule so as where practicable to have Subdivision equivalent to an existing Area.
- 30 (7.) And the Governor may, if in the exercise of his discretion he so determines, allot as Members for Subdivisions one more than half the total number of Members of the Shire Council in order to preserve as far as possible that the existing Areas within a Shire shall be Subdivisions of such Shire. Governor may also, to same end, vary rule by allotting one extra Member to Subdivisions of Shires.
- 35 (8.) But where it shall not be practicable to do so, the Governor shall unite Two or more of the Areas, or unite an Area or Two Areas with a portion of, another Area or with portions of other Areas, in such manner as will best secure that the aforesaid provisions shall as near as may be have effect. Otherwise Areas to be grouped and a Representative allotted to the group.
- 40 (9.) No objection shall be allowed to any Proclamation of the Governor on the ground that any Subdivision does not conform strictly to any of these provisions. No objection to be taken if Subdivision does not conform strictly to rules.
- (10.) Membership of the Council of a Shire shall not be a disqualification for membership of any other Local Authority under the Shire, nor shall a Member of any such Local Authority be disqualified thereby from becoming a Member of the Council of his Membership in one Council not disqualification for another.

A.D. 1899.

As to first Elections.

Number of Members of other Councils to be determined by Governor.

See Sect. 8 (6).

Members of Shire Councils *ex officio* Members of other Councils in certain cases.

And then one less than full number of Members remains to be elected.

Duration of membership.

Members may be re-elected.
Q., 28.

Change in number of Members or boundaries of Area, &c.
Q., 29.

Qualification.
See also Sect. 22 (10).
Compare Q., 20.
R.M.A., 55.

Shire. And any person (if otherwise qualified) may at the first Elections be elected both to the Council of the Shire and to the Council of the Local Authority in whose Area he resides.

23—(1.) The Council of every Town or Rural District shall consist of such number of Members, not being less than Five nor more than 5 Nine, as the Governor in each case by Proclamation from time to time determines.

(2.)—I. Where the Area of any such Town or Rural District is a Subdivision of the Shire; or

II. Where the Area is part only of a Subdivision of the Shire; 10 the Member of the Council of the Shire elected for any such Subdivision shall, during his continuance as such Member, be also a Member of the Local Authority of the Town or Rural District which is either the Subdivision he represents or forms part of the Subdivision he represents as aforesaid, but, in the second of the said cases, only 15 when he is resident in the Local Authority's Area. And in every such case the Electors of any such Area shall elect at every biennial Election of Members of the Local Authority thereof one less than the full number of such Members.

(3.) Where the Area is part only of a Subdivision of the Shire, and 20 the Member of the Council of the Shire for such Subdivision is not a resident of such Area, he shall be entitled to attend, although not a Member, all Meetings of the Local Authority of the Areas or portions of Areas included in the Subdivision, and deliberate, but not vote, on any question. 25

24 Each Member comes into office on the day of his election or on the gazetting of his appointment, and, subject to the provisions of this Act, continues therein until his successor is elected or comes into office by the declaration of the Returning Officer as hereinafter provided in case of an uncontested Election, or is appointed as provided in Section 30 *Seventy-nine* hereof.

25 Nothing herein contained shall prevent any person from being immediately, or at any time, re-elected to the office of Chairman or Member, if he is capable for the time being, under the provisions of this Act, of being and continuing such Chairman or Member. 35

26 When a change is made in the number of Members of a Local Authority, or a change is made in the boundaries of an Area or Subdivision, the Governor may by Proclamation declare and direct whether an Extraordinary Election of a Member or Members shall be held for the Area or any Subdivision thereof, and, if so, when such Election 40 shall be held, and whether any and which of the existing Members shall go out of office, and at what time.

TITLE II.—QUALIFICATION, DISQUALIFICATION, AND EXEMPTIONS.

27 Every male elector of the Area who is resident or has a place of business therein and is not under any of the disabilities hereinafter specified, shall be eligible to be elected and to act as a member of the 45 Local Authority of the Area, but so long only as he continues to hold such qualification.

When an Area is subdivided it is not necessary that the qualification should arise in respect of property within the Subdivision for which the member is elected. 50

28 No person who—

A.D. 1899.

- i. By himself or any person is engaged in or interested in any contract with, or any work done for, the Local Authority; or
 ii. Is counsel or solicitor either by himself or with another in the prosecution of any claim, action, or proceeding against the Local Authority; or
 iii. Holds an office of profit under the Crown or the Local Authority, except the office of Chairman or Treasurer; or
 iv. Is an officer on full pay in the naval or military service of Her Majesty, other than the Defence Force of the Colony; or
 v. Has his affairs under liquidation by arrangement or composition with creditors; or
 vi. Is an uncertificated or undischarged bankrupt; or
 vii. Has been convicted of felony, unless he has received a free pardon or has undergone the sentence passed upon him; or
 viii. Is undergoing a sentence of imprisonment; or
 ix. Is an insane person within the meaning of the laws in force for the time being relating to insanity

Disqualifications.
See also Sect. 100.

See R.M.A., 56-58.

Compare Q., 21.
Tas., 48, 49, 53, 55.
R.A., 131.**20** shall be capable of being or continuing a member of a Local Authority.

Provided, that nothing herein shall disqualify any person from being or continuing a member of a Local Authority solely because he is concerned or participates in a transaction with the Local Authority in respect of—

Certain acts not to incapacitate for membership.

- i. The supply of water, light, or power or work done under the provisions of this Act by the Local Authority to or for such person, or in respect of any payment for a Licence, or in the nature of a deposit required to be made under this Act; or
 ii. A lease, sale, or purchase of lands; or
 iii. An agreement for such lease, sale, or purchase; or
 iv. An agreement for the loan of money, or any security for the payment of money; or
 v. A contract for the publication of advertisements in a public journal; or
 vi. A contract entered into by an incorporated company for the general benefit of such company; but he shall not vote at any meeting of the Local Authority on any question in which such company is interested.

59 Vict. No. 46 s. 4.

When member may not vote.

29 No person elected as Chairman or Member of a Local Authority shall be capable of acting as such, except in administering the declaration hereinafter mentioned, until—

Declaration and payment of rates by Chairman and Member.

- i. He has made and signed before one of the Members or before a Justice a declaration in the form in the Schedule (1.):
 ii. All sums then due in respect of any rates upon property within the Area for the payment of which he alone is liable have been paid.

Schedule (1.)
Compare Tas., 50.
R.M.A., 61.
See Sect. 612 (4, 11.)

If, within Thirty days after notice of his election has been served upon him personally or left at his usual place of abode, the person so elected does not make and subscribe such declaration, and deliver the same to the Clerk or Chairman, he shall cease to be qualified to act as such Chairman or Member.

Any Member, whether he himself has made such declaration or not, may administer such declaration.

A.D. 1899.

When office is
vacant.

30 The office of a Member or Chairman shall be vacated—

- i. If he is or has become disqualified, or has ceased to be qualified, under the provisions of this Act; or
- ii. If any rate for which he alone is liable remains unpaid for Six months after the day fixed for payment thereof; or 5
- iii. If, without leave obtained from the Local Authority in that behalf, he has been absent from Three or more consecutive ordinary meetings extending over a period of Two months at the least; or
- iv. If he is ousted from his office by the Supreme Court: 10

Compare
Tas., 23, 53.
Attendance at
Meeting where no
quorum present.
Q., 23.

Provided, that the attendance of a Member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting, notwithstanding that by reason that no quorum is present no meeting is actually held on that day; and the clerk shall enter in the minute-book the names of all Members who so 15
attend.

Penalty on
disqualified
person acting.
See also Sect.
100, 101.

Compare
Tas., 51, 52.

31 If a Chairman or Member before he is capable of acting as such, or, after his office has become vacated, acts or continues to act as Chairman or Member, knowing that he is not capable, or that his office has become vacated, he shall be liable to a penalty not exceeding Fifty 20
Pounds.

TITLE III.—NON-ACCEPTANCE AND RESIGNATION—EXTRAORDINARY VACANCIES.

Persons elected
to accept office
or pay a fine.
R.M.A., 59-60.

32 Every person duly qualified and duly elected to the office of Chairman or Member of a Local Authority shall accept such office by making and subscribing the declaration hereinbefore mentioned within Thirty days after notice of his election has been served on him personally, 25
or left at his usual place of abode, or shall in lieu thereof pay to the Local Authority in aid of the Local Fund a fine of not exceeding Thirty Pounds in case of a Chairman, and a fine of not exceeding Fifteen Pounds in case of a Member.

Chairman, &c.
liable to fine.
R.M.A., 58, 62.

33 If any person holding the office of Chairman or Member is 30
absent without leave, or other cause than illness, certified by a duly qualified medical practitioner, from the Area for more than Two months at one time, he shall be liable to the same fine as if he had refused to accept such office.

Provision for
resigning office.
R.M.A., 64.

34—(1.) Every person elected into any corporate office under this 35
Act may at any time resign such office, and the resignation shall be held to be complete from the date of its being received by the Clerk.

In case of refusal
to accept office,
fresh election to
be had.
R.M.A., 65.
T.B.A., 46.

35 If any person elected into any corporate office under this Act refuses or fails to accept such office, or resigns such office, the same shall thereupon be deemed vacant, and shall be filled up by a fresh 40
election, as in the case of a vacancy.

Aforesaid
vacancies deemed
extraordinary.

36 All the vacancies in the office of Chairman or Member mentioned in this Part of this Act are extraordinary, and are hereinafter so
referred to.

37 Proceedings for penalties specified in this part of this Act may be taken by the Local Authority or by any creditor or elector of the Local Authority.

The amount recovered for any penalty shall, subject to the payment of all the costs of recovering the same, form part of the Local Fund : Provided that no proceeding shall be commenced after Three months have elapsed since the commission of the offence, nor unless at least a month's previous notice of the intention to commence proceedings has been given to the Defendant.

A.D. 1899.

Proceedings for recovery of penalties.

Compare R.M.A., 60,

TITLE IV.—OUSTER FROM OFFICE.

38 Upon affidavit that any person declared elected to an office under this Act has been elected unduly or contrary to this Act, or any person who is incapable under the provisions of this Act of holding or continuing to hold any such office has been elected to or holds or exercises any such office, and upon payment into Court of the sum of Twenty Pounds as security for costs to abide the event of the application, the Supreme Court or a Judge thereof may grant a rule or order calling upon such person to show cause why he should not be ousted from such office.

Disputed elections or exercise of office.

Tas., 113.

See Sects. 80, 81.

If, upon the return of the rule or order, it appears to the Court or Judge that the person so elected, or holding or exercising such office, was elected unduly or contrary to this Act, or was at the time of his election, or while holding or exercising such office, incapable under the provisions of this Act of holding or continuing to hold the same, the Court or Judge may make the rule or order absolute, or, if the matter does not so appear, may discharge the rule or order, and in either case with or without costs.

The person against whom any such rule or order is made absolute shall be deemed thereby to be ousted from such office accordingly.

Compare R.M.A., 73,

Provided, that no such rule or order for ousting any person as having been elected unduly or contrary to this Act shall be granted unless the application is made before the expiration of One month from the declaration of the result of the election at which such person was elected.

39 When any proceedings are pending in the Supreme Court with respect to any election as having been made unduly or contrary to this Act, or with respect to the unlawful holding or exercise by any person of a corporate office under this Act, the Court or a Judge may order, from time to time, that an inquiry be held by a fit person, to be named by the Court or Judge, touching any matters of fact which it is necessary or expedient to ascertain for the purpose of dealing with the proceedings so pending, and that such person do report to the Court or Judge touching such matters. And the Court or Judge may adopt and act upon the report of the person so appointed.

Supreme Court may direct an inquiry to be made.

See Sect. 81.

Tas., 114.

Sections from One to Six, both inclusive, of the Act of Council of *William 4th*, No. 2, so far as the same respectively apply to powers, rights, and liabilities conferred or imposed in the case of an order under the said first-mentioned Section for the issue of a commission for the examination of witnesses, shall be deemed to apply in the case of any order under this Section in like manner as if the person ordered to report hereunder had been authorised and required to take examinations under the said Act ; and such person shall have power to call upon the Clerk for and to inspect the Ballot-papers.

Application of Act 5 William 4, No. 2.

[Bill 1.]

A.D. 1899.

PART IV.

MUNICIPAL ELECTIONS.

TITLE I. Electors. Sects. 40 to 43.
II. Elections. Sects. 44 to 80.

TITLE I.—ELECTORS.

Voters entitled
who have paid
rates.
T.B.A., 30.
R.M.A., 27.
To vote according
to annual value
of property.
Compare
R.M.A., 1884,
Sect. 4.
“Elector”
defined, Sect. 5.

40—(1.) At elections of Members every elector shall be entitled in respect of property, the rates on which, made and payable (by the Local Authority for which Members are to be elected) Three months or more before the day of Election, have been paid, to the number of votes following, that is to say— 5

- I. If the property, whether consisting of one or more tenements, is liable to be rated upon a value of less than Twenty-five Pounds, he shall, except as hereinafter provided, have One vote :
- II. If such value amounts to Twenty-five Pounds and is less 10 than Seventy-five Pounds, he shall have Two votes :
- III. If it amounts to or exceeds Seventy-five Pounds, he shall have Three votes.

(2.) Provided that—

S.A. Act, 497,
Section 31.

- I. No person in receipt of public alms or charity shall be 15 entitled to vote .

Limitation of
value.
Vict. L.G. Act,
1890, Sect. 66.

- II. And that no person shall be entitled to vote in respect of property of a less annual rateable value than Ten Pounds, unless there be a house upon such property, and such person reside there. 20

Voting after sub-
division.

(3.) When an area is subdivided, every person entitled to vote shall be so entitled for every subdivision wherein any property in respect of which he is so entitled is situated.

Joint occupiers
and owners.

(4.) When more persons than one appear on the Assessment Roll or Rate Book as joint occupiers or owners of property, each of such 25 persons shall be deemed to be an occupier or owner of property of a value equal to that of the whole of such property divided by the number of such occupiers or owners not exceeding Three.

In case more than Three persons appear as aforesaid, the persons to be deemed entitled to vote shall be those Three whose names stand 30 first in order upon the Assessment Roll.

If such value when so divided will not provide (in accordance with the foregoing scale) a qualification for each (not exceeding Three in either case) of the said joint occupiers or owners, then the vote or votes which cannot be divided shall be given by such one or two of them 35 as is deputed in writing for that purpose by the others or other.

How elector may
vote when part
only of his pro-
perty on the
Assessment Roll
is within Area.
Schedule (2).
R.M.A., 19.

(5.) No elector whose name appears on the Assessment Roll in respect of property, part of which is situated within and part of which is situated without the boundaries of the Area, shall vote in respect of such property unless and until he produces to the Returning Officer 40 a certificate in the form in the Schedule (2.), or to the like effect, of the annual value of such part of the said property as is situate within the Area, signed by Two Justices of the Peace or by the Valuers who prepared the Assessment Roll, and then such elector shall have a

number of votes proportionate only to the annual value stated in such A.D. 1899. certificate.

(6.) No person, notwithstanding that he is qualified in respect of more than one of the qualifications herein mentioned, shall be allowed to give more than Three votes at any election for an Area or Sub-division.

41 The Chairman of a Shire Council shall, and the Chairman of any other Local Authority may, from time to time, cause to be made out a list, to be called the "Electors' List," in the form in the Schedule (3.), containing in alphabetical order the names of all persons whose names appear in the Rate Book of the Area as occupiers or owners of rateable property, and distinguishing whether they are occupiers or owners, together with the value upon which the property of which they are the occupiers or owners is liable to be rated. Electors' List.
Schedule (3.).

Such list shall be kept at the office of the Local Authority, and shall be open to inspection by any elector at all reasonable times during office hours, and he may, without payment of any fee, make a copy thereof or take extracts therefrom.

When the Area is subdivided a separate Electors' List shall be made out for each Subdivision; and the Chairman of the Shire shall cause a copy of the List of the Electors of the Shire for the Subdivision, which embraces the Area or portion of the Area of any other Local Authority, to be sent to the office of every such Local Authority for inspection as aforesaid. Shire Electors' List to be sent to office of every Local Authority.

Any Local Authority may cause any such Electors' List to be printed, and thereupon copies shall be furnished to any person requiring them on the payment of a sum not exceeding One Shilling for every copy thereof. Printing the List.

42—1 Any person who shall have been enrolled in the Electors' List for any Area for at least Six months, and whose name shall have been removed therefrom through inadvertence, upon making a declaration in the form in the Schedule (4.); or Provisions in case of omissions from List:
I. Elector inadvertently left out.
Compare S.A. Act, 606.

II. Any person whose name is omitted from the Electors' List of the Area, who is a resident therein, and who would otherwise be entitled to vote at a then impending election, and who has paid at least one Rate to the Local Authority, upon making a declaration in the form in the Schedule (5.), II. Ratepayer left out.
Schedules (4 & 5.)
See Sect. 612.

shall be entitled to have his name inserted in the Electors' List for the Area, and shall thereupon be entitled to the same rights as if his name had appeared in the said list from the first.

Provided, that the necessary declaration is filed with the Returning Officer at least Seven days before the day of the election.

43 No occupier of rateable property who produces a receipt showing that he has duly paid up all rent due to the owner thereof shall be deprived of his right to vote as an elector by reason of the non-payment by the owner of any Rate due for the property in respect of which such occupier may claim to vote, and for which the owner shall be liable under this Act (or have agreed with the tenant) to pay the Rates. List not to be altered within Seven days of an election.
Occupier's right to vote protected if he has paid his rent to owner.
S.A. Act, 497, Sect. 51.
S.A. Act, 419, Sect. 76.

A.D. 1899.

TITLE II.—ELECTIONS.

- DIV. 1. Preliminary—Provisions as to Times, &c. of First and subsequent General Elections. Sects. 44 to 50.
 II. Returning Officers, Election Officials, and Polling-places. Sects. 51 to 55.
 III. Proceedings Preliminary to the Poll. Sects. 56 to 64.
 IV. The Poll. Sects. 65 to 77.
 V. Extension of Time, Appointments by the Governor, Proceedings validated, Recounts, Offences, and Penalties, &c. Sects. 78 to 85.
 VI. Extraordinary Elections. Sect. 86.

Division I.—*Preliminary—Provisions as to Times, &c. of First and subsequent Elections.*

Elections governed by succeeding Sections. Governor's power to supplement. See Sect. 13, x.

No election to be invalid for want of strict compliance with Act. See Sects. 80 & 601 (5). R.M.A., 70. Compare O.M.A., 175.

First Elections in Shires, See Sect. 13.

and in other Areas.

First Elections of Local Council on same day as First Election for Shire Council. Times and places to be appointed by the Governor. R.M.A., 21. Officials may be nominated by the Minister.

First Members for whole Shire to be nominated by the Governor.

44—(1.) Elections of Members shall be conducted in accordance with the provisions next following; but the Governor may exercise any of the powers hereinbefore conferred in respect to any election, and may, whenever the necessity arises, supplement the said provisions, and make such provisions by Proclamation as he may consider desirable to 5 enable an election to be carried out.

(2.) No election shall be declared invalid by reason of non-compliance with the Rules contained in this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of the forms in the Schedules, or by reason of any irregularity, 10 if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such non-compliance, or mistake, or irregularity did not affect the result of the election.

45—(1.) The first Representatives of the Subdivisions of a Shire 15 shall be elected within Three months after the Proclamation defining such Subdivisions is gazetted.

(2.) The First Council for every other Area shall be elected within Three months either—

- i. After the date this Act takes effect in such Area, if it be an 20 Area hereby constituted; or
- ii. After the Proclamation constituting it is gazetted, if it be an Area constituted hereafter.

(3.) The First Elections of Members of Local Authorities within any Shire shall, whenever practicable, be held on the same day as the 25 First Election of Members of the Shire Council for the several Subdivisions thereof.

(4.) All such First Elections shall be held on such day in each case and at such place or places as the Governor in every such case, by Proclamation, appoints. 30

Provided that the Minister may, by a gazetted notification under his hand, make any appointment of necessary officials not made by the Proclamation.

46—(1.) The Governor shall (immediately after the conclusion of the Election of the first Representatives of the Subdivisions of a Shire 35 in the Council thereof) appoint so many qualified Electors of the Shire to be Members for the whole Shire as shall be necessary to make up the total number of Members of the same Council to the number fixed

by the Proclamation constituting such Council, and every such appointment shall have effect from the date it is gazetted. A.D. 1899.

(2.) The First Council of a Shire shall go out of office at the conclusion of the Election of Members as herein provided to be held in the year next ensuing the constitution of such Council. First Shire Council retires year following constitution.

(3.) Every Second and subsequent Council of a Shire shall go out of office at the conclusion of the Election of Members of the Council thereof to be held every Second year after the First Council so retires. Succeeding Councils biennially.

47 The Second Elections of Members of the Shire Council representing the several Subdivisions thereof by the Shire Electors of each Sub-division, and the First Election of the remaining Members of the Shire Council by the whole of the Electors of the Shire shall be held on the Fourth *Thursday* in the month of *April* in the year following the constitution thereof. Second Elections for all Members of Shire Council to be held the year following the First.

48 On the Fourth *Thursday* in the month of *April* in the year following the constitution of every Shire Council, and on the same day in every succeeding Second year thereafter, all the Members shall go out of office, and on every such day a fresh General Election of Members thereof shall be held. General Elections Shire Councils, except Second, to be biennial.

49 If any person is elected a Member for two or more Subdivisions of a Shire he shall at, or any time before, the First Meeting of the Council thereafter elect, by writing under his hand, delivered to the Chairman or Clerk, or, in default thereof, the Council shall elect for which of such Subdivisions he shall serve, and there shall be deemed to be an extraordinary vacancy in the office of Member for any other Sub-division for which he was elected. Case of double Election. Compare E.L.G., '88, 107.

50 On the fourth *Thursday* in the month of *April* in the Second year following the First Election of every Town or Urban or Rural District Local Authority, and on the same day in every succeeding second year thereafter, all the Members, except any person who is as representing a Sub-division in the Shire an *ex officio* Member of such Local Authority, shall go out of office, and on every such day a fresh General Election of all the Members thereof, except such *ex officio* Member, shall be held. Biennial General Elections of other Councils,

Provided that, after the First Elections under this Act have been held, should any such Local Authority be constituted in the same year as that in which the Elections for Shire Councils are to be held, then the next Election of Members for the said Local Authority shall be held on the fourth *Thursday* in the month of *April* in the following year, and such last-mentioned day shall then be regarded as the day from which the Biennial Election of Members of the said Local Authority shall be computed, to the end and intent that all Biennial Elections for Shire Councils shall eventually take place in alternate years to the years in which those for other Local Authorities are held. except when First Election held same year as Shire Council Elections, when the Second Elections to be in a year, but all thereafter biennially, so that Elections for Shires shall alternate with other Elections.

Division II.—*Returning Officers, and Election Officials and Polling-places.*

51—(1.) At every Election the Chairman, unless he is a candidate at the Election, and then some other person appointed with such person's consent by the Local Authority, or, if there is no Local Authority or no such person is appointed by the Local Authority, Returning Officer. R.M.A., 26. T.B.A., 18.

A.D. 1899.

Candidate not to be Returning Officer.

Returning Officer to be a Presiding Officer, and appoint others.
R.M.A., 33,-34.
T.B.A., 24.

Copy Electors' List to be supplied.
See Sect. 41.

Substitutes for Presiding Officers.

Absence of Presiding Officer not to invalidate Election.

Returning Officer's declaration.
R.M.A., 35.
Schedule (6).
See Sect. 633 (4, 11.)

Power of Presiding Officer, &c.
Compare Tas., 80.

then some person the Governor appoints shall be the Returning Officer.

(2.) A candidate at an Election shall not be or be appointed as a Returning Officer thereat.

52—(1.) The Returning Officer shall be the Presiding Officer at 5 one Polling-place in the Area, and shall, by writing under his hand, appoint Presiding Officers to take the Poll at the other Polling-places, and shall supply them each with a copy, certified under his hand, of the Electors' List, Rate Book, or Assessment Roll, whichever may be used for the Election. 10

(2.) The Returning Officer and each Presiding Officer, with the approval of the Returning Officer, may in like manner appoint one or more persons to be a Polling Clerk or Polling Clerks to assist him in taking the Poll.

(3.) If the Returning Officer or Presiding Officer be prevented 15 from attending to any of his duties by illness or other sufficient cause, he may, by writing under his hand, appoint a substitute to act for him, or, in case of his refusal or inability, the Clerk may perform the duties of the Returning Officer or such Presiding Officer, or shall, by writing under his hand, appoint a substitute to act for the Returning Officer 20 or such Presiding Officer.

(4.) And the Clerk or substitute shall thereupon for the time being have all the power and authority of, and be deemed to be the Returning Officer or such Presiding Officer.

(5.) If by reason of the absence of the Presiding Officer the Poll 25 is not taken at any Polling-place, the Election shall not therefore be void, but the Returning Officer or Clerk may appoint another day not later than Fourteen days from the day appointed for taking the Poll at such Polling-place, of which appointment due notice shall be publicly given, and the Poll shall be taken accordingly, and be deemed to have 30 been taken on the day first appointed.

(6.) Each Returning Officer and each Presiding Officer shall, before the day of Poll at any Election of Members, make and subscribe before the Returning Officer or any Justice of the Peace a declaration in the form in the Schedule (6). 35

53 Every Presiding Officer shall have power and authority to maintain and enforce order and to keep the peace at any election or polling held before him; and may, without any other warrant than this Act, cause to be apprehended and taken before a Justice any person reasonably suspected of— 40

- I. Personating or attempting to personate any elector; or
- II. Voting or offering to vote more than once at the same election; or
- III. Leaving or attempting to leave the Polling-booth after having received a ballot-paper and before having deposited the 45 same in the ballot-box as hereinafter provided; or
- IV. Attempting to vote by means of a ballot-paper which has been delivered to another person; or
- V. Causing a disturbance at the election; or
- VI. Wilfully obstructing the polling by any unnecessary delay 50 in performing any act within the Polling-booth;

and may also cause to be apprehended and taken before a Justice any person who intrudes into or obstructs the approaches to the Polling-booth, or conducts himself in a disorderly manner. And all Constables

and Police Officers shall aid and assist the Presiding Officer in the performance of his duty. A.D. 1899.

Expenses.

54 All reasonable expenses of, or incident to, any election incurred by the Returning Officer shall be repaid to him by the Local Authority 5 out of the Local Fund. Expenses of Returning Officer.

Polling-places.

55 For the purposes of every election the Returning Officer shall from time to time appoint and abolish Polling-places, but so that there shall be always one Polling-place at the least in every Subdivision for which the election is held, and that no Polling-place shall be appointed 10 or abolished after the day succeeding the day of nomination. Appointment of Polling-places. Tas., 70

No Polling-place shall be appointed in a house or place licensed for the sale of fermented or spirituous liquors.

A Polling-place may be appointed outside of the Area for which the election is held.

15 Public notice shall be advertised by the Returning Officer of the situation of all Polling-places appointed as aforesaid as soon as the same can conveniently be done.

Division III.—*Proceedings preliminary to the Poll.*

Nomination of Candidates.

56—(1.) Fifteen days before the day appointed for any election under this Act the Returning Officer shall cause notice of such election 20 to be advertised and gazetted, and a copy of such notice posted throughout the Area. Notice of Election. R.M.A., 29. T.B.A., 16, 19.

(2.) The notice shall require all candidates at such election to be nominated at some place within the Area to be named in such notice, in manner and within the time hereafter mentioned.

25 (3.) On and after the Tenth day and until the hour of Four o'clock in the afternoon of the Seventh day next before any election any Two electors of the Area may, by writing, stating their respective names and residences, nominate to the Returning Officer for election, as a member or members, according to the form in the Schedule (7.), 30 one or more other qualified electors, not exceeding the number then to be elected, whose consent to be nominated shall be appended, as in the same form is prescribed. Nomination of persons for election as Members. T.B.A., 21. Schedule (7.).

(4.) The Returning Officer shall, at all times between the hours of Ten o'clock in the forenoon and Four o'clock in the afternoon, upon 35 each day between the aforesaid Tenth and Seventh days, keep posted outside the place appointed for the delivery of nomination papers the names of all persons who have already become candidates at such election. Candidate to sign consent. T.B.A., 21. L.C.A., 26. R.M.A., '84. (6.). Nominations to be posted as received.

57 Every person who—

- 40** i. Procures himself to be nominated as a candidate for the office of member, knowing himself to be under the provisions hereof incapable of being or continuing a member; or
- ii. Knowingly signs a nomination paper nominating or purporting to nominate as a candidate for such office a person 45 incapable of being or continuing a member; or
- iii. Knowing that he is not an Elector, signs a nomination paper nominating any person as a candidate at such election; is for every such offence liable to a penalty not exceeding Twenty Pounds. Penalties in case of nomination of incapacitated person. Tas., 65.

A.D. 1899.

Declaration of
election where
uncontested.
R.M.A., 30.
T.B.A., 22.

58 If at the expiration of the time limited for the nomination of candidates the number of candidates does not exceed the number of members to be elected, the Returning Officer shall at once, without any Poll being had, publish, at or near the door of the place of nomination as aforesaid a notice under his hand declaring such person or 5 persons to be duly elected ; and he or they shall be elected accordingly.

Contested elec-
tion.

59—(1.) If at the expiration of the time limited for the nomination of candidates the number of candidates exceeds the number of Members to be elected, a Poll shall be taken in manner hereinafter provided.

(2.) The Returning Officer shall, at Four o'clock on the last day of 10 nomination, at the place appointed for the delivery of nomination papers, publicly announce the names of the persons who have become candidates, and the places at which a Poll will be taken.

Notice and time
and place of Poll.

(3.) And shall also forthwith cause a notice to be advertised, stating the names of the candidates, and the day on which and the hours during 15 which the Poll will be taken, in accordance with the provisions of this Act, and naming also the Polling-places.

Notices to be
posted.
T.B.A., 20.
R.M.A., 29.

(4.) And shall cause a copy of such last-mentioned Notice to be posted throughout the Area and on or near the door of every Polling- 20 place therein.

Retirement.

Candidate may
retire within
certain time.
Schedule (8.).
Q., 53.

60 If a candidate desires to retire from his candidature, he may, not later than Four clear days before the Polling-day, sign and deliver to the Returning Officer, or to the clerk, who shall forthwith deliver it to the Returning Officer, a notice in the form in the Schedule (8.), or 25 to the like effect.

The Returning Officer, on receipt of such notice, shall omit the name of the candidate so retiring from the ballot-papers to be used at the election ; or if such papers have been printed, shall erase his name therefrom, and shall make known as publicly as possible, by advertise- 30 ment or otherwise, the fact of his retirement.

See O.M.A., 117.

The person so retiring shall not be capable of being elected at the election ; and if the number of candidates is by his retirement reduced to the number of Members to be elected at the election, the Returning Officer shall at once declare the remaining candidate or candidates to be duly elected and cause notice thereof to be advertised. 35

Ballot-papers
to be signed by
Returning Officer.

61 (1.) Where a Poll is required, the Returning Officer shall forthwith cause to be printed or written a sufficient number of Ballot- 40 papers, each of which shall be signed or stamped on the back by the Returning Officer, or marked with the Local Authority's stamp or seal as he may think proper.

Contents.
T.B.A., 25.
R.M.A., 36.

(2.) Every ballot-paper shall contain the names of the duly nominated candidates arranged alphabetically in the order of their surnames.

If two candidates
have same names.

(3.) If Two candidates have the same Christian name and surname, the residence and occupation of each such candidate shall be added to 45 his name on the ballot-paper.

Schedule (9.).
Printed declara-
tion to be
provided.
R.M.A., 37.
Schedule (10.).

(4.) The ballot-papers shall be in the form in the Schedule (9.).

(5.) The Returning Officer shall also provide a sufficient number of papers containing the printed declaration set forth in the Schedule (10.), and 50

Ballot-papers and
declarations to be
furnished to Pre-
siding Officers.
T.B.A., 25.
R.M.A., 38.

(6.) The Returning Officer, in time for the election, shall deliver or transmit to each Presiding Officer of each Polling-place so many of such ballot-papers and printed declarations as aforesaid as are fully

equal to the number of votes to which the Electors likely to vote at the Polling-place are entitled; and shall keep for himself a like sufficient number for the Polling-place at which he is to preside; and shall keep an exact account of the number of ballot-papers and printed declarations supplied to each Presiding Officer, and retained by himself.

A.D. 1899.

Accounts to be kept.

62 At an election the Returning Officer shall—

10 Cause such Booths to be erected, or rooms to be provided at each Polling-place, as occasion requires, and have the same so divided and arranged to provide as many inner rooms or compartments as may be necessary, opening only into the room in which the ballot-box is kept :

Returning Officer to provide Booths at each Polling-place ;
R.M.A., 33.

15 ii. Cause to be furnished for the use of each Polling-place a sufficient number of copies of the Electors' List for the Area or Subdivision, or, if no List has been prepared, then of the Rate Book or Assessment Roll, as the case may be.

and copies of Electors' List, Rate Book, and Assessment Roll. See "Elector," Sect. 5.

63—(1.) On or before the day of Election, the Collector of Rates in every Area shall prepare and verify by a statutory declaration a correct alphabetical list of all persons who, being on the Electors' List or Rate Book, have not paid all Rates on or before the Seventh day next before the day of Election.

Collectors to prepare List of Defaulters for use at Polling-places.

(2.) Where an Area is subdivided, such a List of Defaulters shall be made for each Subdivision.

A List for each Subdivision.

25 (3.) The person preparing the said Lists shall furnish to all persons applying for the same certified copies thereof, and of the Declaration verifying the same, and shall be entitled to receive the sum of Three-pence for every Twelve voters whose names are on the list.

Copies to be furnished.

(4.) Such Defaulters' Lists as aforesaid shall be sufficient evidence on which the Presiding Officer may act in ascertaining that such Rates were not paid Seven days prior to the Election.

Lists to be evidence as to nonpayment of Rates by Electors. O.M.A., 119.

30 **64** The Minister shall, before the opening of the Poll at every Election of Members of any Local Authority, cause to be delivered to the Returning Officer for every Presiding Officer such number of printed directions for the guidance of voters, not being less than Six for each Presiding Officer, as he may deem sufficient; such directions shall be printed in conspicuous characters, and may be according to the form in the Schedule (11.).

Directions to Voters. O.M.A., 126, and Eng. Ballot Act, 1872. Schedule (11.).

Division IV.—*The Poll.*

65 On the election day there shall be published under the hand of the Returning Officer, at or near the door of each Polling-place, a list of the names and residences of all Candidates.

Candidates names to be posted at Polling-places.

40 **66**—(1.) At every Booth or Polling-place the Returning Officer shall provide one or more compartments or Ballot-rooms with all necessary materials for the purpose of enabling the elector to mark the ballot-paper as hereinafter provided, and in the said Booth or Polling-place no person shall be entitled to be present other than the Presiding Officer, the Poll Clerk, the Candidates, and the Scrutineers of the Candidates appointed as hereinbefore provided, and the Electors who at that time may be voting.

Returning Officer to provide a Ballot-room. Compare Tas., 73, 81.

[Bill 1.]

A.D. 1899.

Penalty for
intrusion into
Booth.

Ballot-box.
T.B.A., 26.

Duration of Poll.
See R.M.A., 39.

Except in Shires
period may be
shortened.
T.B.A., 23.

Scrutineers.
R.M.A., 31.
See Sect. 612 (4,
11.).

Schedule (12.).

Mode of Polling
at elections.

Elector to make
declaration.
Schedule (10.).

Ballot-papers to
be given to voters.
T.B.A., 27.
R.M.A., 40.

To be first
initialled by the
presiding Officer,
and marked with
voter's number
on the Roll.

And number to
be concealed.

Compare
Eng. Ballot Act,
1872, (2.).

Voter's name to
be marked on
Roll.

Marks to be
evidence in any
scrutiny.

(2.) Every person other than such Presiding Officer, Poll Clerk, Candidates, Scrutineers, and electors actually voting, who intrudes into a Booth or Polling-place shall be liable to a penalty not exceeding One hundred Pounds, or to imprisonment for any period not exceeding One year with or without hard labour. 5

(3.) The Returning Officer shall also provide a locked box to be called the ballot-box, with a cleft or opening therein capable of receiving the ballot-papers folded as hereinafter provided, and such box shall be opened and exhibited to the candidates, Poll Clerks, and Scrutineers present before the polling begins, and after being locked and duly sealed, shall stand on a table at which the Presiding Officer presides, and he shall keep the only key thereof, and see that the seal is not tampered with. 10

67 The time for taking polls shall be from Nine o'clock in the forenoon till Six o'clock in the afternoon. 15

Provided, that the Local Authority of any Town or Rural District may, by By-Law, fix any period of the day between those hours, but so that the poll shall remain open at least for Three hours.

68 Each candidate may appoint one person to be his Scrutineer at each Booth or Polling-place in use at the election, who shall be entitled to be present at the place appointed for the examination of the ballot-papers; and every person so appointed a Scrutineer shall, upon his appointment, make and subscribe a solemn declaration, in the presence of the Presiding Officer, in the form in the Schedule (12.). 20

69 The Polling at every election shall be conducted as follows:— 25

(1.) Each elector shall enter unattended the room in which the ballot-box is kept, and shall there in the presence of the Presiding Officer write his name at the foot of the Declaration aforesaid.

(2.) The Presiding Officer shall then select as many ballot-papers as the number of votes to which the elector is entitled. 30

(3.) Before delivery of a ballot-paper to the elector, the Presiding Officer shall mark the same on the back thereof with his initials, in ink or pencil, and shall also, if an Electors' List or Rate-book is in use, write upon the back of the left-hand upper corner of the ballot-paper, in ink or pencil, the number set against the name of the voter in the List or Rate-book. 35

(4.) The Presiding Officer shall then, and before delivery of the ballot-paper to the voter, fold down the corner of the paper so as to entirely conceal the number so written, and shall securely fasten the fold with gum or otherwise in such a manner that the number cannot be discovered without unfastening the fold. 40

(5.) Upon delivery of a ballot-paper or ballot-papers to the voter, the Presiding Officer or Poll Clerk shall, upon the copy of the List Roll or Rate-book in use by him, make a mark against the voter's name and mark the number of ballot-papers delivered to the voter. 45

(6.) The marks so made on the List Roll, or Rate-book shall be *prima facie* evidence of the identity of the person to whom the ballot-paper is delivered with the person whose name is so marked on the List, Roll, or Rate-book, and of the fact that such person voted at the election and of the number of votes given by him. 50

(7.) The number marked upon the back of the ballot-paper shall, upon a scrutiny, be conclusive evidence that such ballot-paper was

delivered to and used by the person who claimed to vote as the person against whose name such number is set in the List, Roll, or Rate-book. A.D. 1899.

(8.) The elector shall immediately take his ballot-paper or ballot-papers into one of the compartments provided for such purpose as 5 aforesaid, and there without delay mark his ballot-paper or papers in the manner mentioned in the Directions to Voters contained in the Schedule (11.), by placing a cross thus × on the left-hand side opposite the name or names of the person or persons for whom he intends to vote, but so that if there is only One Member to be elected 10 he only marks One name, and if there is more than One Member to be elected he marks the names of no more persons (nor marks the names of a less number) than there are Members to be elected, and shall make no other mark or writing thereon, otherwise such ballot-papers shall be invalid.

15 (9.) The elector shall then fold up such ballot-papers separately so as to conceal the names from view, and in such manner that the initials of the Presiding Officer shall appear on the outside of the ballot-paper, and immediately take the same into the room in which the ballot-box is kept, and after exhibiting each ballot-paper, with the initials so 20 visible as aforesaid, to the Presiding Officer, shall place the same in the ballot-box.

(10.) The elector shall then immediately leave the room, and shall not re-enter during the same election. No two persons shall enter in or remain in an inner room or compartment at the same time, nor shall 25 any person take the ballot-paper out of the room in which the ballot-box is kept excepting into the said inner room or compartment, and then only for the purpose of marking the name or names of the person or persons for whom he intends to vote.

(11.) Any person wilfully contravening any of the provisions herein 30 contained is liable to a penalty not exceeding Fifty Pounds.

(12.) The Presiding Officer may, and upon request shall, either personally or through the Poll Clerk, explain to the elector as concisely as possible the method of voting.

70 — (1.) No elector shall at any election be required to answer any 35 question, or to take any oath, affirmation, or declaration, except as aforesaid, and except as mentioned in the third Sub-section of this Section.

(2.) No person claiming to vote at an election shall be excluded from voting thereat except by reason of its appearing to the Presiding 40 Officer, that he is not the person whose name appears on the Assessment Roll, Electors' List, or Rate Book, (whichever of such documents may be in use at the Polling-place); or that he has previously voted at the same election, or except by reason of such person refusing to make such declarations, or by reason of the name of such person not appearing on 45 the Assessment Roll, or Electors' List, or Rate Book, as the case may be.

(3.) The Presiding Officer may if he thinks fit, and shall, if called upon so to do by any candidate or scrutineer, require any person claiming to vote to make a solemn declaration against bribery in the 50 form in the Schedule (13.).

No person who refuses to make such declaration shall receive a ballot-paper or be permitted to vote.

(4.) Every person wilfully making either Declaration falsely is liable to a penalty not exceeding Fifty Pounds; and every person shall be 55 deemed to have made a Declaration wilfully upon proof that it was untrue in fact, unless he prove the contrary.

How papers to be marked; Compare Tas., 82. Q., 74, 75. O.M.A., 123. Eng. Ballot Act, 1872, Schedule (2.). S.A. Electoral Acts.

and how placed in ballot-box.

No further entry by same elector, &c.

Penalty for contravention of provisions.

Presiding Officer to explain mode of voting.

No other question or declaration necessary.

T.B.A., 29.

R.M.A., 43.

R.M.A., 42.

Declaration against bribery Q., 72.

Schedule (13.).

Penalty for false declaration. T.B.A., 29.

A.D. 1899.

Duty of presiding Officer when a second vote is tendered for one name.

Q., 78.

Compare

Eng. Ballot Act, 1872, First Schedule (27.).

71 If at any Booth or Polling-place a ballot-paper has been delivered to any person who has to vote, and afterwards another person claims to vote at such Booth or Polling-place as being the person in whose name such first-mentioned person received the ballot-paper, the Presiding Officer shall, upon the person so secondly claiming 5 to vote taking the prescribed Declaration, deliver to him so many ballot-papers as he appears to be entitled to receive, and such person and such ballot-paper or ballot-papers shall be dealt with in all respects in the same manner as in the case of any other person claiming to vote, but his ballot-paper or ballot-papers shall not be deposited in 10 the ballot-box or allowed by the Presiding Officer, but shall be set aside for separate custody.

Every such ballot-paper may be allowed and counted by order of the Court or Judge on a scrutiny, but not otherwise.

Provides for blind or illiterate men voting at elections. T.B.A., 28. R.M.A., 41.

72 In the case of any elector who is blind or cannot write, the 15 Declaration shall be read over to him, and his verbal assent thereto being obtained, the Presiding Officer or a Poll Clerk shall write such elector's name in the elector's signing-place, and attest the same under his hand; and such signature and attestation shall bind such elector to such Declaration and to all the consequences thereof, if false; and 20 the Presiding Officer shall also, if such elector requests openly in the ballot-room, and in the presence and sight of the Poll Clerks, Candidates and Scrutineers, or such of them as are present, mark upon his ballot-papers in manner aforesaid the names of the persons for whom the elector declares his intention of voting. 25

Voter to give all his votes at once. Q., 77.

73 All the ballot-papers to which a voter is entitled at a polling-booth shall be demanded and received by him at one and the same time; and no person having once demanded and received a ballot-paper and voted by the same shall, at the same election, receive any other paper or exercise any further right of voting. 30

Duplicate ballot-paper.

Compare Eng. Ballot Act, 1872, First Schedule (28.).

Provided that before the voter has deposited the original ballot-paper issued to him in the ballot-box, the presiding officer may, if he thinks fit, issue a second or duplicate ballot-paper to such voter in substitution for the original ballot-paper if the original ballot-paper has been accidentally defaced or destroyed, or that he has marked his ballot- 35 paper contrary to his intention.

But the voter shall first make a declaration before the Presiding Officer that the original ballot-paper has been so accidentally defaced or destroyed, or that he has marked it contrary to his intention, and that he has not already voted at the election, and shall deliver to the 40 Presiding Officer the original ballot-paper.

The Presiding Officer shall, before the issue of the second or duplicate ballot-paper, securely fasten the original ballot-paper, by means of gum or otherwise, to the declaration, and shall set the same aside for separate custody. 45

Adjournment of Election in case of riot. T.B.A., 32. R.M.A., 46.

74—(1.) If the proceedings at any Election are interrupted or obstructed by any riot or open violence, the Presiding Officer shall not for such cause finally close the Poll, but shall adjourn the Poll at the particular Polling-place at which the interruption or obstruction happens until the same time on the following day as that at which the 50 interruption or obstruction happened on the original day of Polling, and if necessary shall in like manner further adjourn such Poll from day to day until such interruption or obstruction has ceased, when the

Presiding Officer shall again proceed with the taking of the Poll at the place at which it was interrupted or obstructed. Any day to which the Poll is so finally adjourned shall, as to such place, be reckoned the day of polling at such Election within the meaning of this Act.

- 5 (2.) If after a Poll stands appointed for any Election it happens that from any cause, no such Election takes place on the day appointed for the same, either at all the Polling-places or any Polling-place, the election shall stand adjourned until the same day of the following week, and the Returning Officer shall cause not less than Three days' previous
10 notice thereof to be advertised, or by placards posted throughout the Area. In any such case the Members, if any, who would on the day appointed for the Election have retired from office by rotation shall continue in office until the day to which such election or the Polling at any booth for the same stands adjourned.
- 15 (3.) When any Poll has been so adjourned by any Presiding Officer other than the Returning Officer, he shall forthwith give notice of such adjournment to the Returning Officer, who shall not finally declare the state of the Poll, or the name or names of the Member or Members elected, until the Poll has been finally closed and the abstract of the
20 state of the Poll and other documents delivered or transmitted to such Returning Officer.

A.D. 1899.

Adjournment when from some cause no Election on day appointed. Q., 80.

To be advertised.

Upon receiving notice of adjournment Returning Officer not to declare result of Election.

Declaration of Result of Election.

- 75 Every ballot-paper which—
- i. Does not bear the initials of the presiding officer; or
 - 25 ii. Has the voter's number written upon the back of it by the Presiding Officer as hereinbefore provided torn off; or
 - iii. Contains a greater or less number of names of candidates marked as aforesaid than the number of Members to be elected; or
 - 30 iv. Has upon it any mark or writing not by this Act authorised to be put thereon;
- shall be rejected at the close of the Poll.

For what causes ballot-paper to be rejected. Compare Q., 79.

- 76 Every Presiding Officer other than the Returning Officer shall, immediately on the close of the Poll, and not before, in the presence of the Poll Clerk, if any, and of such of the Scrutineers and Candi-
35 dates as choose to attend, make out and sign an Abstract of the result of the Ballot at the Polling-place whereat he presided; and also an exact Statement of the number of Electors who have voted there, the number of ballot-papers and Declarations originally supplied to him, and the number thereof used and left unused and returned, which
40 Statement shall be verified by his own signature and that of the Poll Clerk and the Scrutineers then present; and shall collect and seal up all the ballot-papers taken at such Polling-place; and, with the least possible delay, deliver the said Abstract, Statement, and ballot-papers, and all Declarations so signed as aforesaid, or cause the same to be
45 delivered, together with the copies of the Assessment Roll, Rate Book, or Electors' List, checked or marked off by him as aforesaid, to the Returning Officer; and also return to the Returning Officer such of the ballot-papers and Declarations as are not used at the election.

Assistant Returning Officer, on close of Poll, to make out Abstract and Statement and deliver ballot-papers, &c. to Returning Officer. R.M.A., 44.

- 77—(1.) The Returning Officer shall, in the presence of such of
50 the Candidates and Scrutineers as choose to attend, open the several Packets so forwarded by the other Presiding Officers, and also the ballot-box at the Polling-place at which he presided, and shall make

Returning Officer to make out a general Abstract of result of Poll; R.M.A., 45.

A.D. 1899.

and declare state
of Poll ;and give casting
vote when
numbers equal.
T.B.A., 23.Result to be
gazetted.
T.B.A., 15.

out and sign an Abstract of the result of the Ballot at the Poll taken throughout the whole of the Polling-places for the Area, and shall at the principal Polling-place, and as soon as may be practicable after the Election, openly declare the general state of the Poll at the close of the Election as the same has been so made up and ascertained 5 by him from the ballot-papers taken at the several Polling-places, and shall at the same time and place declare the name or names of the person or persons who have been duly elected at such election.

(2.) In the event of the number of votes being found to be equal for any Two or more persons, the Returning Officer shall, by his casting 10 vote, decide which of such persons shall be elected, which vote shall be in addition to any votes the Returning Officer may, if qualified, have already given as an elector.

(3.) The Returning Officer shall forthwith thereafter cause to be gazetted a notice under his hand of the name or names of the candi- 15 date or candidates so elected, and the date of the declaration of the result of the Election.

*Division V.—Extension of Time, Appointments by the Governor,
Proceedings validated, Re-counts, Offences and Penalties, &c.*

Time may be
extended.
T.B.A., 17.

78 The time by this Act prescribed for the day of Election in any Area, or any Subdivision of an Area, or for the length of the notice to be given of the day of Nomination or of the day for taking or closing 20 the Poll, may be extended by the Governor by Proclamation, or by a gazetted notification under the hand of the Minister.

Power of
Governor to
appoint Members
when none elected.
Compare
Tas., 112.
Q., 52 (2.).
T.B.A., 12.

79 If at the time prescribed for holding an Election no Election is held, or no candidates are nominated, or the number of candidates nominated is less than the number of Members to be elected, or 25 whenever any vacancy arises in the office of Member which cannot otherwise be filled, the Governor may, by Proclamation, appoint a qualified Elector of the Area, or a sufficient number of such qualified Electors, to be a Member or Members of the Local Authority to fill the vacancies which ought to be filled at such Election, and the Elector 30 or Electors so appointed shall be deemed to have been duly elected at such Election.

Election not to
be questioned.
T.B.A., 36.
R.M.A., 69-71.

80—(1.) No Election shall be liable to be questioned by reason of—

- i. Any defect in the title, or any want of title, of any person by or before whom such Election is held, if such person really 35 acted at the Election ; or
- ii. Any formal error or defect in any declaration or other instrument, or in any publication made under this Act, or intended to be so made ; or
- iii. Any such publication being out of time ; or
- iv. Any delay in holding the Election at the time appointed, or in taking the poll ; or
- v. In consequence of any impediment of a merely formal nature.

See Sects. 44, 601
(5.).

And the Governor may adopt such measures as may be necessary for removing any obstacle of a merely formal nature by which the due 45 course of any Election might be impeded :

Proviso.

Provided, that the validity of the Election and the measures taken shall be forthwith declared by the Governor by Proclamation.

81—(1.) All ballot-papers taken at the Election of Members, together with the ballot-papers not used, the said copies of the Assessment Roll, Rate Book, or Electors' List, and Abstract, Statement, and Declarations, shall be sealed up by the Returning Officer, who shall
5 cause the same to be delivered or transmitted to the Minister, having endorsed on the outside thereof a description of the several contents thereof, and signed such endorsement with his name.

A.D. 1899.

Ballot-papers, &c.
used at elections
to be sealed up
and deposited
with the Minister.
R.M.A., 47.

(2.) The Minister shall safely keep the same for Six months, and at the expiration of that period, unless any proceedings are pending
10 concerning the Election, shall cause the ballot-papers to be destroyed in his presence.

At end of Six
months to be
destroyed.

(3.) If any question arises touching the Election, such papers or any of them upon production thereof, and proof either by evidence or by certificate thereon under the hand of the Minister that the same came
15 to and were then in his custody, shall be received in evidence.

(4.) No person is to inspect any ballot-papers in the custody of the Minister except under the order of a Judge of the Supreme Court, who may direct a re-count in such manner and by such persons and at such times as he may think expedient.

In case of scrutiny
to be produced on
Order of a Judge.
See Sect. 39.

(5.) Upon any such scrutiny all votes shall be disallowed which
20 shall be found to have been given by any person—

What votes to be
then disallowed.

- i. Who was not an elector; or
- ii. Who had not paid his rates; or
- iii. Who had personated an elector; or
- 25 iv. Who voted more than once.

82 Every person who—

- i. Personates or attempts to personate any voter; or,
- ii. Votes or offers to vote more than once at the same Election; or
- 30 iii. Leaves or attempts to leave a Polling-booth after having received a ballot-paper and without having deposited the same in the ballot-box as hereinbefore provided; or,
- iv. Attempts to vote by means of a ballot-paper which has been delivered to another person; or,
- v. Causes a disturbance at the Election; or,
- 35 vi. Wilfully obstructs the polling by any unnecessary delay in performing any act within the Polling-booth, or by obstructing the approaches to the Polling-booth, or conducting himself in a disorderly manner,

Polling twice and
personation.
T.B.A., 33.
See also Sect.
70 (4.), 614 (6.).

shall be guilty of a misdemeanour, and shall on conviction be liable to
40 imprisonment for any period not exceeding One year, with or without hard labour, or to a penalty not exceeding Two hundred Pounds, or to both such punishments.

But nothing in this Section shall apply to any person by reason only of his exercising the right of voting as often as it appears by the
45 Electors' List or Rate Book that he is entitled so to do.

- 83**—i. Every person who knowingly and wilfully unfastens the fold upon a ballot-paper within which the number of a voter is written, unless he is by the lawful command of some competent Court required so to do; and,
- 50 ii. Every person who attempts to ascertain or discover, or directly or indirectly aids in ascertaining or discovering the person for whom any vote is given, except in the case of a person voting openly, or who having in the exercise of his office obtained knowledge of the person for whom

Offences in
violation of
secrecy of Ballot.
Q., 87.

A.D. 1899.

any voter has voted, discloses such knowledge, unless in answer to some question put in the course of proceedings before some competent tribunal; and,

III. Every person who places upon any ballot-paper any mark or writing not authorised by this Act, 5
shall be guilty of a misdemeanour, and on conviction shall be liable to imprisonment for any period not exceeding One year, with or without hard labour, or to a penalty not exceeding Two hundred Pounds.

Misfeasance, &c.
of Officers, &c.
Tas., 97.

84 Every Returning Officer, Presiding Officer, or Poll Clerk at any Election, who having undertaken so to act shall be guilty of any 10
wilful misfeasance or wilful or negligent act of commission or omission contrary to any of the provisions of this Part of this Act, shall for every such offence be liable to a penalty not exceeding Fifty Pounds.

Bribery and
corruption.
T.B.A., 34.

85—(1.) All the acts enumerated as acts of bribery and corruption in any Act in force for the time being regulating elections of Members 15
to the Parliament of *Tasmania* shall be deemed to be acts of bribery and corruption with reference to all elections under this Act.

Tas., 91.

(2.) Every person committing any such act with reference to an election under this Act shall be liable to the same punishment as if the act had been committed with reference to an election of a Member of 20
the Parliament of *Tasmania*.

(3.) Any such act which would avoid the election of a Member of the Parliament of *Tasmania* shall avoid the election of a Member under this Act.

Penalty for
receiving or
offering reward
for voting or
withholding vote.
T.B.A., 35.

(4.) Every person who, having or claiming to have any right to vote 25
at any election under this Act, shall directly or indirectly ask, receive, or take any money or other reward by way of gift or employment for himself or any of his family or kindred friends or dependents, as a consideration or inducement expressed, implied, or understood for giving his vote or for abstaining from giving his vote at any such election, and 30
every person who, by himself, his friends, or by any person employed by him, shall by any gift or reward, or by any promise or agreement or security for any gift or reward, procure any person to give his vote at any such election, or to abstain from giving the same, shall for every such offence forfeit a sum not exceeding Fifty Pounds to the first 35
person who shall *bonâ fide* for his own use and not collusively sue for the same.

Division VI.—*Extraordinary Elections.*

Representation if
vacancies in Sub-
division of a
Shire.

86—(1.) Extraordinary vacancies of Members shall be filled up as follows:—

Vacancy in
Representation
of Shire.
When vacancy in
other Local
Authorities notice
in such case to be
advertised.
If requisition
presented election
to be held.

I. When the vacancy is in the representation of a Subdivision 40
of a Shire, by the Local Authority of the Area or Areas or portion or portions of Areas respectively included in such Subdivision.

II. When the vacancy is in the representation of the whole Shire, by the Local Authorities of all the Areas within the Shire. 45

III. When the vacancy is that of a Member of any other Local Authority the Chairman shall cause a notice of such vacancy to be advertised twice consecutively.

IV. If, before the expiration of a period of Fourteen days after the last publication of the notice, not less than Seven 50

electors of the Area present a requisition in writing to the Chairman requiring an election to be held, an election to supply the vacancy shall be held accordingly, and be conducted in the same manner in every respect as the Biennial Election of Members of the same Local Authority. A.D 1899.

v. In default of any such requisition as aforesaid, the continuing Members of the Local Authority shall appoint some qualified elector to act as Member in conjunction with themselves. Otherwise Local Authority to appoint the Member. T.B.A., 43.

10 (2.) The Governor may make such Regulations as he deems necessary to carry out the foregoing provisions for filling up vacancies in membership of Shire Councils. Governor may make Regulations as to Shire elections.

(3.) No vacancy occurring within Three months of any Biennial Election shall be thus filled up. No vacancy for Three months to be filled up.

PART V.

PROCEEDINGS OF LOCAL AUTHORITIES.

- Title I. Election and Privileges of Chairman. Sect. 87.
- II. Meetings and Conduct of Business. Sects. 88 to 95.
- III. Committees. Sect. 96.
- IV. Special Meetings and Special Resolutions. Sects. 97 and 98.
- V. Expenditure. Sects. 99 to 109.
- VI. Proceedings of a Local Authority in reference to transferred Functions. Sect. 110.

TITLE I.—ELECTION AND PRIVILEGES OF CHAIRMAN.

15 87—(1.) At the First Meeting of the Local Authority of a newly constituted Area, or at some adjournment thereof, and thereafter at the First Meeting of the Local Authority after the conclusion of every Annual Election within the Area (whether such Annual Election shall be an Election of Members of the Shire Council or of Members of the Local Authority), or at some adjournment of such First Meeting, the Members present shall choose one of the Members to be Chairman, who shall hold office until the conclusion of the next such Annual Election as aforesaid, except as next hereinafter provided. Members present to elect Chairman. T.B.A., 48. R.M.A., 48, 49. See Sect. 39 as to Declarations.

20 (2.) If the Chairman resigns his office as Chairman or Member, or his office otherwise becomes vacated, the Local Authority shall elect a Member to be Chairman in his stead, who shall hold office until the period aforesaid. The vacancy shall be filled at a Special Meeting of the Local Authority, to be called by the Clerk forthwith. Vacancies in Chairmanship.

30 Provided, that during the temporary absence of the Chairman from the Area, or in case of his illness, the Local Authority may appoint another Member to act for him as Deputy Chairman, and while so acting to exercise all the functions of Chairman. The Deputy Chairman, whilst acting as Chairman, shall receive One-half of the allowance that would otherwise be payable to the Chairman. Deputy Chairman.

53 (3.) If the Chairman is an *ex officio* Member going out of office at such Election, the Local Authority may appoint another Member to act as Chairman during the interval that elapses between the conclusion of the Election and the day appointed for holding the First Meeting of the Local Authority after the Election. Where the Chairman is an *ex officio* Member.

40 (4.) At every such Election the Clerk shall preside, and if there be no Clerk, the Members present shall select one of themselves to preside, Who to preside at Election.

[Bill I.]

A.D. 1899.

Equality of
Voting.
Style.Chairman's
allowance.Governor may
appoint Chairman
if none elected.

and the person so selected may vote as a Member ; and if at any time there be an equality of votes, it shall be decided by lot which of the Members having an equal number of votes shall be Chairman.

(5.) The Chairman, in the case of a Shire, shall be called "The Warden ;" and in all other cases, shall be called "The Chairman." 5

(6.) The Local Authority may grant an allowance to the Chairman from the Local Fund.

(7.) If, after the expiration of Fourteen days from the time appointed for the election of a Chairman, no Chairman is elected, the Governor may appoint one of the Members to be Chairman. 10

(8.) Provided that before the expiration of such time the Governor may, on the request of the Local Authority so to do, appoint one of the Members to be Chairman.

TITLE II.—MEETINGS, AND CONDUCT OF BUSINESS.

DIV. I. Regulations as to Meetings, Sects. 88 to 91.

II. Minutes, Custody of Books, &c., Acts under Seal, and Office of Local Authority, Sects. 92 to 94.

Division I.—Regulations as to Meetings.

First Meetings
appointed by the
Minister.
T.B.A., 15.

88—(1.) The First Meeting of a Local Authority shall be held at such time and place within the Area as the Minister, by a notice under 15 his hand addressed to each Member, and transmitted to him by post, appoints.

Subsequent
Meetings.

(2.) Subsequent Meetings shall be held at such place, either within or without the Area, and at such time as the Local Authority by By-law, or by Resolution on adjourning (to be entered on the Minutes), 20 appoints.

Place of Meeting
of Shire Council.

(3.) A Shire Council may hold its Meetings, keep its Public Offices, and transact all its business as a Local Authority within any Town or Urban District situate in the Shire, and may purchase and hold such real property therein as may be convenient for such purposes. 25

Business.
See Sect. 29, and
588 (3.).

(4.) At the First Meeting of the Local Authority of a newly-constituted Area, or at some adjournment thereof, and thereafter at the First Meeting of the Local Authority, after the conclusion of every biennial election of Members, or at some adjournment thereof, the Members present, having each first subscribed the Members' Declaration 30 as aforesaid, shall—

- i. Fix the allowance (if any) to be granted to the Chairman ;
- ii. Appoint the Clerk and other Officers (if any) of the Local Authority, and determine the salaries and allowances of the Clerk and such Officers ; 35
- iii. Appoint such and so many Committees in accordance with the provisions hereinafter contained as they think fit.

But nothing herein shall be construed to prevent the Local Authority from transacting any other business at such Meeting.

Times, &c., of
Meetings.
R.M.A., 185.

89 The Local Authority has power to fix, by By-laws or other- 40 wise, the times at which Meetings of Council or Committees shall be held. Subject thereto, any Committee may meet and adjourn as the Members thereof from time to time order.

Provided, that the Council of a Shire shall meet at least once in each quarter and other Local Authorities at least once in each month. 45

Every Meeting (Committees excepted) shall be open to the public.

Board's Officers
may attend
Meetings.

An Officer authorised by the Board in that behalf may attend any Meetings of a Local Authority or of any Committee thereof.

90 A Resolution of the Local Authority shall not be revoked or altered unless notice of the intention to propose such revocation or alteration is given to each of the Members Seven days at the least before holding the Meeting at which the revocation or alteration is to be proposed.

A.D. 1899.

Resolutions, how
revoked or altered.

If the number of Members present at that Meeting is not greater than the number present when the Resolution was adopted, the Resolution shall not be revoked or altered unless the revocation or alteration is determined upon by a majority of the whole number of 10 Members of the Local Authority.

91—(1.) The provisions of this Section apply to all Councils and Committees mentioned in this Act.

Regulations as to
Meetings of
Councils and
Committees.
Chairman.
See R.M.A.,
181.

(2.) The Chairman, if present, shall preside at all Meetings, and in his absence such other Member as the Members present shall choose as Chairman; and if at any time there is an equality of votes in the election of an Acting Chairman, it shall be decided by lot which of the Members having an equal number of votes shall be Acting Chairman.

(3.) No business shall be transacted at a Meeting of any Committee unless a quorum thereof, as herein provided, is present.

Quorum.
T.B.A., 47, 49.

No business shall be transacted at any Meeting of the Local Authority unless a majority of the whole number of Members for the time being assigned to the Area are present when such business is transacted.

(4.) All powers vested in the Local Authority subject to any special conditions imposed by this Act may be exercised by the majority of the Members present at any Meeting duly held, and all questions shall be decided by a majority and by open voting.

Exercise of
Powers.
R.M.A., 180.

(5.) If there is an equal division of votes upon any question it shall pass in the negative.

Voting.
Compare
T.B.A., 47, 49.
See also Sect. 100.

At all Meetings, save as herein otherwise provided, all Members present shall vote.

If a Member refuses to vote, his vote shall be counted for the negative.

(6.) No Member shall speak on a question for longer than Ten minutes unless he receives permission of a majority of the Members present.

Time limit for
speeches.
Compare
S.O., Lond. C.C.,
(52).

(7.) The Members present at a Meeting may, from time to time, adjourn the Meeting.

Adjournment of
Meetings.

If a quorum is not present within half an hour after the time appointed for a Meeting, the Members present, or the majority of them, or any one Member if only one is present, or the Clerk if no Member is present, may adjourn such Meeting to any time not later than Fourteen days from the date of such adjournment:

Provided, that nothing herein shall be construed to prevent the adjournment of any Meeting to a later hour of the same day on which such Meeting was appointed to be held.

(8.) All notices of any Meeting, or adjourned Meeting, of the Local Authority or of any Committee (other than of a Meeting adjourned to a later hour of the same day on which such Meeting was appointed to be held, or to the day following the day on which such Meeting was held,) shall be in writing, and shall be delivered, or sent by post or otherwise, to the usual place of business (if any) within the Area, or to the place of abode, of each of the Members, Two days at least previous to the Meeting.

Notices of Meet-
ing.
See R.M.A., 183,
184.

Every such notice shall specify the time of Meeting, and, in case of a Special Meeting, shall specify the object thereof.

Special Meetings.

A.D. 1899.

Division II.—*Minutes, Custody of Books, &c., Acts under Seal and Office of Local Authority.*

Minutes of
proceedings.
Compare
R.M.A., 186.

92—(1.) The Local Authority shall cause entries of all its proceedings and of every Committee appointed by it, with the names of the Members present at each meeting, and of the names of all Members voting upon any question for the decision of which a division is called, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the Clerk, under the superintendence of the Chairman.

Confirmation of
Minutes.

(2.) Such minutes shall, after confirmation by the next meeting of the Members, be signed by the Chairman of such next meeting, unless the same are confirmed at the meeting to which the minutes relate and signed by the Chairman of that meeting.

Copies and
extracts from
Minutes.
Compare
R.M.A., 187.

(3.) Such books shall at all reasonable times be open to the inspection of any Member and of any Elector or creditor of the Local Authority, any of whom may at all reasonable times, without fee, make any copy of or take any extract therefrom.

(4.) Every person having the custody of any such book who does not, on the reasonable demand of any Member, Elector, or creditor, permit such copy or extract to be made or taken, is liable to a penalty not exceeding Five Pounds for every such offence.

Safe custody of
books, &c., of
Local Authority.

93 The Clerk shall be responsible for the safe custody of all books of account, agreements, receipts, vouchers, and other papers and writings relating to the business of the Local Authority; he shall make a record of the same in obedience to the direction of the Auditor-General, and shall not destroy or mutilate them or any of them without his sanction in writing previously obtained.

Any person who wilfully destroys or mutilates any book of account, agreement, receipt, voucher, or other book, paper, or writing relating to the business of a Local Authority, otherwise than in pursuance of such sanction, is guilty of a Misdemeanor, and on conviction is liable to imprisonment for any period not exceeding Two years, with or without hard labour, or to a penalty not exceeding One hundred Pounds.

Acts under Seal.

In certain cases
Local Authority
may dispense with
Common Seal.
See Sect. 11, (5).
Style of
incorporation.

94—(1.) Notwithstanding the provision hereinbefore contained for Local Authorities having a Common Seal, the Minister may, by a gazetted notification, direct that any Rural District Council shall be incorporated by the name of the Chairman and Members of such Council, but, subject to that modification, all the provisions of this Act relating to the incorporation of Local Authorities shall apply.

How Deeds to be
executed.
L.G.E., '94.
First Schedule,
Part 3, (4).

(2.) Any contract, deed, or other document which would otherwise require to be under the Seal of the Local Authority shall, if executed under the hands and seals of the Chairman and Two other Members of any such District Council as aforesaid, be deemed, until the contrary is proved, to have been duly so executed.

Resolution for
execution.

(3.) The execution of any deed to which a Local Authority is a party shall be—

Attestation of
Seal.
See Sect. 11, (3),
588 (3 III.)

- i. First authorised by a Resolution entered on its Minutes;
- ii. And shall, when a Common Seal is used, be attested by the signatures of not less than Two Members and the Clerk, as follows:—

“The Common Seal of [naming the style of the Corporation] has been hereunto affixed in the presence of us

5 this day of One thousand A.D. 1899.
 nine hundred and , in pursuance of autho-
 risation given at a Meeting of the Council [*or, as the case*
may be, at a Meeting of the Electors of the Area] held
 on the day of 19

A.B., }
 C.D., } *Members.*

G.H., *Clerk.*"

(4.) Where a Common Seal is in use the same shall be kept in a Custody of Seal.
 10 locked box with Two keys, one of which shall be in the custody of Compare
 the Chairman, and the other in that of the Clerk. R.M.A., 14.

95 Upon a petition, signed by at the least One-fourth of the total Office of Local
 number of the Electors of the Area, showing that the present site of Authority.
 the office of the Local Authority or that any proposed site for such
 15 office is or would be inconvenient for the general transaction of the
 business of the Local Authority, the Governor shall cause such inquiry
 to be made as he thinks necessary, and may, if he thinks fit, order such
 office to be removed to or to be located at some place designated in
 such order.
 20 And the Local Authority shall forthwith take the necessary steps to
 obey every such order.

TITLE III.—COMMITTEES.

96—(1.) The Local Authority may from time to time appoint Council may
 Standing or Special Committees, consisting either of members or non- appoint Standing
 members, or of persons selected from Members and Non-members, or Special
 25 and may relegate to such Committees any matters for considera- Committees.
 tion or inquiry or management or regulation; and may delegate N.Z., 1886, No.
 to any such Committee any of the powers and duties by this Act 49, ss. 115, 116;
 conferred or imposed upon the Local Authority, except the powers No. 50, ss. 112,
 30 to borrow money, make a Rate, make a By-law, or execute a deed or 113; 51 & 52
 contract, or institute an action or suit at law or in equity. Vict. c. 41, ss. 81,
 82, 83; 56 & 57
 Vict. c. 73.

(2.) Any Local Committee hereinafter mentioned may be appointed Powers.
 to act as such Committee by the Local Authority. Exceptions.

(3.) The quorum of any Committee (including a Local Committee) Local Committee.
 may be fixed by the authority appointing it, but shall never be less Quorum.
 35 than Two nor less than a majority of the members thereof.

(4.) Every Committee to whom any powers or duties are delegated Committee may
 as aforesaid may, without confirmation by the Local Authority, exercise exercise delegated
 or perform the same in like manner, and with the same effect, as the powers
 Local Authority could itself have exercised or performed the same under conditions
 40 when it is so expressed in a Special Resolution passed to that intent by specified without
 the Authority appointing the Committee, otherwise the acts of Com- confirmation by
 mittees must be submitted to the Local Authority for approval. Council.

(5.) Every such Committee shall be subject in all things to the Committees subject
 control of the Local Authority, and shall carry out all directions to Council's
 45 (general or special) of the Local Authority given in relation to such directions.
 Committee or its affairs. R.M.A., 188, 189.

(6.)—1. Local Authorities may unite in appointing joint Standing Joint Committees.
 or Special Committees for any purposes connected with
 any special district which extends into each of their
 50 Areas; and the provisions of Sub-sections (1.), (2.),

A.D. 1899.

(3.), (4.), and (5.) hereof shall, as consequentially altered, apply to the present case.

- II. Every such joint Committee shall be so constituted that the number of members appointed by the Local Authorities respectively shall, as nearly as may be, be in the proportion of the relative rateable values of the properties in their districts respectively rated for the purposes of such special district. 5

Chairman of Committee.

(7.) The Authority appointing any Committee may appoint a member of such Committee to be the permanent Chairman thereof; and may from time to time remove such Chairman, and appoint another in his stead. In default herein, the Committee may make the appointment. 10

Discharge of Committee.
Local Government Act, Vict. 1890, s. 182.

(8.) The Authority appointing may from time to time discharge, alter, continue, or reconstitute any Committee appointed by it.

TITLE IV.—SPECIAL MEETINGS AND SPECIAL RESOLUTIONS.

Special Meetings.
R.M.A., 185.

97 A "Special Meeting" means a Meeting called in pursuance either of a Resolution of the Council or of a Requisition in writing delivered to the Clerk and signed by the Chairman, or by a majority of the Members, specifying the time and place at which such Meeting is to be held, and the business to be brought before the same. 15

Business at
Special Meetings

No business shall be transacted at any Special Meeting except such as is stated in the notice thereof: Provided, however, that when not less than Two-thirds of the total number of the Members are present at the Special Meeting, and unanimously resolve so to do, they may transact any business other than such as is so stated. 20

Any Special Meeting may be held on the same day as an Ordinary Meeting. 25

Special Resolution.

Compare
N.Z., 113, (81).

and Special
Order.
Vict. L.G. Act,
'90.
No. 1112.

98 The power hereby given to do anything by "Special Resolution" shall be exercised only as follows:—

- I. The Resolution to do such thing shall be passed at a Special Meeting: 30
- II. Such Resolution shall be confirmed at a subsequent Meeting (either Ordinary or Special), held not sooner than the day on which a period of Four weeks, computed from the day of such Special Meeting, expires, and not later than the expiration of Six weeks from such Special Meeting: 35
- III. The place and date fixed for such subsequent Meeting, and the terms of such Resolution, shall be posted throughout the Area and be advertised twice at least, with an interval of not less than Six nor more than Ten days in the period between the Two Meetings: 40
- IV. Written notice of the time and place of such subsequent Meeting, under the hand of the Clerk, shall be given to each Member of the Local Authority at least Two clear days before such subsequent Meeting, which notice shall refer to the said Resolution: 45
- V. A document purporting to be a copy of any Special Resolution, sealed with the Common Seal, shall be received as evidence for all purposes whatsoever, of the Special Resolution of which such document purports to be a copy having been duly made in accordance with this Act, unless the contrary be proved: 50

Evidence of
Special Resolution.

- vi. No Special Resolution shall be quashed by any proceedings in any Court, or otherwise, unless such proceedings shall have been commenced within Six months from the making thereof. A.D. 1899.
Quashing same.

TITLE V.—EXPENDITURE.

Div. I. Finance Committee and General Regulations as to Votes and Payments, Sects. 99 to 101.

II. Miscellaneous Appropriations and Sundry Powers as to Expenditure, Sects. 102 to 109.

Division I.—*Finance Committee and General Regulations as to Votes and Payments.*

- 5 **99**—(1.) Every Local Authority shall from time to time appoint a Finance Committee for regulating and controlling the finance of their Area; and no Local Authority shall either— Appointment and duties of Finance Committee.
Compare 51 & 52 Vict., c. 41, Sect. 80.
How payments to be made.
- 10 i. Make an order for the payment of a sum out of the Local Fund, whether on account of capital or income, unless on the recommendation as hereafter provided of the Finance Committee, or unless made in pursuance of the specific requirement of this or any other Act of Parliament, or of an order of a competent Court, or of the Governor or the Minister in accordance with any of the provisions hereof; or
- 20 ii. (Subject to the provisions of this Act relating to Joint Councils), incur any expenses, debt, or liability exceeding Twenty-five Pounds, except upon a Resolution of the Local Authority passed on an estimate submitted by the Finance Committee, nor, if the liability is for any proposed local work, shall such Resolution be passed unless there be first submitted a detailed estimate of the expenses to be incurred in relation to the proposed work signed by some responsible Officer of the Local Authority, or by the Chairman, or contained in a Report of a Committee. Restriction upon incurring liabilities.
Any such Votes for Local Works to be supported by detailed Estimate.
- 25 (2.) The notice of the meeting at which any resolution for the payment of a sum out of the Local Fund (otherwise than for ordinary periodical payments), or any resolution for incurring any expenses, debt, or liability exceeding Twenty-five Pounds will be proposed, shall state the amount of the said sum, expenses, debt, or liability, and the purpose for which they are to be paid or incurred. Notices of Resolutions.
- 30 (3.) Such Resolution as last aforesaid shall be passed by a majority of the votes of the total number of Members of the Local Authority, or be postponed until a special meeting be called to consider it. Majority required.
Compare T.B.A., 51.
- 35 (4.) All payments to and out of the Local Fund shall be made to and by the Treasurer of the Local Authority, and all payments out of the fund shall be made in pursuance of an order of the Council signed by Three Members (or by a majority, if the majority be less than Three Members,) of the Finance Committee present at the Meeting of the Local Authority and countersigned by the Clerk; and the same order may include several payments. Payments out of Local Fund to be recommended by Finance Committee.
Compare R.M.A., 169.
- 40 (5.) All cheques for payment of moneys issued in pursuance of such order shall be countersigned by the Chairman if the Treasurer be a Cheques how signed.
Compare R.M.A., 169.
T.B.A., 117.

A.D. 1899.

Order may be
reviewed by
Supreme Court.
Compare
R.M.A., 178.

Member not to
vote where in-
terested.
S.A., 419, 304.
T.B.A., 50.
Penalty.

Disqualification
for Membership.
R.M.A., 57.

Payment to
interested Mem-
bers unlawful.
Compare
N.Z., 113, (61).

Governor may
disallow improper
payments.
See Sect. 100.
See Queensland
Act, 51 Vict. No.
7, s. 129.

Disposition of
Revenue derived
from Under-
takings.

Member, or by a Member as well as the Chairman if the Treasurer be not a Member, and by the Clerk or by a deputy approved by the Local Authority.

(6.) Any such order may be removed into the Supreme Court by writ of *Certiorari*, and may be wholly or partly disallowed or confirmed on motion and hearing, with or without costs, according to the judgment and discretion of the Court.

100—(1.) No Member of a Council or Committee shall vote with respect to any matter in which he has, directly or indirectly, by himself or his partners, or as a Shareholder or Member of an incorporated Company, any pecuniary interest.

(2.) Every Member who knowingly offends against the provisions of this Section is liable to a penalty not exceeding Fifty Pounds, and upon conviction his seat in the Council or in any Committee shall become vacant, and if convicted of being interested (except as a Shareholder in a Company) in a contract or agreement with the Local Authority shall be disqualified from holding any office in or under the Local Authority for Seven years from the date of his conviction.

(3.) It shall be unlawful for the Local Authority to pay, directly or indirectly, to or for the benefit of any of its Members so concerned or participating in any contract with or work to be done for the Local Authority as to be incapacitated under Section *Twenty-eight* hereof, any sum of money under such contract or for such work as aforesaid, or in respect of such contract or any subject matter thereof, or of such work.

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101 If, whether in pursuance of any resolution of the Local Authority, or otherwise, any payment of money has been made to any member out of the Local Fund or other moneys of the Local Authority which the Governor considers unnecessary, extravagant, or illegal, the Minister shall order such member to repay such money into the Local Fund forthwith or within such time as the Minister allows.

If such member does not repay such money in pursuance of such order, the order may be made a rule of Court, and may be enforced accordingly.

Division II.—*Miscellaneous Appropriations, and sundry Powers as to Expenditure.*

102 All Revenue derived by the Local Authority from any Waterworks or other Undertaking shall be placed to the credit of a separate account of the particular Undertaking, and shall be applied in manner following and not otherwise :—

- i. In payment of the actual working expenses of the Undertaking :
- ii. In payment of the annual instalments of interest and principal payable by the Local Authority under this Act, or under any other Act authorising the Loan, in respect of the money borrowed for the construction of the Undertaking :

And the balance, if any, may, at the discretion of the Local Authority, be applied in defraying the cost of the maintenance, repair, and extension of the Undertaking, or in reduction of the principal Loan, and not otherwise, unless on the question being submitted to a poll of the Electors it is resolved to appropriate such balance in aid of some other local work.

- 103** In case there is any surplus of any moneys raised by Loan, Separate Rate, or Special Rate, after the completion of the special work or purposes for which the moneys were raised, or any surplus of any Sinking Fund after repayment of the loan for the repayment of which the same was provided, such surplus (subject to the provisions as to repayment of loans hereinafter contained) may be expended for such other special purposes or special work as is determined by a Special Resolution in that behalf.
- 104** In the construction and maintenance of the Public Roads, other than Main or Common Roads, and of Public Footways in every Urban District within any Rural District, there shall be spent by the Local Authority of such District, either immediately under its own direction or through the Local Committee of such Urban District, a sum equal to at least One-third of the Road Rates collected by such Local Authority in respect to property within the Urban District.
- 105**—(1.) Any Shire Council may contract with any other Local Authority for the making or maintenance of any main or common road by the latter :
 (2.) Any Shire Council may contribute towards the maintenance of any public road, public footpath, or public right of way controlled by any other Local Authority or Local Committee in the Shire, although the same is neither a main road nor a common road :
 (3.) The Surveyor or other Officer of the Shire Council appointed for that purpose shall report upon the work done under any such contract as aforesaid before payment is made.
- 106** Each of the Members of a Shire Council residing more than Ten miles from its place of meeting may be paid out of the Local Fund such sum of money as the Council (with the Governor's approval, which shall recite the scale of payments and be gazetted,) from time to time fixes to recoup the expenditure incurred in travelling to attend the Council Meetings.
- 107** A Local Authority may expend moneys out of the Local Fund in and about preparing and passing through Parliament, or in opposing any Bill in cases where the interests of the inhabitants of its Area are concerned.
- 108** The Local Authority may, in every financial year, out of moneys to the credit of the Local Fund, expend for purposes not authorised by any Act or Law for the time being in force any sum or sums not amounting in the whole to more than One per centum of the general rate or rates levied for that year, nor exceeding for any One year the sum of Twenty-five Pounds.
- 109** All moneys payable to and received by each Local Authority under this Act, not otherwise specifically appropriated, shall be applied by them generally in the improvement of the Area, and in carrying out and effectuating all or any of the objects and purposes of this Act.

A.D. 1899.

Surplus of money raised for special purposes. N.Z., 113, (171.).

At least One-third of Road Rates of Urban District to be spent therein. R.A., 53.

Shire Council may contract with other Local Authority re Main and Common Roads. See Sect. 138.

May contribute to other Public Roads, &c. 51 & 52 Vict., c. 41, Sect. 11.

Surveyor to report thereon.

Travelling expenses of Shire Councillors.

Compare 62 Vict. No. 36, s. 26.

Expenditure on Parliamentary Bills. E.L.G. Act. N.Z., 114, (163.).

One per cent. of Rates for unforeseen Expenditure. N.Z., 114, (169.).

General appropriation. R.M.A., 179.

A.D. 1899.

TITLE VI.—PROCEEDINGS OF A LOCAL AUTHORITY EXERCISING TRANSFERRED FUNCTIONS.

Certain provisions of this Act to take place of provisions in other Acts when matters transferred to a Local Authority. See Sect. 18 (9.) Title II., Parts V., VI. and XIV.

Compare 62 Vict. No. 60, s. 6.

110 In the management and control of any Water District, Public Cemetery, Fruit District, Port, or any other trust, matter, or thing which, under the provisions of this Act, may at any time be vested in or placed under the control of a Local Authority, the said Local Authority shall be subject to all the provisions of this Act in regard to Meetings and conduct of business, Committees, Officers, Accounts and Audit, and the provisions of any other Act which refer to such matters, or to the quorum of Trustees or members of a Board necessary to the exercise of the acts and powers of such transferred authority, shall not apply to the management and control of any such trust, matter, or thing as aforesaid when vested in a Local Authority as aforesaid.

PART VI.

OFFICERS.

Council to appoint Officers. See Sect. 595 (5.) P.A., 185, 186. T.B.A., 112. R.M.A., 154. R.A., 86.

Appointment of Analyst. See Sect. 430 (9-12.)

Compare H.A., 41-43. 38 & 39 Vict., c. 63, s. 11.

Subject to approval of Minister.

Government Analyst may act as Public Analyst.

Officers may be appointed to suppress pests, and may enter lands.

See Sects. 357 and 611.

Health Officer, &c., Officers of Local Authorities. P.A., 187. H.A., 17.

111—(1.) The Local Authority may by resolution from time to time appoint, and may remove or reappoint, fit persons to be Clerk, Treasurer, Surveyor, Poundkeeper, Health Inspector, Inspector of Stock or other Inspectors, Collectors, Bailiffs or Rangers, and all such other officers and servants as it thinks necessary to assist in the execution of this Act, and may, out of the moneys at the disposal of the Local Authority, pay such persons such salaries and allowances as it thinks fit.

(2.) The Local Authority may (and shall when so required by the Board) exercise similar powers in appointing a fit and proper person to be Public Analyst of all food and drugs sold within the Area; but every appointment of an Analyst shall at all times be subject to the approval of the Board, who may require satisfactory proof of competency to be supplied to them, and may give their approval absolutely or with modifications as to the period of appointment or otherwise.

(3.) A Government Analyst may, subject to the approval of the Minister, be appointed by a Local Authority to be Public Analyst: Provided that in every such case the whole of the salary and allowances paid to him as Public Analyst shall by him be forthwith transmitted to the Minister.

(4.) And the Local Authority may also exercise similar powers in appointing one or more officers to enforce any By-law made by it for the suppression of any pest; and if the owner or occupier of any land within the Area refuses or neglects to adopt such means for the suppression of any pest as are directed or required by any By-law made by the Local Authority for that purpose, the Local Authority may direct any such officer as aforesaid to enter upon such land and to do all such things thereon for the suppression of any pest as are required or directed to be done by any such By-law as aforesaid, and it shall thereupon be lawful for the officer so directed to enter upon such land and do all such things as aforesaid thereon.

(5)—I. A Local Authority may, and if required by the Board shall, from time to time appoint fit and proper persons to be respectively Health Officer and Inspector of Nuisances, and may, out of the Local Fund, pay such salaries and allowances to them respectively as the Local Authority

- may determine, not being less in the case of a Health Officer than Ten Pounds per annum : A.D. 1899.
- ii. A person shall not be appointed a Health Officer unless he is a legally qualified medical practitioner : Qualification. Compare H.A., 17.
- 5 iii. The same person may be appointed Health Officer or Inspector of Nuisances by Two or more Local Authorities : May act for more than one Authority.
- iv. A Health Officer may exercise any powers of an Inspector of Nuisances under this Act, and may also give to such an Inspector from time to time such directions and instructions as he may deem necessary, which the said Inspector is hereby required to faithfully obey and carry out : May act as Inspector, and may instruct Inspector. H.A., 18.
- 10 v. A Health Officer shall perform such duties and in such manner as the Local Authority may from time to time direct, and also such as are specifically prescribed by this Act or by any Order addressed by the Board to the Local Authority : Duties. H.A., 17.
- 15 vi. A Health Officer appointed by a Shire Council may, by gazetted notification under the hand of the Chairman of the Shire Council, be appointed to exercise the functions of Health Officer within any Area included in the Shire the Local Authority of which Area has not appointed any Health Officer. Power of Health Officer appointed by Shire Council.
- 20 (6.) No Member shall be capable of holding any office, except that of Treasurer, unless without remuneration. Any Member acting as an officer shall be liable to all the provisions of this Act relating to such office in the same manner as if he were not a Member. Members as Officers. R.M.A., 84 (15.).
- (7.) One person may hold two or more of such offices, but shall not be Treasurer and a Collector at the same time. Joint offices.
- (8.) During the absence from the offices of the Local Authority of any officer by reason of illness, leave of absence, or other cause, the duties and powers of such officer may be performed and exercised by an acting officer to be appointed and removed by resolution of the Local Authority, and any such appointment may be either general or for some occasion only. Acting Officers. R.M.A., 190.
- 30 (9.) Where any case arising under Part IX. of this Act requires immediate attention, the Chairman or any Two Members may make any appointment of Inspectors or other Officers, or sign any order or notice to carry out its provisions; but the person or persons so signing shall report such case to the Local Authority at its first meeting thereafter for confirmation. Cases of Urgency under Part IX. Compare N.Z., 113, 339.
- 35 (10.) Wherever by this Act authority is conferred upon a Local Authority to enter upon any premises for the purposes of this Act, or to do any act in or relating to any local work, the same authority equally extends to all officers and persons acting by the direction of such Local Authority, who shall be entitled to use for any such purpose all necessary assistants, workmen, means, and appliances whatsoever. Authority of Officers in carrying out purposes of Act. See also Sect. 622. R.A., 144.
- 45 (11.) By Special Resolution a sum not exceeding the amount of his annual salary may be granted (in case of service of not less than Twelve years duration) to any officer retiring, or to the widow or 50 children of such a deceased officer. Gratuity to Retiring Officer. See H. and L.C. Acts.
- 112** The Chairman may suspend from office at any time any Officer or Servant who in his opinion is guilty of misconduct or neglect, and, may if necessary, temporarily appoint another Officer or Servant in his place; Provided, that at the next meeting of the Local Authority after 55 such suspension the Chairman shall report the matter to the Local
- Chairman may suspend Officers. R.M.A., 155.

A.D. 1899.

Authority, and if the Officer or Servant so suspended is dismissed by the Local Authority no salary or wages shall be due or paid to him from and after the date of his suspension. Every Officer or Servant so temporarily appointed shall hold office and receive remuneration (which shall in no case exceed that paid to the Officer or Servant so suspended) until the Local Authority decides whether the person suspended shall be reinstated or whether he shall be dismissed, and a successor appointed in his stead.

Officers taking
other than allowed
fees to lose office
and forfeit £50.
R.M.A., 156.
H.A., 21.

113 Every Officer or Servant employed by a Local Authority who exacts or accepts on account of anything done by virtue of his office, 10 or in relation to the matters to be done under this or any other Act relating to the Area, any fee or reward whatsoever other than the salary or allowances allowed by the Local Authority, or who is in anywise concerned or interested in any bargain or contract made by the Local Authority, shall lose his office and be incapable of being afterwards 15 employed by the Local Authority for the space of Five years, and shall forfeit a sum not exceeding Fifty Pounds. The Local Authority or any Elector may sue for such penalty by action of debt or on the case in the Supreme Court. Any money so recovered, after payment to the plaintiff of the full costs of the action, including costs as between 20 solicitor and client, shall be paid into the Local Fund or Common Fund as the case may be.

Duties of Officers handling Moneys.

Payment over of
moneys by
Officers.
R.M.A., 159.
T.B.A., 115.
R.A., 90.

114—(1.) Every Collector or other Officer appointed or employed by the Local Authority to collect money shall, within Seven days after he has received any moneys on their behalf, pay over the same to the 25 Treasurer of the Local Authority, whose receipt for the moneys so paid shall be a sufficient discharge to the Collector or other Officer.

(2.) And every such Collector or Officer shall, in such time and in such manner as the Local Authority directs, deliver to it true and perfect accounts in writing under his hand of all moneys received by 30 him and of all moneys paid by him to the said Treasurer, and also a list of the names of all persons who have neglected or refused to pay any moneys owing by them, with a statement of the moneys due from them respectively.

Moneys received
to be paid into
Bank appointed
by the Local
Authority.
R.A., 97.
T.B.A., 117.

(3.) As soon as the moneys at any time in the hands of any Collector 35 or Treasurer amount to Five Pounds, he shall forthwith pay the same into some public Bank in *Tasmania* appointed by the Local Authority to the account of the Local Authority.

Pass-book.
Provisions as to
books to be kept
by Officers
receiving moneys.
See Sects. 577,
578.

(4.) The Treasurer shall cause the Bank pass-book of the Local Authority to be laid upon the Table at every ordinary Meeting. 40

(5.) Every Officer whose duty it is to keep a Collector's Receipt Cash Book shall keep same in such form as the Auditor-General prescribes, either generally or in the particular case, and shall rule off and total the entries therein as often as may be prescribed by the Auditor-General, but at least once a month, and shall compare the 45 same with the payments to the Treasurer in the Bank as aforesaid, and reconcile the balances in the manner prescribed as aforesaid.

Security from
Officers.
R.M.A., 157.
T.B.A., 113.
R.A., 88.

115—(1.) Before any person, whether Treasurer, Clerk, Collector, or other Officer, who is entrusted by the Local Authority with the custody or control of moneys, securities, or muniments by virtue of his 50 office enters thereupon, the Local Authority shall take sufficient

security (not being less than may be from time to time prescribed in this regard by the Auditor-General), for the faithful execution thereof. A.D. 1899.

(2.) Such security (unless otherwise directed by a gazetted notification of the Minister) shall be taken from some Association or Joint Stock Company approved of by the Minister carrying on in *Tasmania* the business of a Guarantee Society.

(3.) It shall be lawful for the Local Authority to pay the premium upon any Guarantee Policy issued as security for any officer.

10 **116** If an officer fails, when required by the Local Authority so to do,—

- i. To render accounts of any moneys received by him for or on behalf of the Local Authority, and of his dealings therewith; or
- 15 ii. To produce and deliver up the vouchers and receipts relating to the same in his possession or power; or
- iii. To pay the balance thereof when so required; or
- iv. To deliver up to the Local Authority, or to any person appointed by it to receive the same, within Five days after
- 20 being so required, all books, papers, and writings, property, matters, and things in his possession or power relating to the execution of this Act or belonging to the Local Authority;

any Two Justices may hear and determine the matter, in a summary way, and may order such officer to render such accounts, or to deliver up such vouchers and receipts, or to pay over the balance owing by him, or to deliver up all such books, papers, writings, property, matters, and things.

If such officer neglects or refuses to obey such order, he may, by any Justice, be committed to gaol for any period not exceeding Six months.

117 If any officer has—

- i. Misapplied or retained or become liable or accountable for any moneys or property of a Local Authority; or
- 35 ii. Has exacted or accepted on account of anything done by virtue of his office, or in relation to any matters to be done under this Act, any fee or reward other than the salary or allowance by way of salary allowed by a Local Authority, or has been or is in anywise concerned or interested in any bargain or contract made by a Local Authority; or
- 40 iii. Has been guilty of any neglect, breach of duty, or misfeasance in the discharge of his office or in relation to any matters to be done under this Act;

any Court of Competent Jurisdiction may, on the suit of the Local Authority, examine into the conduct of such officer, and may order

45 him to repay any moneys or restore any property so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, and to pay such sum of money to the Local Authority or by way of penalty or compensation as the Court thinks fit.

50 Such examination shall for all purposes be deemed to be and have the effect of the trial of an action.

Officers failing to render accounts or to pay balance and deliver over property.
See Sects. 578, 612.
R.M.A., 130, 161, 162.
T.B.A., 116, 118, 119.
R.A., 91, 92, 93.

Officers answerable for negligence and misfeasance.
See 42 & 43 Vict. c. 76, ss. 7, 8; 53 & 54 Vict. c. 63, s. 10.
See Sect. 612.

A.D. 1899.

Where Officer
about to abscond
a warrant may
be issued in the
first instance.
R.M.A., 163.
T.B.A., 120.
R.A., 94.

118 If any Member, or other person acting on behalf of the Local Authority, makes oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe that it is the intention of any such Officer as aforesaid to abscond, the Justice before whom the complaint is made may, instead of issuing his summons, 5 issue his warrant for bringing the Officer before Two Justices as aforesaid; but no person executing the warrant shall keep the Officer in custody longer than Twenty-four hours without bringing him before some Justice; and the Justice before whom he is brought may either order his discharge, if he thinks there is no sufficient ground for his detention, 10 or order him to be detained in custody so as to be brought before Two Justices at a time and place to be named in the order, unless the Officer gives bail to the satisfaction of the Justice for his appearance before such Justices to answer the complaint of the Local Authority.

Proceedings, &c.
may be taken
after officer has
ceased to hold
office.

Proceedings not
to prejudice
remedy against
sureties, nor other
remedies.
R.M.A., 164.
T.B.A., 121.
R.A., 95.

119 All proceedings under this Act against an Officer may be had 15 and taken and enforced against such Officer after he has ceased to hold his office.

No proceedings against an Officer shall deprive the Local Authority of any remedy which it might otherwise have against any surety of such Officer, nor of any other remedy against him. 20

PART VII.

LOCAL DISTRICTS AND LOCAL COMMITTEES.

- Div. I. Districts and Powers of Electors and Committees, Sects. 120 to 126.
II. Regulations as to Meetings of Local District Electors. Sects. 127 to 132.
III. Regulations as to Meetings of Local Committees. Sect. 133.
IV. Relation of Local Authorities to Local Committees. Sects. 134 & 135.

Division I.—*Districts and Powers of Electors and Local Committees.*

Local Districts
may be assigned
to Local Com-
mittees.
See Sect. 96.
How District
defined.
See also Sect.
14 (10).
Public Recreation
Ground District
to be a Local
District.
Sect. 18, (3).
Sect. 33.
52 Vict. No. 17.
Urban District to
be a Local Dis-
trict.
Power for
Governor to
nominate a
Committee.
See Sect. 13.

120—(1.) Any Local District in a Shire may be assigned to a Special Standing Committee appointed by the Shire Council thereof, and every such Committee shall be known as the Local Committee of the Local District assigned to it.

(2.) Such District shall be defined by a Special Resolution of the 25 Shire Council, which shall be gazetted.

(3.) Whenever a Public Recreation Ground has, under the provisions of this Act, been transferred to a Local Committee, the District proclaimed in connection therewith under the "Public Recreation Grounds Act, 1888," shall thereafter be a Local District for the 30 purposes of this Part of this Act.

(4.) Every Urban District mentioned in the Schedule (47.), and every Urban District hereafter constituted shall be a Local District under this Part of this Act.

(5.) If a Shire Council does not when so requested by Twenty-five 35 Electors of any Local District within the Shire, appoint a Local Committee therefor, the Governor may, on the petition of Twenty-five Electors of the Local District, appoint a Local Committee, with such

powers as the Governor may by Proclamation constituting the Committee, or by any subsequent Proclamation declare. A.D. 1899.

(6.) Any District not already specifically named may be named by the Local Authority. Naming the District.

5 (7.) Every Local Committee shall be a body corporate under the style of "The Local Committee of (*giving the name of the Local District*)," and, save that there shall not be a Common Seal, all the provisions of this Act relating to the incorporation of Local Authorities shall apply to such body corporate. Local Committee to be incorporated: See Sect. 13.

10 (8.) The provisions of Sub-Sections (2.) and (3.) of Section *Ninety-four* hereof shall apply to every such case. Part of provisions of Sect. 94 to apply.

121—(1.) Every Committee to which a Local District is assigned by the Shire Council or by the Governor as aforesaid shall have and may exercise any of the powers and functions conferred upon Local Authorities by this Act which shall have been declared to be within 15 their province by the Proclamation or Special Resolution constituting the Local District Committee, and shall be deemed to be constituted from the date when the Proclamation or Special Resolution is gazetted. Powers of Committee.

(2.) Such powers and functions may by any subsequent Proclamation be from time to time varied, revoked, or extended. Further powers subsequently conferred.

122—(1.) After a period of Twelve months has elapsed from the date of the constitution of any Local District Committee which is or which is intended to be empowered to spend a Local District Rate, and upon the written request of not less than Twenty-five Electors of 25 the Local District, the Chairman of the Shire Council shall convene a Meeting of the Local District Electors to consider whether the Local Committee, or a portion thereof, shall not be chosen by the Electors to make such choice if that be the determination of the Meeting. Power for Electors to choose Committee.

(2.) The elected Members of a Local Committee shall hold office for 30 a period of Two years, unless the Electors at the Meeting, when it was resolved to choose the Committee; shall otherwise resolve. Duration of Office.

(3.) At the expiration of the period of office of elected Committee-men the Chairman of the Shire Council shall proceed, as in the first instance, to hold an Election to choose their successors. Chairman of S.C. to hold all Meetings for Election of Members.

35 (4.) Any Elector of the Area shall be qualified to act on any such Committee. Qualification for Membership.

123 Meetings of the said Electors shall be summoned by a public notice under the hand of the Chairman of the Shire Council for the purposes of the last Section, and by the Chairman of the Local Committee for all other purposes stating the business, advertised and 40 posted throughout the District, and held at some place therein appointed, and at a time to be therein named, on a day, not being less than Seven nor more than Fourteen days after the first advertisement of the Notice. How Meetings of Electors to be called. See 127, (1.).

Notice of intention to propose a resolution for a Rate or for choice 45 of Committee shall be advertised at least twice. Special Notice as to Rate and election of Committee.

124 Meetings of Electors of the Area, who are qualified as such in respect to property within the Local District, shall be held not later than half past Seven in the evening, unless at some Meeting (of which due notice of intention to move for the alterations has been given) 50 the Electors resolve that Meetings shall be held during the day, and such Meetings may—

1. Give directions to the Local District Committee as to any local work in their care and control. May give directions.

A.D. 1899.

Put on a Rate,

and make it
differential.

II. Resolve that an Annual Rate for any period not exceeding Three years shall be levied by the Shire Council upon the properties within the District for the purposes of any such local work.

III. May determine, when the local work is a reserve, pleasure ground, public garden, or public recreation ground, that a differential Rate equal to as much again as the Rate for the rest of the District shall be levied upon properties fronting to any such reserve, ground, or garden.

Provided that a fresh Resolution for rating may be moved, to take effect at the expiration (or after the expiration) of any such rating period.

Limit of rating
power.Opportunity for
those affected by
differential Rates
to appeal to Local
Authority.

125 No ordinary Rate levied in pursuance of the preceding Section shall exceed Sixpence in the Pound, nor Eight Pence in the Pound when differential, upon the annual values of the properties within the District, and the Shire Council shall not proceed to levy a differential Rate for Two months after the District Meeting which resolved upon the same, and in the meantime any of the persons liable to pay such differential Rate may make representations to the Shire Council, who shall consider such representations, and, if it appear to the Shire Council that any inequity would ensue from carrying out the Resolution of the District Meeting, they may either remit the question again to the District Electors for their consideration, or may reduce any such differential Rate either in its application to all, or some, or one of the properties affected thereby.

25

Rates to be
collected by Shire
Council for
Local Committee.

126 Every Rate resolved upon by the electors of a Local District shall be ultimately levied and collected as other Rates in the Area are by the Shire Council, but subject to any reductions as aforesaid; the amount received for every such Rate shall be paid over by the Shire Council to the Local Committee.

30

Division II.—*Regulations as to Meetings of Local District Electors.*

Chairman of
Local Authority
to make necessary
arrangements.

127—(1) The Chairman of the Shire Council shall, subject to the provisions in this Part of this Act contained, have power to make all necessary arrangements, including any provisions not herein contained, for calling any Meeting of the Electors of any Local District within the Shire.

35

Expenses.

(2.) Any expenses incurred by him shall, in the first instance, be paid out of the Local Fund of the Shire, and if not sooner repaid, be deducted from the first moneys payable by the Shire Council to such Local Committee.

Chairman of
Meetings.

(3.) The Chairman calling the Meeting shall preside if present, otherwise the Electors shall choose some person in the Meeting to be Chairman.

40

How questions
decided.

(4.) Except in choosing Members of Committee as aforesaid, every question is to be decided by a majority of the Electors present and voting on the question.

45

Votes on Loans
and Rates, &c.,
according to
Scale in Sect. 40.

(5.) Every Elector is entitled to One vote and no more on all questions except the opening of a public road or public right of way, as provided in Section *One hundred and ninety-two* hereof, the raising of a Loan, the levying of a Rate, or the election of the Committee, when

he shall be entitled, on a Poll being demanded, to the same number of votes as his property within the Local District qualifies him for as an Elector of the Area. A.D. 1899.

- (6.) The Chairman shall announce his decision as to the result of the voting upon any question, and in case of an equal division of votes shall give a casting vote. The Chairman's decision shall be final unless a Poll be demanded by not less than Three Electors present at any time before the conclusion of the Meeting Chairman's decision and casting vote. How Poll may be demanded. Compare E.L.G. 94, Sect. 2
- (7.) The Minister may, by a gazetted order under his hand, from time to time prescribe Regulations for the conduct of all Meetings of Electors of Local Districts, but until such Regulations are made, or in any case arising where no rule has been prescribed, the Chairman of the Meeting shall decide the procedure, and no determination of a Meeting of Electors shall be questioned by reason of any lack of strict conformity with any requirement of this Act. Minister may prescribe. Regulations for Meetings. Otherwise Chairman to determine procedure.
- (8.) Minutes of the proceedings at every Meeting of Electors shall be kept in a book to be provided for that purpose, and when signed by the Chairman, and purporting to be so signed, shall be received in evidence without further proof. Minutes.
- (9.) If at any Meeting called for choosing Members of Committee there shall not be present within One hour from the time fixed for holding the same at least Twenty-five Electors, the Meeting shall be considered as having lapsed for that purpose, but shall be competent to proceed with any other business of which notice has been duly given. Twenty-five Electors must be present within hour, or Meeting not competent to elect Committee.

128 Nominations of candidates for the Committee may be made either in writing delivered to the Chairman of the Shire Council at least Three days before the Meeting and signed by Two Electors of the Local District, or by proposition by Two Electors at the Meeting for choosing the Committee. Nominations.

129 If more than the required number is so nominated the Members shall be chosen by ballot. Elected by Ballot.

Whenever a Poll is demanded it shall be kept open for at least an hour, but not more than Two hours, but no Poll shall be commenced after half-past Nine P.M. E.L.G., 94, 48. Duration of Poll and time. *Ib.*, 48, (2.).

The Chairman's decision upon any question as to whether any person claiming to vote is an Elector and as to the number of votes he is entitled to shall be final. Chairman's powers as to Electors' qualifications. Compare R.A., 33.

130 If the business of the Meeting cannot be concluded in compliance with these Regulations, or any others that may be prescribed, the Meeting may be adjourned by the Chairman to some other time not being more than a week afterwards, and any Poll demanded but not commenced shall then be taken. Provision for adjournment.

131 Opportunity shall be given at any Meeting for choice of Members of Committee for putting questions to the Candidates present and receiving explanations from them, and any Candidate may attend and speak at the Meeting, but, unless he is an Elector of the Local District, he shall not vote. Candidates may be questioned and address Meeting. E.L.G., 94, First Schedule (9.).

132 The Chairman of every elected or partly elected Committee shall once a year call a Meeting of the Electors, and present the audited Statement of Receipts and Expenditure for the year immediately preceding. Annual Meeting.

[Bill 1.]

A.D. 1899.

Division III.—*Regulations as to Meetings of Committee.*

Provisions of Act to apply.

133—(1.) The provisions of Sections *Ninety-two*, *Ninety-three*, and *Ninety four* of this Act apply to Local Committees.

Meetings open to public.

(2.) Meetings of Local Committees shall be held at such times and places as the Members thereof appoint and shall be open to the public.

Accounts.

(3.) Every Local Committee shall keep proper accounts of its Receipts and Expenditure, which shall be subject to the provisions of this Act as to audit, and publication in the *Gazette* of the Accounts of Local Authorities, and shall be in such form and in such books as the Auditor-General from time to time prescribes, either in writing to the Chairman of any Local Committee, or by a gazetted public notification.

Expenditure.

(4.) The provisions of this Act relating to banking moneys of Local Authorities and the expenditure thereof (which shall all be made by cheque) shall, *mutatis mutandis*, apply to the moneys of Local Committees.Division IV.—*Relations of Local Authority to Local Committee.*

Shire Council to appoint Committee if Electors fail to choose.

134 Whenever from any cause a Meeting of Electors called to choose Members of a Local Committee fails to make such choice, the Shire Council shall again appoint the Committee, or fill up the vacancies in the membership thereof, as the case may require.

Provision for Local Authority assisting works in charge of a Local Committee.

135 Any Local Authority, in whose Area is situate any Local District, of whose Local Committee one at least is a Member of the Local Authority, may, out of the Local Fund of the Area, contribute to the expenses of any Local Work under the control of such Local Committee, and may also contribute in the case of a Local Work outside the Area whenever the same shall be considered by the Local Authority to be a source of enjoyment, or is a benefit to the inhabitants or some of the inhabitants of their Area.

PART VIII.

POWERS, JURISDICTIONS, AND DUTIES OF LOCAL AUTHORITIES.

- Title I. General Powers applicable to all Local Authorities. (Sects. 136 to 155.)
 II. Powers as to Public Roads and other Local Works. (Sects. 156 to 179.)
 III. Main and Common Roads. (Sects. 180 to 186.)
 IV. Private Ways. (Sects. 187 to 191.)
 V. Proclaiming New, Stopping Old Roads, and Leasing Unused Roads, &c. (Sects. 192 to 196.)
 VI. Private Roads and unformed Public Roads. (Sects. 197 to 207.)
 VII. Buildings, Structures, Excavations, &c. (Sects. 208 to 221.)
 VIII. Water Supply. (Sects. 222 to 241.)
 IX. Prevention of Fire. (Sects. 242 to 249.)
 X. Lighting and Power. (Sects. 250 to 257.)
 XI. Public Recreation and Instruction, Markets, and sundry Public Works and purposes. (Sects. 258 to 274.)
 XII. Tramways. (Sects. 275 to 298.)
 XIII. Vehicles, Places of Public Entertainment, Pests, Noxious Weeds, Registration of Dogs, and Miscellaneous. (Sects. 299 to 365.)

TITLE I.—GENERAL POWERS APPLICABLE TO ALL LOCAL AUTHORITIES. A.D. 1899.

- Div. I. Jurisdiction of Councils. (Sects. 136 to 140.)
 II. Meetings and Polls of Electors. (Sects. 141 and 142.)
 III. Contracts. (Sects. 143 to 146.)
 IV. Compulsory Acquirement of Land, &c. (Sects. 147 to 155.)

Division I.—*Jurisdiction of Councils.*

136—(1.) The provisions of this Act apply to all Areas, except where expressly stated to the contrary, but the jurisdiction of every Council shall be confined to the Area the Council represents, except where authority beyond such Area is expressly conferred; and, except as
 5 provided in this Act, the respective Councils of every Town or Rural District in every Shire shall have jurisdiction in all matters within their respective Areas, and shall be the Local Authority of such Town or District respectively, to the exclusion of the Shire Council.

Unless excepted,
all provisions
apply to all Areas.

Jurisdiction of
Councils.

(2.) But the Local Authority of any Town or Rural District may,
 10 by a Special Resolution which shall be gazetted, request the Council of the Shire in which such Town or Rural District is situate to undertake any function or to exercise any jurisdiction or power belonging to the same Local Authority, and thereupon the Shire Council shall act in all respects in regard to the devolved function, jurisdiction, or power,
 15 as though it were the Local Authority of the Town or Rural District, and shall have all the powers in that regard conferred upon such Local Authority by this Act.

Powers of Town
or Rural District
Councils may be
devolved upon
Shire Council.

Compare
O.M.A., 532-3.

137 In all parts of the Area of a Shire where no Town or Rural District Council has been constituted, or in any Area where such has
 20 ceased to exist and no other Council has been elected, and generally in the whole of the Area of the Shire, except as to the matters by this Act left in the control of a Town Council or Rural District Council, the Shire Council is the Local Authority in whom, subject to the provisions of this Act, is reposed the functions and the exercise of the
 25 powers conferred upon Local Authorities by this Act.

Shire Council
takes place of
non-existing
minor Local
Authorities, and
generally in the
Shire, except as
to powers reserved
to them, is the
Local Authority.

138 The Shire Council may, by a Special Resolution to be gazetted, delegate any power exercisable by a Shire Council, including the collecting of Rates, to any other Local Authority, or to any Local Committee, in accordance with the provisions and subject to the
 30 restrictions herein contained.

Delegation of
powers of Shire
Council.
See Sects. 96,
105.

139 Whenever a Shire Council has exercised the functions of a Rural District Council in an Area as to which a Proclamation is issued providing for an election of a Council for such Area, then, upon the conclusion of the election, the functions and powers of the Shire
 35 Council, as Acting District Council in the Area, shall cease and determine in favour of the newly elected Council, who shall thereupon become entitled to exercise in the Area all the powers and authorities by this Act conferred upon a Rural District Council; and the provisions of Section *Eighteen* of this Act shall apply in all such cases.

Upon election of
District Council
powers of Shire
Council as acting
District Council
to cease.

140 Every Council, except in such a case as is provided for in Section *Nineteen* of this Act, shall be deemed and considered as always continuing and existing, notwithstanding any periodical or other election of the Members composing the same; and upon and after the periodical or other election of the Members thereof, and their having

Council a con-
tinuing body.
Compare
O.M.A., 284.

A.D. 1899.

organised and held their first meeting as a Council, every Council may take up and carry on to completion all reports or proceedings which had been begun or had been under consideration by the Council, either in the then next preceding year, or subsequent or prior thereto ; and it shall not be necessary to begin *de novo* any proceeding, matter, or thing entertained by the Council in such preceding year, or subsequent or prior thereto as aforesaid.

Division II.—*Meetings and Polls of Electors.*

Meetings on requisition of Electors.

141—(1.) Meetings of Electors of Towns or Rural Districts may be called at any time by the Chairman of the Area upon a requisition, in writing, signed by not less than Twenty-five Electors, stating the object of the Meeting, being presented to him.

Annual Meeting.

(2.) Meetings of such Electors shall be called by the Local Authority at least once a year, so soon as their accounts for the preceding year have been prepared and are open for inspection in accordance with the provisions hereinafter contained, when the said accounts and the proceedings of the Local Authority for the year may be reviewed, and any questions thereon or upon any proposed work or undertaking of the Local Authority may be put to the Chairman and Members.

Meetings of Shire Electors.

(3.) Meetings of Electors of Shires may be summoned on the like request either by the Chairman of the Shire or by the Chairman of 20 any Local Authority included in a Subdivision of any Shire at which matters pertaining to the business of the Shire may be discussed.

Meeting to consider Resolution under Section 192.

(4.) A Meeting of the Electors of a Rural District may be held at any time to consider and, if approved, pass such a Resolution as to a Public Road or Public Right-of-way as is referred to in Section Two hundred and one hereof, when a Poll shall be taken, if demanded, to settle the question.

Compare R.A., 30, 32-35.

Notices of Meetings. R.A., 32.

(5.) Notices of all Meetings mentioned in this Section shall be advertised at least twice and gazetted, and shall not be held earlier than Seven days after the Notice is gazetted. 30

Chairman, and record of Meeting. R.A., 32.

(6.) The Chairman of the Local Authority convening the Meeting shall preside, or in his absence a Chairman, other than a retiring Member, chosen by the Electors ; and such Chairman shall furnish to the Clerk of the Local Authority a copy of all Resolutions passed by the Meeting, signed by himself as Chairman, which shall be entered by the Clerk in the Minute Book of the Local Authority. 35

Chairman's decision, disputed vote. R.A., 33.

(7.) The Chairman's decision shall be final on any question as to an Elector's right to vote.

Provisions as to Polls of Electors to decide questions other than loans. See Section 15 (2), 268, 270, 274, 542, &c.

142—(1.) Whenever in this Act a Poll of Electors is directed to be taken to decide any question which does not involve the raising of a loan a majority of the votes of the Electors shall be sufficient to decide such question, but in all other respects such Polls shall be taken and the results thereof ascertained in the manner prescribed as to proposed loans by Local Authorities.

When all Members retire, no Poll necessary except under 15 (2) 102 and 542.

(2.) But if between the First Meeting for passing the Special Resolution of the Local Authority dealing with the question and the Second confirming Meeting a periodical Election of Members has taken place, no Poll need then be taken of the Electors upon such question unless it be a question of uniting Areas or of increasing Water Rate beyond One Shilling in the Pound, or of appropriating a balance from any undertaking under the provisions of Section One hundred and two hereof. 50

Division III.—*Contracts.*

A.D. 1899.

143 A Local Authority may enter into contracts for the purposes of this Act, as follows ; that is to say—

Any contract which, if made between private persons—

Firstly, must be by deed :

5 Secondly, must be in writing signed by the parties thereto :

Thirdly, may be made verbally without writing :

When made by the Local Authority—

In the first case, shall be in writing under the seal of the Local Authority :

10 In the second case, shall be signed by the Chairman or by Two members of, on behalf of and by direction of, the Local Authority :

In the third case, may be made without writing by any Two members of the Local Authority, on behalf of and by direction of the Local Authority ; but no verbal contract

15 shall be made for a sum exceeding Twenty Pounds ; and all such contracts may be varied and discharged in the same manner respectively.

Mode in which Local Authority may enter into contracts, and effect thereof. See Sect. 94. Compare Q., 187-189. N.Z., 113, 202, 203.

144—(1.) All contracts made according to the provisions herein contained, being duly executed by the persons contracting, shall be effectual in law, and shall be binding on the Local Authority and all other parties thereto, their successors, executors, or administrators, as the case may be.

Contracts to be valid.

(2.) In case of default in the performance of any such contract, either by the Local Authority or by any other party thereto, such actions or suits may be maintained thereon, and such relief obtained and damages and costs recovered by or against the Local Authority, or the other parties failing in the performance thereof, as might have been maintained and obtained and recovered had the same contracts been made between private persons only.

145 A Local Authority may, for such sums of money or other consideration as the Local Authority thinks fit, compound with any person who has entered into any contract with the Local Authority, or by or against whom any action or other proceeding may be or has been brought against or by the Local Authority for any cause whatsoever, other than proceedings by a Local Authority for recovery of any Rate.

Composition for breaches of contract.

146 Except in cases of emergency, Fourteen days at the least before any contract for the execution of any work or the furnishing of any goods to the amount of Twenty Pounds or upwards is entered into by a Local Authority, notice shall be advertised expressing the purpose of such contract, and inviting any person willing to undertake the same to tender for that purpose to the Local Authority.

Notice calling for tenders before making a contract.

The Local Authority shall accept the tender which on a view of all the circumstances appears to them to be most advantageous, and may take security for the due and faithful performance of every contract, or the Local Authority may decline to accept any tender.

Division IV.—*Compulsory acquirement of Land, &c.*

147—(1.) Subject to the provisions of this Act, every Local Authority is hereby empowered to purchase and take, in the mode prescribed by *The Lands Clauses Act* such land within its Area, and,

Power to take land compulsorily. R.A., 103. T.B.A., 203. R.M.A., 208.

A.D. 1879.

*Lands Clauses
Act* incorporated.
21 Vict. No. 11.

with the consent of the Governor, such land in any other part of *Tasmania*, as it may deem necessary to be acquired in the exercise of any of its powers, or for carrying out any of the purposes of this Act.

(2.) *The Lands Clauses Act*, (except as hereby varied, and excepting Sections Eight and Nine thereof), is hereby incorporated with this Act, 5 and for the purposes of such incorporation the Local Authority shall be deemed to be "The Promoters of the Undertaking," and "the Special Act" shall mean this Act.

Entry upon land
intended to be
taken.
R.A., 106.
T.B.A., 206.

148 Whenever it is intended to take any land for any of the purposes of this Act, the Local Authority may, after Seven days' notice 10 served upon the occupier, if any, enter upon any land and stake out the same in such manner as the Local Authority think necessary or expedient; and if any person wilfully pulls up, removes, or destroys the stakes or other marks used for the purposes aforesaid, every person so offending shall, for every such offence, incur a penalty not exceeding 15 Fifty Pounds.

Entry upon land
for obtaining
materials.
R.A., 111, 113.
T.B.A., 211.
R.M.A., 207.

149 The Local Authority may, for any of the purposes of this Act—

I. After Forty-eight hours' notice to the occupier, enter upon any land within, or, with the approval of the Minister, outside the Area, other than land occupied in a *bonâ fide* 20 manner as a garden or ornamental shrubbery, and dig and take any stone, gravel, or other material therefrom, or from any river or stream, except within Fifty yards above or below any bridge, dam, or weir, so nevertheless as not to divert or interrupt the course of such river or stream, or 25 damage any building, road, or ford; and also take from any uncultivated land any indigenous timber, except such as may appear to the satisfaction of such Local Authority to be reserved and used by the owner or occupier of the land for the purpose of ornament and shelter: Provided, 30 that no such entry shall be continued after the expiration of One year from the date of the notice; but the notice may be renewed:

II. Take and use any timber or other materials from any Crown land, and take and use any such land which the Governor 35 may authorise to be taken and used for such purpose:

III. Contract with any person interested in any land for the demise of such land for the purpose of obtaining materials therefrom.

Power to take
timber.
R.A., 110.
T.B.A., 210.

Notice to be
renewed after one
year.

Timber for fencing
and materials
from Crown land
and land also.

R.A., 109.
T.B.A., 209.

Renting land.

R.A., 107.
T.B.A., 207.

Fenced land to be
made secure.

R.A., 115.
T.B.A., 217.

150 In all cases where under the powers of this Act any entry is 40 made upon any land which is fenced, the Local Authority shall so fence in or secure the same as to afford to the occupier of such land an equal protection against trespass as was possessed by him previously to such entry.

Place from which
materials taken
to be fenced.
R.A., 118.
T.B.A., 217.

151 If the officer of the Local Authority or any other authorised 45 person, in the exercise of the powers hereby conferred, makes, or causes to be made any pit or hole in any land, the Local Authority shall forthwith—

I. Cause the same to be sufficiently fenced off, and the fence to be supported and repaired during such time as the pit or 50 hole continues open and not sloped down or filled up as herein provided:

ii. After such pit or hole is opened or made, if no suitable materials are found in it, cause the same to be filled up with the earth or soil taken therefrom, and levelled : A.D. 1899

5 iii. Where any such materials are found, after having procured sufficient materials in such pit or hole, cause the same to be filled up, sloped down, or fenced off, and so continued.

If the provisions of this Section are not complied with, the Local Authority shall be liable to a penalty not exceeding Twenty Pounds, which shall be paid to and retained by the person aggrieved, and shall 10 further be liable to make good to the owner or occupier of the land any expense he may incur in doing the acts by this Section required to be done by the Local Authority.

152—(1.) Every Local Authority shall make to the owners or occupiers of or other persons interested in any land entered upon, taken, 15 or used in the exercise of any of its powers, due compensation for any damage (including cost of fencing, when required) necessarily resulting from the exercise of any such powers, beyond any advantage which the claimant may derive from the contemplated work ; and any claim for such compensation, or for any compensation provided to be made by a 20 Local Authority under any of the provisions of this Act, if not mutually agreed upon, shall be determined by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

(2.) Provided, that claims for compensation, not exceeding Twenty Pounds, and claims under Paragraph Ten of Sub-section Six of 25 Section *One hundred and fifty-eight* or under Sections *One hundred and forty-nine* and *Three hundred and eighty-two* hereof, may be recovered as provided in Section *Five hundred and ninety-four* hereof; and any Local Authority may require the claimant to adopt this procedure.

Compensation to be made for any damage.

Compare

R.A., 112.

T.B.A., 203.

Beyond benefit to owner.

See Sect. 164 (3.).

All compensation claims under Act included.

In certain cases Justices of the Peace may determine amount..

30 153—(1.) Where a Local Authority gives notice of an intention to take land for any of the purposes of this Act, and the compensation in respect thereof is determined as in cases of disputed compensation, the Local Authority, if it deems it inexpedient to pay the amount thereof, may, within Twenty-one days after notice of the amount 35 of compensation so determined on, withdraw the first-mentioned notice on payment of all the costs of the arbitration.

Land may be given up if compensation excessive.

R.A., 104.

T.B.A., 204.

(2.) Provided always, that if before any steps are taken to settle by arbitration or otherwise any compensation claim under this Act, the Local Authority tenders compensation to the person entitled to receive 40 the same, then if he refuse to accept the same and to convey the land required, and a reference to arbitration or other proceedings as herein provided takes place, and the Arbitrators or Umpire award a sum not exceeding the amount of compensation so tendered, all the costs of the reference or other proceedings to settle such compensation shall be 45 paid by such person, and payment thereof may be enforced by action in any Court of competent jurisdiction on a count for money paid at his request.

Costs of arbitration, how to be borne when compensation first tendered.

Compare

H.A., '89, 22, 23.

(3.) Notwithstanding anything to the contrary contained in any Act, if either party is dissatisfied with the award of the Arbitrators or 50 Umpire where the compensation awarded exceeds the sum of One hundred Pounds, and either party desires to have the compensation settled by a Judge of the Supreme Court, and, within Ten days after the making of such award and notice thereof, signifies such desire by notice in writing to the other party, then the amount of such com- 55 pensation shall be ascertained by a Judge of the Supreme Court in

If either party to an award is dissatisfied therewith a Judge of the Supreme Court may decide thereon.

A.D. 1899.

—

such manner as he deems advisable, and subject to such conditions as such Judge sees fit to impose; and such Judge may also in his discretion make any order as to the person by whom the costs of such proceedings shall be borne.

(4.) Where the party dissatisfied with the award gives notice to the 5 other party as aforesaid, then such award shall not be made a Rule of Court until such Judge by an order in writing under his hand determines the matter in dispute.

36 Vict. No. 19.

(5.) The Rules made by the Judges of the Supreme Court under "The Main Line of Railway Amendment Act, No. 2," shall be 10 applicable to all proceedings which shall be taken for carrying out the provisions of this Section.

Land not required
may be sold.
R.A., 114.
T.B.A., 213

154 The Local Authority may sell and dispose of, in the manner prescribed by *The Lands Clauses Act*, any land purchased or taken by it for the purposes of this Act which is not required for any such pur- 15 pose. The purchase-money arising from any such sale shall be applied to the purposes of this Act; and in the application of the provisions of *The Lands Clauses Act* to the purposes of this Act the enactment contained in this Section shall be substituted for Section Seventy-eight of that Act. 20

Powers of Land Vesting Act.

Minister may
acquire land
under Land
Vesting Acts,
58 Vict. No. 17.
62 Vict. No. 45.

155 For better facilitating the acquirement by a Local Authority of any land required for any of the purposes of this Act, the Minister may exercise any of the powers of "The Land Vesting Act, 1894," or "The Land Vesting Act, 1898," or any Statute hereafter passed having similar objects and containing similar powers to those Acts; 25 and all the purposes of this Act for which land may be acquired are hereby declared to be public purposes within the meaning of the said Acts: Provided, that any land acquired in pursuance of this Section shall not vest in Her Majesty the Queen but in the Local Authority in whose behalf the Minister acts for all the estate and interest of 30 the previous owner thereof to be held subject to the provisions of this Act.

Land to vest in
Local Authority.
Conditions
precedent to
Minister acting.

Proclamation to
state name of
Local Authority,
and to be regis-
tered.

Provided that the Minister shall act only upon the written request of the Local Authority, and upon being satisfied that all the steps required by this Act to be taken by such Local Authority have been 35 duly taken, and upon having secured to his satisfaction the repayment of any expenses he may be put to in so acting as aforesaid.

Any Proclamation issued under the said Acts in pursuance of this Section shall state the Local Authority in whose behalf the Minister is acting, and shall be registered as provided for in the said Acts. 40

TITLE II.—POWERS AS TO PUBLIC ROADS AND OTHER LOCAL WORKS.

- Div. I. Powers as to Public Roads, Wharves, and Local Works. (Sects. 156, 157.)
- II. Construction, Maintenance, and Control of Public Roads and Works. (Sects. 158 to 167.)
- III. Levels and Maps of Roads. (Sects. 168 to 172.)
- IV. Injuries to, Encroachments on, and excessive use of Roads. (Sects. 173 to 177.)
- V. Roads may be vested in Local Authority by Supreme Court. (Sect. 178.)
- VI. Public Rights of Way. See 179.

Division I.—*Powers as to Public Roads, Wharves, and Local Works.*

Definition of
"Public Road."

156 Any road which comes under or is included in any of the following definitions or descriptions shall be a Public Road :—

- i. At the commencement of this Act is a Public Highway within the meaning of *The Police Act*, 1865, or is a Main Road or Cross Road within the meaning of "*The Roads Act*," or is a Main Road or Common Road within the meaning of this Act : A.D. 1899.
29 Vict. No. 10.
48 Vict. No. 28.
See Sects. 192, 193.
- 5
- ii. After this Act comes into operation, is—
- (a) A road leading from one Town to another :
- (b) A road leading from a Town or public bridge to a main road :
- 10 (c) A road leading from a Town to a navigable river or ferry or the sea shore :
- (d) A road or intended line of road proclaimed by the Governor as a Cross Road or intended Cross Road before the Twenty-fourth day of *November*, One thousand eight hundred and eighty-four ; or 48 Vict. No. 28, s. 30.
- 15
- iii. Is a Private Road—
- (a) In any Urban District now or hereafter existing ; or
- (b) In any City or Town to which the provisions of Part III. of *The Police Act*, 1865, or the "*The Town Boards Act*, 1896," or any Act thereby repealed applied ; or 29 Vict. No. 10, s. 116.
60 Vict. No. 31.
- 20
- (c) In any City or Town to be hereafter constituted under this or any other Act—
- which was laid out before the Second day of *October*, One thousand eight hundred and sixty-five, or any such road laid out since that date and before this Act comes into operation, not being less than Fifty feet wide, or any such road laid out after this Act comes into operation in compliance with its provisions : Provided that the conditions as to the construction of private roads hereinafter contained have been duly complied with in respect to any such road : 29 Vict. No. 10, s. 192.
Ib., s. 201.
- 25
- iv. Is, under any of the powers contained in this Act, at any time laid out as or proclaimed or declared to be a public highway or public road :
- 30
- Provided always, that any road lawfully closed by the Local Authority shall cease to be a public road.
- 35
- v. Except when under the control of a Marine Board, a public jetty or public wharf at the end or side of a road shall (unless excluded by Proclamation) be considered for all the purposes of this Act as forming part of the Road. Jetty or wharf to be considered part of road.
- 40

157 (1.) Subject to any special provisions herein contained restrictive of the powers conferred by this Section, the Local Authority of every Area shall have the care, control, construction, maintenance, and management of all public roads, and other Local Works, within the Area : Provided— Powers of Local Authority as to public works.

45

- Exceptions—
- i. That the Local Authority shall not be charged with the construction, maintenance, or control of any of the aforesaid works which by any Act or by Proclamation shall be excepted from its jurisdiction : (1) Any work proclaimed out of its jurisdiction ;
- 50
- ii. Nor shall the Local Authority have any authority to interfere with any such work not formed, constructed, erected, or established by itself, and which may be excepted from (2) Or not formed, &c. by Local Authority and excepted by Proclamation.
See Sect. 618.
- [Bill 1.]

A.D. 1899.

its jurisdiction by any Proclamation, or respecting which separate provision shall have been or shall be made by any Act.

Proclamation may authorise Local Authority assuming charge

on certain conditions.

Existing trusts, &c. thereupon to cease.

Compare Tas., 166, 178.

(2.) But a Proclamation may authorise any Local Authority to take upon itself the charge of any such works within the Area, or of any such bridge or ferry, as under the provisions hereinafter contained may be ordered and declared to be under the control of the Local Authority.

(3.) Before the issue of any Proclamation authorising the Local Authority to take the charge of any such work, there shall be an adjustment to the satisfaction of the Minister of any then existing debt, securities, or other arrangements for, upon, or in respect thereof as the circumstances of the case may require.

(4.) Upon any such Proclamation as last aforesaid, any existing trust or other provision for the management, control, or other dealing with any such work as aforesaid created in pursuance of any Act then in force, or by other competent authority, shall thereupon and thereafter cease and determine.

Division II.—*Construction, Maintenance, and Control of Public Roads and Works.*

Property in roads and works.
P.A., 188-190, 212, 221.
R.A., 52, 54, 100, 107-111, 115 and 116.

Property in materials of all works.

The Authority controlling work is to be considered Local Authority within meaning of all parts of Act relating to works.
Public places.

Carriage roads to be chain wide unless Governor allows a less width.
See Sect. 588 (10.) III.
By-law power to reduce to 50 feet.

158—(1.) All existing and future public roads and local works, and the soil thereof, save such as shall be excepted from the jurisdiction of any Local Authority as aforesaid, shall by force of this Act vest in fee simple in the Local Authority of the Area in which the same are situate, excepting such land as was at the time of acquirement vested in the Local Authority for some lesser estate.

(2.) The materials of all roads and local works, not excepted as aforesaid, and including all materials placed or laid on any such work in order to be used for the purposes thereof, including any timber standing or lying upon any public road, and trees growing thereon, and all lamps, water-troughs, and pipes supplying the same, direction-boards, milestones, posts, rails, walls, chains, fences, and other things erected on or affixed to public roads, not being the property of any other person or company, and all materials and things provided by the Local Authority for any of the purposes of this Act shall belong to (and in any proceeding shall be accepted as belonging to) the Local Authority of the Area in which the same are situate until the contrary is proved.

(3.) Where a road or public work of any kind, or a portion of a road, is by virtue of any of the provisions of this Act placed under the control of some other Authority than the Local Authority of the Area in which the same is situated, then such controlling Authority while so acting shall be considered, in regard to the said public work, road, or portion of road, as the Local Authority within the meaning of the two preceding Sub-sections of this Section, and also for all the purposes of any portion of this Act relating to roads or public works.

(4.) All public places shall be under the control of the Local Authority.

(5.) Every road hereafter laid out which the public are allowed to use as a carriage way shall, unless in case of a road in a Rural District, by the gazetted permission of the Governor, be not less than Sixty-six feet wide measured at right angles to its course: Provided that a Local Authority may by By-law allow for the case of a new road being laid out to junction with an existing

road which is less than Sixty-six feet wide, and permit any such new road to be of less width than Sixty-six feet, but no such road shall be less than Fifty feet wide. And a Local Authority may also allow a public right of access to cart or use water to be less than Sixty-six feet wide, if it is only used for such purpose and is not a thoroughfare, but so as such right of access shall not be less than Twenty feet wide.

A.D. 1899.

Access to water
may be less than
a chain wide.

(6.) The Local Authority, subject to any special provisions in this Act hereinafter contained, shall have power in respect to every public road to do the following things :—

Provisions as to
public roads.
H.A., 141.

See Section 400.

Compare
N.Z., 114 (225).

i. To construct, improve, and repair all public roads with such materials and in such manner as the Local Authority thinks fit, and to roll with steam-roller and sweep and water any road :

15 ii. To make surveys for the laying out of new or extensions of existing public roads or junctions by new routes of existing public roads :

Compare
48 Vict. No. 11.

iii. To lay out new or extend existing public roads :

iv. To divert or alter the course of any public road :

20 v. To increase or to diminish the width of any public road :
Provided that the width shall in no case be diminished to less than Sixty-six feet :

vi. To determine what part of a public road shall be a carriage-way, and what part a footway only :

25 vii. To alter the level of any public road :

See Sect. 168.

viii. To wholly stop up any public road or part of a public road in the manner and upon the conditions set out in Sections *One hundred and ninety-three* and *One hundred and ninety-four* hereof : Provided that no public road shall be stopped unless and until a way to the lands in the vicinity as convenient as that theretofore afforded by the said road is left or provided, unless the owners of such lands give consent in writing to such stoppage ; and no road along the bank of a river or along the margin of the sea shall be stopped either with or without consent :

Power to stop
roads ;

but a new way
to be provided.

35 ix. To temporarily stop or divert the traffic in any public place or part thereof whilst such place or any sewer, drain, water-race, pipe, or apparatus under, upon, or over the same is being constructed or repaired, and to keep a newly constructed public road (in a Rural District) closed from traffic, or from certain traffic, thereon for any term not exceeding Two months after its completion :

To temporarily
stop traffic.

40 x. To make and use a temporary road upon any unoccupied or upon any uncultivated and unfenced land outside a city whilst the public road adjacent thereto is being constructed or repaired :

Newly
constructed
public road may
be kept closed for
Two months.

To make a tem-
porary road.

45 xi. To close any public road or bridge for such period as may be deemed advisable when it is found necessary to execute such repairs thereto as will prevent the use of the same for traffic : Provided that the Local Authority shall, whenever it is practicable, cause a notice to be advertised of its intention to exercise the powers contained in the immediately preceding Sub-sections vii., viii., ix., x., xi.

To close road or
bridge for repairs.

50 xii. To enter upon any lands outside a city and cut therein such ditches and drains as may be required to drain water from any road, and to keep such ditches and drains open at all times for the flow of water, and to erect floodgates therein,

To cut drains on
land adjoining
roads.
T.B.A., 215.
R.A., 116.

55

A.D. 1899.

To cut down
dangerous timber.
T.B.A., 216.
R.A., 117.

Ventilating-
shafts.

Planting trees.

Erection of
monuments not
to obstruct traffic.
T.B.A., 174, 175.

Wharves and
jetties.
See Sects. 588 &
614 (7.)

Protective works
against floods,
&c.

Ferries.

General power to
open roads and
alter any pipes,
&c., therein in
executing any
local work.
Compare
T.B.A., 158.

Certain of above
powers require a
special reso-
lution.

Shire Council to
assist other Local
Authorities in
executing sewers
and other local
works.

and to open or close the same as the Local Authority thinks fit, doing as little damage as may be :

xiii. After Seven days' notice to the occupier, to cut down and remove all indigenous timber (except timber reserved or planted for purposes of ornament or protection) standing 5 within Seventy-five feet of the centre of any road, making good all damage or injury to the fences, hedges, ditches, walls, or any other thing upon the land of the person on which such timber may be standing :

xiv. To erect upon any part of a road any shaft or structure in 10 connection with any drain or system of sewerage, and to enclose and plant with trees any part of a road and tend and cultivate such trees, and to erect upon any public road any monument, statue, or other such erection : Provided in each case mentioned in this Sub-section the 15 ordinary traffic shall not, in the opinion of the Local Authority, be thereby impeded, and that no tree reserve be of greater length than Ten chains, nor reduce the portion of road available for traffic on each side thereof, including footpaths, below Forty-six feet : 20

xv. To name and to alter the name of any road :

xvi. To sell the sweepings and surplus spoil of roads :

(7.) And, with the consent of the Governor, to—

i. Construct and maintain any jetty or wharf upon the shore of any river, lake, or navigable water, and to such distance 25 above or below high-water mark, and with such approaches and other works in connection with such wharves and jetties, as the Local Authority may think necessary ; or

ii. Construct embankments, sea-walls, and any other works to prevent the encroachment of the sea, or of any tidal or other 30 river or creek, and the wasting of any shore or bank ; or

iii. Establish and maintain Ferries, and regulate the same and all proper approaches thereto.

(8.) For any local work, or for any of the purposes of this Act, but subject as aforesaid, the Local Authority (doing as little damage as can 35 be in the exercise of this power) is authorised—

i. To open and break up the soil or paving of any road and any sewer, drain or tunnel, electric or other conduit, water or gas pipe within or under any road ; and

ii. To alter any of the said works in any manner that may be 40 necessary, but so as not to injuriously affect the same or to foul any water conveyed in any such work.

159 The Local Authority shall exercise the power to make any new road, or divert or widen or stop any existing road, or to alter the name of a road, or any of the powers in Sub-section Seven of the preceding 45 Section, only by special resolution in that behalf.

160 Any Local Authority shall be entitled to claim the assistance of the Shire Council in whose Area the Area of the Local Authority is situate in the designing or constructing of any drainage, sewerage, or other local works, and especially shall be entitled to— 50

i. Have the advice and assistance of any officers of the Shire Council :

II. The use of any road-making or other machinery belonging to the Shire Council : A.D. 1899.

upon such terms as to payment for the said services and other conditions as may be specified in any Rules to be made in that behalf by the Shire Council, or be the matter of a mutual arrangement between the two Authorities.

161 The Local Authority may, by notice in writing, require the owner of any water or gas-pipe, drain, or other apparatus in or under a road, to raise, lower, or otherwise alter the same as the Local Authority directs; and, if such alteration is not made with all convenient speed, the Local Authority may make the same as it thinks fit; but the cost of any such alteration and any damage occasioned thereby shall be paid by and may be recovered from the Local Authority by any person affected thereby. Pipes and drains may be ordered to be altered. N.Z., 235.

162—(1.) Nothing in this Act shall be deemed to in any way affect the liability of the Superintendent of Telegraphs or General Manager of Railways, or of any owner, lessee, or promoter of a tramway, gas or electric light works, or water-works (other than the Local Authority) in respect to the repair of any part of any road. Saving of liability of other Authorities.

(2.) And the Local Authority shall have, in addition to any powers conferred by this or any other Act, the following powers in regard to every person, Corporation, or Authority who lay or carry, either under or above ground in any public place, in its Area any pipe, post, or apparatus of any kind. Powers to remedy defects in water pipes, &c. See Sect. 598.

(3.) The Local Authority may by notice in writing require any such person, Corporation, or Authority—

i. To repair or renew any such pipe, post, or apparatus which is defective or out of repair, and, in the opinion of the Local Authority, likely to be a cause of danger to any passer-by, or to cause damage or injury to any building or to the surface of any public place, or to become an impediment to traffic thereon;

ii. To repair and make good any portion of a public place the surface of which has been disturbed at any time within Twelve months before by any work done, or injured by any leak from any pipe or apparatus, or which has been damaged in any way by any such pipe or apparatus, or as the result of any action of the said person, Corporation, or Authority, or as the result of the business carried on by any such person, Corporation, or Authority.

163—(1.) The Local Authority may from time to time paint or affix upon the walls of any building, or upon any post or direction-board to be erected by the Local Authority, the name of any road. Names of roads. See Sect. 588 (10.) XII. Numbers of buildings.

(2.) The owner or occupier of any building shall mark such building with such a number as and in such manner as the Local Authority may from time to time direct or approve.

(3.) Any person failing to comply with the provisions of this Section, or obstructing the Local Authority in carrying these provisions into effect, and any person who shall wilfully pull down, injure, or deface the name of any road or the number of any building, shall be liable to a penalty not exceeding Forty Shillings. Penalty for non-compliance. P.A., 212, 213.

A.D. 1899.

New road to be fenced.

But not in certain cases of granted land which includes road reservation.

If fencing benefit to owner, value to be allowed in settling compensation under Sect. 152.

164—(1.) Save as herein provided, when a Local Authority diverts or alters a road the sides of which are fenced, or opens a new road through enclosed cultivated land, or takes away a fence for the purpose of widening a road, the Local Authority shall cause substantial fences to be made on the sides of the road which were before fenced, or on both sides of such new road if it is opened through enclosed cultivated land, or upon the side upon which the fence is so taken away; or shall make compensation to the owner and occupier of the land.

(2.) Provided that where in the grant of any enclosed land any road or roads has or have been reserved which have not been used as a public road, the Local Authority may open through such land a new road or roads; and if the acreage of such new road or roads does not in the aggregate exceed the acreage so reserved, and no part thereof passes through the site or curtilage of any house or any garden, lawn, yard, plantation, avenue, or nursery for trees in or upon such land, the Local Authority shall not be required to fence any part of such road or roads, or make any compensation to the occupier or owner of the land.

(3.) And provided that if by the erection of such fences an additional convenience or benefit is conferred upon the owner of the land, such benefit shall be taken into account in settling any claim for 20 compensation in respect of such road.

Footways, Channels, Crossings, and Boundary Fences.

Footways and channels.
P.A., 190, 196.
T.B.A., 183.
L.C.A., 237, 240.

Allowance in respect of corner lots.

Compare O.M.A., 614.

Crossings to be fixed by Local Authority, and constructed under its direction.

See Sect. 217.

See also Sect. 198 (3.).

Owners may be required to make and repair crossing-places.

And erect fences along footpath.
T.B.A., 181.

165—(1.) The Local Authority of any City, Town, or Urban District may lay out or construct footways or channels or both on one or both sides of any public road, and may construct the same of such dimensions and of such materials and in such manner in all respects as it thinks fit, and may impose not exceeding one-half of the expenses of such works upon the owners of lands and buildings fronting the same, with power to make equitable allowances in respect of the proportion of cost to be borne by the owners of corner lots, triangular or other irregular-shaped pieces of land, at intersections or junctions of roads. After payment by the owner of his part of the cost, the works shall be maintained by the Local Authority.

(2.) Crossing-places over footways from any public road to any private property shall only be allowed after obtaining the written permission of the Local Authority, who may construct the same upon deposit of a sum to be fixed by By-law of the Local Authority to cover the cost thereof, or may order payment of the expenses of such works by writing under the hand of their Clerk, by the owner or owners who require the crossing.

Provided that any Local Authority may also allow any crossing to be constructed under the superintendence of an officer appointed for that purpose. No permission given under this Section shall be deemed to confer any right to the soil or freehold of any road.

(3.) The Local Authority, by writing under the hand of the Chairman or Clerk, may require the owner of any property—

I. To make or repair any crossing-place over the footway and channel leading to and from such property into a public road; or,

II. Where no fence or no sufficient fence already exists, and the property abuts upon a metalled, gravelled, or asphalted footpath adjoining the same, to construct and maintain a substantial Five-feet paling fence, or, where the Local

Authority approves, a post and Four-rail fence, along the front boundary lines of the property, or to repair any existing fence, A.D. 1899.

in such manner as to the Local Authority may appear necessary; and unless the said owner shall, within Thirty days after the service of such requisition, show cause to the satisfaction of the Local Authority why such crossing or such fence as aforesaid should not be so constructed or repaired, or within such time shall construct or repair the same according to the provisions hereof, the Local Authority may execute such work or repairs and determine and charge such owner in the case of any crossing as aforesaid with his proportionate part of the expenses thereby incurred, and, in the case of any fencing, with the whole expense thereof.

(4.) If, after the expiration of Twenty-one days from the delivery of an account of the expense to which any owner may have become liable under this Section for any work done by the Local Authority, the same shall not be paid, the Local Authority, by Order under the hand of the Chairman or Clerk, may direct payment thereof. Payment of expenses may be ordered.

(5.) All expenses payable by an owner under this Section shall be a charge upon the property until paid. Charged upon property.

166 The Local Authority may from time to time erect and set up in any public place such posts, stones, or fences as the Local Authority may deem necessary for preserving any footway from unauthorised use as a crossing, or to keep it clear from accident or annoyance by vehicles or animals, and may also, from time to time, remove all or any posts, stones, or fences in any such place which the Local Authority may deem to be obstructions to the free passage along the same. Setting up posts to guard footways. P.A., 191. See Sect. 174. Any posts, &c. obstructing a road may be removed. R.A., 127.

Precautions against Accidents.

167—(1.) Whilst the traffic in any public place is stopped under the powers of Clause ix. of Sub-section (6.) of Section *One hundred and fifty-eight* of this Act; or Precautions against accidents while traffic stopped or any work on or near road. See also Sect. 217. P.A., 214, 216, 217.

(2.)—I. If any hole is made in any public place, or
II. Any building or other material is placed thereon, or
III. Any obstruction by any work on or near a public place is caused to the traffic on, or
IV. If a hole is made on any land within Ten feet of any public place—
the Local Authority, or if the traffic be stopped, or the hole made, material placed, or obstruction caused, at the instance of any other authority or person, then such other authority or person shall— By Local Authority or others at whose instance it is done,

I. Take proper precaution for guarding against accident by shoring up and protecting the adjoining road, land, or building; and shall Shore up road, land, or buildings.

II. Erect such bars or fences across the public place or round any dangerous place therein or adjoining thereto; and Erect barriers. See Sect. 217.

III. Cause the same to be so sufficiently lighted by night as may be necessary to prevent accidents while any such work is in progress, material remains, or obstruction continues. Provide lights.

(3.) Any person or authority allowing any operation mentioned in this Section to remain for an unnecessary time, or any person or authority liable as aforesaid to shore up or protect any road, land, or building, or to erect such barrier or fence, or to keep the same sufficiently lighted, who fails in any such particular, and any person Penalties for allowing operations to continue an unreasonable time, and for disregard of other conditions of this Section.

A.D. 1899.

removing any such protective work or extinguishing any such light without permission from the Local Authority, shall be liable to a penalty not exceeding Five Pounds, and to a further penalty not exceeding Forty Shillings for every day while such default is continued; and in any such case the proof that the time has not exceeded the 5 necessary time shall be upon the defendant.

Precaution when
steam-roller is
being used.
T.B.A., 182.

(4.) When a steam-roller is being used—

- I. At least Two persons shall be employed, one of whom, when the locomotive is travelling to or from any place where it is to be or has been used, shall walk at least 10 Twenty yards in front of the locomotive when it is in motion, and shall carry a flag :
- II. Barriers shall be provided and fixed whenever practicable at the ends and intersections of roads to prevent ingress or egress during the time a road is being rolled. 15

Division III.—*Levels and Maps of Roads.*

Levels to be
fixed by Local
Authority—(1)
of new roads on
plans being pro-
duced ; (2) of
old roads when-
ever owner
requests.

168—(1.) Levels of roads shall be fixed by the Local Authority—

- I. Whenever the plans of a new private road are presented under Section *Two hundred and one* of this Act :
- II. Whenever requested in writing so to do by any owner of property fronting on any road of which the levels have not 20 already been fixed by a competent Local Authority acting under this or some other Act of the Parliament of *Tasmania*.

Fixing levels of
private roads not
to imply any
liability to
construct.

(2.) Provided that a Local Authority may fix the levels of a private road without incurring any liability to form the same. 25

Records to be
kept.

(3.) A map or other sufficient record of all road levels fixed by the Local Authority shall be kept at the office of the Local Authority, and shall be open to the inspection of all ratepayers of the Area.

Levels to be
observed by
builders and
others.

(4.) The level so fixed for any road and shown in any such record shall be thereafter kept by every person constructing the road or 30 erecting or altering any building therein.

P.A., 198.
No compensation
for altering levels
unless after it has
been "fixed."

(5.) No compensation shall be payable by the Local Authority in respect of an alteration in the level of any road unless such alteration be made after such level has been fixed under the Act, or after such road has been constructed in some permanent manner, or the level 35 thereof fixed by any Local Authority at any time heretofore having the power to do so.

But compensation
to be made for any
alteration after-
wards.

(6.) But if after the level has been so fixed the Local Authority alters the level of the ground in such road except to conform to the level so fixed, the Local Authority shall make compensation to all 40 persons injuriously affected by such alteration.

Owner protected
who has asked for
levels.
P.A., 199.

(7.) If the Local Authority does not, within Three months after the service of a request as aforesaid, fix the level of the road, any person making the request, and all persons claiming under him, shall, in the case of every subsequent alteration of the level of such road, be entitled 45 to compensation from the Local Authority for any damage sustained in consequence of such alteration.

Liability of
owners and others
proceeding in
disregard of Act.
P.A., 200.

169 Every person who makes or lays out any private road, or who erects any building in any road the level of which has not been fixed, without causing notice to be given to the Local Authority to fix the 50 level, or who does not keep the level fixed by the Local Authority, shall be liable to defray all the expenses consequent upon any change of level deemed requisite by the Local Authority.

170 Where any road traverses such uneven, broken, or sidelong ground that the adoption of a uniform level transversely throughout the entire width of such road would cause inconvenience, the Local Authority may form any such road to different transverse levels in such a manner as to divide the road so formed into separate roads, one of which may at any transverse section of the road be higher or lower than any other:

A.D. 1899.

Transverse levels.
Q., 151.

Provided that wherever the Local Authority so divides any road into separate roads, the Local Authority shall erect and maintain such fences and lights as may be necessary to prevent accidents.

Prevention of
accidents.

Maps of Roads.

171—(1.) Any Local Authority may at any time, and from time to time, cause surveys to be made and maps to be prepared showing the alignment, exact dimensions, or boundaries of any public road, or, if any, of the footways, and refer any of such particulars to permanent marks fixed by the Local Authority as aids in defining such alignment.

Alignment and
dimensions of
roads shown on
maps.Compare
S.A., New Bill,
Clause 127.

(2.) A notice that such map has been so prepared, and is deposited in the office of the Local Authority, shall be gazetted, and a copy of the notice shall also be sent by post or otherwise to every owner and occupier, so far as known, of land abutting on the road.

Notice to owners
that maps
prepared.

(3.) Any person disputing the correctness of any of the particulars contained in such map may, within One month after the giving of the said notice, lodge with the Clerk a caveat signed by himself or his agent stating the particulars of which he disputes the correctness.

Who may caveat.

(4.) The Local Authority may, if satisfied of the correctness of the objection taken, modify the map to the satisfaction of the owner or his agent, testified by his allowance in writing thereof.

Maps may be
altered and
caveator satisfied.

(5.) And, thereafter, so soon as Two months have elapsed since the giving of the notice, no caveat remaining undealt with, the map so deposited shall be conclusive against all parties in any suit or proceeding as to the particulars contained therein.

Thereupon map
to be conclusive
evidence.

(6.) If the Local Authority declines to make the alteration required by any Caveator the Local Authority may apply to the Court under Section *One hundred and seventy-eight* of this Act to have the road described in such map vested in them; but in such a case it shall only be necessary to serve notice of the application upon the objecting owner.

Or Local
Authority may
proceed under
Sect. 178.

(7.) The Governor may, by Proclamation, from time to time publish Regulations prescribing the particulars to be given in maps of public roads, or of land proposed to be dedicated as a public road, and thereafter all such maps prepared by a Local Authority, or any plan prepared by any person proceeding under Section *Two hundred and one* hereof shall be prepared as so prescribed.

Governor may
prescribe par-
ticulars to be given
in maps.

(8.) The originals or copies of all maps at any time prepared by a Local Authority or received by a Local Authority under Section *Two hundred and one* hereof shall, after being signed by the Chairman and Clerk, be deposited in the Office of the Minister of Lands and Works, and notice shall be sent to him by the Local Authority of any modification made therein, and he shall cause a note of every such modification to be entered on the map affected thereby.

Maps or copies to
be deposited at
Minister's Office.
R.A., 25.Notice to be sent
of modifications.

[Bill 1.]

A.D. 1899.

Alternative provisions for establishing records of dimensions of public roads.

Schedule (15.).

172—(1.) As to public roads in any Town not originally laid out by the Crown, and as to which the Local Authority is desirous to establish a record of the dimensions, the Local Authority, instead of proceeding under the preceding Section, may—

- i. Cause a notice to be gazetted containing the name by which 5 the road is known, and the names of any other public roads with which it junctions, the length of the road, and its width, or, if it is not of one continuous width, then the several widths of the road, at positions described with reference to their distances from the angle or angles formed 10 by that road with some other public road ;
- ii. Cause a notice in the form in the Schedule (15.) to be posted up at both ends of the road drawing attention to such gazetted notice, which shall be kept so posted for Thirty days at 15 least.

(2.) When Three years have elapsed since the date of the gazetting of the notice no question shall be allowed as to the dimensions set forth therein, unless as to any property the owner of which has, within that period, by written notice to the Local Authority, objected to the aforesaid dimensions, or any of them, so far as these affect his property. 20

(3.) The Local Authority shall not under this Section acquire any right to any part of any public road the published dimensions of which do not agree with the fenced lines at the time, except in any case where, there being no fence to a property, the line taken in describing the width of the road is an extension of some adjoining existing 25 fenced line.

Division IV.—*Injuries to, Encroachments on, and excessive Use of Roads.*

Injuring roads.
R.A., 126.
T.B.A., 247.
P.A., 180, 211.
See also Sect. 217.

173—(1.) Every person who on any road is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Five Pounds :—

- i. Suffering any water, tailings, sludge, or drainage from 30 premises in his occupation to flow over any footway or road :
- ii. Riding upon any footway made or set apart for the use or accommodation of foot passengers by the side of any road :
- iii. Wilfully leading or driving or leaving any animal or vehicle, 35 or any single wheel of any vehicle, or wheeling or drawing or leaving any wheelbarrow, truck, or sledge upon any such footway, or upon any channel by the side of any road, or fastening any animal so that it stands across or upon any footway : 40
- iv. Hauling or drawing, or causing to be hauled or drawn, upon any part of any road any timber, stone, or other thing otherwise than upon a wheeled vehicle :
- v. Suffering any timber, stone, or other thing which is carried principally or in part upon a wheeled vehicle to drag or 45 trail upon any road, or to hang over any part of any such vehicle so as to occupy or obstruct the road beyond the breadth of such vehicle, or who causes any timber or other thing to be drawn in or upon any vehicle without having sufficient means of safely guiding the same : 50
- vi. Suffering pigs to root up or damage any road, or the hedges or banks on the sides thereof :
- vii. Suffering any animal to stray or be upon any fenced road :

P.A., 1879, s. 9.

- VIII. Using any instrument for the purpose of retarding the progress of any vehicle so as to destroy, injure, or disturb the surface of any road : A.D. 1899.
T.B.A., 247.
- 5 IX. Wilfully suffering a wheel of any vehicle to run in any channel by the side of any road for the purpose of retarding the descent of such vehicle down hill :
- 10 x. Making a fire upon any road, or within One yard of any road-side fence, or erecting or causing to be erected within Fifty yards of any road, any wind-mill or steam-engine, unless such wind-mill or steam-engine be within some building, or behind some wall or fence sufficient to secure the same from the road, so that the same may not be dangerous to passengers, horses, or cattle ; or making any fire for burning or calcining limestone, bricks, clay, or the making of coke or charcoal within the distance of Twenty-five yards of any such road, unless the same shall be within some building, or behind some wall or fence sufficient to screen the same from such road : Fires upon or near, erecting any steam-engine, or burning lime within Fifty yards of, a road. R.A., 129.
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- 20 xi. Not placing any vehicle during the time of loading or unloading the same, or (outside a city or town during the time of taking refreshment or of halting) as near to one side of the road as conveniently may be, either with or without any animal harnessed or yoked thereto :
- 25 xii. After having blocked or stopped any vehicle in going up or down hill, causing or suffering to be or remain on the road the stone or other thing with which such vehicle has been blocked or stopped :
- 30 xiii. Removing soil from any road or from the sides thereof, or removing, barking, felling, or cutting trees on any road or on the sides thereof, the property of the Local Authority :
- xiv. Exposing for show, hire, or sale (except in a market place appointed for that purpose) any animal :
- 35 xv. Exhibiting in a caravan or otherwise any show or public entertainment :
- xvi. Shoeing or bleeding any animal (except in cases of accident) :
- xvii. Cleansing, dressing, exercising, or training any animal :
- 40 xviii. Making or repairing any part of any vehicle (except in cases of accident where repair on the spot is necessary) :
- xix. Suffering to be at large any unmuzzled ferocious dog :
- 45 xx. Slaughtering or dressing any cattle, or any part thereof, except in the case of any cattle over-driven which may have met with any accident, and which for the public safety or other reasonable cause ought to be killed on the spot :
- 50 xxi. Having the care of any vehicle, rides on the shafts thereof, or without having reins with a bit attached thereto and in the mouth of the animal drawing the same, and holding such reins, rides upon such vehicle, or any animal drawing the same ; or who is at such a distance from such vehicle, or in such a position therein, as not to have due control over every animal drawing the same ; or who does not, in meeting any other vehicle, keep his vehicle to the left or near side, or who in passing any other vehicle does not keep his vehicle on the right or off side of the road (except
- 55

A.D. 1899.

- in cases of actual necessity, or some sufficient reason for deviation); or who, by obstructing any road, wilfully prevents any other person or vehicle from passing him, or any vehicle under his care; or, who wilfully causes any hurt or damage to any person or property being in or upon any road:
- xxii. Who at one time drives more than one waggon or two carts; and every person driving two carts who has not the halter of the horse in the last cart securely fastened to the back of the first cart, or has such halter of a greater length from such fastening to the horses head than Four feet:
 - xxiii. Causing any vehicle, truck, or barrow to stand longer than is necessary for loading or unloading goods, or for taking up or setting down passengers (except vehicles for hire at stands appointed for that purpose by the Local Authority):
 - xxiv. Placing or leaving any article of any kind, or using any standing place, on any carriage or footway, or placing any blind, shade, covering, awning, or other projection over or along any such carriage or footway, unless such blind, shade, covering, awning, or other projection is Seven feet in height at least in every part thereof from the ground, and the posts supporting the same are placed close up to the curbstone or outer edge of such footway:
 - xxv. Placing, hanging-up, or exposing to sale any article outside any building, or so that the same projects into or over any footway, or beyond the line of any such building, so as to obstruct or incommode the passage of any person over or along such footway:
 - xxvi. Writing upon, soiling, defacing, or marking with chalk or paint or in any other way any wall, tree, road, board, verandah, lamp-post, telegraph-post, or other post; rail, pole, seat, or any kerb, or footway, fence, hoarding, or building, or any fixture or appendage thereto, being the property of the Crown, or of the Local Authority, or of any public body, or of any person (without having first obtained the consent on such terms as the respective owners may decide or then except in accordance with such consent), or being private property, without the consent of the owner or occupier thereof, or, without any such consent, affixing to any such road or thing as aforesaid any picture, or printed or written matter, or any advertisement of any sort whatever, or who without authority affixes or causes to be affixed to any church, chapel, or school-house, or, without the consent of the owner and occupier, to any other building, or to any wall, fence, or hoarding, any bill or other notice; or who wilfully breaks, destroys, or damages any part of such wall, fence, hoarding, or building, or any tree, shrub, seat, or other thing:
 - xxvii. Rolling or carrying any article upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway:
 - xxviii. Placing any line, cord, or pole across, upon, or over any part of any road, or hanging or placing any clothes thereon, or on the outside of any window fronting any such road:

- xxix. Publicly offering for sale or distribution, or exhibiting to public view any profane, indecent, or obscene book, paper, print, drawing, painting, or representation : A.D. 1899.
- 5 xxx. Wantonly discharging any firearm, or throwing or discharging any stone or other missile, or making any fire or bonfire, or letting off any firework, or flying any kite, or using any bow or arrow, or trundling any hoop :
- 10 xxxi. Dressing or cutting any timber or stone, or slacking or screening any lime, or throwing down any materials, (except as allowed by this Act within hoardings which have been permitted by the Local Authority) :
- xxxii. Beating or shaking any carpet, rug, or mat (except rugs or mats beaten or shaken before the hour of Eight in the morning) :
- 15 xxxiii. Throwing from the roof or any part of any building any slate, brick, wood, rubbish, or other thing :
- xxxiv. Leaving open any well, vault, or cellar or the entrance from any street to any cellar or room underground, without a sufficient covering, fence, or handrail, or leaving defective the door, window, or other covering, or any fence of any vault, cellar, or well, or not sufficiently fencing any excavation, area, pit, or sewer left open, or leaving open such area, well, excavation, pit, or sewer without a sufficient light after sunset to warn and prevent persons from falling thereinto :
- 20
- 25 xxxv. Who throws or lays any dirt, hay, straw, litter, or ashes, or night-soil, or any animal or vegetable matter, or rubbish, slops, or dirty water, on any road, or causes or allows any matter, solid or liquid, to fall or run on any road ; but it shall not be deemed an offence to lay litter or other suitable materials to prevent noise in case of sickness, if these be removed as soon as the occasion for them ceases : P.A., 180.
- 30

(2.) And any constable or police officer may seize and detain in some place of safety any animal or vehicle in charge of any person who within his view commits any offence hereinbefore enumerated, and the owner of such animal or vehicle shall be liable for all costs, charges, and expenses incurred thereby or in providing food for any animal so seized and detained, and the same may be recovered in a summary way ; and such owner, if master of the person found committing any such offence, may, in like manner, recover from such person all sums of money paid by such owner as aforesaid. Constable may detain animals, &c., in charge of persons committing offences.

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- 174**—(1.) Every person who is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Twenty Pounds over and above the damages occasioned thereby : Further penalties for certain injuries. R.A., 127. P.A., 246. P.A., 195. See also Sect. 613.
- 45 I. Pulling down, damaging, or destroying any lamp or lamp-post erected or placed, whether by the Local Authority or by any person, in or near the side of any road or bridge, or extinguishing the light of any such lamp :
- 50 II. Pulling down, defacing, damaging, or destroying any direction-board, mile-stone, building, sewer or drain grating wall, fence, post, or rail made, erected, or set up by the Local Authority, or any thing appurtenant thereto :
- III. Injuring or damaging any part of any road or bridge
- (2.) Whoever carelessly or negligently breaks, throws down, destroys, or damages any such lamp or lamp-post, and does not upon Satisfaction to be made for negligently breaking lamps. P.A., 247.
- 55

A.D. 1899.

Bystander may
apprehend
offender.
P.A., 246.

Damages and
compensation
may be awarded
by Justices for
injuries.

Encroachments
on roads.
R.A., 128.
T.B.A., 247.
Reducing roads.

Allowing wall,
&c., to fall.

Encroaching
hedges.

Filling up ditches.

Making un-
authorised drain.

Obstructing road
or bridge.

Notice to remove
encroachment.

demand make satisfaction for the damage so done, shall pay such sum of money by way of satisfaction as to the Justice before whom the complaint is heard appears just and reasonable.

(3.) Any person who sees any of the offences set forth in the First Sub-section of this Section may apprehend, or assist in apprehending, 5 the offender without any warrant, and deliver him into the custody of some Constable, in order that such offender may be secured and taken before some Justice.

175 When, as the result of any of the offences set forth in the Two preceding Sections of this Act, any damage or loss is occasioned to any 10 person, or to any road or other property belonging either to the Local Authority or to any person, the Justices may, in addition to the penalty they may inflict, award such damages or compensation to be paid by the offender to the Local Authority or any person suffering the injury as they consider just : 15

Provided that the injured party may elect to take any other remedy provided by law for recovery of damages or compensation, and the infliction of a penalty merely shall be no bar to any such proceeding.

176 Every person who is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Twenty 20 Pounds :—

- i. Making or causing to be made any building, or any hedge or other fence, on or at the side of any road, in such manner as to reduce the breadth or confine the limits thereof :
- ii. Causes or negligently allows any retaining-wall, foundation- 25 wall, or fence erected on any land, or any batter or slope of earth, or any building, erection, material, or thing to give way or fall, so as to injure or obstruct any road :
- iii. Any person, being the owner or occupier of land adjoining any road— 30

(a) Permitting or suffering any hedge separating such land from such road, or any seedlings, suckers, or off-shoots therefrom, or from any gorse, black-berry bushes or briars growing on such land, to continue to encroach or to encroach on such road, 35 so as to reduce the breadth or confine the limits thereof, or to grow to a height of more than Seven feet, without the consent in writing of the Local Authority, as the case may be ; or

(b) Permitting or suffering any such hedge in any 40 manner whatsoever to obstruct any road :

- iv. Filling up or obstructing any ditch at the side of any road, or any ditch made through the adjoining land for the purpose of draining such road :
- v. Making any drain, gutter, sink, or watercourse unauthorised 45 by the Local Authority upon or across any road or any footway :
- vi. Wilfully sitting or standing on any road or bridge in such a manner as to render it dangerous for any person to ride or drive thereupon : 50
- vii. In any manner whatsoever wilfully obstructing the free passage, use, or enjoyment of any road.

And it shall be lawful for every Local Authority, after Ten days' notice in writing to such owner or occupier as aforesaid, to cause any

such building, hedge, or other such encroachment as aforesaid, ditch or fence, drain, watercourse, gutter, or other obstruction to be taken down, cut, cleared, or filled up, or, where any hedge has been allowed to grow to a greater height than Seven feet, to be cut down to the height of not less than Five feet, or, where any ditch is filled up or obstructed, to be opened and cleansed; and it shall be lawful for any Two Justices, upon proof thereof upon oath to them made, to levy the expenses of taking down, filling up, cutting, clearing, or cleansing, as the case may be, such building, hedge, or other such encroachment as aforesaid, ditch, drain, or other obstruction as aforesaid, by distress and sale of the offender's goods and chattels, rendering the surplus, if any, to him on demand.

A.D. 1899.

Expense of removing may be recovered.

177—(1.) Any person carrying on the business of carting, or any person who uses vehicles for the transport of any goods, materials, or articles, shall be liable, whether a ratepayer of the Area or not, to pay compensation to the Local Authority whose roads any such person uses, if such Local Authority be of opinion that the Rates (if any) paid by him are an insufficient contribution to the expenditure rendered necessary by the wear and tear which his traffic causes.

Excessive use of roads.

Compare 41 & 42 Vict. c. 77, s. 23. S.A. Bill, Cl. 136. N.Z., 114, Cl. 257.

(2.) Any person against whom expenses are or may be recoverable under this Section may enter into an agreement with the Local Authority for the payment to them of a compensation in respect of such traffic, and thereupon the person so paying the same shall not be subject to any proceedings under this Section.

Compensation may be recovered in a summary way by Local Authority.

(3.) Such compensation, in default of agreement between the Local Authority and such person shall, on the filing of a statement of claim, signed by the Chairman of the Local Authority, after notice (with a copy thereof) to the person to be charged, be settled by Two Justices of the Peace, who shall have regard to the ordinary expense of repairing roads in the vicinity, and to the usual use made of such roads by the ratepayers generally of the Area, and shall consider whether the traffic of any such person has been or will be the cause of extraordinary expenses in repairing the roads he uses.

Or user may compound for same.

(4.) Any compensation made payable under this Section may be recovered in a summary way before any Two Justices of the Peace.

Division V.—*Roads may be vested in Local Authority by Supreme Court.*

178—(1.) The Supreme Court, or any Judge thereof, upon proof that any land in any Urban District, City, or Town, has been dedicated to the public by the owner thereof as a road, or that such land has been made, levelled, constructed, or drained as a road by the Local Authority, and used by the public for Five years continuously, and, upon the application by petition or originating summons of the Local Authority of the Area within which such land is situated, may make an order vesting such land in the Local Authority as a public road.

Roads may be vested in Local Authority by Supreme Court. Compare S.A., 497 (111.).

(2.) The Recorder of Titles, on being served with an office copy of such order, shall, at the request of the Local Authority, issue to the Local Authority a Certificate of Title of the said land as a public road, free from any lease, mortgage, encumbrance, or easement.

Certificate of Title to be issued to Local Authority.

(3.) Notice of any such application shall be served upon the owners of the said land, or if there shall be several joint tenants, or tenants in common of the said land or any portion thereof, then upon one of such

Notice of application to Court to be given to owners.

A.D. 1899.

Application may be made *ex parte*.

Proviso for cancelling order.

Costs to be in discretion of Court.

joint tenants or tenants in common; but the Court or Judge may dispense with the service of notice upon any such owners.

(4.) Any such application may be made *ex parte* upon an affidavit by the clerk to the Local Authority that he is unable to find the owner of the said land; and any order obtained *ex parte* shall be 5 gazetted Four times:

Provided that upon the application of the owner within one year of its date an order obtained *ex parte* may be rescinded by the Court or a Judge thereof, and thereupon the land shall revert in the owners thereof, and the Recorder of Titles, upon receiving an office copy of 10 the rescinding order, shall note the same upon the office copy of the Certificate of Title so as aforesaid issued to the Local Authority, who shall deliver up their Certificate of Title for cancellation.

(5.) Upon any application under this Section the Court or Judge may make such order as to costs and expenses as shall seem just. 15

Division VI.—Public Rights of Way.

Shire, City, and Town Council to protect public rights of way. E.L.G. Act, 1894, Sect. 23.

179—(1.) It shall be the duty of every Shire, City, and Town Council to protect all public rights of way, including the right to use—

i. Any footpath or track or any bridle-track which has been in common use by the inhabitants or some of the inhabitants of the Area for a period of Twenty years : 20

ii. The foreshore of any tidal waters :

iii. Any such footpath or track which may at any time be granted to the Local Authority by any person for the use of the inhabitants of the Area :

Whether in or outside of Area. See Sect. 269.

whether in the Area or in adjoining Area, when the stoppage or 25 obstruction thereof, or the removal of any soil, sand, or rock, or the destruction or injury of any trees or shrubs on any esplanade or elsewhere would in their opinion be prejudicial to the inhabitants or portion of the inhabitants of any Area in the Shire.

Proceedings may be instituted.

(2.) A Council may, for the purpose of carrying into effect this 30 Section, institute or defend any legal proceedings, and generally take such steps as they deem expedient.

Restricts proof.

It shall not be necessary to prove more than that the right had been exercised occasionally during every year of the period, but it shall be a sufficient defence for any interrupter of such right if he shows that 35 the right arose by grant with a reservation of resumption of the land by the owner at any time; and any proceedings may be taken within Twelve years of the interruption of the right, provided that Twenty years user be established before such interruption.

Justification for interruption.

Limit within which proceedings may be taken.

Fences, stiles, &c. to be maintained.

(3.) The establishment of the right to any such public right of way 40 shall not exempt the Local Authority from the maintenance of any fences, gates, or stiles which have hitherto existed across or on any such footpath or track.

Power to exchange.

(4.) Any existing public right of way may be exchanged for another which in the opinion of the Local Authority will be at least as con- 45 venient.

Power for minor Authorities to assume powers if other Councils neglect their exercise.

(5.) Provided that where any City, Town, or Shire Council declines or neglects to exercise the powers conferred by this Section, any Local Committee, or, in the case of a Shire, any other included Local Authority, may assume the powers hereof, and shall be in the 50

same position as though the proceedings had been initiated by any one of the Authorities firstly mentioned. A.D. 1899.

(6.) Any proceedings or steps taken in relation to any alleged right of way by any Local Authority shall not be deemed to be unauthorised by reason only of such right of way not being found to exist. E.L.G. Act, 1894 Sect. 26, (5.).

(7.) Any Local Authority may acquire by agreement any public right of way within their own or any adjoining Area, the acquisition of which will, in their opinion, be beneficial to the inhabitants of their Area. Power to acquire. E.L.G. Act, '94. Sect. 9 (15.). Sect. 12 (8.).

(8.) Wherever there is water navigable by boats a public right of way exists over such water. Public rights over waters

TITLE III.—MAIN AND COMMON ROADS.

Div. I. Creation and Maintenance. (Sects. 180 to 185).

II. Discontinuance. (Sect. 186).

Division I.—*Creation and Maintenance.*

180—(1.) i. Any Main Road within a Shire, and
ii. Any Common Road between and within Two or more towns or Rural or Urban Districts or other portions of a Shire,

shall be under the care, control, and management of the Shire Council, who shall, to the exclusion of all other Local Authorities, exercise in regard to such Roads all the powers and authorities conferred by this Act.

Main roads and common roads to be under Shire Council.

Compare E.L.G., 188 (11.).

(2.) The whole of the Shire shall, subject to the provisions herein- after contained, be liable to be rated for the purposes of a Main Road.

Shire to be rated for main road.

(3.) Such Areas or portions of Areas as have been defined under the provision of this Act as those to which any road is to be considered common shall be liable, subject to the provisions hereinafter contained, to be rated for the construction and maintenance thereof.

Portions of Shire for common road

181—(1.) A road or a portion of a road may, by Special Resolution, be declared to be a common road by the Council of a Shire whenever—

Common road may be declared such by Council of Shire.

i. Being situated wholly within the Shire it is on the boundary of or passes through a Town or Urban or Rural District therein, and is jointly used by or is of common benefit to the whole or some portion of the inhabitants of another Area or portion of an Area in such Shire, as well as those of the aforesaid Town or District ; or

ii. Is a road passing along or over the boundary of the Shire, and is jointly used by or is of common benefit to the whole or some portion of the inhabitants of any other Area as well as to the inhabitants, or some of the inhabitants, of the first-mentioned Shire.

(2.) Any road coming within any of the above definitions may also be proclaimed a common road.

A Proclamation by the Governor.

(3.) The Proclamation or Special Resolution, as the case may be, shall define the Areas or portions of Areas, and may also declare the proportions of the expenses of construction and maintenance to be borne, subject to the provisions for appeal hereinafter contained, by the Areas or portions of Areas respectively to which the said road is to be considered common.

The rateable Areas affected to be defined.

Liberty to appeal.

(4.) i. Where by any such Proclamation or Special Resolution—
(a) A road passing along or over the boundary of any Shire has been declared to be a road common to such Shire and to any other Shire, or

Provisions for enforcing joint liability where road is in two Shires.

A.D. 1899.

(b) Common to Two or more Districts or Towns within Two Shires; and

- ii. Where the Council of the adjoining Shire has refused or neglected within a reasonable time to enter into a reasonable agreement for the formation, construction, and maintenance at joint expense of such common road, the Shire Council making the request for such agreement may apply to the Minister to exercise the powers conferred by Section *Five hundred and twenty-four* of this Act, and thereupon all the provisions of all the Sub-sections after (3.) of that Section shall apply to every such case.

Application of
Sect. 524 of
this Act.

Provisions as to
Rates to be levied
for Main and
Common Roads.

182—(1.) The amount of the Rates imposed upon the properties within any Area for the purposes of a Main Road or for the purposes of a Common Road shall be regulated by ascertaining, so far as it is possible so to do, what is a fair share of the expenses of the construction or maintenance of the road as determined by—

i. The use made of the whole road by the inhabitants of the Area, and by

ii. The benefit the road is to the Area by reason of the advantage accruing to its inhabitants from the traffic along or upon such road.

(2.) The rate to be spent per mile of every Main Road or Common Road shall be in proportion to the traffic existing or expected upon the several portions of the road into which, for the purposes of this Section, the Shire Council may determine by Special Resolution to divide the road.

(3.) All Rates levied for a Main or Common Road shall be by a Special Resolution of the Shire Council, but it shall not be necessary to pass a Special Resolution every year unless an alteration is made in the Rate or in the respective amounts levied upon the properties in the several Areas.

Local Authority
may appeal
against share of
expenses.

Compare
E.L.G., '94, s. 6
(1.) (c).
62 Vict. No. 33.

Notice of
appeal.

Copies for all
Authorities
interested.

Interested Local
Authorities to be
heard at appeal.

183—(1.) Whenever a Local Authority shall consider that an undue share (amounting to at least One hundred Pounds per annum) of the expenses of the maintenance of a Main Road or Common Road is levied upon the Area under its control, it may, within Sixty days after the passing of the Shire Council's Special Resolution imposing the Rate, appeal in the manner provided in "The Assessment Act, 1898," in regard to assessments made thereunder, and the provisions of that Act shall, *mutatis mutandis*, apply to any appeal by a Local Authority hereunder.

(2.) Provided that a notice of appeal shall be signed by the Chairman and Clerk of the Local Authority appealing, and shall contain a memorandum at the foot thereof stating the name of the Shire Council and of every Local Authority in the Shire whose Area is rated in respect of the road.

(3.) Copies of the said notice and memorandum sufficient for the Shire Council and Local Authorities therein named shall be left with the Registrar when the Notice of Appeal is filed, as provided in Section Thirty-six of "The Assessment Act, 1898." The Registrar shall proceed as provided in Section Thirty-seven of the said Act, except that he shall forward such copy notices to the Chairman of the Shire Council and of the several Local Authorities named therein as aforesaid.

(4.) Every such Local Authority shall be entitled to be heard at the hearing of the said appeal, and the Court may fix the several proportions in which each such Local Authority shall contribute to the

expenses incurred or to be incurred by the Shire Council for the purposes of the road in respect to which the dispute has arisen. A.D. 1899.

(5.) Whenever the Court makes an order fixing the proportion or proportions in which a Local Authority or the several Local Authorities are to contribute as aforesaid, the Shire Council shall levy Rates upon the properties in their respective Areas in accordance therewith, and no further appeal shall be allowed to be made until Five years have elapsed from the sitting of the Court which heard the appeal. Rates to be levied in accordance with proportions of expenses fixed by Court.

(6.) The Collection of the Rate imposed by the Shire Council shall not be postponed by reason of the appeal, but the Court may make such order as it may deem just as to any allowance to be made in future levies by reason of any over or under levy in the Rate already collected or being collected at the time the appeal is heard. Collection of Rates in meantime.

(7.) The Court may at its discretion refuse to award any costs to either the appealing Local Authority or to any other Local Authority, or may order any or all of the Local Authorities represented at the hearing to pay to the other parties to the appeal all or so much of the costs properly and necessarily incurred in reference thereto as shall to such Court seem just, and the Court may, upon determining any such appeal, fix in a summary way the amount of costs (if any) to be paid. Provisions as to costs. Compare Section 40 of 62 Vict. No. 33.

184—(1.) The Proclamation or Special Resolution declaring a road to be a common road may exclude from the road so much as may be defined therein of the width thereof on either side as for footways and channels; and the construction, maintenance, and control of such footways and channels shall remain vested in the Local Authority of the Area in which the road is situated. Footways and channels of Common Roads.

(2.) The construction, maintenance, and control of the footways of a Main Road, where the same passes through a Town or Urban District, shall, together with the channels when the same are paved and asphalted (or when the Local Authority of the locality gives notice to the Shire Council of its intention to pave or asphalt the same), vest in the Local Authority of the Town or Urban District, unless the control thereof shall be assumed by the Shire Council by Special Resolution duly passed and gazetted. and of main roads may remain in Local Authority of Town or Urban District, unless assumed by Shire Council.

(3.) Whenever the Shire Council constructs or maintains footways alone, or constructs or maintains paved or asphalted channels as well as footways along either or both sides of a Main Road or common road, the Shire Council may exercise the powers of Section *One hundred and sixty-five* hereof, and may levy a rate not exceeding Nine Pence in the Pound upon the annual value of the properties fronting upon such footways as a contribution to the cost of making and maintaining such channels and for the payment of the expenses of constructing and maintaining such footways. When constructed or maintained by Shire Council, properties to be rated for expenses.

(4.) Provided that the Authority having control of the carriage-way of the road shall have the right to the joint use of the channels at the sides of such road for the purpose of draining the road, and shall pay a fair share of the expense of maintaining such channels. Side channels may be used by Highway Authority. Sect. 11 of E.A. 1888.

185 Whenever the Local Authority of an Area through which a Main Road or Common Road passes is desirous of having such road constructed or made in any special manner, such Local Authority may enter into an agreement with the Shire Council to that end, and may make a special annual or other contribution out of its Local Fund, or may, after complying with the provisions of this Act, raise a loan for such purpose. Local Authority of Area may contribute specially to asphaltting, &c. of a Main or Common Road

A.D. 1899.

Discontinuance
of Main or
Common Road.
See 41 and 42
Vict., c. 77.

But notice to be
given to affected
Areas,

whose Local
Authorities may
dissent.

See Sect. 158 (6.)
VIII.

Discontinuance
to be gazetted.

Reserves power
to any Local
Authority to
Act under Sects.
524-526.

DIVISION II.—*Discontinuance of Roads as Main or Common Roads.*

186—(1.) Any Authority, in whom is vested the control of a Main Road or Common Road, may take steps to discontinue the maintenance of any such road by passing a Special Resolution to discontinue its maintenance from a date to be stated in the Resolution.

(2.) Before finally passing the Special Resolution, the Authority shall⁵ give notice of their intention to consider the same to the Local Authority of the several Areas served by such road.

(3.) If the Local Authority of any Area shall by resolution duly passed signify its disapproval of the proposed discontinuance, then the special resolution, if passed at all, shall not affect so much of the road¹⁰ as lies within the Area of the dissenting Local Authority, and the properties of the ratepayers thereof shall be rateable for its maintenance.

(4.) Upon the passing of any such Special Resolution the same shall be gazetted, and shall have effect subject to the provisions of this¹⁵ Section at and after the date named therein.

(5.) But any action taken under this Section shall not prevent a Local Authority proceeding under the provisions of this Act relating to joint construction and maintenance of local works.

TITLE IV.—PRIVATE WAYS.

How private ways
in Rural Districts
may be obtained.

Compare
R.A., 77-84.

187—(1.) A private way from a public road in any Rural District²⁰ may be obtained to the land of any owners or occupiers within the Area if they or one or more of them—

I. Make application to that effect to the Local Authority, setting forth distinctly therein the situation of such land, and the direction and line of the proposed road, and through what²⁵ other land the same may be required to pass, and the names of the owners and occupiers of such last-mentioned land :

II. Give security to the Local Authority by a bond, with Two sufficient sureties, conditioned to the payment to the Local³⁰ Authority of all expenses of the survey and arbitration or other expenses of or occasioned by such application or any proceedings thereon, or deposit with the Local Authority a sum of money equal to the amount at which the Local³⁵ Authority may estimate such expenses.

Arbitration pro-
visions.
Sects. 148, &c.

(2.) Thereupon the Local Authority shall proceed as in the case of the compulsory acquirement of land for any of the purposes of this Act; and the provisions of that part of this Act relating thereto shall be applicable *mutatis mutandis* to the matter of any such private way :⁴⁰ Provided—

Way not to be less
than 33 feet wide,
and be defined by
a Surveyor, who
shall prepare
plans.
R.A. 77.

Notice to be given
to all persons to
be made liable to
contribute.

R.A., 79 (2).
Questions to be
determined by
arbitrators.

I. That, before proceeding to arbitration, the way, which shall not be less than Thirty-three feet wide in the clear, shall be defined and laid out by a Surveyor employed by the Local Authority, who shall also prepare the necessary plans and specifications for the construction of the way :⁴⁵

II. That notice of such arbitration shall be given to all persons sought to be made liable to share in the aforesaid expenses :

III. That, whether compensation be awarded or not for the land taken for the way, there shall be submitted to arbitration, unless a mutual agreement can be arrived at by the parties,⁵⁰

the following questions (the answers to which shall be A.D. 1899: stated in the award); viz. :---

- 5 (a) Whether the way, taking into consideration the As to fencing-
probable traffic thereon and the desirability or R.A., 83.
otherwise of the same being fenced on one or
both sides, shall be fenced, and, if it is to be
fenced, of what materials the fence is to consist,
10 in what parts of the way it shall be erected, and
by whom and in what proportions the expenses
thereof shall be borne :
- (b) Who are the persons who should contribute to all As to contributors
the expenses of the application, and of obtaining to expenses.
and constructing the way, and what is the share R.A., 79 (1.).
of each :
- 15 iv. And that the Arbitrators and Umpire shall give opportunity Opportunity to be
to all persons sought to be charged with any part of such given to all such
expenses to be present, and to make such representations as to be heard.
such persons deem fit; and in the award shall be set forth Award to set out
separately the estimated amount to be spent in constructing expenses of
20 the way, and the respective shares of the contributing construction
parties therein : separately.
- v. The moneys directed to be paid by any person under such an Moneys awarded
award shall be deemed to be expenses due by him to the to be deemed
Local Authority. "expenses."
- 25 **188**—(1.) Upon payment of all such expenses as aforesaid the Upon payment of
Local Authority shall, by a gazetted notice, declare the private way expenses, way to
opened for the use of the persons declared by the award to be interested be gazetted.
in the same.
- (2.) Provided that the Local Authority, if the matter be con- Local Authority
sidered by them to be of sufficient importance to proceed under the may adopt pro-
30 powers of Section *Two hundred and three* hereof, may adopt such of visions of Sect.
the provisions of that Section as they may deem expedient, and declare 203.
by special resolution to be applicable (except that no part of any such
expenses shall be borne by the Local Fund); and thereupon the matter
35 of obtaining or constructing the said private way, and the liability of
the several owners interested therein, shall be subject to the provisions
so adopted by the Local Authority.
- 189**—(1.) In place of requiring the expenses of any fencing to be Provisions as to
paid before declaring the way open, the Local Authority may permit fencing and gates.
40 fencing to be erected by the person made liable to pay for the same by May be erected
the award, and shall fix a time within which the work shall be done. by persons made
liable in award.
- (2.) In case any such person fails to so erect his portion of fencing Or on any failure
within the time fixed for that purpose, it shall be lawful for any other of by any others of
the persons named in the award to erect the same; and such other the same persons.
45 person shall be entitled to recover the expenses of erecting such portion R.A., 82.
of fencing as money paid to the use and at the request of the person so
failing to erect as aforesaid.
- (3.) When any private way is directed to be fenced in on one side Gates to be pro-
only, or to remain unfenced, then before it is used, wherever the same vided in certain
50 passes through any fence, a substantial gate properly hung and latched, cases.
of not less than Ten feet in width, to be approved by the Local R.A., 83 (2.).

A.D. 1899.

Penalty for not
shutting gates.
R.A., 84.

Authority, shall be erected by the party on whose application the way is granted.

(4.) Every such gate shall have distinctly painted thereon the words "Shut the Gate, under Penalty of Five Pounds"; and every person passing through any such gate shall shut and fasten the same; and any person who fails or neglects to shut any such gate on passing through the same, or to fasten the same, shall forfeit and pay a penalty not exceeding Five Pounds; Provided that no person shall be liable to any penalty under this Section unless such gate is, at the time of such failure or neglect, in good and sufficient repair.

Fencing and gates
to be erected to
satisfaction of
Local Authority.

(5.) All fencing and gates shall be substantially erected to the satisfaction of the Local Authority, who may, if fencing or gates are not so erected or not kept in sufficient repair, erect or repair the same and recover the expense of so doing from the person liable to erect the same.

One way only to
be claimed for the
same land.

190 Nothing herein contained shall authorise the several owners or occupiers of lands originally comprised in a single grant from the Crown, but subsequently divided, to claim the right of more than one common private way through the land of any person.

Private ways may
be repaired by
Local Authority.
T.B.A., 178.

191 The provisions following shall have effect in all Areas either—

I. When a proprietor, in laying out or granting a private way, requests the Local Authority in writing to take control thereof; or

II. When the owners interested in a private way request the Local Authority in writing to make, amend, or repair the same, the Local Authority may then proceed to make, amend, or repair the same, and may recover the expenses of doing so from the owners in such proportions as the Local Authority may deem just, regard being had to the use which each owner makes of the easement; and all such proportionate parts of such expenses shall be recoverable from the owners concerned in the same way as any Rate is hereby made recoverable, and shall be a charge upon the properties of such owners until paid.

The Local Authority shall not by exercising the powers conferred by this Section acquire any right in the soil of any private way, or be answerable for any accident arising thereon.

TITLE V.—PROCLAIMING NEW, AND STOPPING OLD ROADS. LEASING UNUSED ROADS, &c.

Governor may
proclaim public
highways upon
request of Local
Authority or
Meeting of
Electors.

Compare
R.A., Sect. 30.
See Sects. 141-
157. and Part VII.

192—(1.) The Governor, at any time and from time to time, may—

I. Upon the request of the Local Authority of any Area; or

II. Upon receipt of a Resolution from a Meeting of Rural District or Local District Electors that it is expedient so to do, by Proclamation, declare any land reserved or used for or by purchase or exchange, acquired for a road or right-of-way, to be a public road or public right-of-way, and such land shall from the date of the Proclamation become and be absolutely dedicated to the public as a public highway.

Necessary con-
ditions to issue of
Proclamation
when it is
requested by a
Meeting.
See Sect. 591,
VIII.

(2.) But no Proclamation shall be issued as the result of a Meeting unless the Governor is satisfied that sufficient publicity was given to the notice convening the meeting, and that its objects were plainly stated, nor until the matter has been referred for report to the Local Authority of the Area, nor if the Governor considers that sufficient

provision ought to be made for the whole or part of any necessary expenses of construction and maintenance of the said highway out of special rates leviable upon the Local District, and that such provision cannot reasonably be made.

5 **193**—(1.) The Local Authority of any Area may by Special Resolution declare that any land taken, purchased, or acquired by them shall be a public road or public right-of-way, as the case may be, from such time as is named therein; and every such Resolution shall be gazetted, and such land shall from the date of such publication be a public high-
10 way, and be deemed to be dedicated to the public accordingly.

(2.) Any such Resolution may declare that any land dedicated thereby to the public shall be in lieu of any existing road named therein, and the Governor may confirm the same; and thereupon, when the Resolution and the confirmation thereof has been gazetted,
15 such road shall be discontinued accordingly.

(3.) Any Proclamation issued under Section *One hundred and ninety-two* hereof may also declare that the land thereby dedicated to the public shall be in lieu of any existing road, and thereupon such road shall be discontinued accordingly.

20 (4.) No such Proclamation or Special Resolution shall be gazetted when the land referred to therein is not already a public road or a reserved road until a map thereof, in compliance with the provisions of this Act, has been deposited in the Office of the Minister of Lands and Works.

25 (5.) All the provisions of this and the preceding Section shall apply to cases of closing parts of roads, or of altering or adding to roads.

194—(1.) Where, in diverting or stopping, or diminishing the width of any road under the powers hereinbefore contained, any part thereof is no longer required for public use, the Local Authority may
30 sell such part to the owner or owners of any adjoining lands for a price to be fixed by a competent valuer appointed by the Local Authority to value the same; and if no such owner or owners is or are willing to purchase the land at the price fixed, the Local Authority may sell or lease the same by public auction; and a conveyance or lease
35 under its common seal shall constitute a good and valid title to such land; but nothing herein contained shall exempt any document from the operation of any law requiring registration of conveyances, transfers, or leases.

(2.) Provided always, that when a public road in a Rural District is
40 diverted or altered, and any part thereof leads to any property which cannot be conveniently approached by the new line of road or any other then existing road, instead of stopping such old line of road altogether, the same or so much thereof as may be necessary for the purpose may remain a road to such property; but it shall not
45 thereafter be incumbent upon the Local Authority to maintain such last-mentioned road.

(3.) Any dispute as to the propriety of stopping up any line of road, or any part thereof, in a Rural District, shall be heard and determined in a summary manner, upon the application of any parties
50 interested therein to the Justices assembled at the next Court of General Sessions which is holden in the Area within which the road is situate; and such Justices are hereby authorised to hear and determine the same, and such determination shall be final and conclusive upon all parties interested in such road, and all claiming

A.D. 1899:

Council may declare public highways.
Tas., 169, 171.

New road may be declared to be in place of an existing road by the Local Authority or by the Governor in Council.
R.A., 54.

Maps to be supplied.
See Sect. 171.

Provisions to apply to partial alterations in roads.
R.A., 26.

Land not required for road, may be sold.
See Sect. 158 (6.) VIII.

When new road is constructed, in place of stopping old road, it may be left for convenience of property. But not to be maintained by Local Authority.
R.A., 27.

Disputes as to closing roads in Rural Districts, how settled.
R.A., 27, 54

A.D. 1899.

under them, and such Justices may order such costs to be paid by such person and in such manner as they see fit.

Local Authority may acquire land for extending, diverting, or widening streets.

195—(1.) When, for the purpose of laying out any new road, or in order to divert, extend, or widen any existing road, the Local Authority deems it expedient to acquire more land on either or both sides of such proposed road than is required for such purpose, such Local Authority may take, purchase, or otherwise acquire such land.

(2.) And, when the work has been completed, the Local Authority may sell or lease any surplus Area, as provided in Section *One hundred and ninety-four* hereof.

10

Leasing Unused Roads, &c.

Power to lease certain unused roads, &c. Q., 209.

196—(1.) Where in any Area any land comprised in a road or part of a road, or in a reserve under the control of the Local Authority is not immediately required to be used as a public thoroughfare or for public purposes, the Local Authority may, with the consent of the Governor—

15

I. Take possession of such land :

II. From time to time grant leases of the same.

(2.) The Local Authority shall not grant or renew any lease of any such land until the expiration of Three months after a notice has been advertised and gazetted stating its intention so to do, and appointing a day, at least Two months after the date of the last publication of such notice, not later than which objections, in writing, will be received and considered by the Local Authority.

(3.) The Local Authority shall receive and duly consider all such objections, and shall report thereon to the Minister.

25

(4.) Every such lease shall—

I. Be for such term not exceeding Five years as to the Local Authority seems fit :

II. Reserve the best rent which can be reasonably obtained for the land ; and

30

III. Contain such other reservations and such exceptions, covenants, and conditions as to the Governor or to the Local Authority seem fit..

(5.) During the currency of such lease all right-of-way through or over such land shall be suspended.

35

Moneys from sales, &c., to go to Local Fund.

(6.) All rents received in respect of any leases and any moneys arising from any such sale as aforesaid shall be paid into the Local Fund.

TITLE VI.—PRIVATE ROADS AND UNFORMED PUBLIC ROADS.

Div. I. General Provisions as to Private Roads. (Sects. 197 to 200.)

II. Future Private Roads, and Sales of Building Allotments. (Sect. 201.)

III. Unformed Public Roads. (Sect. 202.)

IV. Existing Private Roads and Public Roads, where whole cost not chargeable to Local Fund. (Sects. 203 to 205.)

V. Contributions to Private Roads. Sects. 206 and 207.

DIVISION I.—General Provisions as to Private Roads.

Application of this Part of the Act. See Sect. 588 (10.) IV.

197 The provisions of this and the Five following Divisions of this Part of this Act apply to—

40

I. The Cities of *Hobart* and *Launceston* :

II. All Towns and Urban Districts mentioned in the Schedules A.D. 1899.

() and () hereto :

III. All Towns and Urban Districts hereafter to be defined under the provisions of this Act ; and

5 IV. To any part of any Shire to which the same may by any By-law in force in such Shire be declared applicable.

The term "Owners," whenever it is used in any of the Sections comprised in the said Divisions, includes all owners of properties fronting on any private road, or who by themselves or their tenants have the right of using or commonly do use the same as a means of access to or drainage from their properties. Joint owners are to be reckoned as one owner.

"Owners" interpreted for this and following Divisions.

Joint owners.
38 & 39 Vict., c.
55, s. 152.

198—(1.) The formation, completion, and maintenance of every existing private road shall, subject to the provisions of this Act, be executed at the expense of the owners of the properties fronting thereon, or who by themselves or their tenants have the right of using or commonly do use the same as a means of access to or drainage from their properties.

As to existing private roads.
Ibid.

See S.A., 151.
Vict., 1243,
Sect. 17.

(2.) No private road shall hereafter be laid out and used as a road until the same shall have been formed and constructed in accordance with the provisions of this Act, and completed to the satisfaction of the Local Authority.

No future private road to be laid out except under provisions of Act.

(3.) The Local Authority may refuse to allow a private road to be connected with a public road, and no user of a crossing from any public road to any land shall establish a right to a connection for a private road unless the same shall have been expressly granted in writing for that purpose by the Local Authority.

Connection with public road may be refused, and no crossing user to establish right.

(4.) All private roads shall, nevertheless, be subject to the general control and management of the Local Authority.

Private roads under control of Local Authority.

199—(1.) Any Local Authority may pass a by-law embodying a scheme whereby the shares of owners in the expenses of constructing or completing any road towards the cost of which any contributions have to be made by owners under the provisions of this Act shall be made repayable, together with interest at a rate not exceeding Five Pounds per cent. per annum by periodical instalments.

By-law may be passed providing for receiving owner's share of expenses by periodical instalments.

(2.) Every such scheme shall provide for sinking funds to replace any moneys borrowed for the purpose of any such work.

Sinking Fund to be provided for.

(3.) Before any such by-law is gazetted there shall, before the approval thereof required by Section *Five hundred and eighty-two* of this Act is obtained, be procured, a certificate from the Auditor-General that such scheme is a fair and proper one ; and such certificate shall be gazetted when the by-law is gazetted, and a copy shall accompany every copy of the by-law.

Auditor-General to certify as to scheme.

200 Whenever any private road has been constructed under the provisions of this Act by any Local Authority, a notice shall be gazetted by the Local Authority declaring that the road is vested in that Local Authority as a public road, and the same shall thereafter be repaired and maintained with the other public roads in the same Area :

Private road constructed by Local Authority to be thereafter deemed a public road.

Provided that no such private road shall become a public road unless the requirements of Section *Two hundred and eight* hereof have been complied with.

Exception.

A.D. 1899.

Division II.—*Future Private Roads and Sales of Building Allotments.*

Restrictions as to forming new private roads.

P.A., 197 & 201. T.B. Act, 194 & 197.

H.A., '89, 11.

H. & L. Corporation Acts.

Part XV.,

Division 10.

Plan of land

proposed to be

sold to be sub-

mitted to Local

Authority.

See Sects. 171

(7.), 588 (10.)

iv., v.

Who may require alterations and impose conditions.

No sale of allotments to be made until road constructed,

or expenses thereof paid or secured to Local Authority.

Such expenses to be a first charge upon the land.

Such charge may be registered in office of Recorder of Titles

or Registrar of Deeds,

and shall then constitute Registered Incumbrances.

Any mortgagee of the property may redeem.

Charges not to affect other remedies.

201—(1.) No person shall lay out or, dispose of, or cause to be laid out or disposed of, any land for building purposes on which it is proposed to open any private road without first submitting to the Local Authority a plan showing the area and boundaries, as well as the proposed disposition of such land, and setting forth the width, direction, and levels of such road, and a sketch showing that the drainage thereof has been satisfactorily provided for, and, also, that proper and sufficient provision can be made for draining the allotments, as well as any buildings that may be erected thereon. Such plan and sketch shall be the property of the Local Authority.

(2.) The Local Authority may require such alterations to be made in any of the aforesaid particulars, or may impose such conditions as to width, levels, entrances, course, formation of footways and channels, cost of formation, provisions for sewers and drains, and otherwise in all respects as the Local Authority thinks necessary in order to conform to this Act.

(3.) No sale of any building allotment fronting on any such proposed new private road shall be made until—

I. Either the same shall have been formed and constructed in compliance with this Act, and completed according to the plan and proposals submitted, together with any alterations or modifications therein that may be required as aforesaid ; or

II. Until the owner of the land shall have paid or secured to the Local Authority such sum of money as the Local Authority shall deem sufficient to meet the expenses of forming, constructing, and completing the proposed road.

(4.)—I. Any expenses chargeable in respect of any such road shall be a first charge upon the land shown in the plan submitted, and the Local Authority may cause a statement of the amount so chargeable to be embodied in a memorandum of charge under their Common Seal:

II. The Recorder of Titles, upon such memorandum of charge being presented to or left with him, shall cause a notification thereof to be entered upon the Certificate of Title or other instrument evidencing title to such land:

III. The Registrar of Deeds shall cause a memorial of any such memorandum of charge when presented to him to be registered in the office of the Registrar of Deeds at *Hobart*:

IV. Such notifications and registrations as aforesaid shall constitute registered incumbrances in favour of the Local Authority taking priority over any previously existing charges for the amount of such expenses, together with interest at the rate of Five per cent. per annum from the date of registration:

Provided that any incumbrancer of the property may pay the amount of such expenses and any accrued interest, and shall thereupon and in regard thereto be in the same position as though the amount were secured to him as a first mortgagee and was overdue:

V. The Local Authority may from time to time receive part of the amount so secured, and may discharge portions of the land so charged from the incumbrance, but all costs

entailed by any notification or registration as aforesaid, or by any release thereof, shall be borne by the owner of the land: A.D. 1899.

- 5 vi. But such charging of the land, or partial release on part payment, shall not affect any other remedy for recovery of the amount of such expenses and interest together with any costs incurred by the Local Authority. Local Authority may grant partial discharge upon partial payment.

(5.) Every person who shall lay out a private road intended for use as a carriage road shall lay out such road so that the width thereof shall be Sixty-six feet at the least, unless the road is to junction with a road less than Sixty-six feet wide, and the by-laws of the Local Authority permit the laying out of roads not less than Fifty feet wide. Width of roads to be used as carriage roads to be Sixty feet wide.

(6.) Every person who shall lay out a private road intended for use otherwise than as a carriage road, and not exceeding in length One hundred feet, shall so lay out such road that the width thereof shall be Thirty feet at least. Roads less than One hundred feet long to be Thirty feet wide.

Corp. & T.B. Acts. P.A., 201.

Division III.—*Unformed Public Roads.*

202—(1.) Any public road which at the commencement of this Act, or which may hereafter be laid out by or be placed under the control of the Local Authority under the provisions of this Act, and which is unformed or incompletely constructed, may be formed and constructed upon such terms— Unformed or incompletely constructed public roads. P.A., 193.

i. As to contributions or assistance from the owners of property fronting thereon, or to whose properties the same is a means of access; By contributions from owners

25 ii. And also as to whether the whole or what part of the cost of such formation and construction shall be paid out of the local fund, or by payment out of the fund as Local Authority deems just, having regard to public convenience to be served by construction.

as the Local Authority deems just, having regard to the use made, or likely to be made, of such road by other ratepayers of the area, and to the general convenience which would result from the formation or completion thereof.

30 (2.) Any contributions required from owners or others under this Section shall, unless otherwise agreed between the Local Authority and the parties interested, be subject to the same conditions and be recoverable in the same manner as the shares of owners liable to contribute to the cost of private streets as hereinafter contained. Owners contributions to be governed by same conditions as those for private streets.

Division IV.—*Existing Private Roads and Public Roads where whole Cost not chargeable to Local Fund.*

203—(1.) i. As to any private road not constructed under the preceding Sections hereof; and As to private road not constructed under preceding Sections, or public road only partly chargeable to Local Fund. See Sect. 569 (2).

40 ii. As to any public road in regard to which the Local Authority may consider that the Local Fund should not be chargeable with the whole cost of its formation, construction, or completion, the following provisions shall have effect.

(2.) The Local Authority may, after passing a Special Resolution, cause any such private road or any such public road as aforesaid, or any portion of any such road, to be constructed or completed in such manner as the Local Authority may determine, and may, either before or after so doing, recover the cost thereof from the owners. Local Authority may construct at cost of owners. P.A., 192, 193.

50 (3.) The Local Authority shall prepare a scheme showing the estimated total cost, as per plan and specification accompanying it, of Scheme to be prepared. Vict. No. 1112.

A.D. 1899.

Notice thereof to be given to owners containing stated particulars.

the work proposed to be done, and the several amounts which the owners and the Local Authority (if the Local Authority determines, in accordance with the provisions of this Act, to contribute towards such cost) will be liable to pay.

(4.) Notice shall be given by the Local Authority to every owner mentioned in the scheme—

i. Of his proposed liability :

ii. And that the scheme is open for inspection at the office of the Local Authority :

iii. And also intimating that on a date, to be stated in the notice, 10 not being less than Thirty days from its service, the Local Authority will proceed to consider the scheme :

iv. That any person may appear on such date before the Local Authority to raise objections thereto :

v. And that in default of any owner so objecting, the same will 15 be adopted, and all owners will be considered as having admitted their respective liabilities as appearing therein, and will be in all respects then finally bound and concluded thereby.

Local Authority may adopt scheme, or alter same and add other names, but not so as to make a fresh charge without notice.

(5.) Upon the date so fixed, or at any date to which consideration 20 of the matter may be adjourned, the Local Authority may, if no person objects, adopt the scheme, with or without variations, including the addition of any other owner or owners' names, but no such addition to the scheme, or any variation increasing the liability of any person named therein, shall be finally adopted until the person to be charged has had 25 at least Fourteen days' notice before the date of such adoption ; and any person whose name shall be thus newly added shall be in all other respects in the same position as if his name had been originally included in such scheme.

Owner may appear before Local Authority and object to scheme.

(6.) Any person interested in or affected by the proposed work may 30 appear before the Local Authority on the date stated in his notice, or at any adjournment, and object to the scheme in any of its particulars, and the Local Authority shall thereupon, or at some future day, inquire into and consider the matter in the presence of such person, if he attend, and after hearing the objections (if any) then made, it appears 35 to the Local Authority expedient so to do, they may adopt the scheme, with or without variations. In no case shall it be necessary to give notice to any person of any adjournment of such consideration.

No notice necessary of any adjournment.

When scheme adopted, owner bound thereby,

(7.) Upon such adoption every owner included in the scheme shall be considered as having admitted that the Local Authority have 40 complied with all the requirements of this Act, and also his liability to contribute to the work in the proportion adopted by the Local Authority, and be finally bound and concluded by all the matters aforesaid.

and shall pay or secure the amount of his liability to Local Authority.

(8.)—i. Every owner mentioned in any such scheme shall forthwith 45 pay the amount of his liability, as shown therein, or, with the consent of the Local Authority shall secure the same to the Local Authority, together with interest at Five Pounds per centum per annum (payable yearly or as may be prescribed) from the date when the consent of 50 the Local Authority is given.

Of what security may consist.
See Section 201.

ii. Such security shall consist of a first charge upon the property served by the road, or a security of like value and kind, and may be obtained by following the procedure of Sub-section (4.) of Section *Two hundred and* 55

one hereof, and thereupon the provisions of that Sub-section shall apply to every such security.

(9.) The Local Authority may proceed to execute the works described in the scheme, or such part thereof as they may deem proper, as soon as
5 conveniently may be after the estimated cost, or so much thereof as, in the opinion of the Local Authority, is sufficient to justify them in proceeding, is paid or secured as aforesaid.

(10.) If the work costs less than the estimated amount, the Local Authority shall return to each person who has paid, and allow in
10 account with any person who has not paid, a rateable amount of the sum apportioned to him in the scheme; but if the work costs more than the estimated amount, each owner shall pay to the Local Authority a rateable proportion of such excess.

(11.) No scheme shall be adopted by any Local Authority under
15 the provisions of this Section in any case where not less than One-third of the owners liable to pay at least One-third of the contributions assessed to owners by the scheme shall object in writing to its adoption, and thereupon the Local Authority shall proceed no further in the matter of the proposed work until at least Twelve months have elapsed,
20 unless so many of the objecting owners withdraw from their opposition as will reduce the number objecting and the amount of their contributions below One-third in each case as aforesaid.

204 The Local Authority may procure from the Auditor-General a certificate of the expense of the construction of any private road or
25 any public road towards the cost of which any contributions have to be made by owners under the provisions of this Act; and such certificate shall be final and conclusive as to the amount of such expenditure.

205 Every person who shall contravene any of the provisions of this Act relating to the laying out and construction of private roads,
30 or the laying out and disposal of land for building purposes, shall, upon conviction, forfeit and pay for every such offence a penalty not exceeding Ten Pounds, and a penalty not exceeding Five Pounds for every day during which such offence shall be repeated or continued.

A.D. 1899.

Work may be proceeded with so soon as Local Authority is of opinion that sufficient part of estimated cost guaranteed.

Adjustment to be made when actual cost ascertained.

One-third of owners may prevent scheme being adopted.

Auditor's Certificate, if obtained by Local Authority, to be conclusive as to amount expended.

Compare T.B.A., 185.

Penalties. T.B.A., 199. Corp. Act., Sect. 258.

DIVISION V.—Contributions to making Private Roads.

206—(1.) Upon the written application of any owner about to lay
35 out or construct a new road, the Local Authority may consider whether such road will benefit the owners of properties adjoining or adjacent to the land of the said owner, and may, upon the request and at the cost of such owner, proceed as follows:—

- 40 i. Gazette a notification to such adjoining or adjacent owners of the intention of the Local Authority to consider whether such proposed new road will be a benefit to their properties:
- ii. Cause such notification to be twice advertised:
- iii. Follow the provisions of Sub-sections (3.) to (8.), both inclusive, of Section *Two hundred and three* hereof.

45 (2.) The amount of any contributions when received by the Local Authority shall, after deducting any commission or other expenses incurred in collecting the same, be paid to the owner laying out and constructing such new street as aforesaid.

Local Authority may prepare scheme for adjoining owners to contribute.

Compare T.B.A., 200, 201.

A.D. 1899.

Local Authority
may contribute
in certain cases.
T.B.A., 202.

207 It shall be lawful for the Local Authority, whenever the making of a private road will contribute to the accommodation of and be a convenience to the inhabitants of the Area sufficiently to justify the making of a contribution out of the Local Fund towards the cost of its construction, to pass a special resolution for making a contribution 5 accordingly: Provided that no such contribution shall exceed One-third of the said cost.

TITLE VII.—BUILDINGS AND STRUCTURES, EXCAVATIONS, &C.

- DIV. I. Spaces. (Sects. 208, 209).
 II. Residential Areas, Provisions for Sanitation and Ventilation, and against Overcrowding. (Sects. 210 and 211).
 III. Prevention of Fire: Partitions and Party Walls. (Sects. 212 and 213).
 IV. Alignment of Buildings. (Sect. 214).
 V. Waterspouts, Cellar Coverings, Verandahs. (Sects. 215 and 216).
 VI. Building Operations, Openings in Public Places, Dangerous Buildings or Excavations. (Sects. 217 to 219).
 VII. Penalties. (Sects. 220 and 221).

Division I.—Spaces.

Frontages of
buildings to be
Fifty feet apart
at least.
See Sect. 588 (2.).
T.B.A., 180.

As to open spaces
near dwelling-
houses.

Ibid.
58 Vict. No. 32,
S. 30.
H.A., 113.

208 No person shall hereafter erect any new building or re-erect any building so that any wall thereof shall be nearer than Twenty-five feet to a line drawn down the centre of any public road or private 10 road, although the width of any such road may be less than Fifty feet.

209—(1.) Every building used or intended to be used as a dwelling-house, unless all the rooms can be lighted and ventilated from a road or alley adjoining, shall have in the rear or on the side thereof an open space exclusively belonging thereto of the extent at least of 15 Four hundred square feet, or such other open space not being less than Four hundred square feet as the by-laws of the Local Authority may provide.

(2.) No dwelling-house shall be built within any Area unless such dwelling-house has a clear space, uninterrupted by any building in 20 other occupation for the entire length or breadth of such dwelling-house, and access to a road not less than Twenty feet in width, which space and access for their whole distance at and from such dwelling-house into such road shall be not less than Twenty feet in width, and open to the sky: Provided, that the Local Authority may pass a By- 25 law for increasing the dimensions of such space and access as herein stated, and this Section shall then be read and applied within the Area of such Local Authority as modified by such By-law.

(3.) No building, whensoever erected, not originally built as and for a dwelling-house in accordance with the preceding provisions of 30 this Section, shall be converted into or used as a dwelling-house without the previous consent of the Local Authority, who may grant such consent upon and subject to such conditions as they may see fit, or in their discretion may refuse the same.

(4.) A person who makes any alteration in or addition to any 35 dwelling-house shall not, by such alteration or addition, diminish the aggregate extent of open space provided in pursuance of this Section in connection with such dwelling-house, or in any other respect fail to comply with any provision of this Section.

Local Authority
may pass By-law
to increase
minimum space
and access.

Buildings not
hitherto used as
dwelling not to
be so used with-
out consent.

No future alter-
ations to infringe
conditions of
Section.

A.D. 1899.

DIVISION II.—*Residential Areas, Provisions for Sanitation and Ventilation, and against Overcrowding.*

- 210**—(1.) Subject to the restrictions herein contained, the owner or owners of any land in a City, Town, or Urban District may petition the Local Authority to pass a special resolution declaring the same to be a Residential Area.
- 5 (2.) Whenever such a special resolution is passed and gazetted it shall not be lawful to use any part of the said land or any building at any time erected thereon for the purpose of any manufacture, trade, or business, unless with the consent of the owners of the properties within such Residential Area.
- 10 (3.) The power hereby reposed in the Local Authority is to be exercised only in such cases as the Local Authority considers advisable.
- (4.) Any Residential Area may include land on both sides of any road; and the owner of any land in such an Area which is subject to the provisions of *The Real Property Act* may require the Recorder of Titles to endorse or mark all Certificates of Title issued in respect of
- 15 of Titles to endorse or mark all Certificates of Title issued in respect of any land in such Area with the words "Residential Area."
- (5.) A book shall be kept by the Local Authority passing any such special resolution as aforesaid, containing a diagram of every such Residential Area, and showing the length of every boundary line of
- 20 the same, and its position in reference to the rest of the Area of the Local Authority, which book shall be open to the inspection at all times of any person without payment of any fee.
- 211**—(1.) The provisions of this Section apply to all dwelling-houses, schools, factories, and other buildings used for human habita-
- 25 tions or work, whether such use is permanent or temporary, and whether the same are stationary or movable, and all of which are in this Section included in the term "House."
- (2.) No house shall be built upon any site the soil of which has been made up of any refuse, unless such soil shall have been removed
- 30 from such site and the site disinfected, or unless the said soil shall have been covered with a layer of charcoal, covered by a layer of concrete at least Six inches thick and of such additional thickness as may be requisite under the circumstances, in the opinion of the Local Authority, to prevent the escape of gases into such proposed house.
- 35 (3.)—I. Every habitable room hereafter constructed in any building, except rooms in the roof thereof, and cellars and underground rooms, shall be in every part at the least Nine feet in height from the floor to the ceiling :
- II. Every habitable room hereafter constructed in the roof of every building shall be, at the least, Eight feet in height from the floor to the ceiling throughout not less than one half of the area of such room :
- III. *As to underground rooms :*
- 45 No room of a house, the surface of the floor of which room is more than Three feet below the surface of the footway of the adjoining road, shall be occupied as a habitable apartment unless it possesses the following requisites ; that is to say,—
- 50 Unless the same be in every part thereof at least Eight feet in height, measured from the floor to the ceiling thereof :

On petition of owners Residential Area may be declared by special resolution.

No business premises to be allowed on a Residential Area.

Discretion of Local Authority.

Residential Area may include land both sides of road.

Titles may be marked.

Register to be kept.

Application of this Section, and interpretation of "house."

Soil of building sites to be disinfected, &c.,

or covered with layer of charcoal and layer of concrete.

Provisions as to habitable rooms. 58 Vict. No. 32., Sect. 22.

A.D. 1899.

Unless the same be at least Three feet of its height above the surface of the footway of the road adjoining or nearest to the same :

Unless there be outside of, and adjoining, the same room and extending along each outside wall 5 from Six inches below the level of the floor thereof up to the surface, an open area at least Three feet wide in every part, or unless there be outside of and adjoining the walls of the same room dry rubble stone packing at least Twelve 10 inches in thickness from the bottom of the footings to the surface of the ground, and at the base of the packing a pipe drain of sufficient size and slope to carry away all subsoil water, or unless the walls of the room be lined with studs 15 and boarding or lath and plaster, which lining must be kept at least Six inches distance from the walls, and the space so formed must be freely ventilated to the satisfaction of the Local Authority : 20

Unless the same shall be effectually drained and secured against the rise of effluvia from any sewer or drain :

Unless the same have a fireplace with a proper chimney or flue, or is otherwise properly venti- 25 ated :

Unless the same have an external glazed window of at least Nine superficial feet in area clear of the frame, and made to open in such manner as the Local Authority may approve : 30

Provided, that in any area adjoining a room there may be placed steps necessary for access to such room, and over or across any such area there may be steps necessary for access to any building above the room to which such area adjoins, if the steps in such respective cases be so placed as not to be over or across any such external window. 35

Meaning of "inhabited."

Houses not to be back to back.

Ventilation of drains.

See also Sects. 374-382, and 393.

Any room in which any person passes the night shall be deemed to be inhabited within the meaning of this Section.

(4.) No dwelling-house shall be built without having means of through ventilation, and dwelling-houses shall not be built back to back. 40

(5.)—I. The drain of every house which may be connected with an underground sewer or cesspool shall be ventilated by means of a pipe extending upward from the highest point of the main soil or waste-pipe, and also by a pipe carried upward from the drain outside the walls of the house : 45

II. These pipes shall be of the same dimensions as the said main soil or waste-pipe, and shall be constructed of the same material or of stout galvanised iron, and no trap shall intervene between the said ventilating pipes :

III. In case a trap shall intervene between the sewer or cesspool 50 and the ventilating pipes already described, then a four-inch ventilating pipe of the same material as above described shall be carried from a point between such trap and the sewer :

- iv. All such ventilating pipes shall be carried above the roof of the said house, and shall open above at points sufficiently remote from every window, door, skylight, chimney, or other opening leading into any house :
- 5 v. No pipe carrying air or gas from any drain or soil-pipe shall be connected with any chimney in a dwelling-house unless the same be a furnace chimney used exclusively for ventilating such soil-pipe or drain.
- (6.) Every house-drain which shall be connected with an under-
10 ground sewer or cesspool shall be constructed of vitrified earthenware or iron pipe, and every soil and waste-pipe of iron rendered impervious to gas or liquids, the joints thereof being run with lead and caulked, or of lead pipe weighing at least Six pounds to the square foot ; and the waste-pipe from every closet, sink, tub, wash-basin, safe, or other service
15 shall have, as near as may be to the point of junction with such service, a trap so constructed, vented, and furnished that it shall at no time allow of the passage of gas into such house. All joints shall be so constructed as to prevent gas escaping through them.
- (7.) The construction of any closet or other convenience which shall
20 allow of the escape into the house of air or gas which has been confined in any part of it from the drain or soil-pipe is hereby prohibited.
- (8.) No pipe supplying water directly to a water-closet or urinal shall be connected with the pipe supplying water for drinking purposes.
- (9.)—I. The Governor may from time to time make regulations
25 applicable either to cities or towns generally or to any particular city or town, prescribing—
- (a) The minimum number of cubic feet which every bedroom must contain for each lawful occupant thereof :
- 30 (b) The minimum number of cubic feet which any living-room in a dwelling-house erected after the coming into operation of this Act must contain :
- (c) The proportion that must obtain between the number of living-rooms in any dwelling-house and the
35 number of persons who may lawfully occupy such house.
- II. As soon as may be after such regulations are gazetted, and consistently therewith, the Local Authority of the city or
40 town affected thereby shall examine and classify all dwelling-houses then existing therein and determine as to each such house the maximum number of persons who may lawfully occupy the same, or lawfully sleep in any room of the same :
- III. The Local Authority shall also prepare a list, called the
45 "House-list," setting forth—
- (a) The situation and number or other distinguishing mark of each dwelling-house :
- (b) The total number of living-rooms therein :
- (c) The maximum number of persons that may lawfully
50 occupy such house :
- (d) The number of cubic feet contained by each room :
- (e) The maximum number of persons who may lawfully sleep therein.
- iv. Such list shall be open for inspection for at least three weeks
55 at the office of the Local Authority :
- [Bill 1.]

A.D. 1899.

Ventilators to be carried above roof and clear of openings.

Not to be connected with chimneys.

Description of drain pipes.

Waste pipes to be trapped and ventilated.
O.P.H.A.

Certain closets prohibited.

Pipes supplying water to closets.

Regulations may be made by Governor in Council as to the space in dwellings and number of occupants.
N.Z., 113.

Dwelling houses to be classified.

House-list.

A.D. 1899.

Objections.

v. Objections to such list may be made and shall be disposed of, and the list may be amended, and shall be settled and signed in manner prescribed by the said regulations :

vi. The house-list, when so corrected, settled, and signed, shall be the house-roll of the city or town, and, subject to such 5 modifications as may be occasioned by the subsequent alteration of existing houses, and erection of new ones, shall be sufficient evidence of the matters therein set forth :

House-roll.

vii. The house-roll shall be made up annually, and may be 10 printed, and for the purposes of evidence it shall be sufficient to produce what purports to be a printed copy thereof.

Penalty.

(10.) If any person knowingly permits any house to be occupied in breach of this Section, or of any regulation made thereunder, such 15 person is liable to a penalty not exceeding Two Pounds for every day during which such breach continues.

Division III.—*Prevention of Fire : Partitions and Party-walls.*

Wooden parti-
tions between
separate houses
prohibited, and
to be removed
and replaced with
stone or brick.
S.A., 497., Sect.
202.

212—(1.) No partition between separate houses or other buildings, whether such houses or other buildings belong to one or more owners, shall be constructed of wood or any inflammable material ; and if any 20 building now so partitioned is hereafter partially rebuilt by having the front thereof taken down, or if the same be raised in height, then, in any of such cases, every such inflammable portion shall be removed and replaced by proper party-walls to be built in lieu thereof according to the provisions hereof. 25

Space to be left
between timbers
in party-walls,
&c.
Ib., s. 203.

(2.) In all party-walls there shall be between the timbers on either side, to be inserted in or supported by such party-wall, a space of at least Six inches, filled up with solid incombustible material ; and no timbers in any party-wall shall be nearer to the back of any fireplace than Eight inches, nor to any flue in such party-wall than Four inches and 30 one half inch—the backs of fire-places being considered as extending, for the purposes of this Act, Five feet above the hearth, and flues as commencing at that height ; and in case any timber shall be placed in such party-wall contrary to the provisions hereof, the Local Authority, by notice in writing, may require the same to be removed and replaced 35 so as to be in conformity herewith ; and if within the time fixed in such notice such requirement is not complied with, the Local Authority may effect the removal of such timbers, and, if necessary, the reconstruction of such party wall, and recover the expense thereof from the owner. 40

Erection, addition,
or repairs of
inflammable
buildings to be
prohibited in
certain cases.
T.B.A., 167.
See Sect. 588
(2.) 11.

213—(1.) The Governor may, upon the receipt of a petition signed by the majority of the owners of any portion of the Area of a Town, or at the request (testified by the passing of a Special Resolution) of the Council thereof, by Proclamation declare such portion to be a First-class section for the purposes of this Act, and, upon the like petition or 45 request, rescind any such Proclamation.

(2.) In any such section it shall not be lawful to construct the external walls of any building, or any part of the framework of such walls, of any material other than brick, stone, iron, or other incombustible material, or to roof or cover any building with wooden shingles or 50 other inflammable material, or to repair or add to the walls or roof of any existing wooden or other buildings otherwise than by substituting incombustible materials as aforesaid.

A.D. 1899.

Division IV.—*Alignment of Buildings.*

214 Subject to the observance of the enactment contained in Section *Two hundred and eight* of this Act, the following further provisions shall have effect :—

(1.) The Local Authority may allow, upon such terms as it thinks fit, any building to be set forward for improving the line of any public road.

(2.) When any building, wall, or fence in the Area has been taken down to be rebuilt, altered, or renewed, the Local Authority may require any part thereof which projects beyond the regular line of the road, or beyond the front of the building or fence, on either side thereof, to be set backwards to or towards the line of the road, or to the line of the adjoining buildings or fences, in such manner as the Local Authority directs for the improvement of such road.

(3.)—I. Any projection of whatever kind from the front of any building, wall, or fence, whether above or below the level of any public place, which is an obstruction to the safe or convenient passage along such public place; and

II. Any door, gate, or bar which does not open inwards, and so that no part thereof at any time projects into or over any public place,

are hereby declared to be obstructions, and may be dealt with as follows :—

I. The Local Authority may give notice to the owner of the premises to remove or alter any such obstruction :

II. If within Thirty days after the service thereof such notice is not complied with, the owner shall be subject to a penalty not exceeding Ten Pounds :

III. The Local Authority may remove or alter the obstruction, and recover the cost thereof from the owner so making default.

Provided that compensation shall be made by the Local Authority—

I. To any owner of a building or fence set backwards if the same is not an encroachment upon the original building line of any road, but not if the same is set back only Twenty-five feet from the centre line of the road :

II. To any occupier or owner from whose premises any projection which existed before the Second day of *October*, One thousand eight hundred and sixty-five, may be removed,

for any losses which they may respectively sustain by the acts of the Local Authority, except that doors, gates, or bars existing before Second *October*, One thousand eight hundred and sixty-five, may be altered at the cost of the Local Authority, but without payment of any compensation.

Subject to observance of Sect. 208. See Sect. 588 (1.) III.

Buildings may be set forward to improve road. P.A., 203.

Projecting buildings, &c., when taken down, to be set back. P.A., 204.

Projections from buildings or fences. P.A., 205, 206.

Doors, &c., opening outwards over pathways declared to be obstructions. P.A., 207, 208.

Notice may be given to remove. P.A., 205, 207.

Penalty for non-compliance.

Local Authority may remove at cost of occupier.

Compensation to be made in certain cases.

Division V.—*Waterspouts, Cellar Coverings, Verandahs, &c.*

215—(1.) The occupier of every building shall provide and keep in thorough repair—

I. Sufficient waterspouts to carry into the side channels of the road or into some sufficient drain all the water falling upon the roofs or any portico or projection thereof, and so that no drippings shall flow upon or over the footway, or be allowed to soak into the foundation of any building :

Water spouts. P.A., 210.

A.D. 1899.

and cellar coverings to be provided.

P.A., 209.

Notice to provide, &c., may be given.

P.A., 210.

Occupier not precluded from recovery of cost from owner.

As to verandahs and other similar projections.

P.A., 1881, Sect. 9.

Plans and particulars to be furnished.

See Sects. 320 and 588 (2.) x.

Projections to be kept in repair.

Notice to repair or to remove.

Power for Local Authority to pull down, and recover expenses.

ii. Coverings of iron or such other material, and constructed and fixed in such manner as the Local Authority directs, for any opening in any footway which has been permitted by the Local Authority as the entrance into any vault or cellar.

5

(2.) The Local Authority may at any time give notice to the occupier to provide, renew, or repair, in the manner and of the materials directed in such notice, any waterspout or covering as aforesaid; and lack of compliance within Seven days after service thereof shall subject him to a penalty not exceeding Twenty Shillings for every day his default continues.

(3.) Nothing herein contained shall preclude the occupier from recovering from the owner of the premises any expenses he may have incurred in complying with any such notice as aforesaid.

216—(1.) The following rules shall be observed with respect to the erection of balconies, porticoes, awnings, verandahs, and other projections upon or across any public road or footway.

(2.) A plan and particulars of every such projection shall be forwarded by the person desirous of erecting the same to the Local Authority, who shall, within One month after the receipt thereof, signify in writing their approval or disapproval thereof.

(3.) Every such projection shall be kept in proper order and repair to the satisfaction of the Local Authority, who may, in any case of disrepair serve a notice upon the owner of the premises to repair the same, or may, in case the same or any part thereof shall be, in the opinion of the Local Authority, so dilapidated or decayed as to be beyond repair without reconstruction, serve a notice upon the said occupier to remove the same.

(4.) If after Thirty days have elapsed the owner shall not have complied with any such notice, he shall be liable to a penalty not exceeding Twenty Shillings per day for every day his default continues; and the Local Authority may cause the projection to be pulled down and removed, and the materials sold, and may recover the cost of so doing from the owner.

Division VI.—*Building Operations, Openings in Public Places, Dangerous Buildings or Excavations.*

Before constructing a drain, cellar, or cart crossing,
P.A., 196.
See Sects. 167 & 588.

or beginning any building operations, or opening up a road.
P.A., 195.

Notice to be given.
See Sects. 588 (2.) viii. and 602 (2.).

217—(1.) When any person—

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- i. Desires to lay a drain across any part of a public place, or into any public sewer, channel, or watercourse; or
- ii. To make any vault or cellar in or beneath any public place; or
- iii. To construct a cart or other crossing over the footway, with or without a culvert over the water-table or side-channels of any road; or
- iv. To construct any stage or scaffolding on, over, or near any public place; or
- v. When by reason of any building operations or any work requiring to be done on or near it, any public place shall be obstructed or rendered inconvenient, or any opening in any public place becomes necessary, every person undertaking any such work shall—

(a) Before beginning the same, give notice in writing to the Local Authority of his intention to commence the work; and

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- (b) Shall obtain the permission in writing of the Local Authority or of the Chairman or other person authorised for that purpose by this Act ; and
- 5 (c) Shall pay any fee, compensation, or deposit on account thereof which may be fixed by the by-laws of the Local Authority ; and shall
- 10 (d) Before beginning the same, cause sufficient hoards or fences to be put up in order to separate the work from the public place, with a convenient platform and handrail, to serve as a footway for passengers, outside of such hoard or fence, or such sufficient covering of boards over the adjoining footway, and shall continue such hoard or fence, with such platform and handrail or covering as aforesaid, standing and in good condition, to the satisfaction of the Local Authority during such time as the public safety or convenience requires ; and
- 15 (e) Shall cause the same to be sufficiently lighted so as to prevent accidents
- 20 (2.) And every such person who fails to comply with any of the requirements of this Section, or who does not remove the hoard or fence, platform or covering, as well as all scaffolding and building material or rubbish, when directed by the Local Authority, or who does
- 25 not make good every footway, roadway, kerb, water-table, channel, or other part of such public place, and every sewer or drain interfered with during the progress of such work, and every person who in any way damages any road or blocks up any sewer or drain, shall for every such offence be liable to a penalty not exceeding Five Pounds, and a further
- 30 penalty not exceeding Forty Shillings for every day while such default is continued, and in addition to repay to the Local Authority any expense incurred, if the Local Authority undertakes, as it is hereby empowered to do, any such removal or making good as aforesaid.
- 35 (3.) The Local Authority may cause any scaffolding, building material, or rubbish to be removed to such place as the Local Authority thinks fit, and kept until all expenses incurred by the Local Authority shall be paid ; and if such expenses shall not be paid within Eight days the Local Authority may cause the same to be sold, and apply the proceeds towards the payment of such expenses.
- 40 (4.) The Local Authority may also cause any excavation to be filled up, and recover the expense thereof from the person causing the same to be made.
- (5.) Any Local Authority may grant licences for any of the purposes set forth in this Section, and may renew or cancel the same ; and may in
- 45 any By-law name the officer or person who shall exercise these powers on behalf of the Local Authority, and fix the fees, compensations, or deposits to be paid in respect of any of the aforesaid operations.
- (6.) But no such permission shall be deemed to confer any right to the soil or freehold of any road.
- 50 **218**—(1.) When it appears to a Local Authority that—
- i. Any building or wall, or anything affixed thereto ; or
- ii. Any hole, pit, shaft, or other excavation of any kind, for want of sufficient repair, protection, or enclosure, is dangerous to the public or to the occupiers of neighbouring buildings or
- 55 lands ; or

A.D. 1899.

Obtain written permission.
P. 195.

And pay any fee, &c., fixed by By-laws.

Hoardings to be erected during building operations.
P.A., 215.
58 Vict. No. 32., S. 22.

Lights to be provided.

Penalties for breach of this Section,

or for damage to road, &c.
P.A., 195.

As well as pay Expenses of Local Authority.

Local Authority empowered to do any necessary work, or to remove material and sell it ;

and may fill up excavations, &c.

Permission may be granted.
P.A., 196.

No right to soil of Road.

When there are dangerous buildings or excavations.
H.A., 123.
P.A., 218, 220.

A.D. 1899.

Or when excavations become receptacles of noxious matters.

Local Authority may order repairs, &c., to buildings.

Excavations to be filled up or fenced; and deposit of noxious matters prevented; or may at once take steps to abate.

Rocks or stones not to be blasted without permission of P.A., 237.

Dwelling-house deemed unfit for occupation.

As to removal of works in respect to which law is not complied with.
H.A., 89 (12)
See Sects. 588 (2.)
v. and 589 (1.)
XIII.

III. When any noxious or offensive drainage or other matter is lying in or is liable to flow or be cast into any such excavation:

such Local Authority may give notice to the owner or occupier of the property— 5

(a) To repair same or pull down, as in the notice may be directed, any such building, wall, or dangerous fixture thereto; or

(b) To fill up or securely fence, as in the notice may be directed, any such excavation; or 10

(c) To take such steps as the Local Authority may consider necessary to prevent the same becoming the source of any nuisance or annoyance; or

(2) The Local Authority or its Chairman may at once, and without giving any such notice as aforesaid, cause any such building, wall, or fixture to be repaired or secured, or any such excavation as aforesaid to be fenced round. 15

219 Any person who is desirous of blasting any rock or stone within any Town shall give notice in writing Twenty-four hours previously to the Clerk, who shall, if he sees fit, appoint in writing a time when the same may take place, and give such other directions in writing as he may deem necessary for the public safety; and if any person blasts or causes to be blasted any rock or stone within such Town without giving such notice, or does not conform to the directions in writing given to him by the said Clerk, he is for every such offence liable to a penalty not exceeding Ten Pounds. 20 25

Division VII.—Penalties for Infringement of foregoing Provisions.

220 (1) Every dwelling-house which, after the First day of , Nineteen hundred, is erected in breach of the provisions of Sections *Two hundred and eight, Two hundred and nine, Two hundred and ten, Two hundred and eleven, Two hundred and twelve, and Two hundred and thirteen*, shall be deemed to be unfit for occupation. 30

(2.)—I. Where a notice, plan, particulars, or description of any work is prescribed to be laid before any Local Authority, the Local Authority shall, within One month after the same has been delivered to their Clerk, signify in writing their approval or disapproval of the intended work to the person proposing to execute the same. 35

II. If the work is commenced—

(a) After the Local Authority has disapproved thereof; or 40

(b) Before the expiration of such month without such approval; or

(c) Is in any respect not in conformity with this Act;

III. Or, where any building or projection to, or any work of any kind connected with, any building is found in any respect to be contrary to the provisions of this Act; 45

IV. The Local Authority may in any of the aforesaid cases cause so much of the work as has been executed to be pulled down or removed, and may recover the amount of any expenses incurred thereby, either from the person executing the works removed, or from the person causing the works to be executed, at their discretion 50

- v. Where a Local Authority may under this Section pull down or remove any work begun or executed in contravention of this Act, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of this Act shall be deemed to be a continuing offence; but a penalty shall not be incurred in respect of such continuing offence after the expiration of One year from the day when the offence was committed or the By-law was broken. A.D. 1899.

(3.) In place of exercising the powers conferred by the Second Sub-section of this Section, any Local Authority may proceed against any offender before Two Justices, and such Justices may, in addition to imposing penalties, declare that the work complained of is a common nuisance, and may order the same to be removed by the owner thereof, and in his default by the Local Authority, and that the costs of such removal, if effected by the Local Authority, shall be paid to them by the said owner. Alternative procedure.
H.A., 113.

221 The restrictions imposed under Sections *Two hundred and eight, Two hundred and nine, Two hundred and ten, Two hundred and eleven, Two hundred and twelve, Two hundred and thirteen, Two hundred and sixteen, and Two hundred and seventeen* of this Act, and by any By-laws made under the By-law powers numbered (2.) i. to vii. of Section *Five hundred and eighty-eight* hereof, and in force in any Area, shall apply as well to the owner of the land as to any builder or contractor engaged in erecting any building or doing any work in any such Area, and the Local Authority thereof may proceed against either or both of such persons, and recover penalties from each of them. Application of portions of this Part of Act to owners as well as builders.

TITLE VIII.—WATER SUPPLY.

- Div. I. Powers that may be exercised. (Sects. 222 to 230.)
 II. Various Water Services. (Sects. 231 to 235.)
 III. Prevention of Waste and Protection of Water Works. (Sects. 236 to 241.)

Division I.—Powers that may be exercised.

- 222** (1.) The powers of this Part of this Act as to Water Supply may— By whom powers may be exercised.
- i. Subject to the provisions of this Act, and
 - ii. In every instance (before any work of construction is begun) to the consent of the Governor, signified by a Proclamation which shall name and define the limits of the Water District, be exercised by Local Authorities, as follows:— Governor must first approve by issuing Proclamation naming and defining District.
 - iii. By the Council of each Area respectively when the waters are solely within any Town; but otherwise the consent of the Shire Council must first be obtained: When waters are within the Area of any Town.
 - iv. By the Council of the Shire when the waters being solely within its boundaries are within or on the boundary of an Urban Rural District, or when two or more Areas or parts of Areas in the Shire are to be included in the proposed Water District; When waters are in an Urban or Rural District or two or more parts of Shire are in the Water District.

A.D. 1899.

When waters are on boundary of a Shire, or serve a Water District in two Shires.
See Sect. 590.

Proclamation to name and define District not to issue for Three months.

Not until any preliminary survey required by Governor is made.

Limitation of quantity where several Areas interested in same waters.

Administration of Water District by a single Council when proclaimed upon a joint petition; or by joint Council.
See Sect. 517.

Powers that may be exercised :
To take and divert waters for purposes of Act.
T.B.A., 148.

v. When the waters are on the boundary of or in another Shire, or the waterworks are to serve a Water District in Two or more Shires, then the construction of the waterworks shall not be commenced until —

(a) A Petition, under the Common Seal of such One or 5 more Shire Councils as the Water District includes or forms part of, has been presented to the Governor, and gazetted and advertised as often as the Governor directs, which Petition shall define the proposed Water District and the 10 waters proposed to be taken, with a statement of the quantity of water required ; and

(b) Until the scheme has received the Governor's approval, to be signified by a Proclamation as aforesaid, which shall not be issued until Three 15 months have elapsed from the date of the first advertisement of the Petition.

(2.) Before publishing any such Proclamation, the Governor may direct such an examination or survey of the proposed District and of the waters proposed to be taken, and also direct any enquiry to be 20 made into the water supply of the Areas adjoining or contiguous to such waters or likely to need water therefrom, as may be necessary to admit of a report thereon being made to him ; and upon receiving such report he may either refuse to comply with the prayer of the Petition, or may grant such Petition in such modified, extended, or 25 amended form as he may think fit.

(3.) In all cases where the waters are those of a lake forming part of the boundary of several Areas, or a river flowing through or by several Areas, the quantity of water allowed to be taken by the Local Authority of One of such Areas shall be determined with regard to the present 30 and future reasonable requirements of all the Areas in relation to the said river or lake and other waters available for supplying the said Areas, and having regard to any existing waterworks deriving a supply from the said river or lake.

223 In every case in which a Water District is proclaimed under 35 this Act upon the joint Petition of the Councils of any Two or more Shires, the management and regulation of such Water District may be vested in such one of the said Councils as may be named for that purpose in the Petition ; but otherwise the Governor shall constitute the Water District an Area for a United Municipality in accordance 40 with the provisions contained in Part XI. of this Act relating to United Municipalities ; and such Joint Council shall have and exercise in respect of such Water District all the powers, rights, and privileges by this Act vested in or conferred upon single Councils in respect of Water Districts under the control and management of such single 45 Councils respectively.

224 (1.) Subject as aforesaid, every Local Authority shall have and may from time to time exercise the powers next mentioned ; viz. —

i. A power from time to time to take and divert a sufficient quantity of water from any waters for any of the purposes 50 of this Part of this Act, including domestic and manufacturing purposes, irrigation, motive power, and the production of electricity for lighting purposes, and for supplying with water any public baths or wash-houses, or any

fountains or pumps within the Area, and for the purpose of providing a supply of water for flushing drains and sewers, watering roads, and the extinguishment of fires in the Area, or for supplying ships: A.D. 1899.

- 5 II. A power to construct, maintain, lay down, alter, or discontinue within the limits of its Area, and also, upon compliance with the provisions in that behalf hereafter contained, without such Area, such waterworks as may be necessary for all or any of the said purposes: Construct within limits, waterworks. T.B.A., 149; and upon conditions, without limits.
- 10 III. To take possession of, alter, or remove, subject to compensation, any then existing locks, dams, or embankments for retaining water, except such as have been constructed under the powers of an Act of Parliament:
- 15 IV. To alter, vary, or regulate, in such manner as may be authorised or directed by any By-laws made under this Act, the level or flow of the water in any waterworks.
- (2.) Before commencing any such works the Local Authority shall cause plans and specifications thereof to be prepared and submitted for the approval of the Minister. Before commencing works Local Authority to submit plans to Minister.
- (3.) In the exercise of these powers the Local Authority shall do as little damage as can be, and, in all cases where it can be done, shall provide other watering-places, drains, and channels for the use of adjoining lands in place of any such it takes away or interrupts. Provide watering-places, &c. in lieu of any taken away. T.B.A., 150.
- 25 (4.) The Local Authority may exercise for any of the aforesaid purposes all the powers, but subject also to the provisions and conditions attached thereto so far as the same are applicable, contained in Part VIII., Title I., Division IV. of this Act relating to "The Compulsory Acquirement of Land," and, in addition to the provisions for compensation therein contained, compensation shall be made by the Local Authority to all persons lawfully interested in any waters so taken or diverted or who are otherwise injuriously affected by the exercise of any of the aforesaid powers for all damage sustained thereby, regard being had to any benefit which may be done or accrue to the claimant by or as the result of the construction of the waterworks. Powers of compulsory acquirement. Sects. 147 to 154 extended. Compensation to be made as in those Sections provided, and also for taking the water. T.B.A., 153.

225 Every such claim for compensation shall (except in the cases next mentioned) be subject to the provisions as to compensation hereinbefore referred to— Compensation according to provisions of this Act.

1. If the Local Authority, by notice in writing, requires any person to make claim for compensation for any damage occasioned by the exercise previously to the service of such notice of any of the aforesaid powers, such person shall not be entitled to compensation for any damage sustained previously to the service of such notice unless he prefers his claim, in manner aforesaid, within Three months after service of such notice: Except— I. When no claim made under Three months after service of notice: T.B.A., 154.
- 40 2. Where any claim for compensation involves damage alleged to have been sustained by reason of the taking or diversion of any water, and the right of the claimant in or to such water is disputed by the Local Authority, if the Local Authority within Fourteen days after the service of the notice of the claim gives notice to the claimant that his right in or to such water is disputed, then such claim shall not be determined by arbitration, but shall be determined by an action in the Supreme Court to be brought by the claimant against the Local Authority for damages, or upon II. Or when title to water is in dispute. T.B.A., 155.
- 50

A.D. 1899.

When same shall be settled by action, to be commenced within Three months. T.B.A., 156.

Local Authority may contract for water supply; R.M.A., '99. T.B.A., 163. And purchase waterworks with consent of Governor; and of electors if loan necessary. Extended powers as to waterworks. N.Z., 113 (294).

an issue agreed to between the claimant and the Local Authority :

III. Every such action shall be commenced within Three months after the service on the claimant of such notice as aforesaid that his right is disputed, and not afterwards. 5

226 The Local Authority may contract for any period not exceeding Three years at one time with the owners of any waterworks or any other person for such supply of water as the Local Authority thinks necessary for the purposes of this Act, or, with the consent of the Governor, may purchase any waterworks, or any pipes or other apparatus used for supplying water in the Area; but no such purchase involving the raising of a loan shall be completed until the authority of the Electors under the provisions of this Act relating to loans has been obtained. 10

227 All the powers granted by this Act in respect of the construction of waterworks shall be deemed to include the power of extending or enlarging any such waterworks; and the said powers of constructing or extending or enlarging any such works aforesaid shall be deemed also to apply in respect of any waterworks acquired under any Act at any time previous to the passing of this Act. 15 20

Further Powers as to Watercourses, Rivers, and Lake Outlets.

General control of watercourses in Water Districts. Compare Tas., 306.

228 In addition to the aforesaid powers there shall be vested in the Local Authority controlling any Water District every watercourse within its limits, and the waters flowing therein not vested by Statute in any other authority, or excepted from the operation of this Part of this Act, by a notification of the Minister in the *Gazette*; and, subject to the previously existing rights of any riparian proprietors to the use of the water flowing in any such watercourse, the Local Authority shall have the absolute control and regulation, so far as the same can be effected by artificial means, of the supply of water along and by every such watercourse. 25 30

Power to remove drift-wood, &c. from water-courses.

229—(1.) The Local Authority may remove from any watercourse all weeds and other growth, and all drift-wood, logs, trees, branches, or other refuse which may be lodged in the bed or against the banks thereof and be calculated to impede the free flow of water therein in its natural channel, and may dispose of the same respectively towards recouping the cost of such removal. 35

Power of entry for such purposes.

(2.) And for these purposes the Local Authority shall, by its servants, have free right of ingress, egress, and regress on any land on the banks of such watercourse.

No power to sell timber floated down by timber-getters.

(3.) But the Local Authority is not empowered to dispose of any timber floated down any river or stream by any person authorised to cut timber on Crown lands. 40

Owner may be directed to remove obstructions.

(4.) The Local Authority may order the occupier, or, in case there is no occupier, then the owner of any land on the bank of any stream or river to remove any tree or shrub, or any part thereof, which impedes, or is likely to impede, the free flow of the water, or to remove, lower, or trim any part of a tree or shrub which overhangs a stream or river, and is likely to fall therein. 45

Penalty for non-compliance.

(5.) In the event of any such owner or occupier failing to comply with such order within Fourteen days from the receipt thereof, he shall 50

be liable to a penalty not exceeding Two Pounds for every day during which such order is not obeyed, and to pay any expenses incurred by the Local Authority in doing the work specified in the order, and such expenses shall be a charge upon the land until paid.

- 5 (6.) The powers given by this Section shall extend to any part of a watercourse or river or stream which crosses the boundary of an Area not being more than a mile beyond such boundary in the course thereof. Powers to extend to a mile beyond boundary of Area.

- (7.) The expenses of abating any such nuisance upon unoccupied Crown lands shall be defrayed by the Treasurer out of moneys appropriated by Parliament for that purpose: Provided that the sanction of the Treasurer is given before the expenses are incurred. Treasurer liable for expenses on Crown land.
Compare N.Z., 113.

- 230** Any Shire Council or any Joint Council may, in order to maintain a sufficient and more regular supply of water in any lake or river, construct at the outlet of such lake such dams and sluice-gates or other waterworks as may in the opinion of the constructing authority or authorities be necessary for these purposes. Power to construct works at lake outlets.

- No compensation shall be claimable by any owner of land bounded by such lake when the effect of such waterworks shall be to maintain the water at no higher level than that of the ordinary winter level of the lake.

Division II.—*Various Water Services.*

- 231**—(1.) The Local Authority shall, subject to the provisions of this Act, supply water to be used within the limits of the Water District for such purposes, to such persons, upon such contracts, at such prices, and with such guarantees and securities for payment and generally upon such conditions as the Local Authority may think proper. General power for Local Authority to fix terms for water. See Sub-sect. 9.

- (2.) And may also enter into an agreement in writing with the owner of any land situate within the Water District for the supply of water by measure to such land for any term not exceeding Fourteen years, at a price not being less than the current price of water supplied or to be supplied by measure by the Local Authority. The owner shall agree to pay such price for the term of the agreement, and to take not less water in any year than the minimum quantity specified therein; and such agreement, whether under seal or not, shall be deemed to be a covenant running with the land, and shall bind the land and the successive owners thereof during the said term; but nothing in the agreement shall be construed to create any obligation on the part of any Local Authority entering into such agreement to supply any stated quantity of water in the event of any insufficiency of water as hereinafter provided, but the owner shall pay for the water actually supplied to him at the price provided for in such agreement. Agreements with owners of land in Water District for supply of water.
Compare Tas., 312, 315.

- (3.) And may by Regulation, with the sanction of the Governor,—

- I. Fix a maximum quantity of water to be supplied to any person for domestic and stock supply purposes where water is supplied otherwise than by measure: Maximum quantity of water to be supplied for domestic purposes and for stock. See Sect. 588(14.)
- II. Fix a scale of charges for water supplied by measure, which charges may be higher in one part of the year than in the other, and a minimum charge for such water in all cases where water is so supplied, and vary and alter the same, and fix a rent for the use of any meter: Minimum charges where water supplied by measure.

Provided, that when the Local Authority is entitled to rate the property so supplied, there shall be paid to such Amount paid to equal rate. 57 Vict. No. 25, Sect. 37.

A.D. 1899.

Customer to have quantity equal to rate.

Water in water-races, power to make differential charges.

Contracts for sale of surplus water to persons outside District.

All charges to be uniform under like conditions.

Power to determine description of service pipes; and to cut off water for any insufficiency therein.
T.B.A., 161.

Defects may be repaired by Local Authority at cost of defaulter.

Domestic supply to be furnished in Towns and Urban Districts.
T.B.A., 159.

Service pipes without and within private property.
T.B.A., 160.

Local Authority (in addition to any meter rent), at least the amount of such rate, notwithstanding the value of the quantity of water consumed in the year, at the price fixed for measured water, may not equal the amount of the yearly rate. But the customer shall also be entitled to have during the year, without paying for the same by measure, such a quantity of water as, at the price fixed for measured water, will at least equal the amount he pays as yearly rate in respect of such property.

III. Prescribe the terms and conditions upon which any water-race made by it may be used, and upon which water therefrom may be supplied, and the rates and charges therefor, and the area of land and properties or portions of properties which shall be liable to such rates and charges, and to provide, if advisable, for a scale of rates or charges differing in any Area from those in another, or differing in the several sub-divisions of any Area, according to circumstances:

IV. Prescribe the time at which any charges for water or meter rent, which shall be recoverable in the same manner as the Water Rates, are to be payable, and whether in advance or otherwise: and

v. Prescribe the time, order, and manner of delivery of water.

(4.) And, with the like sanction, in each case, enter into a contract with persons outside the limits of the Water District for the supply of surplus water at a rate to be named in such sanction, such rate not to be in any case less than the amount charged for water supplied to persons within the Water District. Such sanction in no case to be for a longer period than One year, but in each case the Governor may, if he thinks fit, grant any number of renewals of such sanction for periods of One year upon each renewal.

(5.) Provided that all such charges and the conditions upon which water may be so supplied shall, as far as possible be uniform to all persons in the same circumstances and requiring the same extent of supply.

(6.) Provided also, that all pipes and apparatus by which water is supplied and distributed within the outer boundary of any property shall be such as may be ordered, either generally, or in classes of cases, or in any particular case, by the Local Authority, who shall not be bound to supply water in any case in which the required description of pipes or apparatus is not provided, and may cut off the water from any property until the same is so provided, or until any defect therein is remedied. Any such defect may be repaired or made good by the Local Authority, and expenses thereof recovered from the person allowing the pipes or apparatus to be out of repair, in a summary way.

(7.) Wherever the outer boundary of any property within a Town or Urban District is within Fifty feet of any water-main of the Local Authority—

I. The owner or occupier shall be entitled to sufficient water for domestic purposes, including a supply for any water-closet, (which has been approved by the Local Authority), or fixed bath in any dwelling-house thereon; and

II. The communication pipe between such water-main and such outer boundary shall be provided, laid down, and maintained by and at the expense of the Local Authority, and

shall be its property; but all pipes and other apparatus from such outer boundary (by which water is supplied and distributed) within the property shall be provided, laid down, and maintained by and at the cost of such owner or occupier.

A.D. 1899.

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(8.) Water may be supplied to any dwelling-house outside its Water District upon payment to the Local Authority of the expense of providing and laying down the necessary pipes and apparatus, and upon the owner or occupier of a house binding himself to take the water for Three successive years, and on such terms as to payment therefor, as may be agreed upon. The amount so agreed upon shall not be less than the charge for similar service within the District, and shall be recoverable from the owner or occupier of the house as if it were a rate, and the property were situate within the Water District

59 Vict. No. 55, s. 12-23.

15

(9.)—I. All water supplied in a Water District, or in such part of a Water District where the water is conveyed through pipes for other purposes than domestic, shall be charged for by measure or by special arrangement under Regulations to be contained in By-laws of such Local Authority:

How supply to be charged for. Tas., 314.

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II. All water otherwise supplied for the purposes of domestic or stock supply may be charged for by measure or in such other manner as the Local Authority by By-law may adopt; but all water supplied for irrigation or any other than domestic or stock supply purposes shall be sold by measure only, and charged accordingly:

25

III. Provided that in all cases where a Water Rate is levied a domestic supply shall be provided without further charge.

No further charge for domestic supply if Rate levied.

232 The Council of every Town shall cause all existing waterworks used for the gratuitous supply of water to the inhabitants, or any equally convenient which they may substitute therefor, to be maintained and supplied with a quantity of water not less than the quantity which has heretofore been supplied for that purpose.

Existing gratuitous supply of water. T.B.A., 147

Order of Supply.

233 Water shall not be supplied for irrigation or for any other purpose until all persons entitled to a supply from the Local Authority for domestic or stock supply purposes have been first supplied.

Domestic purposes to be first satisfied.

234—(1.) If at any time the supply of water at the disposal of any Local Authority be insufficient in their opinion to afford all persons entitled by contract the supplies which they may respectively be entitled to receive, it shall be competent for such Local Authority to deliver to such persons such amount of water as may then be at the disposal of the Local Authority in quantities proportionally according to the quantities which such persons would, had there been sufficient water available, have respectively been entitled to receive, and such persons shall be chargeable accordingly.

Where insufficient water for contractors, supply to be proportionately, not liable for any inability to supply.

(2.) And in the event of such diminished supply falling short at any time of the quantity necessary to meet, in accordance with the said provisions for apportionment, all the claims upon the Local Authority for water in sufficient quantity to be of practical service, the Governor may, whenever and as often as he shall be satisfied of the actual or approaching insufficiency of such supply, from time to time,

Proportionate supply of water. Compare Tas. 316, 317.

A.D. 1899.

by Proclamation, regulate the order of priority in which, and the quantities with which, the various Water Districts and persons entitled to water shall be entitled to be supplied.

Not responsible
for failure of
supply.

235 The Local Authority shall not be responsible for the failure of any water supply from whatever cause the same may arise. 5

Division III.—*Prevention of Waste and Misuse of Water and Protection of Waterworks.*

Power to enter
premises supplied
with water.
See 62 Vict. No.
66, s. 77.

236 Any officer of the Local Authority authorised for that purpose may enter premises supplied with water in order to examine if there is any waste of water. If such officer be refused admittance for the purpose aforesaid, or is prevented from making such examination, the Local Authority may cut off the water from such premises. 10

Water may be
cut off if water
is being wasted.
62 Vict. No. 66,
s. 74.

237 In case any person, when required by the Local Authority, neglects for the space of Twenty-four hours after written notice to do so, to keep the pipes and other apparatus within his boundary line, and by which his premises are supplied with water, in good repair, the Local Authority may cut off the water therefrom until the same are 15 sufficiently repaired.

Penalty for
allowing pipe to
be out of repair.
59 Vict. No. 55,
s. 41.

And any person who suffers any such pipe or apparatus to be out of repair so that the water supplied to him is wasted is liable to a penalty not exceeding Five Pounds.

Water fouled
by gas.
Compare
62 Vict. No. 66,
ss. 71-73.

238 Whenever the water of the Local Authority is fouled by gas of 20 any person or Company making or supplying gas, the Local Authority may, by notice in writing, require such person or Company to remove the gas-pipes to such a position, or to take such other steps as the Local Authority may determine to remedy the nuisance.

All expenses in such a case of examining the gas-pipes which the 25 Local Authority may at any time do, after 'Twenty-four hours' notice to the owner thereof, shall be repaid by such owner to the Local Authority.

Hiring of Meters and Apparatus.

Provisions as to
water meters.
62 Vict. No. 66,
ss. 66-68.

No meter or
apparatus hired
out by Local
Authority to be
distrainable.

Power to inspect
at any time.

239—(1.) Meters may be attached by order of the Local Authority to the service-pipe of any person, and thereupon all water supplied to 30 him shall be drawn through such meter. Such meters shall be affixed by or under the superintendence of an officer or servant of the Local Authority, and shall not, nor shall any pipes or other apparatus which the Local Authority may let out for hire, be subject to distress for rent, nor to be taken in execution under the process of any Court. 35

(2.) Such meters, pipes, or other apparatus may at any time be inspected by any person acting under the authority of the Local Authority, who may enter any premises for that purpose, or for the purpose of ascertaining the quantity of water supplied or consumed, or for the purpose of removing any such meter, pipe, or apparatus. 40

Penalty for
hindering
Inspector,

(3.) Any person who hinders any officer of the Local Authority in carrying into effect any of the aforesaid purposes shall be guilty of an offence against this Act, and be liable to a penalty not exceeding Five Pounds.

or injuring meter,

(4.) Any person injuring or interfering with any such meter is, for 45 every such offence, liable to a penalty not exceeding Five Pounds, in addition to the amount of damage or injury done.

or altering index.

(5.) Any person who alters the index of, or in any way tampers with, a meter, with intent to defraud the Local Authority, is liable to a penalty of not more than Fifty Pounds for every such offence. 50

Sundry Offences.

A.D. 1899.

- 240** Every person who—
- I. Being the owner or occupier of any premises supplied with water by the Local Authority, supplies to any other person, or wilfully permits him to take, any such water from such premises, unless for the purpose of extinguishing fire, or unless he is a person supplied with water from the waterworks of the Local Authority and the pipes belonging to him are, without his default, out of repair; and
 - II. Wilfully or carelessly breaks, injures, or opens any lock, cock, valve, engine, or other waterwork of the Local Authority, or flushes or draws off any water therefrom, or does any other wilful act whereby such water is wasted; and
 - III. Without due authority—
 - (a) Makes any pipe or race to communicate with any waterwork; or
 - (b) Who takes any water from any waterworks other than such as have been provided for the gratuitous use of the public;
 is liable to a penalty of not more than Twenty Pounds.
- 241**—(1.) Every person who—
- I. Does any act whereby the waters of any watercourse, being a part of any waterworks, are drawn off or diminished in quantity;
 - II. Destroys or injures any waterworks;
 - III. In any manner prevents or obstructs the flow of water through any waterworks; or
 - IV. Otherwise injures or obstructs the passage of the water in a pure and wholesome state through any waterworks,
- is liable to a penalty not exceeding Fifty Pounds, and to a further penalty not exceeding Fifty Pounds a day for every day during which any such act continues after notice in writing has been given to him by the Local Authority to restore such watercourse to the state in which it was before such act, or repair any injury, or to remove any obstruction preventing the flow of water, or to desist from any of the aforesaid offences.
- And the Local Authority may, if it thinks fit, itself restore the watercourse to its former state, repair any such injury, or remove any such obstruction, and shall be entitled to recover from such person all the expenses incurred by so doing in addition to the aforesaid penalties.
- (2.) Every person who—
- I. Bathes in any waterwork, or in any watercourse, within a mile (or such other distance as may be fixed in any case by Proclamation) above the intake of any waterworks; or
 - II. Causes any dog or other animal to enter into; or
 - III. Washes or cleanses any cloth, wool, leather, or skin of any animal, or any clothes or other thing in; or
 - IV. Throws any offensive matter into; or
 - V. Causes or permits any offensive matter under his control to fall or flow into; or
 - VI. Permits or suffers any drainage from any premises to so run, drain, or percolate, as calculated to render the water in any waterworks, or supplying the same, impure or unwholesome; or
 - VII. Who, after the Local Authority has caused to be conspicuously posted up in the neighbourhood of any waters a notice

Misuse of water.
59 Vict. No. 55.
Sects. 38-40, 42.

Injuries to valves,
and opening
valves, and
flushing water.

Attaching pipes
without authority.

Unauthorised
taking of water.

Diminishing
water at source.

Injuring
waterworks.

Obstructing flow
of water.

Rendering it
impure.
59 Vict. No. 55,
s. 34.
62 Vict. No. 66,
s. 121.

Continuing
penalty if repairs
not effected after
notice.

Power to Local
Authority to
effect repairs and
charge expenses
to offender.

Sundry acts :
causing im-
purities in water
supply.
59 Vict. No. 55,
s. 35.

As to malicious
injuries.
See Sect. 613.

Percolating
drainage.

Waters fouled by
pigs or geese.
Compare
V.H.A., 1890,
s. 245.

A.D. 1899.

that the water is required for drinking purposes, and that pigs and geese are prohibited from trespassing thereon, suffers or permits any pigs or geese to trespass on any such waters, or does any other act by which such water is polluted,

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is liable to a penalty not exceeding Ten Pounds.

Continuing penalty if offensive drainage be not stopped.

Power to inspect the premises suspected of fouling water.

Seizure of pigs or geese, &c.

(3.) And every such person incurs a further penalty not exceeding Five Pounds for every day during which such last-mentioned offence is continued after the expiration of Twenty-four hours from the time when notice of the offence has been served on such person by the Local Authority, who may at any time after Twenty-four hours' notice to such person inspect such premises.

(4.) The pigs or geese of any person trespassing on any waters within One month after any conviction under this Section may be destroyed by the Local Authority, or may be seized and sold, and the proceeds thereof paid into the Local Fund.

TITLE IX.—PREVENTION OF FIRE.

Works for supply of water in case of fire.

T.B.A., 164.

See 588 (4.).

Fire engines may be provided.

P.A., 250.

242—(1.) The Local Authority may cause all necessary works, machinery, and assistance for securing an efficient supply of water in cases of fire to be provided and maintained, and for this purpose they may enter into any agreement with any water company or other party, or may provide such engines or appliances for extinguishing fires, and such water, buckets, hose, pipes, fire-escapes, and other implements for safety or use in case of fire as they think fit, and may provide or hire places for keeping any such engines or other things as aforesaid, and employ persons to act as firemen, and pay to them such salaries and such rewards for their exertions in cases of fire as the Local Authority thinks fit.

Council of Town to mark position of fire-plugs.
T.B.A., 164.

(2.) The Council of any Town shall paint or mark, on the buildings and walls, words or marks near any fire-plugs provided therein to denote the situation thereof, and do such other things for the purposes aforesaid as they may from time to time deem expedient.

Remuneration, &c. of persons for extinguishing fire.

T.B.A., 165.

(3.) They may also agree with any persons or associations for or with respect to providing the necessary labour and assistance for extinguishing such fires as may take place within the Town, and for the payment to such persons or associations, out of the Local Fund, of reasonable remuneration for the same, and also contribute from the same fund such sum as may be reasonable in general aid of any persons who shall be associated together for the purposes aforesaid.

Extension of Fire Brigades Act, 1883, to Towns.
47 Vict. No. 21
T.B.A., 166.

243—(1) The Governor may upon petition, signed by not less than a majority of the Council of any Town, by Proclamation, extend the whole or any portions of "The Fire Brigades Act, 1883," to such Town, and, by the same Proclamation, or by Regulations contained in any subsequent Proclamation, the Governor may give effect to such extension by the substitution of any local officer for the "Superintendent" under that Act, and by the modification or omission of any provision in that Act, so as to meet the requirements of the said Town, and especially the Governor may, by any Proclamation—

Governor may define Brigade District, and fix number of Members of Board.

i. Define an Area within the Town to be the District of the Fire Brigade Board for such Town:

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ii. Fix the number of Members of such Board and the number of Representatives to be appointed by the Governor and to be elected by the Council and by the Fire Insurance Companies insuring property within the District, and prescribe

the methods of such elections : Provided that no Board shall have more than Five Members. A.D. 1899.

(2.) The funds of such Board, for the purposes of "The Fire Brigades Act, 1883," in any such Town shall be contributed in equal proportions by the Council thereof, the said Fire Insurance Companies, and the Treasurer, out of the Consolidated Revenue Fund; and all the provisions of this Act relating to the contribution to the Fire Brigade Boards shall, *mutatis mutandis*, apply to the contributions provided for by this Section. Funds of Board. Compare 47 Vict. No. 21, s. 29.

10 **244**—(1.) The Council of any Town (subject to any Regulations to be from time to time made by such Council in this behalf) may accept the volunteer services of any fit person or persons, not exceeding in number Fifty men, to act as a Fire Police, and whose duty it shall be to attend at any fire to aid and assist the regular Police Force, to watch over any property saved, to preserve order, and to carry out any instructions which may be given by any Fire Inspector in command on the spot, or by any other person duly authorised by him. Town Council may enrol volunteer Fire Police as sworn constables. See Sect. 592. Compare P.A., 250.

(2.) Every member of such Fire Police shall be enrolled by the Chairman, and his services accepted for One year from the date of his enrolment, and shall be sworn in before a Justice of the Peace, and thereafter during the period of his service under such Fire Police shall be deemed to be and shall have all the power and authority and responsibility of a constable whilst acting as Fire Police.

245—(1.) The Council of any Town may also from time to time appoint, and may remove and reappoint, one or more Fire Inspectors. Fire Inspectors.

(2.) Every such appointment shall be by warrant under the hand of the Chairman; and every appointment, as well as every removal or resignation, of such officer shall be publicly notified.

(3.) The Governor may, by Proclamation, authorise any Fire Inspector to exercise any of the powers of a Superintendent under the "Fire Brigades Act, 1883." May have powers of a Superintendent.

(4.) The Superintendent of any Fire Brigade may be appointed a Fire Inspector under this Act.

246 A Fire Inspector may, on the occasion of any fire occurring in the Town for which he has been appointed, do the following things—

- i. Except in any Town to which "The Fire Brigades Act, 1883," has been extended, or, if a Proclamation authorises a Fire Inspector so to do in any such Town, he may take the command of any Fire Brigade or other persons who, by previous agreement with the Council, have placed their services at the disposal of the Council, or who for the time place themselves at his disposal; Powers of Fire Inspectors.
- ii. He may order any person engaged in extinguishing the fire (hereinafter called a "fireman"), or any constable, to remove any persons who, by their presence or otherwise howsoever, interfere with or impede the labours of the Fire Brigade or other firemen in extinguishing the fire;
- iii. He may take any measures he thinks best for the protection of life and property;
- iv. He may, with any assistance he requires, break into, take possession of, or pull down any premises for preventing the spread of fire, doing however as little damage as

[Bill 1.]

A.D. 1899.

possible thereby; and also, for the like purpose, may remove any dangerous or inflammable material or *débris* from the site of the fire;

- v. He may interfere with the supply of water in any waterworks as he thinks fit, in order to get a greater supply or 5 pressure in the neighbourhood of the fire:

And no penalty, damages, or claim for compensation shall be recoverable by or against any person in consequence of any act done under the authority of this Section.

Constables to assist Fire Inspectors. 47 Vict. No. 21, s. 18.

247 All police constables are hereby authorised and required to aid 10 every Fire Inspector in the execution of his duty, and may at their discretion clear any road in or near to which a fire is burning, and may remove any persons who, by their presence or otherwise howsoever, interfere with or impede the labours of the firemen.

Damage done by Fire Inspectors to be damage by fire. *Id.* s. 19.

248 All damage to property caused by any Fire Inspector, or any 15 person acting under his orders, in the due execution of their duties under this Act, shall be deemed to be damage by fire within the meaning of any policy of insurance against fire, anything in such policy to the contrary notwithstanding.

Penalty for chimney being on fire. P.A., 249.

249 When any chimney within a Town takes fire, the occupier of 20 the building to which such chimney belongs shall be guilty of an offence against this Act, and be liable to a penalty not exceeding Five Pounds, unless it be proved to the satisfaction of the Justice hearing the complaint that the chimney had been swept within Three months immediately preceding such fire taking place. 25

TITLE X.—LIGHTING, HYDRAULIC POWER, &c.

Power to manufacture gas, &c. Compare Q., 159, 164.

250 The Local Authority of any Town may do all things necessary for the purposes of lighting the public places or public buildings therein, or of supplying light or hydraulic or other power, and especially, but subject to any Act or Acts in force for the time being regulating such matters or any of them, may— 30

- i. Enter upon and continue the manufacture of gas or electricity and the conservation of hydraulic or other power and the manufacture of all materials arising from such manufacture or conservation, by means of any apparatus or other appliances, and by any process, art, or invention now or 35 hereafter to be known or used, and from any substance that now is or may hereafter be used for such purposes:
- ii. Use the water supplied by any waterworks belonging to the Local Authority for the purpose of obtaining motive-power in connection with the production of electricity, provided 40 the ordinary supply of water to the inhabitants is not thereby interfered with:
- iii. Erect, sink, cut, lay, place, and fix such retorts, gasometers, receivers, dams, reservoirs, buildings, fixtures, engines, cisterns, machines, drains, sewers, aqueducts, watercourses, 45 pipes, reservoirs, electric lines, and other appliances, apparatus, or works, of such construction and in such manner as the Local Authority thinks necessary or proper:
- iv. Erect posts, pillars, pilasters, lamp-irons, lamps, and other apparatus in and upon any public place or land under the 50

Power to erect gasometer, &c.

Erect lamps.

control of the Local Authority or against any wall abutting on any such public place or land : A.D. 1899.

- v. Dig and sink trenches and drains, and lay and place meters, mains, and pipes, and put and place stop-cocks, syphons, plugs, or branches from such pipes in, under, across, and along any public road or such land, and also, with the consent of the owners or occupiers thereof, in, under, across, and along any private road or premises, in such manner as the Local Authority thinks necessary and proper : Lay pipes.
- vi. Erect and set up any machine or other apparatus necessary for securing to any premises a proper and competent supply of gas, electricity, or hydraulic or other power, or for measuring and ascertaining the extent of such supply : and Erect apparatus.
- vii. Do all such other acts and things as the Local Authority from time to time thinks necessary and proper for carrying into effect the purpose and meaning of this Section, including the extending or enlarging of any of the aforesaid works; and the said powers of constructing, extending, or enlarging any such works shall be deemed also to apply to any like works already acquired, or which any Local Authority may hereafter be authorised to acquire. Generally.

The Local Authority shall make compensation for any damage done by it in the exercise of the above-named powers.

- 251.** The Local Authority may contract with any person for the supply of gas, electricity, or hydraulic or other power to him or to any house, building, or premises, of which such person is the owner or occupier, in such manner and under such stipulations as the Local Authority thinks proper : Power to contract for services.

Provided that the charges and conditions made in respect of any such service shall, as far as possible, be uniform to all persons in the same circumstances and requiring the same extent of service. Charges and conditions to be uniform.

- 252—(1.)** The Local Authority may fix a uniform price at which gas, electricity, or power shall be supplied to all private consumers, and the times when the same shall be payable, and may from time to time alter the same as it thinks fit. Local Authority may fix prices.

(2.) If any person fails to pay any moneys due on account of gas, electricity, or power, or any rate in respect thereof, the Local Authority may, without prejudice to any other remedy in that behalf, cut off the supply of gas from the premises of such person. Service may be cut off from defaulter.

- (3.) All moneys receivable as the price of gas, electricity, or power supplied shall be deemed to be a special rate, and may be recovered accordingly. All receipts to be special rates.

- 253** The Local Authority may supply any person outside the Town with gas, electricity, or power, upon such terms and conditions and at such rates as may be agreed on with such person, and for such purpose shall have the same powers outside of the Town as it has under the provisions of this Part of this Act within the same. Services outside town.

- 254** The provisions of Section *Two hundred and thirty-nine* of this Act relating to Water Supply shall, *mutatis mutandis*, apply to the supply of light, hydraulic, or other power. Sect. 239 to apply. Meters may be affixed by Local Authority.

Any officer of the Local Authority duly authorised in that behalf may, at all reasonable times, and as often as he thinks necessary—

- i. Inspect and examine all appliances, apparatus, or works in any premises owned or occupied by any person with whom Power to enter and inspect pipes, lamps, and meters.

A.D. 1899.

the Local Authority has contracted for the sale or supply of gas, electricity, or hydraulic or other power :

- ii. Repair, renew, and amend the same .
- iii. Take account of the amount of gas, electricity, or hydraulic or other power consumed or used under such contract: 5
- iv. Compare the amount so ascertained to be consumed or used with the tenor and nature of such contract, and regulate the supply in accordance therewith ; and
- v. Enter any such premises, for any other purpose consistent with and relating to such contract. 10

Power to inspect fittings, and to order the removal of bad work.

255 Any such officer of the Local Authority may inspect and examine at all reasonable times any appliances, apparatus, or works which have been made, erected, or set up by any person with whom the Local Authority has so contracted.

-If such officer considers any such appliances, apparatus, or works to 15 be incomplete or otherwise defective, the person who erected and put up the same shall not be entitled to call on the Local Authority for the fulfilment of such contract until all such appliances, apparatus, and works have been altered or removed, and other appliances, apparatus, and works substituted therefor, to the satisfaction of such officer. 20

Offences.
See also Sect. 614.

256—(1.) Any person who hinders any officer of the Local Authority acting under the powers of the Two *preceding* Sections of this Act is liable to a penalty not exceeding Five Pounds.

(2.) Any person who wilfully or carelessly breaks any article mentioned in Section *Two hundred and fifty* belonging to the Local 25 Authority is liable to a penalty of not more than Twenty Pounds. .

(3.) Any person who—

- i. Lays any pipe or wire to communicate with any pipe or wire belonging to the Local Authority without the consent in writing of the Local Authority ; or 30
- ii. Uses burners or lamps of larger dimensions or in any other manner than the contracts permits ; or
- iii. Supplies any other person with any part of the gas, electricity, or hydraulic or other power supplied to him by the Local Authority, without the permission of the Local Authority, 35

is liable to a penalty not exceeding Forty Shillings for every day such pipe or wire so remains, or such excess is committed, or such supply is furnished.

Any person who unlawfully abstracts, causes to be wasted or diverted, consumes or uses any gas, electricity, or hydraulic or other power, shall 40 be guilty of simple larceny, and punishable accordingly.

Local Authority may contract for lighting public places.
P.A., 245, 248.
T.B.A., 169.

257 The Local Authority of any Town, in place of exercising any of the aforesaid powers, may contract for any period not exceeding Seven years at any one time with any person or corporation for the supply of gas or oil or electricity or other material, and for providing 45 and fitting up lamps and lamp-posts and all other works necessary for the purpose of lighting any public places within the Town.

A.D. 1899

TITLE XI.—PUBLIC RECREATION AND INSTRUCTION, MARKETS,
AND SUNDRY WORKS AND PURPOSES.

- Div. I. Public Recreation and Instruction. (Sects. 258 to 270).
II. Markets and Weighing Machines. (Sects. 271, 272).
III. Sundry Works and purposes. (Sects. 273, 274).

Division I.—*Public Recreation and Instruction.*

- 258** Whenever in order to provide for the health, amusement, and instruction of the public, a Local Authority exercises any of its powers to purchase or otherwise provide land and buildings within or without the Area, to be used as pleasure-grounds, gardens, libraries, museums, music-halls, gymnasiums, or for any other purpose of enjoyment or recreation, the Local Authority may from time to time—
- i. Lay out, improve, and plant any such land :
 - ii. Furnish any such buildings with books, and works of nature or art, and with all such things as the Local Authority thinks fitting for such purposes :
 - iii. If it thinks fit, fix reasonable charges to be paid to the Local Fund for admission to any such land or buildings, subject, however, in the case of a library, to the provisions of the *next* following Section.
 - iv. Let any building, except a library or museum, upon such terms and conditions as may be prescribed with the right for the hirer or lessee to make charges for admission.

Places of public recreation may be provided.
T.B.A., 173.
Compare 38 and 39 Vict., c. 55, ss. 164, 165.

Provided that the rent fixed by the Local Authority may be varied according to the nature of the use or the object to promote which the premises are being used.

Power to let, &c.
See Sect. 265.

- 259**—(1.) In the case of a library supported or partly supported by means of a rate, or heretofore established under “The Public Libraries Act, 1867,” admission thereto shall be open to the public free of all charge ; but—
- (2.) No person who is not a contributor of at least Five Shillings a year (or such sum as the Local Authority may, by By-law, from time to time fix) to the funds of such library, shall be entitled to take books out of such library.

Where library rate struck, admissions to be free.
31 Vict. No. 35.
Lending books.

- 260** All lands, buildings, and things provided or acquired by any Local Body under any Act or enactment hereby repealed, or which by any provision of this Act devolves upon a Local Authority, for any of the purposes mentioned in Section *Two hundred and fifty-eight* of this Act, shall, for all the purposes of this Act, except as otherwise expressly provided, be deemed to have been provided under this Act by and be vested in the Local Authority of the Area constituted under this Act within which the same is situated.

Application of Act to places already established.

- 261** (1.) This Part of this Act shall apply—
- i. To all property granted or reserved by the Governor under the authority of Parliament as Public Recreation Grounds, or for any of the purposes mentioned in Section *Two hundred and fifty* of this Act :
 - ii. To all property already purchased out of moneys which have been provided by Parliament for the purchase of such

Application of Act.
Compare 52 Vict. No. 17. s. 3.

A.D. 1899.

Grounds, or the promotion of any of the aforesaid purposes :

- III. To all property which may hereafter be purchased out of moneys which have already been provided, or which may hereafter be provided, by Parliament for the purchase of Public Recreation Grounds, or for any of the aforesaid purposes :
- IV. To all property already purchased, or which may hereafter be purchased, out of moneys bequeathed or otherwise given by any person or persons for such Grounds or purposes :
- V. To all property already purchased, or which may hereafter be purchased, out of moneys obtained from any Two or more of the sources hereinbefore mentioned for such Grounds or purposes :
- VI. To all property which already, or which may hereafter be granted, devised, or otherwise given by any person or persons for such Grounds or purposes.

Not to apply to *The Queen's Domain* or *The Launceston Swamp*, or, until Proclamation under Sect. 18 to any ground now vested in Trustees under 52 Vict. No. 17.

(2.) But this Part of this Act shall not apply to the piece of land in the suburbs of the City of *Hobart*, containing Six hundred and thirty-four acres, or thereabouts, and commonly called *The Queen's Domain*; or to the piece of land in the suburbs of the City of *Launceston*, containing Seventy-two acres and one rood, or thereabouts, and commonly called *The Launceston Swamp*; or until the issue of a Proclamation under the provisions of Sub-section (3.) of Section *Eighteen* of this Act to any property vested in or under the care and control of any Trustees appointed or elected under "The Public Recreation Grounds Act, 1888," or of any other Trustees, or which the Governor shall exempt from the operation of this Act.

Recreation grounds to be vested in Local Authority.

(3.) Save as aforesaid, and as provided in the next Section hereto, all such property shall be vested in and be under the care and control of the Local Authority in whose Area the same is situate, or to whose Area the same may have been attached.

Public Halls, Recreation Grounds, and property subject to any Trust.

262—(1.) Property or moneys which have been, or may hereafter be devised or bequeathed or otherwise given or provided either in whole or in part by public subscription, for Public Halls, or as Public Recreation Grounds, shall continue subject to any Trust attached to any such devise, bequest, or gift, and to the control and management of the Trustee or Trustees appointed by the testator or donor, or otherwise howsoever.

Trustees may request Governor to issue Proclamation bringing such property fully under this Act.
Ib., s. 4.

(2.) But the Governor may, upon the request of any such Trustee or Trustees, by Proclamation, declare that upon a date therein mentioned, not being less than Two months after the date thereof, the property or moneys so vested as aforesaid shall become and thereafter shall remain subject only to the provisions of this Act.

(3.) Every such request shall be by petition signed by the Trustee or Trustees and addressed to the Governor, who shall cause the same to be gazetted Six times consecutively prior to the publication of the Proclamation and advertised not less than twice.

Effect of Proclamation under Sect. 18 (3).

"District" not subject to 52 Vict. No. 17; but may be constituted a Local District under this Act. See Sect.

263 (1.) When any Public Recreation Ground is, by Proclamation under the powers of Section *Eighteen* (3), transferred to a Local Authority—

- I. The District which may have been proclaimed, under Section Nine of "The Public Recreation Grounds Act, 1888," in respect to such ground, shall no longer be subject to that Act, but may be constituted a Local District under this

Act, although the same may not be included within one Area only, or the Governor may alter and redefine any such District by including therein or excluding therefrom any portion of any adjoining Area before constituting any Local District as aforesaid :

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II. Any Regulations made by the Trustees thereof, and in force at the time of the issue of such Proclamation, shall continue to apply to the same until altered or repealed under the powers of this Act.

Regulations continued.

10 (2.) "The Public Recreation Grounds Act, 1888," shall not apply to any Recreation Ground vested in a Local Authority.

52 Vict. No 17 not to apply to grounds vested in Local Authority.

264—(1.) The Local Authority may receive from any person donations and subscriptions to be applied in and towards any of the purposes mentioned in Section *Two hundred and fifty-eight* of this Act.

Donations may be received towards Recreation Grounds, Libraries, &c.

15 (2.) The Minister may receive from the Local Authority any sum of money voted by the Local Authority, or raised by public subscriptions or donations, or otherwise, for the purpose of increasing the amount of any sum of money provided by Parliament for the purchase of a Public Recreation Ground for the Area, and apply the same, together with the sum of money provided by Parliament, for the purchase of such a Public Recreation Ground, or for the purchase of any piece of land adjoining a Public Recreation Ground for the purpose of enlarging the same.

52 Vict. No. 17, s. 23.

Minister may receive money to assist in payment of ground. *Ib.*, s. 25.

25 265—(1.) The Local Authority may by regulation or otherwise fix a scale of charges for the use which is hereby authorised of any Public Recreation Ground for the purposes of any lawful game or exhibition of goods or public entertainment, or for any other purpose approved of by the Governor and so gazetted, and charge or permit to be charged for admission to such Recreation Ground during the performance of any such game or the holding of any such exhibition or entertainment, such sum of money as shall be fixed from time to time by the Local Authority.

Letting grounds and Regulations as to charges, &c. *Ib.*, s. 28.

35 (2.) The Ground shall be closed to the public when used for any such purpose, and also when used (as the Local Authority is hereby authorised to allow its use) gratuitously by any public charity or institution, or for any agricultural, horticultural or other show, or for any other public purpose, when such charges for admission to be paid to the promoters may be made as shall be approved by the Local Authority.

Granting use gratuitously. See 53 and 54 Vict. c. 59, Sect. 44.

40 (3.) No Ground in respect of the maintenance of which a Rate has been levied shall be so closed on a *Sunday*, or for Four days together, nor for more than Twelve days in any one year.

Limit upon closing grounds.

45 (4.) The pasturage of any Public Recreation Ground may be let by public tender on such terms and conditions as the Local Authority may prescribe for any period not exceeding One year, but so, nevertheless, that the public shall not be in anywise restricted in the use and enjoyment thereof.

Pasturage of grounds. Compare N.Z., 210.

266 All penalties recovered for breach of any Regulation or By-law governing any Public Recreation Ground under control of a Local Authority shall be paid to such Local Authority, and be applied, together with all moneys received for any charges made as aforesaid, in the planting, maintenance, and improvement of the Ground, or in enlarging the same by renting or purchasing adjoining land.

Moneys received from charges and penalties to be applied towards maintenance.

A.D. 1899.

Surplus from one ground may go to another.

Act to apply to pleasure resorts.
62 Vict. No. 5.

Temporary use of land as a pleasure resort may be accepted.

Restriction upon expenditure in such cases.
See Sect. 141.

Property in all moveable things to be in Local Authority; on foreshores, except, &c.; See Sect. 588 (17.)

on land open to the public for Twenty years;

on any pleasure resort, &c.

Powers of Sect. 179 applicable.

A way to foreshore may be acquired.

Foreshores may be improved.
Compare L.G.E., '94, Sect. 8 (2).
Bridges along foreshore.

Bands of musicians.
See 62 Vict. No. 60.

267 Any surplus of any moneys appropriated for the purpose of any Recreation or other Reserve may be expended in or towards the maintenance of some other Reserve controlled by the Local Authority.

268—(1.) The provisions of this Act as to Public Recreation Grounds shall apply to any pleasure resort proclaimed as such under 5 “The Defacement of Property Act, 1898,” and which may be placed under the control of the Local Authority by a Proclamation, or be vested in the Local Authority by the owner.

(2.) The Local Authority may accept the control of a piece of land, of which the owner is willing for a limited time to allow the use, as 10 a pleasure resort within the meaning of the said Act, and such land may be proclaimed under the said Act accordingly; but the owner shall be entitled to resume possession at the end of the time so limited.

(3.) But in any such last-mentioned case the Local Authority shall not expend any moneys in permanent improvements unless authorised 15 to do so by a majority of the votes of the Electors of the Area at a Poll taken specially on that question.

269—(1.) The property in all buildings, fences, walls, seats, trees, shrubs, ferns, grass, rock, stones, and sand—

i. On any foreshore within the Area, except as to the portions 20 thereof alienated from the Crown, or in possession of any Marine Board, or the subject of any demise made under the authority of an Act of Parliament; or

ii. On such portion of any mountain, valley, or other land in the Area, or within Ten miles of any boundary thereof, to 25 which the public have had access for a period not being less than Twenty years before any action under this Section is taken, but not when such access has been in terms of a grant, with right of resumption by the grantor; or

iii. On any pleasure resort, Public Recreation Ground, or other 30 land, which, under the provisions of this or any other Act, may be vested in the Local Authority for purposes of recreation,

shall be deemed to be in the Local Authority.

(2.) The same powers shall be exercisable in regard thereto as are 35 heretofore provided for in the case of Public Rights of Way, and the provisions of Section *One hundred and seventy-nine* of this Act shall apply, *mutatis mutandis*, to any property mentioned in this Section.

(3.) A Local Authority may exercise any of the powers of this Act to acquire and construct a way or footpath, giving access to any fore- 40 shore, and may undertake works to reclaim, preserve, or improve any foreshore.

(4.) A Local Authority may, with the consent of the Governor, construct a bridge for foot passengers or wheeled traffic to connect one part of a foreshore with another over any watercourse, except a river 45 navigable by vessels; but every such bridge constructed over any stream theretofore entered by boats shall be so constructed as to afford facilities for the passage of boats into the same.

270 The Local Authority of any Town may from time to time appropriate from the Local Fund such sum as the Local Authority 50 may think proper for the purpose of remunerating or assisting to maintain any band or bands of musicians who shall provide music in such pleasure grounds, Public Recreation Grounds, or other places as the

Local Authority may direct: Provided that such sum shall not in any one year exceed One hundred Pounds, nor be more than Five per cent. of the annual revenue falling to the Local Fund for the year, unless, by a majority of votes at a Poll taken for that purpose, the Electors of the Town authorise a larger annual expenditure.

A.D. 1899.

See Sect. 141.

Division II.—*Markets and Weighing Machines.*

271—(1.) A market may be established by the Local Authority of a Town, and notice of the opening thereof for public use shall be advertised not less than Ten days before the day of opening, and be also announced by printed handbills posted in conspicuous places within the Town.

Notice of opening to be given.
T.B.A., 139.
See Sect. 588 (6).

(2.) After the market is so opened, every person, other than a licensed hawker, who shall sell, offer, or expose for sale in any place within the Town, except in his own premises, or in the market, or in yards or premises licensed by the Local Authority under a market By-law, any articles or any cattle or other live stock in respect of which market charges are by this Act authorised to be taken, shall, unless he has paid the market charges thereon, and has either taken the article to the market or exhibited the same to the Clerk of the Market, be liable to a penalty not exceeding Forty Shillings.

Sales elsewhere than in market prohibited under a penalty not exceeding Forty Shillings.
T.B.A. 140.

(3.) A licensed hawker shall not be exempt from paying market charges.

58 Vict. No. 29, s. 7.

(4.) Every lease of a stall or standing in the market shall, as to the lessee thereof, be deemed within the Town to be a hawker's licence of the description mentioned in the Act of Council, intituled "An Act to provide for the Licensing of Hawkers and Carriers."

Licensed hawkers not exempt from charges.
T.B.A., 141

(5.) Any person may, upon paying the prescribed charge, require any vehicle, whether loaded or unloaded, to be weighed at a public weighing machine.

Lessee of stall or standing to be deemed a hawker.
6 Wm. IV. No. 7.
Weighing machines.

272—(1.) Tolls and dues to be paid by every person selling or offering for sale or exposing in any market of the Local Authority anything permitted by their By-laws to be sold or offered for sale therein, also the stallages, rents, and charges for use of any stall or standing therein, or of any premises outside any market provided by the Local Authority for the sale of animals, or for the use of any building, place, or machine provided by the Local Authority for weighing vehicles or goods, (all of which tolls, dues, stallages, rents, and charges are included in the term "market charges"), may be imposed, collected, and managed by the Local Authority, and shall be payable from time to time to the Collector or other person authorised by the Local Authority to receive the same.

Market charges may be imposed.
T.B.A., 136-138, 146.

(2.) The Local Authority shall cause a Schedule of their market charges to be printed, and exhibited in every market-place.

And shall be paid to authorised person.

(3.) The Local Authority may demise or let for any term not exceeding Twelve months all or any of such market charges, and also demise or let, for any term not exceeding Twelve months, any stall or standing in such market.

Schedule to be printed and exhibited.

Market charges may be let.
T.B.A., 142.

(4.) Every person demanding and taking a greater market charge than that authorised by the Local Authority is liable to a penalty not exceeding Forty Shillings.

Penalty for taking unauthorised charge.
T.B.A., 143.

(5.) If any person liable to pay any market charge so authorised do not pay it when demanded, the Local Authority or their lessee, or any person authorised by the Local Authority or their lessee to collect it,

Recovery of charges.
T.B.A., 144.

[Bill 1.]

A.D. 1899.

19 Vict. No. 8.

Disputes
respecting
charges.
T.B.A., 145.

may levy it by distress of all or any of the cattle, live stock, or other articles in respect of which such market charge is payable, or of any other cattle, live stock, or other articles in the market belonging to or under the charge of the person liable to pay such market charge, or the same may be recovered before any Two Justices upon a complaint 5 made and heard in accordance with the provisions of *The Magistrates Summary Procedure Act*, or in any Court having competent jurisdiction.

(6.) Any dispute concerning any such market charge may be determined by a Justice in a summary way, who may make such order 10 therein and award such costs to either party as to him may seem proper.

Division III.—*Sundry Works and Purposes.*

Authority, after
passing a Special
Resolution, to
procure land and
buildings for
public purposes.
R.M.A., 100.
T.B.A., 136, 170-
176.
R.A., '85, (13.).
P.A., 117.
Compare
38 and 39 Vict.
c. 55, Sects. 164,
165.

273 Subject to the provisions of this Act, the Local Authority may from time to time, after passing a Special Resolution in each case, purchase, erect, rent, or otherwise provide, either within the Area or 15 at a reasonable distance therefrom, not exceeding Ten miles from the chief post office, land and buildings to be used for or in connection with abattoirs, asylums, or homes for the destitute poor, baths, bathing-machines and bathing-houses on the shores of any river, lake, or sea, bores, botanical or other gardens, canals, cemeteries, convalescent 20 homes, dams, dips, and other appliances and methods for the destruction of pests, electrical works, experimental farms, ferries, flood-gates and flood-warnings, fords, gas-works, gymnasiums, hospitals and inebriate asylums, works for conservation of hydraulic and other power, landing-places, libraries, locks, markets, music-halls, noxious trade areas, offices, 25 parks, places of meeting for the residents, pounds, public clocks, pumps, quarries, gravel and sand pits, recreation grounds, reserves for trees, refrigerating works and works for cold storage, rubbish depôts, sanatoria, technical or agricultural schools, tramways, vermin-proof granaries at or near to railway stations, or ports, viaducts, washhouses, 30 water-courses, wayside seats and shelters for waiting passengers and drivers of vehicles, weighing-machines, weirs, wells, or other public purpose; and may provide the same respectively, with all necessary fences, walls, works, appliances, furniture, machinery, methods, and things, and control and manage and from time to time enlarge, renew, 35 and repair the same, and afford the use thereof respectively to the inhabitants of the Area or any persons on such conditions, either without fee or charge or for such reasonable fees or charges as the Local Authority may by By-laws prescribe:

Minister's consent
must be obtained
in certain cases.
Restrictions
where loan
necessary.

Works outside
Area ancillary
to Local
Authority's works.

Provided that the Local Authority shall not exercise any of the 40 powers hereby conferred beyond its Area without the consent of the Minister, nor exercise any power involving the raising of a loan without complying with the provisions of this Act as to loans.

274 The Local Authority may from time to time, after passing a Special Resolution, appropriate such portion of the Local Fund as the 45 Minister, with or without imposing conditions, may approve—

- i. Towards the construction or maintenance of any work outside the Area which is likely to conduce to the efficient construction or maintenance of any local work under the control of the Local Authority: or, 50
- ii. By way of an annual or other subsidy (for one or more years not exceeding Five) towards any of the works or purposes

Subsidies may be
granted where
undertaking is
not for private
profit;

mentioned in the *preceding* Section which may be undertaken in the Area by any person or persons upon and subject to the observance of such conditions as may be prescribed :

A.D. 1899.

5

Provided, that before such a subsidy is granted (if the work or purpose be for private profit), it is first sanctioned by the votes of a majority of the Electors at a Poll taken specially on the question.

Others as
authorised by Poll
of Electors.
See Sect. 141.

TITLE XII.—TRAMWAYS.

- Div. I. Constitution of Tramway Area. (Sects. 275 to 278.)
 II. Control and Construction of Tramways. (Sects. 279 to 285.)
 III. Working of Tramways. (Sects. 286 to 289.)
 IV. Powers of Railway Acts. (Sect. 290.)
 V. Rating, Loans, and Accounts. (Sects. 291 to 297.)
 VI. Way-leave for Private Tramways. (Sect. 298.)

Division I.—*Constitution of Tramway Area.*

275—(1.) The provisions of this Part of this Act may be applied in any Area, including the Area of a Joint Municipality, or in any Subdivision of an Area, or in any locality the boundaries of which can be clearly and conveniently defined.

Definition of
Tramway Area.
Compare
Q., 443-483.

(2.) When a proposed Tramway Area is included wholly within the Area of one Local Authority, the Electors having not less than One-third of the votes in the Area may by petition, describing the proposed Area, require the Local Authority to apply to the Governor for a loan under this Act.

Petition for
undertaking.

(3.) When a proposed Tramway Area forms the whole or part of the Areas of Two or more Local Authorities, the Electors having not less than One-third of the votes in a part of the proposed Tramway Area which is included wholly within the Area of one Local Authority, may petition the Local Authority having jurisdiction therein to apply to the Governor for a loan under this Act.

When Area
forms whole or
part of more
Areas than one.

(4.) Every signature to a petition shall be verified by the solemn declaration of some person who signed the petition. If any petition is unaccompanied by such declaration, it shall not be received.

Signatures to be
verified.

(5.) On due presentation the Authority receiving the petition shall cause a copy to be gazetted and advertised Three times at the least, and the last day it is so advertised shall be deemed to be the day of the publication of it.

Publication of
petition.

(6.) Every such petition shall be accompanied by—
 i. A description of the proposed Tramway Area :
 ii. Plans, sections, and specifications of the proposed Tramway :
 iii. An estimate of the cost of the same ; and
 iv. An estimate of the net revenue that may reasonably be expected to be yielded by the proposed Tramway.

Documents to
accompany
petition.

And a Local Authority may exercise such of the powers of this Act, or may authorise the exercise by the petitioners of such of those powers as may be necessary to the preparation of any of the aforesaid requirements.

Local Authority
may facilitate
preparation of
these documents
See Sect. 290.

(7.) A certified copy of such petition, description, plans, sections, specification, book of reference, and estimates shall be deposited in the office of every Local Authority having jurisdiction within the proposed Tramway Area, and shall be at all reasonable times open to the inspection of any Elector interested therein.

Certified copies
to be deposited.

A.D. 1899. . .
Demand of poll.

276— (1.) At any time within One month after the publication of the petition any Electors having in the aggregate Twenty votes in the proposed Tramway Area, or part thereof, as the case may be, may, by application to the Local Authority, require that the question whether the money shall be borrowed shall be submitted to the vote of 5 the Electors in the proposed Tramway Area, or such part thereof, as the case may be.

Poll may be taken.

See Sect. 566.

(2.) When such an application is made, the Local Authority shall direct that a Poll be taken of the Electors in the proposed Tramway Area, or such part thereof, as the case may be. The Poll shall be 10 taken, the result thereof shall be ascertained in manner, and the question decided, as is hereinafter prescribed as to proposed loans by Local Authorities.

Minister to submit petition to Governor.

277 In the event of no demand being made for a Poll within the time herein prescribed, or if, upon a Poll being taken, the number of 15 votes given in favour of the loan is not less than twice the number of votes given against the loan, then the Authority shall transmit the petition, and all documents relating to it, to the Governor, together with an application for a loan under the provisions of this Act.

The Governor shall consider the application, and may, if he thinks 20 fit, direct an inquiry to be held in the proposed Tramway Area, or may otherwise inquire as to the propriety of granting the application

Powers of the Governor.

278 The Governor may, by Proclamation—

- i. Define the Tramway Area, the boundaries of which may be the same as the boundaries of the Area described in the 25 petition, or may include or exclude lands not included or excluded in such description, respectively ; and
- ii. Approve of the plans, sections, specification, and book of reference of the proposed Tramway, with such modifications, if any, as appear to be expedient ; or 30
- iii. Reject the prayer of the petition.

Division II.—*Control and Construction of Tramways.*

Control of Tramway.
See Sect. 588 (17).

279 In any case where the Tramway Area defined by the Proclamation is not included wholly within the Area of one Local Authority, the Governor may constitute a United Municipality under the provisions of this Act, and may place under its sole control the construction, main- 35 tenance, use, and working of the Tramway and the regulation of the traffic thereon.

Communication with railways.

280 In every case where a Government railway passes through or forms one or more of the boundaries of a Tramway Area, the General Manager shall, upon the application of any Authority having control 40 of the Tramway, fix some place upon such railway, within or as near as may be to the limits of the Tramway Area, at which communication may be made between the Tramway and the railway with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereon ; and shall, without any expense to the said 45 Authority, make the junction, and do all such other acts and things as may be necessary for effecting such communication.

281 The Tramway shall be constructed and maintained in the manner following ; that is to say— A.D. 1899.

- i. The Two rails shall be laid at a distance of Three feet Six inches apart, or at such other distance apart as the Governor from time to time authorises or prescribes : Mode of construction prescribed.
- ii. The rails shall be of iron or steel, of the weight of not less than Forty pounds to the yard, or such other weight as the Governor from time to time authorises or prescribes.

Before the Tramway or any portion thereof is deemed to be completed and ready for traffic it shall be inspected by a competent engineer, acting under the authority of the General Manager, and such engineer shall certify that it has been proved to his satisfaction that the Tramway has been faithfully constructed of sound materials, and is safe and fit for public traffic.

282 No engine, carriage, wagon, or truck shall travel on the Tramway at a greater speed than at the rate of Twenty miles per hour, nor, where cattle-guards are used in place of gates, at a greater speed than at the rate of Five miles per hour while passing any crossing on a street in a Town, or more than Four miles per hour while passing through the streets of a Town. Speed.

283 Upon the application of any Local Authority, the General Manager— Supply of material, &c. by General Manager.

- i. May provide and supply to it all rails and other materials, articles, and things of every description which are requisite and proper for the due construction of the Tramway, and at a price agreed upon by and between him and the Authority ;
- ii. And shall convey to a railway station upon a Government railway which is situated within or is nearest to the Tramway Area, all rails, and all other materials, articles, and things of every description which are requisite and proper for the due construction of the Tramway ; and the amount which the Authority shall pay for the conveyance of the same shall not exceed one-half of the ordinary rate payable in respect of the conveyance of goods of similar description for an equal distance upon the Government railway. Conveyance of materials, &c.

284 Every Authority constructing a Tramway shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the Tramway ; that is to say— Works for benefit of owners.

- i. Such and so many convenient bridges, arches, culverts, and passages over, under, or by the sides of, or leading to or from, the Tramway as are necessary for making good any interruption to the use of the land through which the Tramway is made :
- ii. All necessary arches, tunnels, culverts, or other passages over, under, or alongside the Tramway, of such dimensions as to convey the water as clearly as before the construction of the Tramway from the lands lying along or affected by the Tramway, or as nearly so as may be.

All such works shall be made during the construction of the Tramway.

If any difference arises respecting the kind or number, dimensions or sufficiency of such works, or respecting the maintenance of them, the same shall be determined by the Minister.

A.D. 1899.

—
All powers of
Act applicable.
See Sects. 158,
161, 162, & 250.

285 Every Authority constructing a Tramway may exercise for that purpose any powers conferred by this Act upon a Local Authority in respect to any local work.

Division III.—*Working of Tramways.*

Power to enter
into agreements
for working, &c.

286 A Local Authority having control of a Tramway may enter into an agreement with any person for the maintenance, working, and control by such person of such Tramway.

Provided that every such agreement and every variation thereof shall be subject to the approval of the Governor, and to all regulations, conditions, and stipulations which he may think fit to make or impose.

Provided further that no such agreement shall be construed to repeal or otherwise affect any By-laws made under this Act with respect to Tramways.

Use of railway
wagons, &c.

287 Every Local Authority or person having control of a Tramway may use and employ upon the Tramway any such locomotives, motors, carriages, wagons, and trucks as they deem proper and necessary, and also all locomotives, carriages, wagons, or trucks which the General Manager may, without inconvenience to the traffic upon the Government railways, be able to place at the disposal of the Authority.

Provided, however, that the Authority shall be bound by any conditions or regulations which the General Manager thinks fit to impose or make with respect to the use and employment of such wagons and trucks by the said Authority.

Running powers
over railways.

288 In the event of communication being established between the Tramway and a Government railway, the General Manager may allow any wagons or trucks used in connection with the Tramway to travel on such railway, but subject always to such regulations and conditions as he thinks fit to make or impose.

Credit to be given
by General
Manager.

289 In the event of communication being established between the Tramway and a Government railway, and goods or live stock being conveyed to the railway by the Tramway and then being conveyed by the railway, the General Manager shall, until such time as the total amount of the loan, together with the interest accruing thereupon, has been paid, and no longer, give credit to the Authority in his books of account to an amount equal to Fifteen per centum of the money received by him for the conveyance of such goods or live stock by the railway in respect of the distance through which the same have been conveyed by the railway, but in no case in respect of any distance in excess of the distance the same were conveyed by the Tramway.

And the General Manager shall, on the First day of *January* and the First day of *July* in every year, until such time as aforesaid, pay the amount of such credits to the Treasurer, and the amount so paid shall be deemed to have been paid by such Authority under the provisions of this Part of this Act.

Division IV.—*Powers of Railway Acts.*

Exercise of
powers under
Railway Acts.

290—(1.) Subject to the provisions of the laws in force for the time being relating to the construction, maintenance, and management of railways, and to the approval of the Governor, every Local Authority

or United Municipality shall have power to prepare all necessary plans, sections, and books of reference, and shall have and may exercise in respect of the Tramway the same powers and privileges as are under those laws exercised by the Minister of Lands and Works or the General Manager of Railways in regard to any of the under-mentioned matters and things; that is to say—

- i. The carrying out of works required for the use and benefit of owners and occupiers of lands adjoining the Tramway :
- 10 ii. The running of trains propelled by steam or other motive power :
- 15 iii. The conditions under which passengers, goods, and live stock shall be carried on the Tramway :
- 15 iv. The prescribing of regulations governing the use of the Tramway for regulating and levying the tolls and charges, and the mode of conducting the traffic thereon :
- 20 v. The making and publishing of By-laws for enforcing the observance of such regulations ; and
- 20 vi. The enforcement of the penalties prescribed by the Railway Acts, Regulations, or By-laws in force for the time being.

(2.) And the Governor may by Proclamation extend any Section or portion of a Section of any of the following Enactments ; viz.—

- 25 “The Railway Construction Act, 1885,” Sections Six to Thirty-three, inclusive :
- 25 “The Cattle-guards Act, 1884 :”
- 25 “The Zeehan Railway Amendment Act, 1889,” Sections Six to Eight, inclusive :
- 25 “The Railway Management Act, 1891,” Section Five and Sections Ten to Sixty-six, inclusive—

to any undertaking by a Local Authority under this Part of this Act ; and in all such extensions the word “Tramway” shall be read in place of the word “Railway ;” and the Governor may by any such Proclamation declare that in place of the terms “General Manager” and “Minister,” as used in the said Acts, there shall be read “the Local Authority,” or some official of the Local Authority to be designated by the Governor.

(3.) All land and other property acquired by the Local Authority under this Act, or by virtue of any power conferred by the extension of any part of the aforesaid enactments, shall be held by the Local Authority in fee simple, or according to the nature of the estate acquired, but subject to the provisions of this Act.

Power to extend any portion of Railway Construction and Management Acts.

49 Vict. No. 41.
48 Vict. No. 3.
52 Vict. No. 56.
55 Vict. No. 40.

Land to vest in Local Authority. See Sect. 171.

Division V.—*Rating, Loans, and Accounts.*

291—(1.) As soon as practicable after the issue of the Proclamation defining a Tramway Area and approving of the construction of the Tramway, the Local Authority shall appoint a valuer or valuers to value the amount of enhancement of value which the Tramway, when constructed, will effect on the several rateable properties within the Tramway Area.

(2.) Notice in writing of every valuation and of the amount thereof shall be given to the ratepayers of the Tramway Area.

(3.) Every ratepayer affected by a valuation shall be entitled to inspect and take copies of the valuation with respect to the property of any other ratepayer as well as with respect to his own property.

(4.) If a ratepayer thinks himself aggrieved on the ground of error in the amount of the valuation with respect to his own or any other

Valuation to be made of properties within Tramway Area.

Notice of valuation to be given.
Inspection of valuation.

Right of appeal.

A.D. 1899.

62 Vict. No. 33.

Tramway Rate
on all properties
benefited.

Fresh valuation.

Alternative
rating.Recovery of
Rates.

property, he shall have the same right of appeal therefrom for Thirty days after the date of the notice of valuation, as in the case of assessment under "The Assessment Act, 1898;" and the same proceedings shall be had upon such appeal, as nearly as may be, as by that Act is provided in the case of appeals, with this addition, that in the event of any person appealing against the valuation of another person's property he shall give notice of the appeal to such person, as well as such notice as in the said Act is provided.

(5.) For the purpose of repaying the amount of the loan, and the interest from time to time accruing thereupon, the Local Authority shall, when and so often as the same is required, make and levy a Tramway Rate upon all rateable property within the Tramway Area upon which it appears by the valuation that any enhancement of value will be effected by the Tramway, and of such an amount as will be sufficient to provide in each year the annual instalment of principal and interest payable in respect of the loan. And such Rate shall be apportioned upon the several rateable properties in proportion to the amount of enhancement of value which it appears by the valuation will be effected upon them respectively.

(6.) A fresh valuation shall be made once in every Five years.

292 In place of adopting the method of valuation and rating provided for in the last preceding Section, the Electors, in their petition to the Local Authority, may request that the rating shall be made on the values shown in the Assessment Roll, and that the Rate shall be levied as Special Rates are by this Act directed to be levied.

293 Such Tramway Rate shall be paid and borne by the ratepayers of the Tramway Area, and the same proceedings may be taken for the recovery thereof as in the case of other Rates made under this Act.

Loans.

Loans for
Tramways.Amount that may
be advanced.Amount borrowed
not to limit other
borrowing powers
except when
under Sect. 292.Interest for Three
years to be added
to loan.

295 Loans for Tramway purposes shall be subject to the provisions of this Act as to Loans, except as varied by this Part of this Act, and except that—

- I. The total amount advanced by way of loan to a Local Authority or United Municipality for the construction of any one Tramway, and the providing of plant and rolling-stock in connection with the same, shall not exceed a sum equal to Three thousand Pounds for every mile of the length thereof :
- II. The amount of any loan for a Tramway, except in cases where the provisions of Section *Two hundred and ninety-two* hereof are adopted, shall not be taken into consideration in estimating the amount that may be borrowed under the succeeding provisions of this Act :
- III. For a period of Three years from the date of the authorisation of a loan, the Authority shall not be required to pay to the Treasurer any moneys by way of interest upon such loan ; but the interest payable from time to time upon the same shall be added to the amount of the loan, and shall become and be deemed to be a part of the loan, notwithstanding that by the addition of such interest the loan exceeds the total amount mentioned in the last preceding Section but one of this Act :

- iv. From and after the expiration of the period of Three years in A.D. 1899.
the last preceding paragraph mentioned, the Authority
shall pay to the Treasurer on the First days of *January*
and *July* respectively in each year the interest payable in
5 respect of the loan, and such interest shall continue to be
payable until the total amount of the loan has been repaid :
v. The term of a Tramway loan shall be deemed to begin at the
end of Five years from the date of its authorisation.
- Then to be paid
half-yearly.
- Repayment of
principal after
Five years.

Accounts.

296 Every Authority having control of a Tramway shall cause to
10 be kept separate and distinct accounts of all moneys raised by Tramway
Rates and received from the working of the Tramway, which shall be
charged—

Account of
Tramways.

- i. With the principal money and interest required to be paid in
respect of the loan advanced for the construction of the
15 Tramway ; and
ii. With the cost of maintaining the Tramway in good repair, and
of providing and maintaining plant and rolling-stock, and
of carrying on the traffic thereon.

297 If at any time the Tramway becomes so profitable that the
20 receipts are more than sufficient to defray all the expenses connected
with it, and also the moneys due and payable to the Treasurer in
respect of principal money and interest required to be paid in respect
of the loan, the surplus so arising shall be applied by the Local
Authority, as follows :—

Surplus, how
applied.

- 25 i. Until the total amount of the loan, together with the interest
accruing upon it, has been paid, it shall be paid to the
Treasurer, and shall be applied by him in liquidation of
the loan :
30 ii. After the total amount of the loan, together with the interest
accruing upon it, has been paid, it shall, when Rates
have been levied under the powers of Section *Two
hundred and ninety-one* hereof, be applied in or towards
35 repayment of all Rates that may have been paid to any
Authority in respect of rateable property in the Tram-
way Area upon which the Tramway Rate was levied,
in exoneration of the ratepayers who have made such
payments, until the amount of the surplus so applied is
40 equal to the amounts received on account of the Tramway
Rate, with interest at the rate of Four per centum per
annum, calculated at simple interest, from the respective
dates of payment :
iii. Subject to the last Two preceding paragraphs, it shall be
paid to the Local Fund or Common Fund, as the case
may be.

Division VI.—*Way-leave for Private Tramways.*

- 45 298 The Local Authority of any Town or Shire may, after passing
a Special Resolution for that purpose, with the consent of the Governor,
grant permission for any term not exceeding Fourteen years to any
person or company to lay down, construct, and maintain a private
Tramway or Railway on, along, or across any public road within the
50 Area, subject to such terms and conditions as may be recommended by
R.A., 85 (11).

[Bill 1]

A.D. 1899.

Electors' consent
in certain cases
necessary.

the Local Authority and approved by the Governor ; and such terms and conditions shall, within One month after the same shall have been approved by the Governor, be gazetted and advertised ; but no such permission shall confer any right to act as a public carrier, nor be construed as any monopoly of the use of the road for such purpose, unless sanctioned by the votes of the majority of the Electors of the Area through which the Tramway runs, at a poll conducted in accordance with the provisions of this Act.

TITLE XIII.—VEHICLES, PLACES OF PUBLIC ENTERTAINMENT, EXTIRPATION OF PESTS AND NOXIOUS WEEDS, REGISTRATION OF DOGS, AND MISCELLANEOUS.

- Div. I. Provisions applying to all Vehicles. (Sect. 299 to 305.)
 II. Vehicles for carrying Passengers—Licensing, &c. (Sect. 306 to 313.)
 III. Drivers' Licences. (Sect. 314.)
 IV. Fees, Cab-stands, and Fares. (Sect. 315 to 317.)
 V. Various obligations of Proprietors and Drivers of Vehicles carrying Passengers. (Sect. 318 to 341.)
 VI. Vehicles for carrying Goods. (Sect. 342 to 347.)
 VII. Places of Public Entertainment. (Sect. 348 to 356.)
 VIII. Extirpation of Pests and Noxious Weeds. (Sect. 357 to 359.)
 IX. Registration of Dogs. (Sect. 360.)
 X. Miscellaneous. (Sect. 361 to 364.)

Preliminary.

Application to
Cities.

299 The provisions of all the Sections in Title XIII., except Sections *Three hundred and fifty-eight* and *Three hundred and sixty-four*, apply to the Cities of *Hobart* and *Launceston*.

Division I.—Provisions applying to all Vehicles.

Existing Licences,
&c., continued.
P.A., 169.

300 Every Licence relating to Vehicles or Drivers granted under the provisions of *The Police Act* shall, subject to provisions for suspension or revocation of any Licence herein contained, be continued until the Thirty-first day of *December* following the commencement of this Act ; but every Vehicle and Driver shall otherwise be subject to this Act, and all Regulations or Notices as to Stands and Fares shall continue until others are respectively prescribed.

Record of
Licences to be
kept.
See Sect. 320.
P.A., 47, 121,
128.

To be open to
inspection.

Return of
Licences to be
made to Com-
missioner of
Police.
P.A., 58.

All Vehicles left
on Roads between
sunset and sunrise
to have a lamp.
P.A., 63.

301—(1.) Particulars of the facts stated in every Licence issued in the Area, and of every endorsement made on a Licence as hereinafter provided, shall be entered by the Clerk in a book to be provided for that purpose, in which book shall be contained columns of places for entries to be made of any offence committed by the Proprietor or Driver of any Licensed Vehicle, and any person may at any reasonable time inspect such book without payment of any fee. 25.

(2.) A Return of all Licences issued under the provisions of this part of this Act relating to Vehicles shall be furnished to the Commissioner of Police on the last day of each month by the Clerk of the Area where the same are granted.

302 If any Vehicle is left or placed upon a public place after sunset and before sunrise, except on clear moonlight nights, without having a lamp properly lighted and kept lighted till sunrise fixed upon that part of the Vehicle which is nearest the centre of the public place, the person who so leaves or places such Vehicle, or the Proprietor thereof, is liable to a penalty not exceeding Forty Shillings. 35.

303—(1.) Every Vehicle for carrying passengers which plies for hire, or is driven after sunset or before sunrise, shall, except on clear moonlight nights, be provided with proper lamps, which shall be lighted and kept lighted, and be carried on the front of such Vehicle while plying for hire or being so driven, under a penalty not exceeding Forty Shillings, to be paid by any Proprietor or Owner or Driver of any such Vehicle.

A.D. 1899.

Vehicle carrying Passengers to have lamps after sunset.
P.A., 53, 158.

(2.) This Section extends to private as well as public Vehicles.

Private Vehicles included

304 If the Proprietor or Driver of any Licensed Vehicle is brought to answer any complaint made against him by any person other than a Constable, touching any offence alleged to have been committed by such Proprietor or Driver against this Act, and such complaint is afterwards withdrawn or dismissed, or if the defendant is acquitted, the Justice may, if he think fit, order and award that the person making such complaint shall pay to the defendant such costs of making or preparing for his defence, and also such compensation for his loss of time and for the time of his witnesses, if any, in attending such Justice touching such complaint as to such Justice seems reasonable.

If a complaint against a Proprietor or Driver dismissed complainant to pay costs.
P.A., 165.

305 Any person—

- i. Causing or permitting any Vehicle to be driven in any public place by; or
- ii. Who puts a Vehicle or Animal drawing the same temporarily in charge of a person not of the full age of Twelve years: is liable to a penalty not exceeding Forty Shillings.

Persons under 12 not to be in charge of Vehicle.
See Sect. 314, 328.
P.A., 182.
Sect. 314, (1.).

Division II.—*Vehicles carrying Passengers.*

306 Every Vehicle whatsoever (except Tram Cars and Railway Carriages) used or let for the purpose of carrying (between extreme points to be specified in the Licence) passengers for hire, each of whom in fact pays or is charged a separate fare for his seat, shall be deemed a Coach within the meaning of this Act, and shall be licensed in the Town or one of the places within a Shire from or to which it is intended to travel.

All vehicles used as coaches to be licensed.
P.A., 39, 40.
Definition of coach.
P.A., Sect. 4.

A Coach Licence shall be in the form in the Schedule (16.).

Schedule (16.).

307 Every other vehicle whatsoever (except Tram Cars and Railway Carriages) used or let for the purpose of carrying passengers for hire, each of whom in fact pays or is charged a separate fare for his seat, shall be deemed an Omnibus within the meaning of this Act, and shall be licensed in the Town or one of the places within a Shire from or to which it is intended it shall ply.

Vehicles used as Omnibuses.
Compare P.A., 88, Sect. 2.
Ib., Sect. 5.

An Omnibus Licence shall be in the form in the Schedule (17.).

Schedule (17.).
P.A., 88.

308 Every Vehicle (except a Tram Car, Coach, or Omnibus) used for the purpose of standing or plying for passengers for hire within the limits of this Act (which term in this part of this Act relating to Vehicles includes any Town and an Area any boundary of which is within Five miles of the principal post office for the time being of any such Town) shall be deemed a Cab within the meaning of this Act, and shall be licensed in the Town in which it is so used.

Cabs to be licensed.
Definition of limits of this Act.
P.A., 119.
P.A., Sect. 118.

A Cab Licence shall be in the form in the Schedule (18.).

Schedule (18.).

A.D. 1899.

Cabs already
licensed in a
Town may be
licensed in another
for half fee.

Driver need not
be twice licensed.

Livery carriages
to be licensed.

Schedule (19.).

Vehicles to be
separately licensed
by the Justices.
P.A., 40, 121.
P.A., 88, (3.)
Chairman to be
one, if a Justice
of the Peace.

Definition of
"Proprietor."
P.A., 119, 40, 123.
P.A., 3, 88.

Application to be
made by
Proprietor.

Vehicles to be
exhibited to
licensing Justices.
P.A., 41.

Licence except
for Livery
carriage to state
number of
passengers to be
carried.

Licence fee to be
paid.

Justices may
order inspection
of Vehicle.
P.A., 126.

Duration of
Licences.
P.A., 44.

Number of
Passengers Coach
or Omnibus to be
deemed to be
constructed to
carry.
P.A., 42.

309 Whenever a Cab has been licensed in one Town and the Proprietor thereof desires to have the right of plying for hire upon any stand in another Town, he may be permitted to do so upon producing the Cab Licence to the Chairman of such other Town and paying a fee equal to one-half the fee that may be payable in such other Town for a Cab Licence therein. Thereupon the Chairman shall cause an endorsement to be made on the Licence of the payment of the said half-fee and that the Cab mentioned in the original Licence is permitted to ply for hire in such other Town until the Thirty-first day of *December* next ensuing.

It shall not be necessary in such case for the Driver to be again licensed.

310 Every Vehicle for carrying people (other than a Coach, Omnibus, Cab, or Cycle) let out for hire in any Town shall be deemed a Livery Carriage within the meaning of this Act, and shall be licensed therein as a Livery Carriage according to the form in the Schedule (19.).

311—(1.) Every such Licence shall, except as hereinafter provided, apply to one Vehicle only, and may be granted by two or more Justices of the Peace sitting in Petty Sessions in any such Town or place as aforesaid (or in respect to Cab or Livery Carriage Licences, only in any Town) in which such Justices reside, of whom one shall be the Chairman of the Area, if he be a Justice—

I. Upon the written application of any Proprietor (which term in this part of this Act includes every person who is solely or in partnership with any other person concerned otherwise than merely as a Driver in keeping, using, or letting to hire any Tram-car, Coach, Omnibus, Livery Carriage, or Cab) setting forth the name and surname and place of abode of every such Proprietor of or person concerned in keeping the Vehicle :

II. After the Vehicle, which shall bear a distinguishing number, has been exhibited to the Justices granting the Licence, who shall, except in the case of a Livery Carriage, state in the Licence the said number and the number of Passengers which may with safety and convenience be carried by such Vehicle :

III. And upon the payment of the respective fee fixed by this Act to be paid in every such case.

(2.) The Justices granting any Licence as aforesaid may cause any inspection of the Vehicle they consider necessary to be made to satisfy them that it is in a fit and proper condition for public use.

(3.) A Licence shall be in force (except during the suspension thereof, and unless the same is forfeited) until the Thirty-first day of *December* then next, but may be renewed from year to year.

312 No Coach or Omnibus shall be deemed to be constructed to carry a greater number of Passengers than the same will contain at one time, exclusive of the Driver but including any Conductor or Guard, upon proper seats provided for that purpose, allowing for every Passenger, on an average, a space convenient for sitting thereon of Sixteen inches, measuring in a straight line lengthwise on the front of each seat : Provided always, in the case of children under Seven years of age, Two shall be accounted as equal only to One adult person, and so on in the same proportion ; but any One such child only, or any child or children in the lap, shall not be reckoned at all.

- 313**—(1.) Every Cab licensed to carry not less than Six persons (without being licensed as an Omnibus) may at any stand exhibit a card or board in some conspicuous place on the outside of the Cab, whereon shall be printed or painted in letters not less than Two inches high and of a proportionate breadth the words "Running as an Omnibus to _____," (*naming the place to which such Cab is to go*), and also the fares for each passenger for the whole distance; and thereupon any person may require such Cab so running as an Omnibus to start within Five minutes of his entering it for the place so named in the notice, but the Driver may take as many passengers as he pleases at the same separate fare not exceeding the number his Cab is licensed to carry.
- (2.) Notwithstanding such Cab may be so running as an Omnibus it may (unless some person is seated in it or has engaged a seat therein as an Omnibus) be hired as any other Cab may be, and thereupon the aforesaid card or board shall be removed, and shall not be exhibited during such hiring.

A.D. 1899.

Certain Cabs may run as Omnibuses.

Cab running as an Omnibus may be engaged as an ordinary Cab.

Division III.—*Driver's Licence.*

- 314**—(1.) Every Driver of a Coach, or Omnibus, or Cab, and every hired Driver of a Livery Carriage shall not be less than Seventeen years of age, and shall be licensed as herein provided by the same Authorities as are by this Act respectively authorised to license their said respective vehicles.
- (2.) A Coach or Omnibus Driver's Licence shall be in the form in the Schedule (20.), but it shall not be necessary for the same Driver to hold both a Coach and Omnibus Driver's Licence.
- (3.) A Cab Driver's Licence shall be in the form in the Schedule (21.), and shall entitle the holder to drive any Livery Carriage, and also any Cab belonging to the same Proprietor.
- (4.) A Livery Carriage Driver's Licence shall be in the form in the Schedule (22.), and shall entitle the holder to drive any Livery Carriage or any Cab belonging to the same Proprietor.
- (5.) Every such Licence (except in the case of a Livery Carriage Driver's Licence and except as aforesaid) shall apply to One vehicle only, and may be granted—
- 35** i. Upon a Requisition signed by the applicant for the same (in such form as may be prescribed), setting forth the proper name and surname, age, and place of abode, and endorsed by the Proprietor of the vehicle such person is intended to drive, and accompanied with such certificates of his age and ability to drive, and of his good character, as shall be satisfactory to the Justices;
- 40** ii. And upon payment of the prescribed fee.
- (6.) Any person applying for a Driver's Licence who makes or causes to be made any false representation in regard to his name, age, or abode, or who does not truly answer all questions asked of him in relation to his application; and any person to whom reference is made in regard to such application who wilfully makes any misrepresentation with the intention of deceiving the Justices, is liable for any such offence to a penalty not exceeding Five Pounds; and any Justice may, upon proof of any such offence, revoke any Driver's Licence which has been granted under any such false representation.
- (7.) Every Driver's Licence shall be in force, except during the suspension thereof, or unless forfeited, as hereinafter provided, until the Thirty-first day of *December* then next, and no longer.

Drivers not to be under 17 years of age.

P.A., 79, 6.

To be licensed by the respective Authorities licensing their Vehicles.

P.A., 48, 128.

Form of Cab Licence.

Form of Livery Carriage Licence.

Application for Licences.

P.A., 49.

P.A., 79 (7.)

P.A., 129

Penalty for misrepresentation.

A.D. 1899.

Driver may
change his
Vehicle.Compare
P.A., 131.

(8.) When any Licensed Driver desires to drive any other Cab, Coach, or Omnibus, than that mentioned in his Licence, he shall produce his Licence, with a written request, specifying the number of such other Vehicle, and endorsed by the Proprietor thereof, to the Chairman of the Town, who shall endorse on the Licence the number of the Vehicle 5 which is thereafter to be driven by such Driver, but it shall not be necessary to comply with this Section for an occasional or temporary alteration in the Driver of a Licensed Vehicle.

Division IV.—*Fees, Cab-stands, and Fares.*

Licence fees.

P.A., 40.

P.A., '88, 3.

P.A., 48, 122, 128.

315 There shall be payable to the Clerk of the Local Authority of the Area, upon the issue of any of the aforesaid Licences, to form part 10 of its Local Fund, the fees following—

- I. For every Coach Licence, the sum of Twenty Shillings:
- II. For every Omnibus Licence, the sum of Thirty Shillings:
- III. For every Cab Licence, such amount, not exceeding Two Pounds, as may be from time to time fixed by the Council 15 of the Town in which the Cab is to ply :
Provided, that a proportionate reduction shall be made in every such fee if the Licence is issued later than the First day of *March*, for the proportionate part of the year which has then elapsed : 20
- IV. For every Livery Carriage Licence, the sum of Ten Shillings; but if any Proprietor takes out a greater number of Licences than Five, he shall pay the sum of Five Shillings only in respect of every Vehicle licensed beyond the first Five.
- V. For every Driver's Licence, the sum of Five Shillings: 25

And no Licence shall have any effect unless it have upon it the receipt of the Clerk for the fee payable thereon.

Fares to be fixed
and published
every year.
P.A., 142.

316 The Local Authority of every Town in which Cabs ply for hire shall, in the month of *November* in every year,—

- I. By a Regulation, to be by them made, gazetted, and advertised, 30 prescribe the respective fares (by time or distance) to be charged to passengers by such Cabs, within the limits of this Act, after the First day of *January* then next following.
- II. Such fares may be varied by the Local Authority from time 35 to time before the expiration of the year succeeding the publication of the Regulation, but, from the date fixed by any such Regulation until a fresh one is made, shall be deemed to be the Cab fares that may be lawfully taken and demanded in any such Area. 40
- III. One-half more than the fares so fixed shall be paid for any period during which a Cab is employed between the hours of Ten o'clock at night and Six o'clock in the morning.
- IV. The hirer may elect to pay his fare either by time or distance, but in no case shall it be payable partly by time and partly 45 by distance.
- V. The Driver shall not be compelled to wait at any place to which he may have conveyed the passenger unless such passenger expresses his desire to return in the Cab, and the Driver shall then wait without charge a period not 50 exceeding Five minutes for every mile of the distance traversed *in toto*.

May be varied
during the year.

One-half more
fare after Ten
o'clock.

Fare either by
time or distance.
P.A., 146.

Driver not to wait
unless ordered.
P.A., 146.

- vi. No return fare shall be demanded unless the Hirer returns in the Cab, when he shall pay for such return journey one-half of the fare chargeable in the first instance. A.D. 1899.
- 5 vii. The Driver shall not be compelled to go beyond the limits of this Act, but when he does so, unless any specific agreement has been made, the fare shall be regulated in proportion to distance or time according to the Regulation as to fares then in force: No return fare unless passenger returns, when half-fare to be paid. P.A., 145.
- 10 viii. The Hirer shall refund to the Driver all tolls or ferry dues which the Driver may pay while conveying him. Driver not compelled to go beyond limits of this Act. P.A., 147.
- 317** The Local Authority of any City or Town may from time to time, by a gazetted notice— Ferries, &c., to be paid by Hirer. P.A., 144.
- 15 i. Appoint stands or places therein where Cabs may stand and ply for hire. And may appoint special stands for holidays and other special occasions for use by Cabs and Omnibuses: Cab-stands to be appointed. P.A., 140.
- 20 ii. Regulate the number of Cabs or Omnibuses permitted to stand upon any such place at one time, and the manner in which such Cabs shall stand thereupon, and the time to be allowed between the departure of Omnibuses for the same place.

Division V.—*Various Obligations of Proprietors and Drivers of Vehicles carrying Passengers.*

- (a) Obligations of Proprietors, Sects. 318 to 322.
 (b) Obligations of Drivers, Sects. 323 to 330.
 (c) Joint Obligations of Proprietors and Drivers, Sects. 331 to 338.
 (d) Disputes between Hirers and Drivers of Cabs, Sects. 339 to 341.

(a.) *Obligations of Proprietors.*

- 318**—(1.) Every Proprietor who—
- i. Keeps, uses, or lets to hire a Cab within the limits of this Act; For keeping an unlicensed Vehicle: P.A., 38, 120.
- 25 or
- ii. Keeps or uses any Coach or Omnibus; or,
- iii. In any Town keeps, uses, or lets to hire any Livery Carriage, unless there is a Licence then in force for every such Vehicle.
- (2.) And every Proprietor who, when applying for a Coach Licence, omits to state the name of any Proprietor of the Coach for which the Licence is applied, or untruly sets forth therein the name of any
- 30 person as a Proprietor thereof, is liable to a penalty not exceeding Twenty Pounds. And in any proceeding under the first Sub-section of this Section it shall not be necessary to prove that such Licence has not been obtained or is not in force, but the onus of proof that such Licence has been obtained and is in force shall lie upon the
- 35 Defendant. Onus of proof on Defendant.
- 319**—i. Every Proprietor of any Coach or Omnibus who fails to keep painted in some conspicuous place upon the back thereof in words at length in conspicuous letters not less than One inch at the least in height and of a proportionate breadth, and of a colour distinct from that of the ground on which the same are so painted, so as to be distinctly legible, To be painted on Coach and Omnibus, Proprietors name and passenger accommodation. P.A., 45.
- 40 (a) The name of the Proprietor or one of the Proprietors thereof; and

A.D. 1899.

On Coach and
Omnibus and
Cab, the number
thereof.
P.A., 160.

(b) The number of Passengers which the same is licensed to carry inside and outside respectively;
II. And the Proprietor of any Coach, Omnibus, or Cab who fails to keep the number stated in the Licence thereof painted white on a black ground, or *vice versâ*, in figures 5 of not less than Two inches in length and of a proportionate breadth, affixed to open view upon the back thereof, and also legibly written or printed on a card placed open to view on some part of the inside thereof; is liable for each such offence to a penalty not exceeding Five Pounds. 10

Changes of proprietorship and place of abode of Proprietor of Cab to be notified within Seven days.
P.A., 124, 125.

320—(1.) Every Proprietor shall, within Seven days—

I. After he has become newly possessed of a Licensed Cab; or,

II. After change in his place of abode,

give notice in writing of the change of proprietorship or change of abode, as the case may be, to the Chairman of the Area, stating therein his proper name and surname and his place of abode, and produce the Cab Licence to the said Chairman, who shall thereupon endorse, date, and sign a memorandum specifying the particulars of the change.

Who is to be deemed Proprietor for purposes of this Act.

(2.) Every such endorsement shall, from the date thereof, be considered as part of the Licence, and any person who appears by any such endorsement to be the Proprietor of the Cab mentioned in such Licence shall be deemed to be the Proprietor for the purposes of this Act. 20

(3.) Any Proprietor who refuses or neglects so to give notice of every such change, or so to produce the Licence of the Cab, or willfully omits to specify truly in any such notice his proper name or place of abode, is for any such offence liable to a penalty not exceeding Five Pounds. 25

Liabilities of Proprietors for faults of Drivers.

Proprietors to attend or produce Drivers when required.
P.A., 162.

321—(1.) When a complaint is made before a Justice of the Peace against the Driver of a Licensed Cab for any offence committed by him against the provisions of this Act, it shall be lawful for such Justice, if he thinks proper, forthwith to summon the Proprietor of the Cab personally to appear or to produce the Driver thereof to answer the complaint. 30

Penalty for non-compliance.

(2.) If any such Proprietor neglects or refuses personally to appear or produce such Driver according to such summons, without a reasonable excuse for his neglect or refusal to be allowed by the Justice before whom he ought to appear according to the summons, he is liable to a penalty not exceeding Forty Shillings, and so from time to time as often as he is so summoned until he appears, or such Driver has been produced by him. 35

Proprietor to give notice to the Driver.

Penalty upon Driver for non-compliance.

(3.) Every Proprietor so summoned to appear, or to produce the Driver of any Licensed Cab, shall cause a notice to be given to the Driver of the time and place at which he is so required to attend; and if after any such notice any Driver, without reasonable excuse to be allowed by the Justice, neglects or refuses to attend at the time and place at which he is so required to attend, he is liable to pay a penalty not exceeding Forty Shillings. 45

Not necessary to issue a second summons if first disregarded.

(4.) If such Proprietor neglects or refuses to appear or to produce such Driver when so summoned, it shall not be necessary to issue a second summons unless the Justice thinks proper so to do; but it shall 50

be lawful for him to proceed to hear and determine the complaint in the absence of the said Proprietor and of the Driver, or either of them and upon proof of such offence by the oath of any credible witness to give judgment against such Proprietor or Driver, as the case may be, for the penalty incurred by reason of such offence. A.D. 1899.

(5.) Whenever in any of the aforesaid cases the Driver does not appear or is not produced by the Proprietor of the Cab, then the said Proprietor is liable to every penalty as if he were the Driver of the Cab at the time the offence is committed.

If Driver not produced Proprietor liable to fines.

P.A., 163.

10 (6.) If the Driver or Conductor or Guard of any Coach, Omnibus, or Livery Carriage is in any case unknown, or does not satisfy within One week the amount of any penalty imposed upon him, any Proprietor of such vehicle shall be liable to the payment of every such penalty in all respects as if he had personally been convicted of the offence, but may (unless he had notice of the proceedings) upon 15 depositing the amount of such penalty and costs, and also the fees for a second hearing, apply to any Justice for a re-hearing of the case, and the Justice may thereupon, upon being satisfied as to the facts, appoint a day for that purpose, and cause notice to be given thereof to the 20 complainant; and upon such re-hearing the Justice may make such order in the premises and also as to the costs of the proceedings as to him seems just.

Proprietor of Coach, Livery Carriage, &c. liable for fines if Driver or Guard does not pay.

P.A., 57.

Proprietor, without notice of proceedings, may apply for re-hearing.

(7.) Any Proprietor who pays any penalty or costs under such circumstances shall be entitled upon complaint made before any 25 Justice of the Peace to recover the same from the Driver or Conductor or Guard, together with such further expenses as the said Justice thinks fit.

Which may be recovered from Driver with further expenses. P.A., 163.

(8.) When a complainant is unable to ascertain the name or identify the Driver, it shall be sufficient in his information or complaint to state 30 the number of the Cab which the person he so complains of was driving at the time the offence was committed; and any summons issued by any Justice thereupon may be directed "To the Driver of Cab No. ,," as the case may be, and the service of the summons upon any Proprietor of such Cab shall be deemed and taken a good 35 and sufficient service upon the Driver thereof.

If Driver not known, summons served on Proprietor good service on Driver. P.A., 164.

322—(1.) Any Justice of the Peace before whom the Proprietor of any licensed Vehicle is convicted of any offence may, if such Justice in his discretion thinks proper, suspend for any period not exceeding Two months the Licence granted for such Vehicle.

Licences of vehicles may be suspended or forfeited. P.A., 132.

40 (2.) Any Two Justices of the Peace may, if they think proper, upon proof that the Proprietor of any Licensed Vehicle has been convicted of felony, or upon the conviction before them of any such Proprietor for a second offence against this Act, if such Justices in their discretion think proper, revoke the Licence granted for such Vehicle.

45 (3.) Notice of every such suspension or revocation shall be given as hereinafter provided.

Notice to be given. See Sect. 335.

(b) *Obligations of Drivers.*

323—(1.) Every person acting as Driver of any Coach, Omnibus, Cab, or Livery Carriage, unless he has obtained a Licence so to do, and such Licence is then in force, is liable to a penalty not exceeding 50 Five Pounds; and in any proceeding for any offence against this Section it shall not be necessary to prove that such Licence has not

Penalty for driving without a Licence. P.A., 47, 120, 127.

[Bill 1.]

A.D. 1899.

Cabs may ply on
Sundays.
P.A., 167.

Cab Driver to
give notice of
change of abode.
P.A., 130.

Drivers refusing
to take passen-
gers (unless
engaged) or
breaking engage-
ments.
P.A., 157.

Not waiting for
fare when so
ordered.
P.A., 146.

What is deemed
plying for hire.
P.A., 141.
See Sect. 331 (3).
Penalty for
Driver disobey-
ing Stand
Regulations.
P.A., 140.

Not keeping card
of fares.
P.A., 150.

Refusing a fare.
P.A., 161.

Property left in
Cabs to be de-
posited at Police
Office.

And particulars
entered in a book.

been obtained or is not in force, but the onus of proof that it has been obtained and is in force shall lie upon the Defendant.

(2.) The Driver of any Licensed Cab may stand and ply for hire with such Cab and drive the same on the Lord's day, any law to the contrary notwithstanding. Any Driver who so stands and plies for hire shall be liable and compellable to do the like work on the Lord's day as such Driver is by this Act liable or compellable to do on any other day of the week.

(3.) Every Driver of a Cab who changes his place of abode shall, within Two days next after such change, give notice thereof in writing to, and produce his Licence to, the Chairman of the Area, who shall endorse thereon and sign a memorandum of the particulars of such change; and any Licensed Driver who changes his place of abode, and refuses or neglects so to give notice, or so to produce his Licence, or wilfully omits to specify truly in any such notice his new place of abode, is liable to a penalty not exceeding Twenty Shillings.

324—(1.) Every Driver of a Cab—

- i. Who, whilst plying for hire without lawful excuse, to be determined by the Justice before whom the matter is heard, refuses or neglects to convey any person desirous of hiring such Cab (unless it has been hired by some other person); or,
- ii. Who, having agreed with any person to take him as a fare at any specified time, or from any specified place, without lawful excuse, delays, neglects, or refuses so to do; or,
- iii. Who neglects or refuses to wait with his Cab for a passenger, who, having been conveyed therein, has expressed his desire to return in the same, is for any such offence liable to a penalty not exceeding Five Pounds.

(2.) Unless actually hired, a Cab in any public place within the limits of this Act is deemed to be plying for hire.

325 Every Driver of a Cab who is convicted of any of the offences next mentioned is liable to a penalty of Forty Shillings; that is to say—

- i. Failing to comply with any particular prescribed in any *Gazette* Notice as to Stands; or,
- ii. Not having and not producing on demand a card or paper on which shall be legibly written or printed the fares for the time being prescribed; or,
- iii. Refusing, if required by any person hiring his Cab, to drive it to any place to which he is so required to drive the same within the limits of this Act, unless he has a reasonable excuse, to be allowed by the Justice before whom any such matter is brought.

326—(1.) The Driver of a Cab wherein any property whatever is left by any person shall, within Four days next after the same has been so left, carry such property, if not sooner claimed by the owner thereof, in the state in which he finds it, to the nearest Police Office, and there deposit and leave the same with the Police Officer in charge, or be liable to a penalty not exceeding Twenty Pounds.

(2.) The Police Officer shall forthwith enter in a book, to be kept at the said Office for that purpose, the description of the property, and

the name and address of the Driver who brings the same, and the date when it is brought. A.D. 1899.

(3.) The property shall be delivered to the person who proves to the satisfaction of the Chairman of the Area that he is the owner, and pays all expenses incurred, together with such reasonable sum to the Driver who deposited the same, as with reference to the value of the property in question the Chairman awards. Owner may claim within a year.

(4.) If the property is not claimed by and proved to belong to some person within one year after the same has been deposited (having been advertised in such manner as the Chairman may direct), it shall be delivered up to the Driver who deposited the same, provided he applies for it within One month next after the expiration of the said One year. If not so claimed to be returned to Driver if applied for. See Sect. 588 (13), XI., XII.

(5.) In default of such application by the Driver within the time limited aforesaid, the Chairman shall cause such property to be sold or otherwise disposed of, and the proceeds thereof paid into the Local Fund. If not applied for to be sold. P.A., 151.

327 Every Driver of a Coach or Omnibus—

- i. Who allows any Passenger to be carried upon any Luggage placed on the roof thereof; or
 - 20 ii. Upon which the number of Passengers being carried is greater than the total number of Passengers or than the number of inside or outside Passengers respectively specified in and allowed by the Licence for such Vehicle; or
 - 25 iii. Who drives such Vehicle while any Luggage carried on the roof thereof is at any time so placed as in any part thereof to exceed Ten feet Nine inches from the ground,—
- is liable for every such offence to a penalty of Five Pounds.

Provision against overloading Coaches and Omnibusses. Driver liable. P.A., 46.

328 Every Driver of any licensed Vehicle which is in any public place or at any place of public resort or entertainment who is not, whether such Vehicle be then hired or not, either by himself or by some other competent person acting for him, attendant upon the Horses and Vehicle of which he is the Driver, is liable to a penalty not exceeding Forty Shillings.

Drivers to be in attendance on their Vehicles and horses. P.A., 159.

329 If the Driver of any licensed Vehicle is intoxicated whilst acting as Driver, or by wanton or furious driving injures or endangers any person in his life, limb, or property, or drives furiously, or refuses or neglects to drive such Vehicle with all reasonable and proper expedition, or by loitering, or by any wilful misbehaviour, causes any obstruction in any public place, or quits the box of any Vehicle without delivering the reins into the hands of some competent person, or before some competent person has been placed at the horses' heads, or permits any Passenger to drive a Coach or Omnibus, or quits his Vehicle without reasonable occasion, or for a longer time than such occasion requires, or suffers any person in a state of intoxication to be carried by any Coach or Omnibus, or having become intoxicated to remain therein or thereon, or for the purpose of taking up or setting down a Passenger, or except in case of accident or other unavoidable necessity, stops such Vehicle opposite to the end of any street, or upon any place where foot-passengers usually cross the carriage-way, or whilst acting as such Driver behaves in a riotous or unseemly manner, or makes use of any obscene, threatening, indecent, insulting, or abusive language, or in any other manner misconducts himself, or if any Driver, or the Conductor or Guard of any Coach, neglects to take reasonable care of any luggage carried or to be carried thereby, every such person so

Punishment of certain offences committed by Drivers. P.A., 55, 152.

A.D. 1899. offending is liable for every such offence to pay a penalty not exceeding Five Pounds.

Driver's Licences may be suspended or forfeited.
P.A., 50, 133.

330—(1.) Any Justice of the Peace before whom the Driver of any licensed Vehicle is convicted of any offence, may, if such Justice in his discretion thinks proper, suspend for any period not exceeding Two months the Licence of such Driver.

(2.) Any Two Justices of the Peace may, if they think proper, upon 10 proof that any Driver has been convicted of felony, or upon the conviction before them of any such Driver for a second offence against this Act, revoke his Licence.

Effect of suspension or revocation.
P.A., 54, 139.

(3.) Every Driver shall, during any such suspension or revocation, of which notice shall be given as hereinafter provided, be deemed to be 15 a person not licensed to drive a licensed Vehicle.

(c) *Joint obligations of Proprietors and Drivers.*

Allowing any person but hirer to ride in a Cab;
P.A., 154.

331—(1.) Every Proprietor or Driver of a Cab who—

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I. While it is hired as a Cab, permits or suffers any person to ride or be carried in or by such Cab without the consent of the hirer; or

Prevents No. of Cab being taken;
P.A., 155.

II. Molests or opposes, or by any means endeavours to prevent any person in or from taking or noting the number of such 25 Cab, or by word of mouth gives or declares to any person a wrong number as or for the number thereof,

is liable to a penalty.

is liable for every such offence to a penalty not exceeding Five Pounds.

Penalty for carrying more than authorised number of persons in a Cab.
P.A., 153.

(2.) Every Proprietor or Driver of a Cab who carries in or by such Cab a greater number of persons than authorised by the Licence for 30 the same, is liable to a penalty not exceeding Five Pounds for every person he so carries over such authorised number.

(3.) Every Proprietor or Driver of a Cab who—

Penalty for refusing to give way, &c.
P.A., 156.

I. Unless actually hired is found with his Cab standing or loitering in a public place other than at an appointed 35 stand; or

II. Who stands or plies for hire with such Cab, or suffers the same to stand or ply for hire, across any road, or alongside of any other Cab or two in a breadth, or refuses to give way if he conveniently can to any other Cab or other Carriage, 40 or obstructs or hinders the Driver of any other Cab in taking up or setting down any person into or from such other Cab, or wrongfully in a forcible manner prevents or endeavours to prevent the Driver of any other Cab from being hired; or

45

III. Demands a higher fare than is for the time being prescribed; or

For over-charging.
P.A., 142.
See Sect. 339.

IV. Receives such a higher fare;—

Excess fare received to be refunded.
P.A., 143.

is, for every such offence, liable to a penalty not exceeding Forty Shillings; and in the last case shall also repay the excess fare, and be 50 further liable in default of immediate payment of such excess, and of the penalty awarded against him to be committed to prison by any Justice of the Peace for any term not exceeding One month unless payment be sooner made.

Proprietor liable if Driver unlicensed.
P.A., 131.

(4.)—I. Any Proprietor of a Cab who permits or suffers any person 55 to drive it, unless such person has obtained a Licence so to do, which is then in force; or

Driver also who drives another Cab.

II. Any Driver who drives any Cab other than that mentioned in his Licence, except it be another owned by the same Pro-

prietor, or in any such endorsement as aforesaid, except it be another Cab belonging to the same Proprietor, or except it be for a Proprietor (who is also Driver) of one Cab only and who is incapacitated by illness—

5 is liable to a penalty not exceeding Five Pounds.

A.D. 1899.

Exceptions.

332 In any proceeding against the Proprietor or Driver of any licensed Cab for any offence against this Act, the onus of proof that such Cab was at any particular time actually hired shall lie upon such Proprietor or Driver.

Proof of being hired to lie upon Defendant.
P.A., 168.

10 **333** Any Justices authorised by this Act to license Vehicles, or the Chairman of any Town or Shire in which a Cab plies for hire, or in which Livery Carriages are let out for hire, or through which a Coach, Tram Car, or Omnibus passes, may cause an inspection to be made as often as deemed necessary of any such Vehicle or Tram Car, or of any
15 horses used in drawing the same; and if any such Vehicle or Tram Car, or any horse used in drawing the same, is at any time in a condition unfit for public use, the Justices or Chairman shall give notice in writing accordingly to the Proprietor or one of the Proprietors of such Vehicle or Tram Car, which notice shall be personally served or
20 delivered at his place of residence; and if, after notice as aforesaid, any Proprietor uses, employs, or drives such Vehicle or Tram Car, or uses or employs such horse whilst in a condition unfit for public use, or if any Proprietor refuses to allow such inspection as aforesaid, any Justice may, upon complaint in that behalf made, in a summary way, suspend
25 the Licence granted for such Vehicle for any period not exceeding Two months, or any Two Justices may revoke the said Licence.

Tram Cars, Vehicles, and Horses may be inspected from time to time, and if found unfit for use Licence suspended or revoked.
P.A., 51, 136.

334 Every Proprietor or Driver who after such notice uses, employs, lets to hire, or drives any such Vehicle, Tram Car, or Horse, shall be liable to a penalty not exceeding Three Pounds for every day that he
30 so uses, employs, or drives such Vehicle or Tram Car or such Horse, and in default of payment may be imprisoned for any period not exceeding One month.

Penalty for using Tram Car, Vehicle, or Horses unfit for use.
P.A., 52, 137.

335 Whenever under the powers herein contained any Justice or Justices of the Peace suspends or revokes any Licence, notice of suspension or revocation, signed by the said Justice or Justices, and in such
35 form as he or they think fit, shall be given to the person named in the Licence as the Proprietor of the Vehicle, or to the Driver, as the case may be, or be left for him at the place mentioned in or upon such Licence as the place of his abode; and in case such Proprietor or
40 Driver has quitted such place, or the same is a false or fictitious place of abode, then the said Justice or Justices shall cause such notice to be posted up in some public place at the office of the Local Authority, which shall be deemed good and sufficient notice of such a suspension or revocation to all intents and purposes

Notice of suspension or revocation of Licence to be given.
P.A., 53, 138.

45 **336** If the Proprietor or Driver of any Licensed Cab shall at any time be convicted of any offence against the provisions of this Act relating to Cabs, having been twice previously convicted under the said provisions, or under the similar provisions in *The Police Act*, the Licence held by such Proprietor or Driver at the time of such third
50 conviction shall thereupon become and be absolutely void.

Cab Licence forfeited after Three convictions.
P.A., '79 (8).

Every person whose Licence shall have become void as aforesaid shall for One year thereafter be incapable of receiving or holding a similar Licence under this Act.

A.D. 1899.

Licences to be
produced when
required.
P.A., 134.

337—(1.) Any Justice of the Peace or Superintendent of Police, or the Clerk or Inspector of the Area, may, for the purpose of examining the same, require the Proprietor of any licensed Vehicle to produce the Licence for the same, or may require any licensed Driver to produce his Licence. 5

(2.) Every person refusing or neglecting to comply with any such requirement is liable to a penalty of Forty Shillings.

Disputes between
Proprietors and
Drivers.
P.A., 135.

338 In case of any complaint or dispute between the Proprietor of any licensed Vehicle and the Driver thereof in respect of the amount of earnings, or the sums of money the Driver has engaged to pay day by 10 day to such Proprietor, or in respect of injury, damage, or loss which has arisen through the neglect or default of such Driver to the property of such Proprietor entrusted to his care, or of penalties, forfeitures, or expenses which have been incurred by the Proprietor through the misconduct of the Driver, or respecting wages or reward alleged to 15 be due to such Driver and to be improperly withheld by such Proprietor, or in respect of any sum of money deposited by the Driver in the hands of the Proprietor, or in any other case of dispute or complaint between the Proprietor of any such Vehicle and the Driver thereof, upon complaint made in a summary way to any Justice of the Peace 20 by the Proprietor against the Driver, or by the Driver against the Proprietor, the said Justice shall inquire into and determine the same, and order such compensation to be made to either party as to such Justice seems proper.

(d.) *Disputes between Hirers and Drivers of Cabs.*

Agreement to pay
more than legal
fare not binding.

339—(1.) No agreement to pay more than the prescribed fare shall 25 be binding on the Hirer of a Cab, and he may, notwithstanding any such agreement, refuse on discharging the Cab to pay any sum beyond such prescribed fare.

Recovery of
excess fare paid.
P.A., 143.
See Sect. 331 (3).

(2.) If the Hirer pays to any Proprietor or Driver, whether in pursuance of such agreement or not, a sum exceeding the prescribed 30 fare, he shall be entitled on complaint made against such Proprietor or Driver in a summary way before any Justice of the Peace to recover the excess so paid.

Disputes as to
distance to be
determined by
Justices, and
expense thereof
paid as costs.
P.A., 148.

340 Any question touching the distance the Driver of a Cab is entitled to charge may be determined on a complaint in that behalf 35 preferred before any Justice or Justices of the Peace; and any expense, not exceeding Forty Shillings, necessarily incurred in ascertaining such distance shall be deemed to be costs, and be paid as such by the party against whom a decision is given by such Justice or Justices.

Provides for
persons hiring
Cabs refusing to
pay fare.
Compare
P.A., 149.

341 If any person does not pay the Proprietor or Driver of any 40 Cab the sum due to him for the hire thereof, or any toll or ferryage paid by such Driver, or if any person defaces or in any manner injures any Cab, such Proprietor or Driver may recover in a summary way before any Justice of the Peace any sum so due to him for his fare, or for any toll or ferryage paid by him, or for any damage sustained to 45 his Cab.

Division VI.—*Vehicles carrying Goods.*

A.D. 1899.

342—(1.) The provisions of this and the Five following Sections apply to Vehicles used for the carriage of goods, all and every kind of which vehicles are in the same Sections included in the term "Cart."

Application of
Sects. 342 to 347.
Interpretation of
"Cart."

(2.) Every Owner of a Cart shall cause to be painted on some
5 conspicuous part of the off-side thereof, before the same is used in any
public place, the initial letters of his Christian name and his surname,
and the place of his trade or abode, at full length in large legible
letters in white upon black, or black upon white, not less than One
inch in height and of a proportionate breadth, and shall continue the
10 same legible thereupon so long as it is used in any public place.

Owners of carts,
&c. to have their
names painted on
the off side.

(3.) Every such Owner failing to comply with the requirements of
this Section is liable to a penalty of not more than Forty Shillings.

Penalty.

(4.) Any person who in any public place acts as Driver of a Cart as
to which the requirements of this Section are not complied with, and who
15 refuses to tell or discover the true Christian and surname and place of
trade or abode of the Owner thereof, is liable to a penalty of not
more than Forty Shillings.

Penalty for
Driver refusing
Owner's name.
Compare
P.A., 61.

343—(1.) Every carter who plies for hire within any Town with a
Cart who does not, after being approved of by the Chairman, register
20 his name and place of abode with the Clerk, and pay as Licence Fee
such sum not exceeding One Pound (to form part of the Local Fund),
as for the time being is fixed by the Local Authority, is liable for every
such offence to a penalty of not more than Five Pounds.

Vehicles carrying
goods which
ply for hire in
Towns to be
licensed.
P.A., 170.

(2.) The Licence to be issued to such Carter, according to the form
25 in the Schedule (23), shall be in force until the Thirty-first day of
December following the date thereof.

Licence.

(3.) Every Licensed Carter who does not keep legibly painted in
letters not less than One inch in length and of a proportionate breadth
upon the right or off-side of his Cart his name and place of abode, the
30 number of his Licence, and the words "Licensed Carter," is liable to
a penalty for every such offence of not more than Forty Shillings.

Carter to paint
particulars upon
vehicle under
penalty of Forty
Shillings.

(4.) Any person not being licensed as aforesaid who plies with a
Cart having thereon the words "Licensed Carter," whereby it appears
that such Vehicle belongs to a person duly licensed as last aforesaid,
35 shall on conviction forfeit and pay for every such offence the sum of
One Pound.

Fine of One
Pound for
personating a
Licensed Carter.

344 The Chairman may from time to time, by a gazetted notice,
appoint proper places within any Town to be used as stands upon
which the licensed Carters may ply with their Carts for hire, and may
40 from time to time annul or alter any such notice as he sees fit; and
every Carter who draws up or stations his Cart at any other place than
one of such appointed stands, in order to ply for hire, is liable to a
penalty for every such offence of not more than Forty Shillings.

Appointment of
Stands.
P.A., 172.

Penalty.

345 The Local Authority of any Town may, in the month of
45 *January* in every year, by Regulations to be by them made and
gazetted—

Local Authority
to determine the
rates and dis-
tances of Carts
and Parcel
Delivery Carts.
Compare
P.A., 173.

1. Fix the several and respective rates to be charged by any
licensed Carter for the conveying of goods or other articles,
distinguishing (if the Local Authority think it expedient
so to do) the rates to be charged by Parcel Delivery
50 Carters from those of other licensed Carters, and fix and

A.D. 1899.

regulate the distance to which such licensed Carters respectively shall be liable to go, and the said rates to vary and alter from time to time, and other rates to fix and establish in lieu thereof.

Penalty.

II. Such rates shall be deemed to be the rates which from and 5 after such publication may be lawfully taken and demanded by licensed Carters.

Disputes as to distance.
P.A., 173.

III. Any Carter who takes or demands any higher rates than those prescribed, or who refuses or neglects between the hours of sunrise and sunset to carry a good and sufficient load, or 10 to employ his Horse and Cart when thereunto required, (unless he be then actually hired by some other person) is liable for every such offence to a penalty of not more than Forty Shillings.

IV. If any complaint is brought before any Justice touching the 15 distance for which any licensed Carter is entitled to charge, such distance may be determined by such Justice as incident to the cause, and any necessary expense, not exceeding Forty Shillings, which such Justice thinks fit to incur for ascertaining the same shall be paid as costs by the 20 party against whom a decision is given by such Justice.

Punishment of Carters found guilty of dishonest and improper conduct.
P.A., 174.

346 Any Two Justices may deprive of his Licence any Carter who upon complaint made before them is found guilty of dishonest or improper conduct, or in lieu thereof inflict a penalty not exceeding 25 Five Pounds.

Carts to carry lamps after sunset.

Lamp to be carried on off side.
P.A., 62.

347 All Carts driven or standing, after sunset and before sunrise, along or in any public place, shall, except on clear moonlight nights, be provided with at least One proper Lamp, which shall be carried on the off or right side of such Vehicle, and shall be lighted and kept lighted while such Cart is so standing or being driven under a penalty 30 not exceeding Forty Shillings, to be paid by the Proprietor or Driver thereof.

Division VII.—*Places of Public Entertainment.*

“Public Entertainment.”

Compare

P.A., 84.

Public entertainments prohibited in unlicensed places.

P.A., 85.

See Sect. 588 (9.) VII. and IX.

348 The expression “Public Entertainment” includes any performance, entertainment, or exhibition of any kind.

349 If any person acts, represents, or performs, or causes or pro- 35 cures any public entertainment to be acted, represented, or performed, whether such acting, representation, or performance is gratuitous or for hire, gain, or reward, in any premises whatsoever not licensed under this Act, to which admission is procurable or procured by payment of money or by tickets either transferable or not transferable, or by any 40 other means, promise, token, or consideration, as the price, hire, or rent of admission, or of places, seats, or boxes therein for the day, week, month, or year, or for any less or longer time; and if the owner or occupier of any premises, not licensed under this Act, takes or receives, or causes or procures to be taken or received, any money, 45 goods, or valuable thing whatsoever, by way of rent, fee, or reward, for the use or hire thereof for the purposes of any public entertainment, or permits or suffers the same to be so used and applied, every person so offending is liable for every such offence to a penalty not exceeding Fifty Pounds.

350 Before any Licence for keeping a place of public entertainment is delivered to the Licensee, a Recognizance in the form in the Schedule (24.) shall be entered into before any Two Justices of the Peace by him in the sum of Fifty Pounds, with Two sufficient sureties in the sum of Twenty-five Pounds each; and any Two Justices of the Peace may enquire into any default made in any of the conditions of such Recognizance, and may either order the Licensee to forfeit and pay a penalty not exceeding Fifty Pounds, or declare that the sum in which such Recognizance is acknowledged is forfeited, and that such Licence is void.

A.D. 1899.

Licensee to enter into a Recognizance with sureties.
P.A., 88.

351 If any person in any Town or Urban District, or within Twenty miles of any Town or Urban District, keeps any premises whatsoever for public dancing, music, or other amusement of the like kind, unless the same is licensed under this Act, such person shall forfeit and pay a penalty not exceeding Fifty Pounds.

No person to keep any place for dancing, music, &c. unless licensed.
P.A., 89.

352—i. Licences for keeping places of public entertainment, which shall be in the form in the Schedule (25.); and
ii. Licences for keeping any premises for public dancing, music, or other amusement of the like kind, which shall be in the form in the Schedule (26.);
each to be in force for any period not more than One year from its date, may be granted in any Town or Shire upon application to and approval by the Local Authority in every case by the Chairman.

Issue of licences.
P.A., 86, 90.
Schedules (25.) (26.).

353 There shall be paid to the Clerk of the Town or Shire, to form part of the Local Fund, in respect of such Licences, the fees following respectively; that is to say—

Fees for Licences.
Compare
P.A., 87, 91.

i. For a Licence for keeping a place of public entertainment in any Town or Shire such sum not exceeding Two Pounds as may be fixed by the Local Authority thereof for the issue of the Licence;
ii. For a Licence for keeping any premises for public dancing, music, or other amusement in any Town or Shire, such sum not exceeding One Pound as may be fixed by the Local Authority thereof for the issue of the Licence.

354 There shall be affixed and kept up in some conspicuous place over the outer door or entrance of all premises licensed as aforesaid an inscription in large capital letters, not less than Two inches in length and of proportional breadth, in a colour distinct from the ground on which it is painted, the words following "*Licensed pursuant to The Local Government Act, 1900.*"

Inscription on Licensed Houses.
P.A., 92.

355 Every unlicensed Premises wherein any public entertainment is acted, represented, performed, or done, or any exhibition is exhibited, or which is kept or used for any dancing, music, or other amusement of the like kind, shall be deemed a disorderly premises, and it shall be lawful for any Policeman, by warrant under the hand of the Chairman of the Area or any Justice of the Peace, to enter any such premises and to turn out all persons found therein.

Police empowered to clear out unlicensed places.
Compare
P.A., 93.

356 Any person who appears, acts, or behaves himself as master, or as the person having the care or management of any such disorderly premises, shall be deemed to be the keeper thereof, and shall be liable

Definition of keeper of unlicensed premises, &c.
P.A., 94.

A.D. 1899.

to punishment as such, notwithstanding that he is not the legal owner or keeper thereof.

Division VIII.—*Extirpation of Pests and Noxious Weeds.*

Power to declare pest.
See "pests,"
Sects. 5, 588 (8.),
and 611.

357—(1.) The Governor may from time to time, by notification published in the *Gazette*—

- i. Declare any animal, insect, fungus, matter, or thing to be a pest within the meaning of this Act: 5
- ii. Define the locality affected by the pest:
- iii. Alter the boundaries of such locality:
- iv. Declare the locality free from the pest:
- v. Revoke any previous notification. 10

Local Authority may order extirpation of noxious weeds.

Compare Tas., 224-232.

Weeds on reserves under control of Local Authority.

Weeds to be declared a nuisance by By-law. Sect. 588 (7.).

Compare Tas., 233.

Notice to abate such nuisance.

(2.) A Local Authority may cause the extirpation and destruction of any noxious weed or plant growing within the Area, and for that purpose may, subject to the following provisions, enter upon and dig and break up the soil of any unoccupied Crown lands, public reserves, or private lands within the Area. 15

(3.) It shall be the duty of the Local Authority to extirpate and destroy any pest or any such weed or plant found existing upon any road or reserve under the control of the Local Authority.

(4.) Before exercising the powers as to weeds or plants hereinafter in this Section conferred, the Local Authority shall, by a By-law passed for that purpose, declare such weed or plant to be a noxious weed or plant, and to be a nuisance within the meaning of this Act. 20

(5.) When any pest or any such noxious weed or plant is found existing upon any public reserve not under the control of the Local Authority, or upon any land within the Area (not being unoccupied Crown lands), the Local Authority shall cause to be served upon the occupier or person in charge thereof, or, if there is no occupier or person in charge, upon the owner, a notice requiring him to extirpate and destroy the pest, weed, or plant within a period from the service of the notice to be stated thereon, but not to be less than One month. 25 30

If occupier or owner fails, Local Authority may enter land and abate nuisance.

Expense recoverable from parties

(6.) If at the expiration of such period the pest or weed or plant has not been extirpated and destroyed, the Local Authority may forthwith enter upon such reserve or land, and extirpate and destroy any such weed or plant that may be found thereon.

(7.) Any reasonable expense so incurred by the Local Authority in extirpating and destroying any such pest or weed or plant shall be a charge upon the land on which it existed, and shall be recoverable—

- i. If the land is a public reserve, from the Trustees or other persons in charge thereof; or
- ii. In all other cases, from the occupier thereof; or, if there is no occupier, then (except in the case of unoccupied Crown lands) from the owner, 40

in same manner as overdue rates.

Treasurer liable for nuisance on Crown lands.

in the same manner as by this Act Rates due and in arrear may be recovered from the occupiers or owners of rateable property.

(8.) The cost of abating any such nuisance upon unoccupied Crown lands or upon any such public reserve as aforesaid, when there are no Trustees or other persons in charge thereof, shall be defrayed by the Treasurer out of moneys appropriated by Parliament for that purpose: Provided, that the sanction of the Treasurer shall be obtained before any such cost is incurred. 45 50

Procedure may be repeated.

(9.) The procedure provided in this Section may be repeated by the Local Authority from time to time upon any default on the part of any owner or occupier.

(10.) Subject to the provisions of any law relating to the extirpation and destruction of any pest or noxious plant or weed, the Local Authority may from time to time make By-laws directing the owners or occupiers of property within the Area to adopt such means as may be prescribed therein to that end.

A.D. 1899.

By-laws may prescribe method of extirpation.

(11.) Provided that any occupier required to extirpate any pest or weed or plant, or to pay the expenses of extirpating any pest or weed or plant to the Local Authority, and whose term is less than Five years, may make a complaint under *The Magistrates' Summary Procedure Act* to any Two Justices of the Peace, who, upon hearing the owner, if he attends, and upon consideration of the particulars of the tenancy and the benefit to the respective parties of such extirpation, may make such order as to them seems just in regard to the apportionment of the expenses between the occupier and owner, and any share thereof made payable by the owner shall be recoverable from him by the occupier in the same way as the owner's share of Rates is hereby made recoverable.

Occupier may appeal to Justices to compel owner to contribute.

See Sect. 111 (4.).

358 For the purposes of "The Rabbits Destruction Amendment Act, 1893," the Shires and Shire Councils to be constituted under this Act shall take the place of the Municipalities and Municipal Councils referred to in the said Act: Provided that the Governor may by Proclamation, upon Petition from any such Shire Council, define portion or portions only of the Area of the Shire to be a District or Districts for the purposes of the said Act and of "The Rabbits Destruction Act, 1889," and thereupon the rest of the Shire shall be exempt from the operation of the said Acts respectively.

Shires & Councils to take place of Municipalities and Councils under 57 Vict. No. 22.

Power to limit operation of Rabbit Acts to portion of a Shire.

53 Vict. No. 42.

359—(1.) The Governor may, upon petition of a majority of the Members of a Local Authority, by Proclamation declare that—

Provisions as to Fruit Districts and Fruit Boards under "The Codlin Moth Act, 1888."

i. The Area or some portion of the Area of the said Local Authority to be defined in the Proclamation shall be a Fruit District under "The Codlin Moth Act, 1888;" and,

52 Vict. No. 16. See Sects. 517 to 529, 590.

ii. That the Local Authority of the Area shall be the Board for such Fruit District within the meaning of the said Act; or,

Compare Sect. 66, 52 Vict. No. 16.

iii. In cases where an existing Fruit District under that Act is included in such Area, declare that the Local Authority thereof shall be the Board as aforesaid of the said Fruit District.

See Sects. 18 (9.), 110.

(2.) Upon the issue of such Proclamation the District therein named and the Local Authority of the Area as the Board thereof shall be subject to all the provisions of "The Codlin Moth Act, 1888," save that the Board shall not be elected or re-elected thereunder.

Division IX.—*Registration of Dogs.*

360—(1.) Any person keeping a Dog more than Four months old—

Dogs over Four months old to be registered every year.

i. For Fourteen days in any Town or Shire without causing a description of such Dog to be registered; or,

See Sect. 588

ii. Without annually renewing such Registration as herein provided,

(1. VIII.) P.A., 23.

is liable for every such Dog to a penalty of not more than Forty Shillings.

(2.) Proof that the Dog has not been kept Fourteen days, or that it is not Four months old, shall lie upon its owner or keeper.

(3.) A Dog is registered by delivering to the Clerk of the Area in which it is intended to be kept (or to some other person, if any,

Manner of registration. P.A., 26.

A.D. 1899.

Schedule (27.).

appointed by the Local Authority for that purpose), a description of the Dog in the form in the Schedule (27.), with a declaration thereunder written to the truth thereof under the hand of the owner or keeper of the Dog, or of some person in that behalf duly authorised, and on payment of the sum of Five Shillings, to form part of the 5. Local Fund of the Area, except the Registration is made after the month of *October* and before the month of *April* in any registration year, when the fee shall be Two Shillings and Sixpence.

Certified copy of
Registration to be
given.
P.A., 27.

(4.) A receipt for the fee paid, with a certified copy of the aforesaid description, shall be given to the person making the Registration by 10. the Clerk or other person who receives the same; and if upon being so required he refuses or neglects to do so he is liable to a penalty of not more than Five Pounds.

Penalty for
misdescription
of dog.
P.A., 25.

(5.) Any person wilfully inserting or omitting or wilfully causing or permitting to be inserted or omitted in any such description any 15. matter or thing contrary to the truth or for the purpose of concealing the same, is liable to a penalty of not more than Two Pounds.

Registration
endures till
Thirtieth *April*.
P.A., 24.

(6.) Every such Registration is in force from its date until the Thirtieth day of *April* next ensuing and no longer, but a Registration made in the month of *April* in any year remains in force until the 20. Thirtieth day of *April* in the year next ensuing.

Registered Dogs
may be removed
from one Area to
another.
P.A., 28.

(7.) Any person taking a registered Dog into any other Area shall be entitled to have such Dog registered therein without any further payment till the Thirtieth day of *April* then next, upon the production of such certified copy of Registration as aforesaid, and upon such 25. reasonable proof as the Chairman of the said Area, or any Two Justices in Petty Sessions therein, may require of the identity of the Dog.

Proof of regis-
tration.
P.A., 29.

(8.) In any proceedings in that behalf it shall not be necessary for the informant to establish the fact of non-registration, but the proof of due registration shall lie on the defendant, and for that purpose such 30. certified copy of registration shall be equivalent to the production of the original.

List of persons
registering Dogs
to be exhibited at
the Clerk's Office.
P.A., 30.

(9.) In the Clerk's Office of every Town and Shire there shall be kept in some convenient place therein, for public inspection during office hours, a list in alphabetical order of the names of all persons 35. registering any Dogs during the current year, and showing the numbers registered by each; and any person applying shall receive the particulars of any Dog so registered and the name of the owner or keeper thereof, on payment of a fee of Sixpence.

Division X.—*Miscellaneous.*

Reclamation.
Q., 165.

361 The Local Authority may contract for or undertake— 40.

- i. The dredging, deepening, and widening of any watercourse under its control:
- ii. Works for the filling-up, levelling, and reclamation of waste or low lands under its control.

Testing gas and
water-meters.
Q., 158.

362 Any officer of the Local Authority duly authorised in that 45. behalf may at all reasonable times, and as often as he thinks necessary, enter upon any premises within the Area for the purpose of examining and testing any meter used in connection with the supply of gas, electricity, or water to such person.

Boards of Advice.

A.D. 1899.

363 The Governor may, upon Petition signed by not less than a majority of the Members of a Local Authority, by Proclamation declare that such Local Authority shall be the Board of Advice under "The Education Act, 1885," in respect of any Schools within their Area, and thereafter the said Local Authority shall have the power and exercise the functions reposed in Boards of Advice by that Act in respect to such Schools.

Local Authority may be constituted Board of Advice under 49 Vict. No. 15.
See Sects. 517 to 529, 590.

Marine Boards.

364—(1.) The Governor, on the petition of the Council of a Shire in which there is a port or ports under the jurisdiction of a Marine Board constituted under "The Marine Boards Act, 1889," may, by Proclamation, declare that the functions of such Marine Board shall devolve upon the said Council, and thereupon, or at a date to be fixed by such Proclamation, any existing Marine Board shall be dissolved, and the powers reposed in such Board shall be vested in the Council of the Shire, who shall succeed to all the properties and rights of the Board, and be liable to fulfil all its obligations.

Ports may be placed under Jurisdiction of Shire Council. 53 Vict. No. 34.
Compare N.Z., 113, (119). Functions to be discharged through a Standing Committee

(2.) The functions so devolved upon the Shire Council shall be discharged under its control through a Standing Committee to be appointed under the powers hereinbefore contained by the Council for that purpose, of whom One-half at least shall be persons connected with maritime pursuits or personally engaged in the commerce of the port.

(3.) Subject to the provisions of this Act, every Local Authority discharging the functions of a Marine Board shall observe the provisions of "The Marine Boards Act, 1889," in respect to all matters concerning the port; and all dues and revenues collected or received under the provisions of the said Act shall, subject only to the deduction of the cost of collection and of a proportionate part of the office expenses of the Shire Council, be applied by the Council for the promotion of the purposes of the said Act in regard to the port or ports in respect of which the same dues and revenues are received.

Provisions of Marine Boards Act to apply. See Sect. 18, (9). Dues.
Port revenues to be applied for purposes of Marine Boards Act. See Sect. 110.

Gates across Roads.

365—(1.) In a Rural District the Shire Council may permit—

- i. Any gate which was erected across any Cross Road on the Twenty-second day of *October*, One thousand eight hundred and sixty-nine; or
- ii. Any gate as to which a Licence has been issued as hereinafter provided to be erected across a Public Road, not being a Main or Common Road as aforesaid,

In Rural Districts certain gates may be allowed.
Compare R.A., 55. Q., 210-216.

to be maintained and continued, but only for so long as the Local Authority may (subject to the terms of any such Licence), consider it expedient to allow the same; but while so allowed, all such gates shall be lawful: Provided all such gates shall be at least Sixteen feet wide, and be painted a uniform colour, with the words "Licensed Public Gate" painted in large letters on some conspicuous part thereof.

Conditions.

(2.) A Licence may be granted under this Section to erect a fence and gate across a Public Road after a month's previous notice by the applicant has been advertised Twice of his intention to apply for the same, which notice shall describe the position on the Road at which the gate is proposed to be erected.

After advertisement.

A.D. 1899.

Council to hear
objections.Special
conditions.

Fee.

Duration of
Licence.Governor's power
to disallow.Licensee liable to
a penalty for not
keeping gate in
repair.

(3.) The Council shall hear and consider any objections which may be lodged in writing against the granting of the Licence, and may hear any evidence in support of or against the application, and may thereupon grant or refuse a Licence as appears expedient.

(4.) The Council may in any Licence impose such special conditions with regard to the description of gate as the convenience of the public requires, and may charge a fee not exceeding One Pound for every Licence issued.

(5.) A Licence shall continue until a date to be fixed by the Local Authority, by notice in writing to the Licensee, given not less than Six months before the date of termination.

(6.) The Governor may cancel any Licence issued hereunder, or may impose any special conditions which he deems expedient with respect to any such fence, or may wholly exclude a Road from the operation of this Section.

(7.) If the Licensee neglects to keep the gate in good and sufficient repair, he shall be liable to a penalty not exceeding Ten Pounds, and in addition the Council may cancel the Licence.

PART IX.

HEALTH.

- Title I. Constitution of Central Board of Health, Sects. 366 and 367.
 II. Sewers, Drainage Works, and Private Drains, Sects. 368 to 391.
 III. Sanitary Appliances and General Sanitation of Premises, Sects. 392 to 413.
 IV. Noxious and Offensive Trades, Sects. 414 to 420.
 V. Food and Drugs, Sects. 421 to 445.
 VI. Infectious Diseases, Hospitals, Sects. 446 to 465.
 VII. Cemeteries, Sects. 466 to 470.
 VIII. Nuisances in General, and Remedies, Sects. 471 to 487.
 IX. Relations of Local Authorities to the Board, Special Powers of the Board, Appeals to the Board, &c., Sects. 488 to 495.

TITLE I.—CONSTITUTION OF CENTRAL BOARD OF HEALTH.

Appointment of
Central Board of
Health.
H.A., 8.
H.A., '89 (3.).

366—(1.) Until the issue of a Proclamation under Section *Three hundred and sixty-seven* of this Act the Governor may from time to time appoint any number, not more than Seven, of fit and proper persons, who, with the Minister and the Medical Practitioner for the time being holding the office of Government Medical Officer, shall be the Central Board of Health, and the Governor may from time to time at his pleasure remove any person so appointed, and appoint another in his stead.

(2.) Three Members of the Board at the least shall be legally qualified Medical Practitioners.

Officers of
Central Board.
H.A. (10.).

(3.) The Governor may from time to time appoint and remove a Secretary, Inspectors, and such other Officers of the Board as may be deemed necessary for the purposes of this Act; and the qualification

of every such officer shall be approved of by the Board before his A.D. 1899: appointment.

(4.) The Board may from time to time elect any Five Members, of Executive. whom Three shall be medical men, other than the Minister, as and to be the Executive of the Board, and may delegate to such Executive such of their powers, duties, and functions as they may from time to time think fit.

(5.) The Minister shall be *ex officio* Chairman of the Board, and of the Executive thereof, but in his absence any other Member may be Chairman. Compare H.A., 9.

(6.) The Board and the Executive shall hold their meetings at such Meetings. times and places respectively as the Minister appoints.

(7.) The powers and duties vested in the Board may be exercised Quorum. and executed by the Board when there is a quorum of not less than Five present, and by the Executive when there are present not less than Three Members. All questions shall be decided by a majority of the Members present, and when there is an equal division of votes upon any question it shall be negatived.

(8.) In the absence of the Minister, any other Member of the Board may be chosen to preside.

(9.) The Board or its Executive may from time to time cause to be made such enquiries as are directed by this Act, and such other enquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their approval or consent is required by this Act. Power to direct enquiries. H.A., 14. See Sect. 610.

(10.) The Board may make orders as to the costs of enquiries or proceedings instituted by, or of appeals to, the Board under this Act, and as to the parties by whom, or the Fund out of which such costs shall be borne; every order when confirmed by the Governor may be made a rule of the Supreme Court on the application of any person named therein. Order as to costs of enquiries. Q., 15.

(11.) The Board and its Executive may from time to time make, alter, and rescind regulations, directions, orders, and notices in the execution of this Act. Power to make regulations, &c.

(12.) All documents whatever purporting to be issued or written by or under the direction of the Board or its Executive, and purporting to be signed by the Secretary of the Board, shall be received as evidence in all Courts of Law, and shall be deemed to be issued or written by or under the direction of the Board without further proof, unless the contrary be shown. Documents signed by Secretary to be evidence. P.A., 11, 12, 13.

(13.) All expenses incurred by the Board or its Executive, with the authority of the Governor, shall be defrayed out of the moneys that may from time to time be appropriated by Parliament for the expenses of the said Board; and it shall be lawful to pay to any Member residing more than Ten miles from the place of meeting such sum of money as the Board, with the approval of the Governor, may fix for the travelling expenses incurred by him in attending meetings of the Board. Expenditure of Central Board. Travelling expenses.

(14.) All orders made by the Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as the Board may direct. Orders of Board binding. Q., 15.

(15.) The Central Board of Health, constituted under "The Public Health Act," shall be and remain the Board for the purposes of this Act, and shall, so far as is necessary, be deemed to have been constituted under this Act; and the Secretary of the existing Board shall continue (subject to the provisions of this Act) to be the Secretary to the Board. Continuance of present Board and Secretary.

A.D. 1899.

367—(1.) The Governor may by Proclamation reconstitute the Central Board of Health in manner following :—

Proclamation re-constituting the Board.

(2.) The Proclamation may direct—

Representatives of Shire Councils.

i. Every Shire Council to nominate, or, if the Governor so determines, any and every group of Two or more Shire Councils to join in nominating or electing some Medical Practitioner or other person to be the Representative of the said Shire Council or Shire Councils, as the case may be, on the Board :

Ex officio Members.

ii. And that the said Government Medical Officer and the Health Officers of each of the Cities of *Hobart* and *Launceston*, while holding their respective offices, shall be Members of the Board.

Governor may group Shire Councils for purposes of Election, and prescribe how nominations to be made.

(3.) The Proclamation may name the Shire Councils which are to form a group for the purpose of any such nomination, and may state a time within which any nomination required to be made by a Shire Council or group as aforesaid shall be sent to the Minister.

Governor may make appointments if Shire Council neglects. Transfer of functions of present Board.

(4.) If any nomination is not received by the Minister within the time specified in the Proclamation, the Governor may nominate a representative for the Shire Council or group of Shire Councils making default.

(5.) The Proclamation may name a date from which the functions of the Board thereby constituted shall commence, and upon the date so named the Board constituted under Section *Three hundred and sixty-six* hereof shall be dissolved, and the powers reposed in the Board under this Act shall be vested in the Board constituted by the Proclamation, who shall succeed to all the properties and rights of the Board and be liable to fulfil all its obligations, and, save for the alterations in Membership resulting from such Proclamation, the Board shall be a continuing body in every respect.

Duration of membership

(6.) Every Shire Council Representative, whether elected or nominated by the Governor, shall remain a Member of the Board for a period of Two years, unless he resigns his membership before the expiration of that period ; the first of such periods to run from the date of the first Proclamation.

Vacancies how filled up.

(7.) Upon any vacancy in the office of a Member of the Board occurring before the end of his period of Two years, a successor shall be appointed to hold office for the remainder thereof by the same authority by whom the person who has ceased to be a Member was appointed.

Governor may prescribe mode of Election.

(8.) The Governor may make any Regulation necessary to prescribe the mode of the first or any subsequent nomination and election of Members of the Board, or of any single Member of the Board.

Governor may nominate Medical Members in certain cases.

(9.) Whenever there shall not be at least Three Medical Members of the Board resident at *Hobart* or within Five miles thereof, the Governor may nominate from time to time so many legally qualified Medical Practitioners resident in *Hobart* as will secure that there shall be at least Three Medical Members of the Board available for election to the Executive of the Board. And the Governor may from time to time, at his pleasure, remove any Medical man so appointed and appoint another in his stead ; but no such appointment shall endure for more than Two years from the date thereof.

TITLE II.—SEWERS, DRAINAGE WORKS, AND PRIVATE DRAINS.

A.D. 1899.

- Div. I. Public Sewers and Drainage Works. Sect. 368 to 373.
 II. Private Drains. Sect. 374 to 381.
 III. Drains and Sewers through Private Property. Sect. 382.
 IV. Disposal of Sewage. Sect. 383 to 386.
 V. Drainage and Sewerage Works beyond the Area. Sect. 387 to 391.

Division I.—*Public Sewers and Drainage Works.*

368 The powers given by this Part of this Act to a Local Authority shall extend to any natural stream or watercourse used for the drainage of the Area—

Sewers to include certain water-courses.

- I. That immediately before any such Area is constituted under this Act (whether upon or at any time after the coming into operation thereof) was under the control as a sewer, public drain, or watercourse of the Government of the Colony, or of any Council or Trustees :
 II. That is constructed or covered in by the Local Authority as and for a sewer after the date of such constitution :
 III. That for Twenty years next before the date of such constitution has actually, and whether legally or not, been used in any city or town as a public sewer for the drainage of any portion of the Area thereof

All such streams or watercourses, except such parts of these as are the source of a water supply to any Water District, shall be deemed to be included in the term "public sewer."

369 The provisions of this Part of this Act relating to public sewers and private drains are not to apply except extended by Proclamation to any portion of any Metropolitan Drainage Area constituted at any time under "The Metropolitan Drainage Act, 1898."

Exceptions as to Metropolitan Drainage Area.
 62 Vict. No. 48.

370 All public sewers and drainage works within the Area, with all the works and materials thereunto belonging, whether made before or after the commencement of this Act, and the entire management of the same, shall vest in and belong to the Local Authority.

Sewers, &c., vested in Local Authority.
 Compare P.A., 239-241.

The Governor may, by Proclamation, place under the control of the Local Authority any public sewer or drainage work within the Area not made at the cost of the Local Authority.

371 Subject to any conditions imposed by this Act, every Local Authority shall have the rights, and may from time to time exercise the powers next mentioned in regard to public sewers and drainage works —

Powers as to sewers and drainage works.

- I. A power to purchase or otherwise acquire any sewer or drainage work or any right of making or of using, or other right in or respecting a sewer or drainage work (with or without any buildings, works, materials, or things belonging thereto) within the Area :

Power to purchase sewers.
 Compare 38 & 39 Vict., c. 55, Sects. 14-16, 18, 55.

Provided that every person who, previously to any such purchase, has acquired the right shall be entitled to use the same sewer or work, or any substituted in lieu thereof, to the same extent as he would or might have done if the purchase had not been made :

- II. A power to cause to be made such sewers and drainage works, constructed of such dimensions and such materials as it

Maintenance and making of sewers and drainage works.

[Bill I.]

Compare P.A., 239-241.
 H.A., 117.

A.D. 1899.

Powers for
making.
Exercise of
powers outside
Area.

Alteration and
discontinuance of
sewers and
drainage works.

To cover in
watercourses.
Compare
N.Z., 276.

Or alter course.

Only compensa-
tion in last case
for damage
done in construc-
tion of works.

Erect structures
on or under
public places or
private ways.
N.Z., 277-279.

Surface water
may be led into
watercourses.
Dams in streams.

thinks fit for effectually draining the Area, and to carry the same through, across, or under any public place or private way, and also into, through, or under any other lands within the Area on making compensation therefor :

iii. A power (subject to the provisions of this Act, and on making 5 compensation therefor) to exercise beyond the Area, for the purpose of outfall or distribution of any water or sewage, or for collecting, utilising, and selling the sewage matter for agricultural and other purposes, and may procure land for any of such purposes, or for disposing of such sewage 10 matter by means of fertilising or otherwise improving such land, all or any of the powers given by this Section :

iv. A power to enlarge, lessen, alter the course of, cover in, or otherwise improve, any sewer or drainage work, and to discontinue, close up, or destroy any such sewer or 15 drainage work that has in its opinion become unnecessary, on condition of providing a sewer or drainage work as effectual for the use of any person who may thereby be deprived of the lawful use thereof :

Provided that no such discontinuance, closing up, or 20 destruction shall be the cause of a nuisance

v. A power whenever any watercourse within the Area has, or in the opinion of the Local Authority may, become a nuisance—

(a) To enclose and cover in the same : 25

(b) To construct such sewers, or to do such other works as in the opinion of the Local Authority are necessary for covering in the watercourse or removing therefrom any sewage or other matter which they determine should be excluded there- 30 from :

(c) In connection with such works, to straighten or otherwise alter the course and direction of the watercourse, and to take up, disconnect, alter, re-lay, or otherwise deal with any drains com- 35 municating therewith.

No compensation shall be payable in respect of any one being deprived of the water flowing in the watercourse, or of the right to such water, nor for any damage or inconvenience occasioned to the owners or occupiers 40 of the lands or premises ; but any damage or injury caused during the construction of the works shall be made good :

vi. A power, without liability to pay any compensation in respect thereof, to erect any buildings, structures, machinery, or man-holes, man-hole and other entrances, light and lamp- 45 holes, ventilating grids, and other works and things of every description in connection with sewerage or drainage, in, upon, or under any public place or private way within the Area :

vii. A power to lead any surface water into any watercourse, 50 whether covered or open :

viii. A power to make and erect such dams, tanks, reservoirs, and other appliances as it thinks fit across and in the bed of any watercourse within the Area, or contiguous thereto, for the purpose of retaining water to flush and cleanse any public 55 sewer, or covered or open watercourse, and lay pipes there-

from for the purpose of conducting water to any of the A.D. 1899.
said sewers and watercourses:

- ix. A power to make, maintain, alter, or discontinue banks, dams, and other defence works on any land, whether taken for the purpose or not, or on any watercourse or navigable river, as a protection against water, and to make sluices in any watercourse: Protection against flood damage.
- x. A power to take water from any navigable river. To take water from navigable river.
- But the exercise of such powers as to navigable rivers shall be contingent upon the consent of the Governor, and in case the same is under the jurisdiction of a Marine Board, with the sanction of such Marine Board.

372 Every Local Authority shall cause the sewers belonging to it to be constructed, ventilated, and kept, so as not to be a nuisance, and to be properly cleansed and emptied. Cleansing sewers. H.A., 117. P.A., 241.

373 A Local Authority may, if it thinks fit, provide a map exhibiting a system of sewerage for effectually draining the Area, and shall, whenever any covered sewer is made by it in the Area, provide a map indicating the position of every such sewer. Map of system of sewerage. Compare 38 & 39 Vict., c. 53, sect. 20.

All such maps shall be kept at the office of the Local Authority, and shall at all reasonable times be open to the inspection of any rate-payer of the Area.

Division II.—*Private Drains.*

374 The owner or occupier of any premises within the Area shall be entitled to cause his drain to enter into a public sewer on condition of his giving such notice of his intention so to do as may be required by the Local Authority, and on complying with its By-laws in respect of the mode in which the connections between drains and sewers are to be made, and subject to the control of any person who may be appointed or licensed by the Local Authority to superintend or carry out the making of such connections. Power of owners and occupiers to drain into sewers of Local Authority. See Sect. 211 (5.). Compare H.A., 117, 118. 38 & 39 Vict. c. 55, s. 21.

Any person causing a drain to empty into a sewer of a Local Authority without complying with the provisions of this Section shall be liable to a penalty not exceeding Twenty Pounds.

375 The owner or occupier of any premises beyond the area may cause any sewer or drain from such premises to communicate with any sewer of the Local Authority on such conditions as it may impose. Use of sewers by owners and occupiers beyond Area. *Ib.*, s. 22.

376—(1.) In respect of any land or building within the Area lying within Three hundred feet from the sea or from a public sewer, the Local Authority may, by notice in writing, require the owner thereof to do all or any of the following things:— Council may require owner of premises within 300 feet from sea or public drain to execute works. Compare H.A., 117, 121. P.A., 229, 242. 38 & 39 Vict. c. 55, s. 23-26. Sch. (14.) E.

- i. To construct a drain from any land or building which is not drained to the satisfaction of the Local Authority, and to connect such drain with any public sewer or the sea, being within such distance as aforesaid, as the Local Authority thinks fit:
- ii. To cleanse and repair or re-lay and alter the course and direction and outfall of any existing drain of or belonging to such premises:

A.D. 1899.

III. To connect any such existing drain with any public sewer or street channel other than the public sewer or street channel with which the same was previously connected, and lying within such distance as aforesaid.

As to premises not within 300 feet.

H.A., 118.
P.A., 242.

No cesspools for night-soil.

H.A., 129.

See Sect. 399 (5.)

Where there is a group of premises, none of which is within 300 feet of an outlet.
See Sects. 383 and 388.

Compare N.Z., 113 (280.)

Owner of land only to join except, &c.

Provision for Local Authority contributing if sewage water not offensive, and may be allowed to flow into asphalted channels.

Compare T.B.A., 177.

As to all drains, ventilators, &c. may be required.

(2.) In respect of any land or building within the Area not lying 5 within Three hundred feet from the sea or from a public sewer, the Local Authority may, by notice in writing, require the owner to make a drain, or drains, emptying into such covered or other place, to be provided at his cost, within that distance, and not being under any house, as the Local Authority directs, but no cesspool for the reception of 10 night-soil constructed since the First day of *January*, 1886, shall be lawful.

Provided, that where there is a group of premises, none of which is within Three hundred feet of the sea or a public sewer, but which, if each owner be required to construct not more than Three hundred feet 15 of a common drain or sewer to serve such group of premises, can be drained to an outlet approved by the Local Authority, the Local Authority may, by notice in writing, require the owner of each one of such groups of premises to join in constructing such a common drain or sewer; and such notice may be given to the owner of any piece of 20 land fronting on or contiguous to the proposed drain, unless the Local Authority may consider such land unsuitable for the erection of buildings or so situate as that the drainage therefrom could not be brought into the proposed new drain; and in all such cases where the sewage water is of such a nature that it may be allowed, without being or 25 becoming a nuisance, to flow in open channels by the roadway or elsewhere, which channels also serve to convey the surface water of the roads, the Local Authority may contribute such proportion of the cost of constructing or repairing the channels of asphalt or other impervious material as may appear to the Local Authority to be just. 30

(3.) In respect to any premises within the Area the Local Authority may, by notice in writing, require the owner—

i. To provide and affix in and to any existing private drain, and in and to any such new private drain, all such traps, and ventilating pipes as are specified in Section *Two hundred 35 and eleven* hereof, and also whatever other sanitary appliances the Local Authority directs:

ii. To connect or disconnect any existing or new private drain with or from any water-closet, urinal, bath, sink, grease trap, or other sanitary appliance: 40

iii. To execute, provide, and do generally any works, materials, and things which, in the opinion of the Local Authority, are necessary or expedient for the efficient drainage of such premises, and every part thereof.

Time within which works to be done.

(4.) Every such notice as aforesaid shall specify the works, materials, 45 and things to be executed, provided, or done thereunder, the size, materials, and levels of the drain and the public sewer or street channel with which it is required to be connected, and shall limit a time within which the same works, materials, and things shall be so executed, provided, and done. 50

Sewage not to be ordered to be taken into street channels.

(5.) The foregoing powers shall, amongst other things, enable the Local Authority to require any owner of premises to cause the sewage and surface-water respectively arising therefrom to be drained by separate drains to separate outfalls; but no such notice may require

any sewage to be drained into any street channel where there is an underground sewer within Three hundred feet of the premises. A.D. 1899.

(6.) If such owner fails to do the work specified in such notice, and as therein directed, the Local Authority may cause the same to be done, and may recover from him all the expenses thereof. Local Authority may do the work. H.A., 147.

(7.) If, when an owner executes any work under this Section at a cost exceeding Twenty Pounds, the premises are held by a tenant having a term of at least Three years to run, he shall be entitled to add to the rent payable by the tenant a yearly sum equal to Five Pounds per centum per annum upon his outlay, to be computed from the date of payment by the landlord of the expenses incurred, and to be payable as part of such rent in all respects, and if the tenant paying such percentage has a tenant under him he shall be entitled to receive from him the amount so paid. Owner may receive percentage on expenses from tenant. Wellington Drainage Act, 1894, s. 12.

377 If surface or storm water lies upon any land in any City, Town, or Urban Area, the Local Authority may make an open drain so as to carry off such water into the public sewer most convenient for the purpose, but shall do as little damage as possible thereby, and shall not make such drain under or so as to interfere with any building. Channels for surface water. N.Z., 113.

And the Local Authority may recover the cost of such drain from the owners or occupiers of the lands drained thereby in such proportion as the Local Authority thinks fair.

378—(1.) In any case in which any existing drain passes through or serves several separately owned premises, or any new drain is required by the Local Authority so to pass or serve, the Local Authority may, if it thinks fit, from time to time elect to execute, provide, and do all or any of the works, materials, and things required by this Act, and may also, in its discretion, declare such drain to be a public sewer. Case of several separately owned premises. N.Z., 113.

(2.) Neither such election nor such declaration as aforesaid shall prevent the Local Authority from imposing upon the owners or occupiers of such several premises all or any part of the expenses of such work, material, or thing, under any provisions of this Act.

379 Where any house within the Area has a drain communicating with any sewer, which drain though sufficient for the effectual drainage of the house is not adapted to the general sewerage system of the Area, or is in the opinion of the Local Authority otherwise objectionable, the Local Authority may, on condition of providing a drain or drains equally effectual for the drainage of the house, and communicating with such other sewer as it thinks fit, close such first-mentioned drain, and may do any works necessary for that purpose. Use of new sewers may be enforced although there is an existing drain, but at expense of Local Authority. 38 & 39 Vict., c. 55, s. 24.

The expense of those works, and of the construction of any drain or drains provided by the Local Authority under this section, shall be deemed to be expenses properly incurred by the Local Authority in the execution of this Act.

380 It shall not be lawful in any Area—

- i. To erect any house; or
 - ii. To rebuild any house which has been pulled down to below the ground floor; or
 - iii. To occupy any house so erected or rebuilt;
- unless and until a drain or drains to an outlet which shall comply with the conditions of Section *Three hundred and seventy-six* hereof is or are

Penalty on building house without drains. *Ib.*, s. 25.

A.D. 1899.

constructed, of the size, materials, level, and fall, which appear to the Local Authority necessary for the effectual drainage of such house.

Any person who causes any house to be erected or rebuilt, or any drain to be constructed, contrary to the provisions of this Section is liable to a penalty not exceeding Fifty Pounds. 5

Penalty on un-
authorised build-
ing over sewers
and under streets.
33 & 39 Vict.,
c. 55, s. 26.

381—(1.) Any person who in any Area without the written consent of the Local Authority—

i. Causes any building to be newly erected over any sewer of the Local Authority; or

ii. Causes any vault, arch, or cellar, to be newly built or con- 10
structed under any public place or private way; or

iii. Causes any drain to be carried under any building;

shall forfeit to the Local Authority the sum of Five Pounds and a further sum of Forty Shillings for every day during which the offence is continued after written notice from the Local Authority. 15

(2.) A Local Authority may cause any drain, building, vault, arch, or cellar, erected or constructed contrary to the provisions of this Section, to be altered, pulled down, or otherwise dealt with as it thinks fit, and may recover from the offender any expenses incurred by the Local Authority in so doing. 20

Or carrying drain
under building.
H.A., 118.

Conditions as to
sewers under
buildings.

(3.) Any sewer or drain carried under any building shall be laid in a straight line, and be constructed of brick, concrete, stone, or tiles, with all joints laid in cement, and the sewer or drain bedded in good cement or lime concrete, not less than Six inches all round the same.

Division III.—*Drains and Sewers through Private Property.*

Order may be
made for drain to
be carried through
private property.
P.A., 240.
H.A., 137.

Sewers may be
made through
private property.
See ss. 376 & 378.

After One month
work may be
proceeded with.

Provision for
compensation.
See s. 152.

And for prevent-
ing drain
becoming a
nuisance.

Expenses to be
repaid by owner
of premises.

Or by owners
of premises
fronting, &c. on
road.

382—(1.) In case it is necessary, for the proper drainage of any 25
road or premises, that drains or sewers should be made through or under
any private property, whether occupied or not, the Local Authority
may make an order on the owner thereof requiring him to permit the
formation of such drains or sewers through or under his property.

(2.) After the expiration of One month from the making of such 30
order, the Local Authority may construct through or under the property
such drains or sewers as may in their opinion be necessary for the proper
drainage of any such road or premises.

(3.) Provided, that such owner shall be entitled to compensation as
provided in and subject to the conditions of Section *One hundred and 35*
fifty-two of this Act, and that such drains or sewers shall be made
and maintained in good order so as not to be a nuisance.

(4.) The amount of compensation so paid, and all expenses incurred
by the Local Authority, together with the cost of construction of
the drain or sewer, shall, in the case of the drainage of any private 40
premises, be repaid to the Local Authority by the owner thereof, or if
there be more than one owner, then by such owners in such pro-
portions as may be fixed by the Local Authority.

(5.) In the case of the drainage of any road (not being a public road),
such compensation and expenses shall be repaid in such proportions as 45
may be fixed by the Local Authority, by the owner or owners of the
premises fronting, adjoining, or abutting on such road, and such com-
pensation and expenses shall be recoverable by the Local Authority
from such owners in the manner hereinafter mentioned, and shall in the
meantime be a charge upon the premises of such owner or owners as 50
aforesaid.

Local Authority
to contribute if it
uses sewer.

(6.) The provisions of this Section shall apply to cases where the
Local Authority proposes to use the sewer for taking any road drainage,

but a fair proportion of the expenses shall in such case be borne by the Local Fund. A.D. 1899.

(7.) Unless with the permission in writing of the owner first obtained no sewer or drain, other than an underground covered sewer or drain, shall be constructed upon or under any private property.

Unless owners otherwise allow all such sewers or drains must be underground.

Division IV.—Disposal of Sewage

383 For the purpose of receiving, storing, disinfecting, distributing, or otherwise disposing of sewage, any Local Authority may—

- i. Construct any works within the Area, or (subject to the provisions of this Act) beyond the Area :
- 10 ii. Contract for the use of, purchase, or take on lease any land, buildings, engines, materials, or apparatus, either within or beyond the Area :
- 15 iii. Make contracts for the supply of sewage to any person for any period not exceeding Twenty-five years, and as to the execution and costs of works, either within or beyond the Area, for the purposes of such supply.

Provided, that no nuisance shall be created in the exercise of any of the powers conferred by this Section.

And provided that the outlets of any public sewer and the plans therefor shall be first approved of by the Board, and that no sewage be discharged into any fresh-water stream, pond, canal, lagoon, or lake without the special sanction of the Board, who may at any time require any sewage so being discharged to be freed from all excrementitious or other foul or noxious matter, such as would affect or deteriorate the purity or quality of the water therein for drinking purposes.

Powers for disposing of sewage.

Compare 38 & 39 Vict., c. 55, s. 27.

Outlets to be sanctioned by Central Board of Health.

Provisions as to discharging sewage into fresh water.

Compare 38 & 39 Vict., c. 55, s. 17.

See H.A., 116.

Power to agree for communication of sewers with sewers of adjoining Area *Ib.* 28.

384 The Local Authority of any Area may, by agreement with the Local Authority of any adjoining Area, and with the sanction of the Minister, cause its sewers to communicate with the sewers of the Local Authority of such adjoining Area, in such manner and on such terms and subject to such conditions as may be agreed on between the Local Authorities, or, in case of dispute, as may be settled by the Minister.

385 A Local Authority may deal with any lands held by it for the purpose of receiving, storing, disinfecting, or distributing sewage, in such manner as it deems most profitable—

- i. By leasing the same for a period not exceeding Twenty-one years for agricultural purposes ; or
- ii. By contracting with some person to take the whole or a part of the produce of such land ; or
- 40 iii. By farming such land and disposing of the produce thereof ; subject to this restriction, that in dealing with land for any of the above purposes provision shall be made for effectually disposing of all the sewage brought to such land without creating a nuisance.

Power to deal with land appropriated to sewage purposes. *Ib.* 29.

386 Where a Local Authority agrees with any person as to the supply of sewage or as to works to be made for the purpose of such supply, the Local Authority may contribute to the expense of carrying into execution all or any of the purposes of such agreement by such person.

Contribution to works under agreement for supply or distribution of sewage.

A.D. 1899.

Shire Council to
control sewers
and drainage
works outside
Town, &c.
See Sec. 159.

Division V.—*Drainage and Sewerage Works beyond the Area.*

387—(1.) All Drainage Works and Sewers and Sewerage Works within a Shire, but carried outside the Area of the Local Authority initiating the scheme, shall be subject to the general control of the Shire Council, who shall, before any step be taken to carry out the same, approve of the scheme and of the plans of the intended work ; 5 and shall be entitled to require that so much thereof as extends beyond the said Area shall be constructed under the supervision of an officer appointed by the Shire Council, whose salary and all expenses of such supervision shall, if the Shire Council so require, be paid by the said Local Authority. 10

[Cv202]

Powers of Shire
Council to remedy
any nuisance from
sewerage works.

(2.) If any such Drainage Works, Sewer, or Sewerage Works become a nuisance the Shire Council may—

- i. Either after calling upon the Local Authority to remedy the nuisance ; or
- ii. Immediately, without notice, proceed to do whatever may be 15 necessary to abate the nuisance, including power to construct any such works as are mentioned in Section *Three hundred and seventy-one* of this Act.

Power to collect.

The cost of any work done under the power of this Section shall be repaid to the Shire Council by the Local Authority, and may, in 20 default of payment within Six months from the rendering of any claim for the amount thereof, whether such claim be for the whole or part only of such cost, be recovered by the levy of a rate or rates to be made by the Shire Council upon the properties liable to be rated by the Local Authority for the purposes of such Sewerage Scheme or 25 Drainage Works.

Notice to be
given before
commencing
sewerage works
beyond Area.

Compare
38 and 39 Vict.
c. 55, ss. 32-34.

388—(1.) A Local Authority shall, Three months at least before commencing the construction or extension of any drainage works or sewer, or sewerage works beyond its Area, give notice of the intended work by advertisement in some newspaper. 30

Such notice shall—

- i. Describe the nature of the intended work ;
- ii. State the intended termini thereof ;
- iii. State particulars of the public places or private ways and properties (if any) through, across, under, or on, which 35 the work is to be done ;
- iv. Name a place where a plan of the intended work is open for inspection at all reasonable hours.

A copy of such notice shall be served on the owners and occupiers of the properties, and on the Local Authority having the care of such 40 public places.

In case of
objection, works
not to be com-
menced without
sanction of
Governor.
See 62 Vict. No.
47, Sect. 14.

(2.) If any such owner or occupier, or any such Local Authority, or any other owner or occupier, who would be affected by the intended work, objects thereto, and serves notice, in writing, of such objection on the Local Authority at any time within the period of Three months, 45 the intended work shall not be commenced without the sanction of the Governor, after such inquiry as hereinafter mentioned, unless such objection is withdrawn.

Inspector to hold
inquiry, and
report to
Governor.

(3.) The Governor may, on the application of the Local Authority, authorise an Inspector to make inquiry on the spot into the propriety of 50 the intended work and into the objections thereto, and to report on the matters with respect to which such inquiry was directed.

On receiving the report of the Inspector the Governor may make an order disallowing the intended work, or allowing it with such modifica- 55 tions (if any) as he thinks necessary.

- 389** All the provisions of this Act in respect to sewers or drainage works within the Area shall equally apply to the main sewers, water-courses, and places for the reception of sewage matter which any Local Authority is hereby authorised to make or provide outside their Area, and the provisions of Sections *Three hundred and Seventy-one* and *Three hundred and eighty-eight* of this Act shall extend to authorise the construction of ventilating shafts and other methods of ventilation, man-holes, man-hole and other entrances, light and lamp holes, and other appurtenances outside the Area.

A.D. 1899.

Provisions of Act to apply to sewers outside Area.

Drainage into Harbours.

- 390**—(1.) It shall not be lawful for a Local Authority to construct any sewer whereby any refuse matter is carried into any harbour or other waters under the control of any Marine or Harbour Board, except on such conditions and in such manner as are approved of by such Board.
- (2.) If the Local Authority and Board are unable to agree as to the mode of disposing of any refuse matter, or as to any other matter in which the powers and duties of such Local Authority and Board conflict, the Governor shall upon the application of either party appoint some fit person to be an Arbitrator in the matter, and his decision thereon shall be final.

Sewers not to be emptied into harbours without leave.

Any difference to be settled by arbitration.

Protection of Sewers and Drains.

- 391**—(1.) Every person who—
- I. Wilfully or negligently destroys or injures any public sewer or any drain or drainage work, or any structure, method of ventilation, or other work or thing being part of or connected with any sewerage or drainage works of the Local Authority ; or
 - II. Not having the written permission of the Local Authority in that behalf connects any drain with a sewer or private drain or drainage work ; or
 - III. In any way stops or obstructs, or otherwise interferes with any sewer or drain or other drainage work—
- is liable to a penalty of not more than Twenty Pounds.
- (2.) The Local Authority may replace or repair the property so destroyed or injured, or remove or alter as it thinks fit, such drain, and may recover from such person in any Court of competent jurisdiction the full cost of such work, or of removing any stoppage or obstruction effected by him, and of all damage done or caused by such person.

Penalty for injuring or interfering with sewers or drains without authority.

TITLE III.—SANITARY APPLIANCES AND GENERAL SANITATION OF PREMISES.

- Div. I. Sanitary appliances, closets, &c. (Sects. 392 to 399.)
- II. Scavenging, cleansing, and removal of manure, &c. (Sects. 400 to 405.)
 - III. Housing of animals. (Sect. 406.)
 - IV. Unfit dwellings. (Sects. 407 to 410.)
 - V. Common lodging houses. (Sect. 411.)
 - VI. Public buildings. (Sect. 412.)
 - VII. Factories and work-rooms. (Sect. 413.)

Division I.—*Sanitary Appliances, Closets, &c.*

- 392**—(1.) “Sanitary appliances” includes—
- I. Earth-closets with removable pans and such covers as may be prescribed, accompanied by a receptacle for dry earth or ashes :

Definition of “sanitary appliances.”

A.D. 1899.

- II. Water-closets, when such are allowed by the Local Authority's By-laws:
- III. Baths, sinks, urinals, grease-traps, and fixed lavatory basins:
- IV. All water-pipes supplying a sanitary appliance, with all traps, ventilating shafts, pipes, and taps used with, or that may be prescribed or ordered by, a Local Authority, to be used with any sanitary appliance.

Sanitary appliances must be such as are prescribed.
See Sect. 615.

(2.) All buildings shall be furnished by the owner with such sanitary appliances as are from time to time prescribed, and any sanitary appliances on any premises which are not as prescribed, may be ordered by the Local Authority to be removed within a time to be expressed in the order of removal.

May be provided by a Local Authority.

(3.) A Local Authority may, upon receiving payment according to the amount fixed from time to time by Regulations, provide any such sanitary appliances for its ratepayers, and undertake the fixing of the same.

Penalty on building houses without closets. For Sects. 393 to 399 compare 38 & 39 Vict. c. 55, ss. 35-41. "House" and See Sect. 5. Sect. 211.

393 It shall not be lawful to erect any house, or to rebuild any house pulled down to or below the ground floor, without providing for such house a sufficient water-closet, or earth-closet, so constructed as to secure privacy, and otherwise as may be prescribed.

Any person who causes any house to be erected or rebuilt in contravention of this Section is liable to a penalty not exceeding Twenty Pounds. 25

Power of Local Authority to enforce provisions of such accommodation for houses.

Compare H.A., 124. P.A., 227, 228.

394—(1.) If a house within the Area appears to the Local Authority to be without sufficient water-closet or earth-closet accommodation, so constructed as to secure privacy, the Local Authority shall, by written notice, require the owner or occupier of the house, within a reasonable time therein specified, to provide a sufficient water-closet or earth-closet, constructed as aforesaid, or so many thereof as the Local Authority may consider necessary, having in view the purposes for which the house is used or the number of occupants. 30

(2.) Any person who neglects or refuses to comply with any such notice is liable to a penalty not exceeding Forty Shillings for every day during which the default is continued, and the Local Authority may, at the expiration of the time specified in the notice, do the work thereby required to be done, and recover from the owner the expenses incurred in so doing. 35

Public-houses. 53 Vict No. 37.

(3.) No Certificate under Section Forty-two of "The Licensing Act, 1889," shall be given by a Local Authority in respect of any public-house until its Health Officer, or if there be no Health Officer, the Health Inspector of the Local Authority has specially reported that the sanitary appliances are in conformity to this Act, nor after Two years from the commencement of this Act, unless there be provided at least Two earth-closets as prescribed, with separate approaches, for the use of the lodgers or visitors in such house. 40 45

As to earth-closets.

395 A Local Authority may itself undertake, or contract with any person to undertake, to supply dry earth or other deodorising substances to any house within the Area for the purpose of any earth-closet. 50

Closet accommodation for buildings where many persons employed. H.A., 126.

396 Where it appears to a Local Authority that any house is used or intended to be used as a building in which persons of both sexes

are employed or intended to be employed at one time in any manufacture, trade, or business, the Local Authority may by written notice require the owner or occupier of such house, within the time therein specified, to construct a sufficient number of water-closets or earth-closets for the separate use of each sex.

A.D. 1899.

Any person who neglects or refuses to comply with any such notice is liable to a penalty not exceeding Twenty Pounds, and to a further penalty not exceeding Forty Shillings for every day during which the default is continued.

- 310 **397** A Local Authority may, if it thinks fit, provide and maintain in proper and convenient situations urinals, water-closets, earth-closets, and ashpits, and other similar conveniences for public accommodation.

Public necessities.
H.A., 125.
P.A., 224.

- 398** Every Local Authority shall provide that all drains, water-closets, earth-closets, ashpits, and cesspools, within the Area are constructed and kept so as not to be a nuisance.

Drains, closets, &c., to be properly kept.
H.A., 127.
P.A., 229.

- 399**—(1.) If the Local Authority has reason to suspect that any drain, privy, ashpit, cesspool or sanitary appliance, on or belonging to any premises within the Area is a nuisance, or is in any way out of order or likely to be injurious to health, or that a cesspool is discharging its contents into any drain or sewer, the Local Authority may, after twenty-four hours' written notice to the occupier of the premises, or in case of emergency without notice, direct an officer to enter the premises, with or without assistants, and examine the same, and may for that purpose cause the ground to be opened, or remove any fittings or portion of the building in which a sanitary appliance is placed.

Examination of drains, sanitary appliances, &c.
See Sec. 404.
P.A., 227, 229, 234, 237.

(2.) If the same on examination is found to be in a proper condition, the officer shall cause the ground to be closed, and any other damage done to be made good as soon as can be, and the expenses of the works shall be defrayed by the Local Authority.

- 30 (3.) If the same on examination appears to be in a bad condition, or to require alteration or amendment, the Local Authority shall forthwith cause notice in writing to be given to the owner or occupier of the premises, requiring him forthwith, or within a reasonable time therein specified, to do the necessary works.

H.A., 128, 139,
'87-(18.)

- 35 (4.) If the notice is not obeyed, the person to whom it is given is liable to a penalty not exceeding Ten Shillings for every day during which he continues to make default, and the Local Authority may execute such works, and recover from the owner the expenses incurred in so doing.

- 40 (5.) Any such cesspool for the reception of night-soil may be ordered by the Local Authority to be filled up within a time to be expressed in the order, not being less than One month from its date; and no such cesspool is lawful on any premises used as a dairy or for the sale of milk.

Cleansing cesspools.
Prohibition near dairies.
H.A., '87 (18.)
H.A., 128.
See Sect. 615.

Division II.—*Scavenging, Cleansing, and Removal of Manure, &c.*

- 45 **400**—(1.) A Local Authority may, and when required by the Board shall, itself undertake or contract with any person or company for the removal of house refuse from premises, the cleansing of earth-

Local Authority to provide for cleansing of

A.D. 1899.

places and ways
and removal of
refuse.

See Sect. 543.

Compare
P.A., 190, 221.
H.A., 141.

Compare
Sects. 400-404
with 38 & 39 Vict.,
c. 55.
Sects. 42-45, 49,
50.

Penalty for
removal by
unauthorised
persons.

P.A., 222.
H.A., 142.

Power to provide
receptacles for
deposit of rubbish;
and establish
depots.

See Sect. 495.

Compare
H.A., 140, 142.
P.A., 223, 225.

Buildings, horses'
stables, &c., may
be provided.

P.A., 225.

Vehicle to be used
and hours of
removal.

P. 226.

No restraining
order to be made
except at instance
of the Crown.

Saving of right of
action by persons
injured.

Penalty for
breach of Sub-
sect. 2.

Penalty on neglect
of Local
Authority to
remove refuse, &c.
H.A. 143.
P.A., 221.

closets, privies, ashpits, and cesspools, and the proper cleansing of public places and private ways, either for the whole or any part of the Area.

(2.) All matters collected by the Local Authority or contractor in pursuance of this Section may be sold or otherwise disposed of, and any profits received by a Local Authority from such sale or disposition shall be paid into the Local Fund.

(3.) Any unauthorised person who removes, or obstructs a Local Authority or contractor in removing, any such matters is liable to a penalty not exceeding Five Pounds; but no liability to a penalty is incurred in respect of matters produced on premises and intended to be removed for sale or for the occupier's own use, if kept in the meantime so as not to be a nuisance.

401—(1.) A Local Authority may, if it thinks fit, provide, in proper and convenient situations, receptacles, and by advertised notice require every occupier of any premises within the Area, under a penalty not exceeding Forty Shillings for every default in compliance, to deposit therein daily the dust, ashes, and rubbish collected or being on such premises, and may, with the consent of the Board, establish or permit to be established, fit buildings and places, within or without the Area, for the deposit of any matters collected by itself or by its contractor in pursuance of this part of this Act, and may cause such matters to be removed by any means of conveyance, and may there dispose of the same; and the Local Authority may erect such buildings for all or any of the aforesaid purposes, including stabling for horses, carts, and implements or machinery, which it may provide; but the Local Authority and its contractor shall be bound in such conveyance, deposit, and disposal to cause no greater nuisance or annoyance than is necessary.

(2.) When any nightsoil or any such like offensive matter is removed in a City, Town, or Urban District until otherwise prescribed, the same shall be only conveyed in a vehicle having a covering sufficient to prevent the escape of its contents and of the stench thereof, and between Twelve o'clock at night and Five o'clock in the morning.

(3.) No order restraining a Local Authority from conveying any such refuse or other matters aforesaid to any such land, or from depositing the same thereon, or from there disposing of the same by burying, burning, desiccating, or otherwise, shall be made by any Court, except in an action at the suit of the Attorney-General.

(4.) Nothing herein shall deprive any person of any right to claim and recover compensation in manner provided by this Act from any Local Authority in respect of any actual damages sustained by him by reason of any nuisance caused by a Local Authority in the exercise of the powers conferred on it by this Section.

(5.) Any person failing to comply with the conditions of Sub-section (2.) of this Section, or wilfully slopping or spilling any such offensive matter, and who does not carefully sweep and clean up the same, is liable to a penalty not exceeding Forty Shillings.

402 If a Local Authority which has itself undertaken to remove (or if a contractor, with the Local Authority for the removal of) house refuse from premises, or the cleansing of earth closets, privies, ashpits, and cesspools fails, without reasonable excuse, after notice in writing from the occupier of any house within the Area requiring the Local Authority or such contractor to remove any house refuse or to cleanse

any earth-closet, privy, ashpit, or cesspool, belonging to such house or used by the occupier, or to cause the same to be removed or cleansed, as the case may be, within Seven days, the Local Authority or contractor as aforesaid shall be liable to pay to the occupier a penalty not exceeding Five Shillings for every day during which such default continues after the expiration of that period.

A.D. 1899.

403—(1.) Where it appears to the Local Authority that any accumulation of manure, dung, soil, or filth, or other offensive or noxious matter, ought to be removed, the Clerk shall give notice to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove the same.

Removal of filth on notice, see Sec. 399.

Compare H.A., 139, P.A., 231 and 232.

(2.) If such notice is not complied with within Twenty-four hours from the service thereof, the person to whom it is given is liable to a penalty not exceeding Ten Shillings per day for every day he continues to make default, and the manure, dung, soil, filth, or matter referred to, shall be vested in and be removed, sold, or disposed of by the Local Authority, and the proceeds thereof shall be applied in payment of the expenses incurred in the execution of the provisions of this Section, and the surplus (if any) shall be paid on demand to the owner of the matter removed.

Power to remove and sell. Penalty.

(3.) The expenses of removal by the Local Authority of any such accumulation, if and so far as they are not covered by the sale thereof, may be recovered by the Local Authority from the person to whom the accumulation belongs, or from the occupier of the premises, or (where there is no occupier) from the owner.

Expenses recoverable.

404—(1.) Notice may be given by any Local Authority, by advertisement in some newspaper, or by other notice, requiring the periodical removal of manure or other refuse matter from yards, stables, or other premises.

Notice of periodical removal of manure from yards and other premises.

(2.) When any such notice has been given, any person to whom the manure or other refuse matter belongs who fails so to remove the same, or permits a further accumulation, and does not continue such periodical removal at such intervals as the Local Authority directs, shall be liable without further notice to a penalty not exceeding Twenty Shillings for each day during which such manure or other refuse matter is permitted to accumulate.

Compare H.A., 138. Powers of Local Authority if default made.

(3.) The provisions of this Section do not apply to manure in farm-yards, nor is the preceding Section applicable thereto, unless in the opinion of the Local Authority such manure is injurious to health.

Limitation of application of Sects. 403 and 404, P.A., 231.

Draining Cellars.

405 The floors of cellars to buildings shall be paved or asphalted as the Local Authority directs in a notice to be served on the owner, who may also be ordered by the Local Authority, in case the cellar be subject to leakage of water thereinto for which there is no proper drain, to construct in such cellar where, when, and as directed by the notice, a well for the gathering of such leakage.

Cellar floors to be paved, &c., and drainage provided for.

Compare H.A., 120.

Any person named in any such notice who fails to comply therewith within a period to be therein named (not to be less than Fourteen days from its date), or the occupier who fails to cause any such well to be regularly and periodically emptied at intervals not exceeding Twenty-four hours, is liable to a penalty not exceeding Ten Shillings per day for every day such default continues.

A.D. 1899.

Division III.—*Housing of Animals, &c.*Provisions as to
housing of
animals.Definition of
stable.Limit of nearness
to dwellings.Compare
H.A., 130 to 133.
P.A., 180.
38 & 39 Vict.,
c. 55, Sect. 47.Stables not
convertible at
will.Construction of
stables.**406**—(1.) It is enacted as to the housing of animals—

- I. Any building used for housing or sheltering an animal by night, or as a stable or cow-shed, is in this Section included in the term “stable”:
- II. A stable is not to be within Fifty feet of a dwelling-house, 5
nor is a dwelling-house to be within Fifty feet of a stable:
- III. A stable is not to be within Fifty feet of the boundary of any property in a Town or Urban District unless with the written consent of the owner of the adjoining property:
- IV. An animal is not to be kept in a dwelling-house: 10
- V. A pig-stye is not to be within One hundred feet of a dwelling-house, nor within Twenty-five feet of any public place:
- VI. In a Town or Urban District a horse stable shall not be converted into a cow-shed nor a cow-shed into a horse stable without the written permission of the Local Authority: 15
- VII. All stables shall be constructed, drained, and ventilated as may be prescribed:
- VIII. The air and floor spaces in stables are not to be less than in the proportions following—
 - In Rural Districts 20
 - (a) For a single cow Fifty square feet of floor and Six hundred cubic feet of air space:
 - (b) For a single horse Eighty square feet of floor and One thousand cubic feet of air space:
 - (c) For Two or more cows Forty-five square feet of floor 25
and Five hundred cubic feet of air space for each animal:
 - (d) For Two or more horses Seventy square feet of floor and Nine hundred cubic feet of air space
for each animal. 30
 - In Towns—
 - (a) For a single cow Fifty square feet of floor and Eight hundred cubic feet of air space:
 - (b) For a single horse Eighty square feet of floor and One thousand two hundred cubic feet of air 35
space:
 - (c) For Two or more cows Fifty square feet of floor and Six hundred cubic feet of air space for each animal:
 - (d) For Two or more horses Seventy-five square feet of 40
floor and One thousand cubic feet of air space
for each animal.

Application to
existing stables.

(2.) All the foregoing provisions of this Section apply to existing stables except those numbered II., III., and VIII., but these may at any time after Three years from the commencement of this Act be made 45
applicable to existing stables by a By-law of the Local Authority providing to that effect. Provided, that no existing stable shall be discontinued as a stable, or the owner thereof be liable to penalties in respect of any breach of the last-mentioned provisions until Seven years at the least have elapsed since the commencement of this Act. 50

Floors.

- IX. The floor of every stable in a town is to be constructed of some impervious material, and, until otherwise prescribed, may be of not less than Four inches of well rammed and rolled tar asphalt or lime and cement concrete, finished so

as to have a smooth surface, with a slope sufficient to allow of the free flow of all liquids to a properly constructed impervious drain : A.D. 1899.

5. x. In towns the liquid matter from stables, unless allowed by the Local Authority to flow into a sewer, shall be conveyed into a movable bucket hung in a cemented cesspit, and shall be removed every day : Drainage.

(3.) Any person contravening any of the provisions of this Section is liable to a penalty of Forty Shillings, and to a further penalty not exceeding Five Shillings for every day during which the offence is continued. Penalty.

(4.) A notice of the intention to erect any stable, with a description of the measurements thereof, the materials proposed to be used, and accompanied by a plan showing the intended position of the stable and its distance from every existing building on the property, as well as the several distances from the boundaries of adjoining properties, shall be laid before the Local Authority, and the provisions of Sections *Two hundred and twenty* and *Two hundred and twenty-one* of this Act shall apply in every such case. Notice to be given. Sects. 220 & 221 apply.

Division IV.—*Unfit Dwellings.*

20 **407**—(1.) When it appears to a Local Authority that any building or any part thereof is unfit by reason of its filthy or dilapidated condition, improper construction, insanitary condition or insanitary surroundings to be used or occupied as a house, or is a nuisance or offensive to persons residing in the neighbourhood, the Local Authority may either— Houses unfit for occupation. Compare 58 Vict. No. 32, Part II. P.A., '81, s. 6-8. H.A., 101, 107.

30 i. By notice in writing to the owner or occupier direct that such building or part thereof shall not, after a time specified in such notice, be occupied as a house, and may cause such notice or a copy thereof to be affixed to some conspicuous part of such condemned building before the expiration of the time mentioned in such notice ; or By notice, may be condemned as untenable. Copy to be affixed to building.

35 ii. May give notice in writing to the owner or occupier of such building to purify, ventilate, or repair or alter the same, as specified in the notice, so as to render it fit for use and occupation ; or Alternative notice to repair, &c. P.A., 233. See Sec. (599.).

iii. The Local Authority may direct the building to be pulled down or destroyed. Or may direct renewal of building. See By-law power.

(2.) Any person who after the expiration of the time stated in the first of the notices in the Section mentioned lets or occupies, or knowingly suffers to be occupied, such building, or (as the case may be) such part thereof, is liable to a penalty not exceeding Five Pounds nor less than Ten Shillings for every day during which such building or part thereof (as the case may be) is let, occupied, or knowingly suffered to be occupied by him in contravention of such order. Penalty for disobedience of first-mentioned notice. H.A., 107. See Sect. 607. for alternative procedure before Justices.

45 (3.) If the person to whom the Second of the notices mentioned in this Section is given fails to comply therewith within the time therein specified, he is liable to a penalty not exceeding Ten Shillings for every day during which such default continues. Penalty for disobedience of alternative notice.

408—(1.) In any of the cases mentioned in Sub-section One of the preceding Section of this Act, the Local Authority, if of opinion that no repairs can be effected to render the building fit for occupation, in place of any of the proceedings set out in the said preceding Section, Local Authority may in first place give notice to owner to demolish building. P. A. '81, Sect. 6.

A.D. 1899.

Upon failure to
comply Local
Authority may
order demolition.
Sect. 598.
Sell materials.
P.A., 220.
And recover
expenses from
owner.
P.A., '81, (6).
See Sect. 607.

may by notice in writing direct the owner of the building to demolish the same within Thirty days.

(2.) If this direction be not fully complied with the Local Authority may then direct that the building shall be demolished, and may cause the materials therein to be removed or sold and the proceeds arising 5 therefrom applied in payment of any expenses. If there be a surplus it shall be paid to the owner of the building.

(3.) All expenses incurred in carrying out the provisions of this Section not provided for by any sale of materials as aforesaid shall be repaid to the Local Authority by the owner of the building. 10

Occupation of Cellar Dwellings.

Occupying cellar
dwellings.
See Sect. 5.
H.A., 109-112.

409—(1.) It shall not be lawful to let or occupy or suffer to be occupied as a dwelling any cellar.

(2.) Any person who lets, occupies, or knowingly suffers to be occupied as a dwelling, any cellar shall be liable to a penalty not exceeding Twenty Shillings for every day during which the cellar 15 continues to be so let or occupied after notice in writing from the Local Authority to discontinue such letting or occupation.

Power to close
cellar in case of
two convictions.
Compare
38 and 39 Vict.
55, ss. 71-75.

(3.) Where Two convictions against the provisions of this Section have taken place within Three months (whether the persons so convicted were or were not the same), any Two Justices may direct the 20 closing of the cellar so occupied for such time as they think necessary, or may empower the Local Authority permanently to close the same.

Justices may
cause inmates to
be removed from
dangerous build-
ings.
58 Vict. No. 32.
Sect. 67.

410 In cases where a building has been certified by an officer of the Local Authority to be dangerous to its inmates, any Two Justices of the Peace may (if satisfied of the correctness of such certificate) 25 upon the application of the Local Authority, by order under their hands, direct any inmate to be removed therefrom by a constable.

Division V.—Common Lodging-houses.

Registers of
common lodging-
houses to be kept.
See Sect.
38 & 39 Vict. c.
55, ss. 76-89.
Compare
P.A. 64-80.

411—(1.) Every Local Authority shall keep a register in which shall be entered the names and residences of the keepers of all common lodging-houses within the Area, and the situation of every 30 such house, and the number of lodgers authorised by the Local Authority to be received therein.

Common lodging-
houses to be
registered, and to
be kept by
registered keepers.

(2.) A person shall not keep a common lodging-house or receive a lodger therein unless the house is registered in accordance with the provisions of this Act, nor unless his name as the keeper thereof is 35 entered in the register.

(3.) Provided, that on the death of a person so registered his widow or any member of his family may continue to keep the house as a common lodging-house for not more than Four weeks after his death, 40 without being registered as the keeper thereof.

Local Authority
may refuse to
register
houses.
Compare
English Health
Regulations.

(4.) A house shall not be so registered until it has been inspected and approved for the purpose by some officer of the Local Authority; and in every house so approved there shall be provided not less than Three hundred cubic feet of air space for each occupant of any room 45 in which any person passes the night.

(5.) The Local Authority may refuse to register as such keeper a person who does not produce to the Local Authority a certificate of character, in such form as the Local Authority prescribes, signed by Three inhabitant householders of the Area occupying houses of the

annual value of not less than Forty Pounds; or a person who is in the opinion of the Local Authority an unfit person. A.D. 1899.

(6.) Every such keeper shall, if required in writing by the Local Authority so to do, affix and keep undefaced and legible a notice with the words "Registered Common Lodging-House" in some conspicuous place on the outside of such house. Notice of registration to be affixed to houses.

(7.) When it appears to a Local Authority that such house is without a proper supply of water for the use of the lodgers, and that such a supply can be furnished thereto at a reasonable rate, the Local Authority may, by notice in writing, require the owner or keeper of such house, within a time specified therein, to obtain such supply and to do all works necessary for that purpose. Power to require supply of water to houses.

If the notice is not complied with accordingly the Local Authority may remove such house from the register until it is complied with.

(8.) Every such keeper shall during the First week of each of the months of *April* and *October* in every year, and from time to time when required by the Local Authority, limewash the walls and ceilings of such house, and shall, if he fails to do so, be liable to a penalty not exceeding Forty Shillings for every day during which he so fails. Limewashing of houses.

(9.) Every such keeper shall, when a person in such house is ill of fever or any infectious or contagious disease, give immediate notice thereof to the Health Officer. Keepers to give notice of fever, &c., therein.

(10.) Every such keeper, and every other person having or acting in the care or management thereof, shall at all times when required by any officer of the Local Authority, or any officer of police above the rank of petty constable, give him free access to such house or any part thereof. As to inspection.

Every such keeper or person who refuses such access or otherwise prevents or obstructs such officer shall be liable to a penalty not exceeding Five Pounds.

(11.) Every such keeper who—

- I. After being required in writing by the Local Authority so to do, refuses or neglects to affix or renew any notice;
- II. Receives any lodger in such house while the same is not registered under this Act; or

III. Fails to give notice when any person in such house is ill of fever or other infectious or contagious disease; shall be liable to a penalty not exceeding Five Pounds, and in the case of a continuing offence to a further penalty not exceeding Forty Shillings for every day during which the offence continues. Offences by keepers.

(12.) When any such keeper is convicted of a third or subsequent offence against any of the provisions of this Section, the Justices before whom the conviction for such third or subsequent offence takes place may adjudge that he shall not keep a common lodging-house at any time within Five years after the conviction, or within such shorter period after the conviction as they think fit. Conviction for third offence.

Division VI.—Public Buildings.

412—(1.) In this Section the words "public building" include any hospital or benevolent or other asylum, any theatre, opera-house, concert room, music or assembly hall, whether forming part of or appurtenant to a public-house or not, any church, chapel, or meeting house, and any building, structure, circus tent, gallery, or platform in or [Bill 1.] Definition of public building. H.A. 114.

A.D. 1899.

Notice required.

upon which numbers of persons are usually or occasionally assembled for the purpose of public meeting, entertainment, or amusement.

(2.) The owner or occupier, or the manager, trustee, or other persons by whose authority a public building is intended to be built or opened or extended, shall give written notice of such intention to the Board and the Local Authority, accompanied by a plan and specification or description showing the proposed mode of constructing, draining, and ventilating it.

Board must
approve opening.
Inspection.

(3.) No public building shall be built or opened or extended as aforesaid until the Board has approved thereof in writing. 10

(4.) Every public building may from time to time be inspected by any officer of the Board or of the Local Authority; and in the case of theatres, opera-houses, music or assembly halls, circuses, or places of public amusement, such public buildings may be inspected by any officer of the Board or Local Authority at any time during the day or 15 night when such building is open for public amusement or entertainment.

Power to order
alterations:
sanitary appli-
ances, &c.
See Sect. 392.

(5.) The Board or the Local Authority may from time to time direct or order such means to be taken by the owner or occupier, or by the manager or trustees of such public building, for the proper or better 20 ventilation and draining thereof, and for the provision of proper sanitary appliances, and for the safe and proper construction thereof, as to the Board or the Local Authority respectively seem fit, who may, if they so think necessary, from time to time direct or order other or better provision for ingress and egress to be made in any such public 25 building; and may also from time to time direct or order the erection or provision therein of suitable appliances for the extinction of fire, and require and order the employment and attendance of skilled persons sufficient in number for the proper using of such appliances.

Penalty for open-
ing or making
alteration without
written approval
of Board.

(6.) If any public building or addition thereto be opened, or any 30 alteration contrary to the provisions of the next following Sub-section be made therein without the written approval of the Board, the owner or occupier, or the manager, trustees, or other person by whose authority such building or addition has been so opened, shall be liable to a penalty not exceeding One hundred Pounds, and to a further 35 penalty not exceeding Ten Pounds for every day or night during which such building or addition thereto remains opened without such approval.

No alteration to
be made without
like approval.

(7.) After the Board have given their approval to the opening of any public building or addition thereto, no alteration shall, without the 40 written approval of such Board, be made in its sanitary appliances or in the provision therein made for the safety or stability of such building, or for drainage, ventilation, means of ingress or egress, or the extinction of fire.

Division VII.—*Factories and Work-rooms.*

Air space in
Factories and
Workrooms.
Compare
Eng. Health
Regulations.

413 Any building or part of a building used as a factory or work- 45 room shall contain for each person employed therein not less than Two hundred and fifty cubic feet of air space clear of all fixtures, furniture, or machinery therein.

TITLE IV.—NOXIOUS AND OFFENSIVE TRADES.

A.D. 1899.

Div. I. Regulation. Sects. 414 to 416.
Div. II. Removal. Sects. 417 to 420.

Division I.—*Regulation.***414** “Offensive Trade” includes the Trade of—

Definition of
“Offensive
Trade.”
H.A. 96.
P.A. 236.

- 5 Blood Boiler, or
Bone Boiler, or
Tanner, or
Soap Maker, or
Tallow Melter, or
Tripe Boiler, or
Slaughterer of Animals, or
Offal Boiler, or
10 Bark Grinder, or
Manure Manufacturer, or
Fellmonger, or
Wool Scourer, or
Glue Maker, or
15 Marine Storekeeper, or
Candle Maker, or
Fish Curer, or
Bone, Hides, Hoof, or Skin Storekeeper, Dryer
or Preserver, or
20 Keeper of Piggeries, or
Seller of Manure, or
any other noxious or offensive trade, business, or manufacture.

415—(1.) Any person who within an Area, without the consent of the Local Authority thereof, or within any Residential Area declared under the provisions of Section *Two hundred and ten* hereof—

Restriction of
Offensive Trades ;
Compare
P.A. 236.
38 & 39 Vict. c.
55, ss. 112-115,
and also Noxious
Business—as that
of metal-smelting.

- 25 i. Establishes ; or
ii. Newly carries on ; or
iii. Adds to or extends any building or premises for the purpose
of carrying on
30 an offensive trade or any noxious business, such as Smelting Metals,
is liable to a penalty not exceeding Fifty Pounds in respect of every
such offence.

(2.) Any person carrying on an offensive trade or any such noxious business as aforesaid, so established or newly carried on after the com-
35 mencement of this Act, or using any such so added or extended building
or premises as aforesaid for carrying on an offensive trade, is liable to a
penalty not exceeding Five Pounds, nor less than Two Pounds for every
day during which such offence is continued, whether there has or has
not been any conviction under the First Sub-section of this Section.

Continuing daily
penalty.
H.A., 96, 97.

40 (3.) No such consent as aforesaid shall be valid unless prior to the
granting thereof a notice of intention to apply for the same shall have
been one month previously advertised twice in Two Newspapers, and a
printed poster has been kept exhibited during the same month on the
site of the offensive trade in view of the nearest Public Road, such
45 poster to be Six square feet to have printed on it in letters Four inches
long and proportionally wide the words “Offensive Trade Licence
applied for.”

Notices required
before applying
for Licence.

(4.) Any person, whether a resident or non-resident of the Area,
may object to the consent so applied for being granted, and may state
50 his objection to the Local Authority.

A.D. 1899.

Appeal to the
Central Board.Reserves rights
acquired by
statutes.Continuance of an
unauthorised
Offensive Trade
not to confer a
right to do so.Premises to be
registered
annually.Compare
H.A., 97.

(5.) If, nevertheless, the Local Authority decide to grant their consent the objector may appeal to the Board, whose decision shall be final, and if against the granting of such consent, shall prevent or annul the same.

(6.) Provided, that this Section shall not be construed to prevent the establishment or carrying on of any trade, business, or manufacture with respect to the establishment or carrying on of which special provision is or may hereafter be made by any statute.

(7.) The commencement and continuance of any such offensive trade in breach of the provisions of the Police Act, or of the provisions of the Public Health Act, or of this Act, for any period however long shall not be deemed to confer nor to have conferred any right to continue the same, but shall be treated as a continuing offence against this Act.

416 Every owner or occupier of any premises used for the purpose of carrying on an offensive trade, whether established before the First day of *January*, One thousand eight hundred and eighty-six, or not, who does not register or cause the same to be registered as "An Offensive Trade Establishment" at the office of the Local Authority during the First week in *January* next following the passing of this Act, and continue to so register or cause the same to be registered thereafter during the First week in *January* in each year, and pay to the Local Authority an annual registration fee of Twenty Shillings, is liable to a penalty not exceeding Two Pounds per day for every day he continues in default.

Division II.—*Removal.*

Local Authority
to complain to
Justice of
Nuisance arising
from Offensive
Trade.*Ib.* 114.Compare
H.A., '87, (17.)
P.A. 235.
H.A., 102
(1st & 2ndly).

Justices' powers.

417—(1.) Where a Local Authority is satisfied, on the report of its Health Officer, or of any Two legally qualified medical practitioners, or of any Ten inhabitants of the Area, that—

i. Any offensive trade established since the First day of *January*, One thousand eight hundred and eighty-six; or

ii. Any premises used for any trade, business, or manufacture whatsoever

is a nuisance, the Local Authority shall direct complaint to be made before a Justice, who shall summon the person by or on whose behalf the trade, business, or manufacture so complained of is carried on, to appear before any Two Justices.

(2.) If it appears to the Justices that the trade, business, or manufacture is a nuisance, or causes any effluvia which is a nuisance or injurious to health, the person offending (being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier) shall be liable to a penalty not exceeding Five Pounds, and on a second and any subsequent conviction to a penalty double the amount of the penalty imposed for the last preceding conviction, but the highest amount of such penalty shall not in any case exceed the sum of Two hundred Pounds.

(3.) Provided that the Justices may suspend their final determination on condition that the person complained of undertakes to adopt within a reasonable time such means as the Justices think to be practicable and order to be carried into effect for abating such nuisance, or mitigating or preventing the injurious effects thereof; or may dismiss the complaint if satisfied that the business is being carried on with the best known means, appliances, methods, and processes for avoiding all nuisance.

(4.) Where any such offensive trade or any such premises reported as aforesaid is situated beyond the Area, the Local Authority may take

May suspend final
decision to allow
opportunity for
abatement of
nuisance;
or dismiss com-
plaint if satisfied
business carried
on with best appli-
ances for avoiding
nuisance.
H.A., 99.

Power to proceed
where nuisance

or cause to be taken any proceedings hereinbefore authorised, and the same incidents and consequences as if the nuisance complained of were situated within the Area, so, however, that summary proceedings shall not in any case be had otherwise than before a Court having jurisdiction in the place where the nuisance is situate.

(5). A penalty shall not be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on any trade, business, or manufacture, if it is proved to the satisfaction of Justices that the accumulation or deposit has not been kept longer than is necessary for the purposes of the trade, business, or manufacture, and that the best available means have been taken for preventing injury thereby to health.

A.D. 1899.

outside the Area ;
but if proceedings
be summary in a
Court having
jurisdiction in the
outside Area.

Accumulations in
case of business or
manufacture.

418—(1.) Where it shall appear to a Local Authority that any trade, manufacture, or business carried on within its Area is a nuisance the Local Authority may contract and agree with the person conducting or carrying on such trade, manufacture, or business for the discontinuance or removal of the same to a place agreed upon in the contract ; and the Local Authority may pay out of the Local Fund such reasonable compensation by way of consideration for such contract as may be agreed upon between the contracting parties.

Municipal
Council may give
compensation to
persons removing
offensive trades,
&c.
H.A., 89, (25.)

(2.) In the event of the Local Authority and any such person as aforesaid failing to agree as to the amount of compensation to be paid to him for discontinuing or removing the trade, manufacture, or business, such compensation shall be settled by arbitration, in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

(3.) Nothing in this Section contained shall affect the institution of any proceedings against any such person under this Act or any law now or hereafter in force relating to the abatement of nuisances, or the conviction or punishment of persons guilty of creating or causing nuisances.

(4.) No proposition to make such contract and give compensation as aforesaid shall be considered by the Local Authority unless a notice setting forth the terms of the proposed contract and the amount of compensation to be given has been gazetted and advertised three times not less than One month nor more than Two months before such proposition be considered ; and no resolution to make such contract and give such compensation shall be adopted by the Local Authority save by "Special Resolution," nor unless a periodical election of Members has taken place not less than Twenty-one clear days after the meeting of the Council at which such resolution is first agreed to and before the subsequent meeting at which it is confirmed, nor unless at the last-mentioned meeting the resolution for confirmation is carried by a majority of the whole number of Members of the Council.

Compensation to
be given only
upon notice and
"special Resolu-
tion" under
certain conditions.
Tas., 250.

Noxious Trade Areas.

419—(1.) The Governor may, upon the advice of the Board, from time to time by Proclamation, appoint such portions of the Colony as may be defined in such Proclamation Noxious Trade Areas for the purposes of this Act.

Governor may
define Areas.

(2.) Any manufacture, trade, or business carried on within such a Noxious Trade Area shall not be deemed to be a nuisance, and the person conducting or carrying on the same shall be free from all proceedings in respect thereof, any law to the contrary notwithstanding :

Noxious trades
within Area not
deemed a
nuisance.
H.A., '89, (15, 16).
See Sect. 591.

Provided always, that such person is conducting or carrying on such manufacture, trade, or business in conformity with the Regulations made as hereinafter provided.

A.D. 1899.

Power to Minister
to purchase lands.
58 Vict. No. 17.
62 Vict. No. 45.

Defrayment of
cost.

Appropriation of
money on re-sale
of land.

H.A., '89, (18, 24).

420—(1.) The Minister may, if the Governor approves, purchase, acquire, and take, by exercising all or any of the powers of "The Land Vesting Act, 1894," or "The Land Vesting Act, 1898," such land as the Governor may deem necessary for Noxious Trade Areas.

(2.) The purchase money of any land acquired or taken shall be paid 5 out of moneys provided by Parliament for that purpose.

All moneys received by the Minister upon the re-sale of any land taken under the provisions of this Act shall be paid to the Commissioners of "The Public Debts Sinking Fund," and shall form part of "The Public Debts Sinking Fund."

10

TITLE V.—FOOD AND DRUGS.

Div. I. Food and Drugs. Sects. 421 to 429.

II. Analysis. Sects. 430 to 435.

III. Sale of Bread Act. Sect. 436.

IV. Slaughtering Animals for Food. Sects. 437 to 445.

Division I.—Food and Drugs.

Power of health
officer to inspect
food and drugs.

Compare
H.A., 62, 63, 64,
H.A., '87, 13.
P.A., 107, 108.

421—(1.) Any Health Officer or Inspector of Nuisances, or other authorised officer of the Local Authority, may at all reasonable times during the day or night inspect and examine (with power to cut open any package or case containing) any food in course of preparation for sale, including milk in dairies or any food exposed for sale, or deposited 15 in any place, for the purpose of sale or preparation for sale, and intended for the food of man, or in course of transit for any such purpose which he may have reasonable ground for believing is intended for the food of man.

For this and
following Sections
Compare
38 and 39 Vict.,
Ch. 63.

(2.) If any such food appears to such officer to be unfit for the food 20 of man, or any milk is in any store contrary to the provisions of this Act, he may seize and carry away the same himself or by an assistant, in order to have the same dealt with by two Justices.

(3.) The powers of the two preceding Sub-sections may be exercised in respect of any drug for human consumption. 25

(4.) The proof that any substance so exposed or deposited was not exposed or deposited for any such purpose, or was not intended for the food of man or for human consumption, shall rest with the party charged.

Meat deemed to
be for food of
man unless
marked as
prescribed.

Compare
P.A., 113.

(5.) Meat shall be deemed to be offered for sale as the food of man 30 unless it is marked or otherwise sold or offered or exposed for sale as may be prescribed for the sale of meat for other purposes than for the food of man.

Power of Justices
to order
destruction of
unsound food.

422—(1.) If it appears to any Two Justices that any food or drug so seized is unfit for the food of man or for human consumption, they 35 shall condemn the same, and order it to be destroyed, or so disposed of as to prevent it from being so used, and it shall be destroyed or disposed of accordingly.

(2.) The person to whom the same belongs, or did belong at the time of exposure for sale or deposit, or in whose possession or on whose 40 premises the same was found, is liable to a penalty not exceeding Twenty Pounds for every article of food so condemned, or to be imprisoned for any period not exceeding three months.

Tallow of
animals may be
removed.

Compare
P.A., 110.

(3.) Provided that the Officer making the seizure of the carcase of an animal may permit the fat to be separated therefrom under his 45 immediate inspection, and subject to such restrictions as may be ordered by the Justices or as may be prescribed.

423 On complaint by any officer of a Local Authority, a Justice A.D. 1899.
may grant a warrant to such officer to enter any building or part of a
building in which such officer has reason to suspect that there is kept
or concealed any food which is intended for sale for the food of man,
5 and is unfit for the food of man, and to search for, seize, and carry away
any such food in order to have the same dealt with by any two Justices.

Search warrant
may be granted
by a Justice.

Any person who obstructs any such officer in the performance of his
duty under such warrant shall, in addition to any other punishment to
which he may be subject, be liable to a penalty not exceeding Twenty
10 Pounds.

424—(1.) Any person who—

- i. Mixes, colours, stains, or powders, or orders or permits any
other person to mix, colour, stain, or powder, any food with
any ingredient or material so as to render the food unfit
15 for the food of man, with intent that the same may be sold
in that state; or
- ii. Sells any food so mixed, coloured, stained, or powdered; or
- iii. Except for the purpose of compounding as hereinafter described,
mixes, colours, stains, or powders, or orders or permits any
20 other person to mix, colour, stain, or powder, any drug with
any ingredient or material so as to affect injuriously the
quality or potency of such drug, with intent that the same
may be sold in that state; or
- iv. Sells any such drug so mixed, coloured, stained, or powdered;
25 is for a first offence liable to a penalty not exceeding Fifty Pounds, and
for a second offence to be imprisoned for any period not exceeding Six
months with or without hard labour.

Mixture of
injurious
ingredients, and
selling the same.
Compare
H.A., 32-34.

Mixing of drugs
with injurious
ingredients, and
selling the same.

(2.) No person is liable to be convicted under this Section in respect
of the sale of any food or drug if he shows to the satisfaction of the
30 Justices that he did not know of the food or drug sold by him being so
mixed, coloured, stained, or powdered, and that he could not with
reasonable diligence have obtained that knowledge.

Proof of absence
of knowledge.

425—(1.) Any person who sells any food or any drug which is
not of the nature, substance, and quality of the article demanded by
35 the purchaser is liable to a penalty not exceeding Twenty Pounds.

Sale of food and
drugs not of the
proper nature,
substance, and
quality.

(2.) An offence is not deemed to be committed under this Section in
the following cases, that is to say—

Compare
H.A., 35, 36.

- i. Where any matter or ingredient not injurious to health has
been added to the food or drug because the same is required
40 for the production or preparation thereof as an article of
commerce, in a state fit for carriage or consumption, and
not fraudulently to increase the bulk, weight, or measure
of the food or drug, or to conceal the inferior quality
thereof;
- ii. Where the drug or food is a proprietary medicine, or is the
subject of a patent in force within the Colony, and is
supplied in the state required by the specification of the
patent;
- iii. Where the food or drug is compounded as in this Act men-
tioned;
- iv. Where the food or drug is unavoidably mixed with some
extraneous matter in the process of collection or prepara-
tion.

(3.) The Governor, on the recommendation of the Board, may, by
55 Regulation—

Limit of strength
and purity.

- i. Fix limits of strength and purity for any food or drug:

A.D. 1899.

Use of antiseptics.

Compare

N.S.W. H.A., 60

Vict. No. 35, Sect.
60.

II. Prescribe the conditions under which, and the respective proportions in which, the antiseptic or the antiseptic preparations therein mentioned may be mixed with food.

(4.) Any food with which any antiseptic or antiseptic preparation has been mixed in contravention of any regulation made as aforesaid, 5 shall be deemed to be unfit for human consumption:

(5.) Any person who sells any food with which any antiseptic or antiseptic preparation mentioned in any such regulation has been mixed is liable, unless at the time of delivering the food he gives notice to the person receiving the same by a label distinctly and legibly written or 10 printed affixed to the containing vessel or parcel truly specifying the nature of the antiseptic or antiseptic preparation, and the proportion in which it is present in the food, to a penalty not exceeding Five Pounds, and for any subsequent offence to a penalty not exceeding Ten Pounds.

Reduction
allowed in spirits.

(6.) In any proceedings under this Section for selling spirits not 15 adulterated otherwise than by the admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit to more than Twenty-five degrees under proof for brandy, whisky, or rum, or to more than Thirty-five degrees under proof for gin.

Sale of compound
food and
compounded
drugs.
38 and 39 Vict.,
s. 38.

426—(1.) Any person who sells any compound food or compounded 20 drug which is not composed of such ingredients as are in accordance with the demand of the purchaser is liable to a penalty not exceeding Twenty Pounds.

Giving of label.

(2.) No person is guilty of any offence in respect of the sale of any food or a drug mixed with any matter or ingredient not injurious to 25 health and not intended fraudulently to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article or drug he supplies to the person receiving the same a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that the same is mixed. 30

Extraction of any
part of food, and
selling without
notice.
Ib. 39.

427 Any person who, with the intent that the same may be sold in its altered state, without notice, abstracts from any food any part of it so as to affect injuriously its quality, substance, or nature, or sells any article so altered without making disclosure of the alteration, is liable to a penalty not exceeding Twenty Pounds. 35

Grazing grounds,
&c., wherever
situate, of persons
supplying milk,
&c., within Area,
subject to
Regulation by
Local Authority
thereof.Compare
H.A., '96, 6.

428—(1.) Every Local Authority may exercise without its Area in regard to the cattle-grazing grounds, milk stores, dairies, and cow-sheds of any person selling milk or butter within its Area, all the powers and authorities exercisable by the same authority in regard to these matters within its Area, and may take proceedings for any 40 breach of this Act in any Court of competent jurisdiction within the Area where the offence against this Act is committed, and such person shall be as amenable to the jurisdiction of such Local Authority and to the provisions of this Act, which it has power to enforce as though he were a resident in the Area of the same Local Authority. 45

Only one full fee
to be paid by
cowkeepers, &c.
H.A., '96. (10.)

(2.) Whenever a registration fee has been paid by a cowkeeper, dairyman, or purveyor of milk in the Area where his dairy is situate, he shall not be liable to pay a higher fee than Two Shillings and Sixpence per annum in any other Area.

Prohibition of
sale of milk of
diseased cows.Compare
Vic. Health Act,
1890, Sect. 50.

(3.) No person shall sell, offer, keep, or deliver for sale, whether 50 wholesale or retail, or exchange or authorise, direct, or allow the sale of any milk from cows to his knowledge suffering from anthrax, tuberculosis, or pleuro-pneumonia, or suffering from any disease from time to time declared by the Governor by a gazetted notice to come within the meaning of this Section. 55

Defendant
acquitted if he
took means to
ascertain purity of
milk.

(4.) The defendant shall be acquitted if it appears to the Court that he took all reasonable and practicable means to inquire and ascertain whether or not the milk came from cows suffering as aforesaid

429—(1.) In any prosecution under this Act for the sale of any food or drug it shall be no defence for the defendant to allege that he is only the servant or agent of the owner or of the person dealing in the food or drug, or having the same for sale, or is only entrusted for the time being with any food by the owner, but such servant or agent and such owner shall both be liable.

A.D. 1899.

Liability of servant or agent.

(2.) Provided that a servant shall not be liable if he proves that the offence was committed in premises on which business was at the time of the committing of the offence conducted under the personal superintendence of some other person.

Servant exempt if acting under personal direction of master.

(3.) If the defendant, being an agent or servant, prove that he sold the food or drug without knowledge—

Master's liability to servant.

I. That the nature, substance, or quality was not that of the food or drug demanded by the purchaser; or

Compare Vict. and N.S.W. Health Acts, Sects. 50, 68.

II. That any material or ingredient had been mixed with the food or drug contrary to this Act; or

III. That the food or drug was unfit for human consumption:

IV. That otherwise any provisions of this Act with regard to the nature, substance, quality, or labelling of the food or drug had been contravened—

he may (notwithstanding that his master or employer has himself been convicted and fined) recover in any Court of competent jurisdiction, the amount of any penalty in which he may have been convicted, together with the costs paid or to be paid by him upon such conviction and those incurred by him in and about his defence thereto.

(4.) When a servant or agent is so convicted the Court may, if it think fit, suspend the operation of such conviction for any period not exceeding Three months, as it shall consider long enough to enable him to recover the penalty and costs as aforesaid from his master or employer.

Judgment against servant may be suspended to allow of his recovering from Master.

Division II.—*Analysis.*

430—(1.) The purchaser of any food or drug within the Area shall, on payment to the Analyst of a fee of Ten Shillings and Sixpence or such fee as may be fixed by the By-laws, be entitled to have such food or drug analysed by the Analyst, and may take proceedings against the seller if an offence against this Act is disclosed by the Analyst's certificate.

Purchaser may have article analysed. H.A., 44, 53.

(2.) In an Area where there is no public Analyst, such purchaser of any food or drug shall, on payment to a Government Analyst of a fee to be prescribed by the Minister by Regulations, be entitled to have such food or drug analysed by the Government Analyst.

Where no public analyst. *Ib.*, s. 45.

(3.) The Health Officer, Inspector of Nuisances, or other Inspector or a Police Constable authorised in that behalf by the Local Authority or the Board, may procure a sample of food or drug, and if he suspects the same to have been sold to him contrary to any provision of this Act, shall submit the same to an Analyst. The sale of any milk to such officer or constable shall be held to be proof that it is intended for human consumption.

Officer may obtain a sample of food or drug. *Ib.* 45. H.A., '96 (7.).

(4.) The Analyst shall, upon receiving payment as hereinbefore provided, with all convenient speed analyse the food or drug, and give to the person requiring the analysis, a certificate of the result thereof in the form in the Schedule (28.), or to the like effect.

Schedule (28.)

(5.) If, when the Health Officer or inspector applies to purchase from the person exposing the same for sale any food or drug, or demands a sample of any milk in course of delivery from the person conveying the same to any purchaser or consignee of such milk, and tenders the price for the quantity which he requires for the purpose of analysis, not being more than is reasonably requisite, such person

Person refusing to sell any article to any officer liable to penalty. Compare H.A., 50.

[Bill 1.]

A.D. 1899.

Provision for dealing with the samples when purchased.
Ib. 47.

Provision when sample is not divided.
Ib. 48.

Provision for sending article to the analyst through the post office.
Ib., 49.

Quarterly and annual report of analyst.
H.A., 52.

No defence to allege the purchase of adulterated articles was for analysis.
H.A., 40.

Defendant to be discharged if he proves that he bought the article in the same state as sold and with a warranty.

Compare
H.A., 58.

refuses to sell the same or to allow such sample of milk to be taken as aforesaid, he is liable to a penalty not exceeding Ten Pounds.

(6.) The person, after purchasing any food or drug for the purpose of analysis, shall forthwith notify to the seller or his agent selling the same, his intention to have the same analysed, and shall offer to divide the food or drug into three parts to be then and there separated, and each part to be marked and sealed or fastened up in such manner as its nature permits. The purchaser shall, if required so to do, proceed accordingly, and shall deliver one of the parts to the seller or his agent. 5

He shall afterwards retain one of the parts for future comparison, 10 and submit the third part to the analyst, if he deems it right to have the food or drug analysed.

(7.) If the seller or his agent does not accept the offer of the purchaser to divide such food or drug, the analyst receiving the same shall divide it into two parts, and shall seal or fasten up one of the parts, and cause it to be delivered to the purchaser, who shall retain the same for production in case proceedings are afterwards taken in the matter. 15

(8.) If the analyst does not reside within Two miles of the residence of the person requiring the food or drug to be analysed, such food or drug may be forwarded to the analyst through the Post Office as a registered letter or packet. 20

The charge for the postage of the same shall be deemed one of the charges authorised by this Act, or of the prosecution, as the case may be.

(9.) Every public analyst shall furnish a report to the Local Authority once at least in every Three months, showing the number of articles analysed by him during the last preceding Three months, the result of each analysis, and the sum paid to him in respect thereof. 25

(10.) Such report shall be presented at the next Meeting of the Local Authority. 30

(11.) Every Local Authority shall annually transmit to the Minister a certified copy of every such report.

(12.) Every Government Analyst shall make a similar report once at least in each year to the Minister.

431—(1.) In any prosecution for selling any article of food or drug which is not of the nature, substance, and quality of the article demanded by such purchaser, it shall be no defence to any such prosecution to prove that— 35

- i. The purchaser bought only for analysis ; or
- ii. The food or drug, though defective in nature, or in substance, or in quality, was not defective in all three respects. 40

(2.) If the defendant proves—

- i. That he purchased the food or drug as the same in nature, substance, and quality as that demanded of him by the purchaser, and with a written warranty to that effect from some responsible person then carrying on business within the Colony ; and 45

- ii. That he had no reason to believe at the time when he sold it that the food or drug was other in nature, substance, or quality than that demanded ; and 50

iii. That he sold it in the same state as when he purchased it ; he shall be discharged, but shall be liable to pay all costs incurred by the purchaser unless he had given due notice to him that he would rely upon this defence.

- 432** Whenever after the conviction of any person for selling any food or drug, the Justices are of opinion that it is unfit for the food of man, or for use as a drug, they may order such food or drug to be forfeited and to be destroyed or otherwise disposed of as they think fit.
- 433** Every person who forges, or who utters, knowing it to be forged, any certificate or any writing purporting to be a warranty, shall be guilty of a misdemeanour, and be liable to be imprisoned for any period not exceeding two years, with hard labour.
- 434** Every person who—
- i. Wilfully applies to any food or drug in any proceedings under this Act a certificate or warranty given in relation to any other food or drug:
 - ii. Gives a false warranty in writing to any purchaser in respect of any food or a drug sold by him as principal or agent:
 - iii. Wilfully gives a label with any food or drug sold by him which falsely describes the food or drug sold:
- shall be liable to a penalty not exceeding Twenty Pounds.
- 435** Nothing in this Act contained with respect to the sale of food and drugs shall affect the power of the Attorney-General to proceed by information, or take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals, and the rights and remedies belonging thereto.
- Provided that in any action brought by any person for a breach of contract on the sale of any food or drug, such person may recover alone or in addition to any other damages recoverable by him the amount of any penalty adjudged to be paid by him under this Act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he proves that the food or drug the subject of such conviction was sold to him as and for a food or drug of the same nature, substance, and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it; but the defendant in such action shall nevertheless be at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was not incurred or was unreasonable.
- In this Section the expression "Attorney-General" includes an officer appointed under the Fifth Section of the Act of the Imperial Parliament of the 9th Geo. 4, Chapter 83, for the prosecution of crimes, misdemeanours, and offences cognizable in the Supreme Court.

A.D. 1899.

Unfit food or drug may be destroyed.

Punishment for forging certificate or warranty. H.A., 59.

For wilful misapplication of warranty.

For false warranty.

For false label. H.A., 59.

Proceedings by information, and contracts not to be affected. H.A., ss. 60, 61.

Officer appointed under *Huskisson Act*.Division III.—*Sale of Bread.*

- 436** Every Shire Council and Town Council is empowered to administer "The Sale of Bread Act, 1896," within their respective Areas, and whenever the term "Council or Local Board of Health" occurs in that Act it shall be held to include any such Local Authority, and the Inspector or other Officer of a Local Authority shall have and may exercise all the powers and be entitled to the benefit of all the provisions which an Inspector or Officer appointed in pursuance of the said Act by a Council or Board of Health might have exercised or been entitled to.

"The Sale of Bread Act, 1896," 60 Vict. No. 30, to be administered by Local Authorities.

A.D. 1899.

Division IV.—*Slaughtering Animals for Food.*

No person to slaughter animals or sell meat under a penalty unless licensed.

P.A., 97, 98, 100, 102.

Issue of Slaughtering Licences.

Fees.

Animals not to be slaughtered for sale without notice to Inspector.

Name of owner to be stated on demand.
P.A., 103.

Animals not to be exported without notice to Inspector.
P.A. 104.

See The Stock Act, Sect. 46.

Name of owner, &c., of animals to be stated on demand.

Fees to be taken by Inspector.
P.A., 106.

Penalty.

Penalty for not yarding animal, or preventing Inspector marking it.
Compare
P.A., 105.

437—(1.) No person may slaughter or cause to be slaughtered for sale any animal, or sell or cause to be sold any meat or the carcase of any animal, under a penalty not exceeding Twenty Pounds, unless he is the holder of a Slaughtering Licence under this Act.

(2.) A Slaughtering Licence, in the form in Schedule (29.), to 5 enure till the Thirty-first day of *December* next following its date may be granted in any Rural District by any Two Justices of the Peace sitting in Petty Sessions in such District, of whom One shall be the Stipendiary Magistrate if there be one therein, and in any Town by the Chairman thereof. 10

(3.) Before the issue of any such Licence there shall be paid for the same, to form part of the local fund of the Local Authority, the fees following:—

I. In a Rural District Five Shillings :

II. In a Town such sum not exceeding Five Pounds as for the 15 time being is in that behalf fixed by the Council thereof.

438 If any person slaughters, or causes to be slaughtered, any animal for sale without giving sufficient notice of his intention so to do to the Inspector of Stock for the Area, to enable him to inspect the animal and affording opportunity and permission to the Inspector to 20 inspect such animal before the same is slaughtered, or refuses or neglects to state to the Inspector, upon being by him requested so to do, the name and residence as well of the owner of any such animal as of the person from whom he received the same he is liable to a penalty not exceeding Twenty Pounds. 25

439 If any person ships or causes to be shipped on board any vessel any animal without giving sufficient notice of his intention so to do to an Inspector of Stock, to enable him to inspect such animal, and affording opportunity and permission to the Inspector to so inspect it before the embarkation thereof, or refuses or neglects to state to the 30 Inspector, upon being by him requested so to do, the name and residence as well of the owner of any such animal as of the person from whom he received the same, he shall forfeit a penalty not exceeding Fifty Pounds.

440 There shall be paid to every Inspector of Stock for inspecting each head of cattle the sum of Sixpence, and for inspecting each score 35 of sheep the sum of Ten pence, and so in proportion for a less number; and if the person giving notice to the Inspector does not immediately upon demand pay the amount of such charges, he is besides the charges liable to a penalty of not more than Five Pounds; and any Inspector of Stock demanding or receiving any higher fees than as aforesaid is 40 liable to a penalty not exceeding Fifty Pounds.

441 Every person who gives a notice to an Inspector of Stock for the purpose of enabling him to inspect any animal, and does not yard the animal so as to enable the Inspector to properly and effectually inspect the same, or who obstructs or refuses to permit the Inspector to 45 brand or otherwise mark the animal so as to enable him to recognise the same, is liable for every such offence to a penalty not exceeding Twenty Pounds.

442 Any Inspector of Stock who has reasonable suspicion that any animal he is inspecting has been stolen may seize and detain it, and shall forthwith report the seizure and the grounds thereof to some Justice of the Peace residing in the Area, who shall thereupon make such order in the matter as the justice of the case may require.

A.D. 1899.

Inspector may seize animals suspected of being stolen.

Compare

P.A. 111.

443 Nothing in the preceding Sections of this Division of this Act is to affect any person slaughtering an animal for the use of his family, servants, or workmen, nor any person slaughtering an animal when humanity enjoins its immediate death; Provided that, in every case as last aforesaid, the person does as soon as possible afterwards give notice to the Inspector of Stock, and if required so to do produces the ears and the entire skin of the animal to the Inspector.

Foregoing provisions not to affect persons slaughtering for their own use or for reasons of humanity.

Compare

P.A. 112.

444 Any person keeping swine, sheep, or cattle on any butcher's premises unless such premises are duly licensed for slaughtering purposes under this or some other Act, or keeping any swine on such premises unless intended for immediate slaughter, or any dog on such premises unless constantly chained when not used for yarding purposes, or who permits any swine to feed on any offensive matter, is liable to a penalty not exceeding Five Pounds for each day during which such offence is committed.

Swine, sheep, or cattle not to be kept on premises not licensed for slaughtering.

H.A. 134.

Compare

Vic. H.A., 1890, s. 272.

Other regulations as to Swine and Dogs.

Abattoirs, stables, &c., to be paved.

H.A. 135.

445—(1.) All premises used for the purpose of slaughtering and all cattle-sheds shall be paved with cement, asphalt, or other like impervious material, and shall have such impervious drains and receptacles for offal, dung, or other filth or refuse as may be prescribed, or as the Local Authority may by a notice from time to time direct.

(2.) If it appears to any Local Authority that any such premises as aforesaid within their jurisdiction is not so properly paved or has not proper drains and receptacles as aforesaid, and the occupier or person in possession thereof on receipt of a notice to that effect from such Local Authority does not pave the same premises, and provide drains and receptacles as aforesaid, within a time to be specified in such notice, he shall be liable to a penalty not exceeding Ten Shillings for every day he continues to make default; and the Local Authority may cause the premises to be paved, and drains and receptacles provided, at the expense of the occupier or person in possession of the premises, and recover such expense as is hereinafter provided.

Power to order paving, &c.

(3.) Any person who puts or throws, or causes or suffers to be put or thrown, or permits or suffers to remain, any skin, offal, horn, or blood, or other part whatsoever of any animal in or on any public place, or in or on his premises, or any other place whatsoever where the same occasions or is likely to occasion public annoyance, is liable to a penalty not exceeding Twenty Pounds.

Penalty for allowing offal, &c., to remain on premises or public places.

P.A. 109.

A.D. 1899.

TITLE VI.—INFECTIOUS DISEASES, HOSPITALS.

- Div. I. Precautions against infection. (Sects. 446 to 454.)
 II. Hospitals. (Sects. 455 to 458.)
 III. Prevention of epidemic diseases. (Sects. 459 to 465.)

Infectious diseases.

Compare
H.A. '96, 2.

446 In this Title of this Act, unless the context otherwise determines—

“Infectious Disease” includes Smallpox, Asiatic Cholera, Plague, Yellow Fever, Typhus Fever, Measles, Scarlatina, Typhoid Fever, and Diphtheria.

5

Division I.—*Precautions against Infection.*

Medical practitioner to report existence of disease.

H.A. '96, 4.

447—(1.) The medical practitioner in attendance upon or consulted by any person suffering from any infectious or contagious disease shall report his name, place of abode or residence, and the nature of the said disease to the Local Authority of the Area in which such place of abode or residence is situate not later than Twenty-four hours after he has become aware thereof, or be liable to a penalty not exceeding Ten Pounds.

Local Authority to report to the Board.

H.A. '96, 4.
H.A. '75.

(2.) The Local Authority receiving any such report as aforesaid shall immediately communicate the contents thereof to the Board; and shall also report to the Board any case of infectious disease occurring in the Area, or any peculiar circumstances or occurrence involving or affecting, or likely to involve or affect, the sanitary condition thereof.

Local Authority to cause premises to be cleansed and disinfected.

For Sections 448 to 454,

Compare
38 & 39 Vict.
c. 55, ss. 120-129.
H.A. '87, 15.

448—(1.) Where a Local Authority is satisfied, on the report of the Health Officer, or of any other legally qualified medical practitioner, that the cleansing and disinfecting of any house or part thereof within the Area, or of any articles therein likely to retain infection or contagion, would tend to prevent or check infectious or contagious disease, it shall be the duty of such Local Authority to give notice in writing to the owner or occupier of such house or part thereof, requiring him to cleanse and disinfect such house or part thereof and articles within the time specified in such notice.

(2.) If the person to whom notice is so given fails to comply therewith, he shall be liable to a penalty not exceeding Ten Shillings for every day during which he continues to make default; and the Local Authority shall cause such house or part thereof and articles to be cleansed and disinfected, and may recover the expenses incurred from the owner or occupier in default.

(3.) Where the owner or occupier of any such house or part thereof is from poverty or otherwise unable, in the opinion of the Local Authority, effectually to carry out the requirements of this Section, the Local Authority may cleanse or disinfect such house or part thereof or articles, and defray the expenses of so doing.

449—(1.) A Local Authority may—

Destruction of infected bedding, &c.

See Sect. 594.

Compare
38 & 39 Vict.,
c. 55, s. 121.
H.A. 82-84.

- I. Direct the destruction of any bedding, clothing, or other articles, which have been exposed to infection from any infectious or contagious disease, and may give compensation for the same:

- ii. Provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding, clothing, or other articles which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge :
- 5
- iii. Provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any infectious or contagious disease, and may pay the expense of conveying therein any person so suffering to a hospital or other place of destination :
- 10
- iv. Whenever typhoid fever exists in the Area (and shall whenever so required by an order of the Board) provide and maintain a separate service for the removal and destruction by fire of the excreta of persons suffering from such fever.
- 15 **450** Where any suitable hospital or place for the reception of the sick is provided within the Area, or within a convenient distance from the Area, then—
- (1) Any person who is suffering from any infectious or contagious disease, and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, or is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed by order of any Justice to such hospital or place at the cost of the Local Authority.
- 20
- (2.) Any person so suffering, who is lodged in any common lodging house, may, with the like consent and on a like certificate, be removed by order of the Local Authority.
- 25
- (3.) Any order under this Section may be addressed to an officer of police or to such officer of the Local Authority as the Justice or Local Authority making the same thinks expedient.
- 30
- (4.) Any person who wilfully disobeys or obstructs the execution of any such order is liable to a penalty not exceeding Ten Pounds.
- 451**—(1.) Any person who—
- i. While suffering from an infectious or contagious disease wilfully exposes himself without proper precautions against spreading the disease in any public place, shop, inn, place of common resort, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor, or driver thereof that he is so suffering ; or
- 35
- ii. Being in charge of any person so suffering, so exposes such sufferer ; or
- 40
- iii. Knowingly or negligently sends a child to school, who, within Three months, has been so suffering, and who has been living in a house where any such disease has existed within Six weeks without a certificate from some legally qualified medical practitioner that the child is free from infection, and unless the child's clothes have been properly disinfected ; or
- 45
- iv. Being in charge of the body of any one who has died from such a disease, knowingly exposes or permits to be exposed such body as aforesaid ; or
- 50
- A.D. 1899.
Provisions of means of disinfection.
- Provision of conveyance for infected persons.
- Service for removal of excreta of typhoid fever patients.
Compare Vic. Health Act, 1890, Sec. 126.
Removal of infected persons without proper lodging to hospital by order of Justice.
H.A., 85.
- Penalty on exposure of infected persons and things.
Compare H.A., '87, (16.).
- Infection in schools.
41 & 42 Vict. c. 52.
(Ireland), s. 146.
H.A., 89.
- Exposure of dead body.
H.A., '96. (8.)

A.D. 1899.

v. Gives, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, or other things which have been exposed to infection from any disease ;
is liable to a penalty not exceeding Five Pounds.

Infected person
entering public
conveyance with-
out notice.

(2.) Any person who, while suffering from any such disease, enters 5
any public conveyance without previously notifying to the owner or
driver that he is so suffering, shall in addition be ordered by the Justices
to pay such owner and driver the amount of any expense and loss they
may respectively incur in carrying into effect the provisions of this
Act with respect to disinfection of the conveyance : 10

Provided that no proceedings shall be taken against persons trans-
mitting with proper precautions any bedding, clothing, or other things
for the purpose of having the same disinfected.

Penalty for
failing to provide
for disinfection
of public
conveyance.
H.A., 88.

(3.) Every owner or driver of a public conveyance shall immediately
provide, to the satisfaction of the Inspector of the Local Authority, for 15
the disinfection of such conveyance after it has to his knowledge con-
veyed any person suffering from an infectious or contagious disease ;
if he fails to do so he is liable to a penalty not exceeding Five Pounds.

No such owner or driver shall be compelled to convey any person so
suffering until such person has paid a sum reasonably sufficient to cover 20
any loss or expense to be incurred in carrying into effect the provisions
of this Section.

Power to cause
schools to be
closed in case of
infection.
H.A., 90.

452 Any Local Authority may, on the certificate of its Officer of
Health, cause any school in its Area wherein any infectious or con- 25
tagious disease has appeared to be closed, and may make such arrange-
ments with regard to the attendance of the pupils as may seem
expedient.

Letting houses in
which infected
persons have been
lodging.
38 & 39 Vict.
c. 55, s. 128.
H.A., 91.

453 Any person who knowingly lets for hire any house, room, or
part of a house in which any person has been suffering from any
dangerous, infectious, or contagious disease without having such house, 30
room, or part of a house, and all articles therein liable to retain infection,
disinfected to the satisfaction of a legally qualified medical practitioner,
as testified by a certificate signed by him, is liable to a penalty
not exceeding Twenty Pounds.

For the purposes of this and the next following Section, the keeper of 35
a public-house shall be deemed to let for hire part of a house to any
person admitted as a guest into such public-house.

Persons letting
houses making
false statements
as to infectious
disease.
Ib., s. 129.
Compare
H.A., 92.

454 Any person who lets for hire, or shows for the purpose of
letting for hire, any house or part of a house in which there is, or
within six weeks previously has been, any person suffering from any 40
infectious or contagious disease, shall inform any person negotiating
for the hire of such house or part of a house of the fact of a person so
suffering being, or having been, therein, and if he wilfully fails to do
so is liable to a penalty not exceeding Twenty Pounds, or to be
imprisoned with or without hard labour for any period not exceeding 45
One month.

Division II.—Hospitals.

Power to provide
hospitals.
38 & 39 Vict.
c. 55, s. 131.
H.A., 93.

455 Any Local Authority may provide hospitals or temporary
places for the reception of the sick, and for that purpose may—

Themselves build or provide such hospitals or places of reception ; or
Contract for the use of any such hospital, or part of a hospital, or 50
place of reception ; or

Enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of their Area, on payment of such annual or other sum as may be agreed on. A.D. 1899.

- 5 Two or more Local Authorities may combine in providing a common hospital.

- 456 The managers of any hospital maintained by or receiving aid from the State may be required by an Order from the Board to enter into reasonable arrangements with the Local Authority or combined
10 Local Authorities for the reception into such hospital of sick inhabitants of their Area or Areas, and of the reasonableness of such arrangements the Board shall be judge, and shall decide finally. Hospitals.
H.A., 94.

- 457 Any expenses incurred by Local Authorities in maintaining a patient in a hospital or in a temporary place for the reception of the
15 sick (whether or not belonging to such Local Authority) shall be deemed to be a debt due from such patient to the Local Authority, and may be recovered from him in a summary way, before any Two Justices, at any time within Twelve months after his discharge from such hospital or place of reception, or from his estate in the event of his
20 dying in such hospital or place. Recovery of costs of maintenance of patient in hospital.
38 and 39 Vict., c. 55, s. 132.
H.A., 95.

Private Hospitals.

- 458—(1.) Any house used as a private hospital, or for the reception of persons suffering from infectious diseases, may be licensed for that purpose by the Local Authority after a report from a Health Officer as to the suitability of the premises and of the sanitary
25 appliances therein or attached thereto for the purpose. Private hospitals, how licensed.
- (2.) A local Authority so licensing any premises shall state therein the number of patients to be received, and may prescribe special conditions in the Licence, or from time to time as the Local Authority considers it expedient in regard to disinfection of clothing, isolation of
30 patients, sanitary appliances, prevention of infection, or as to any other matter connected with the management of such premises. Conditions.
- (3.) Any person—
I. Receiving patients suffering from an infectious disease without giving notice to the Local Authority; or
35 II. Carrying on a private hospital, or offering or undertaking generally the care of persons suffering from infectious diseases without having taken out a Licence as aforesaid for the premises he uses for any such purpose; or
III. Otherwise failing to comply with the provisions of this Act relating to Private Hospitals;
40 is liable to a penalty not exceeding Twenty Pounds.
- (4.) There shall be paid, to form part of the Local Fund on the issue of such licence, which shall continue till the Thirty-first day of
December following its issue, the sum of Five Shillings as well as the
45 fee (if any) paid to the Health Officer for his report. Penalty for carrying on without a Licence.
- (5.) The Board, with the approval of the Governor, may from time to time make, alter, and revoke Regulations for the—
I. Annual registration of private hospitals and for the cancellation of such registration where necessary;
50 II. Inspection, drainage, good management, and sanitary regulation of all private hospitals: Duration of Licence and Fees.

Board may make Regulations. Compare Vic. Health Act, 1890, Sect. 158, &c.

[Bill 1.]

A.D. 1899.

III. Keeping of proper registers at each private hospital for the registration of all cases admitted into or treated therein, and for the inspection of such registers by any Officer of the Board or by any person expressly authorised thereto by the Board: 5

IV. The number of patients to be admitted and of nurses and assistants to be maintained, or the class or classes of disease or cases to be admitted into or treated at any such hospital; or

V. Providing as to the qualification of any person or persons keeping, nursing, or assisting in any such hospital, and may provide for the infliction of a penalty not exceeding Twenty Pounds for any breach of any such Regulation: 10

Board's Regulation to prevail.

(6.) A Regulation made by the Board which conflicts with any condition or By-law of a Local Authority relating to private hospitals shall supersede the same. 15

Meaning of "Private Hospital."

(7.) "Private hospital" includes all buildings or places, whether permanent or otherwise, in which persons are received and lodged for medical or surgical treatment or care, but shall not include institutions in receipt of aid from the State. 20

Division III.—Prevention of Epidemic Diseases.

Power of Board to make Regulations.

Compare H.A., 77.

459 The Board may from time to time, with the approval of the Governor, make Regulations as to the treatment of persons affected with any epidemic, endemic, or infectious or contagious disease, and for preventing the spread of such other diseases as well on the seas, rivers, and waters of *Tasmania*, and on the high seas within Three miles of the coast thereof, as on land, and may declare by what person or authority such Regulations shall be enforced and executed 25

Power of Board to make Regulations for prevention of diseases. Comp. H.A., 78, H.A., 387 (9.). O.P.H. Act, Sect. 13. 88 & 39 Vict. c. 55, Sect. 134. Preventing overcrowding.

460—(1.) Whenever any part of *Tasmania* appears to be threatened with or is affected by any formidable epidemic, endemic, or infectious or contagious disease, the Board may, with the approval of the Governor, make Regulations for all or any of the following purposes, namely:— 30

- I. The speedy interment of the dead and the conduct of funerals with a view of preventing the spread of disease:
- II. House to house visitation, and the lessening or regulating the number of the inmates and occupants of common and other lodging-houses, work-rooms, factories, or other public buildings: 35
- III. Compelling the reporting to the Local Authority of any case of epidemic, endemic, or infectious or contagious disease: 40
- IV. The provision of medical aid and accommodation, including such articles as may be deemed necessary for mitigating such disease:
- V. The speedy removal of nuisances and the promotion of inspection, cleansing, ventilation, and disinfection; and 45
- VI. For preventing or mitigating or guarding against the spread of disease in such other manner as to the Board seems expedient:

Restraining departure of persons and vehicles.

and may, by Order made with the like approval, declare all or any of the Regulations so made to be in force within the whole or any part or parts of the Area of any Local Authority, and to apply to any vessels, whether on inland waters or on arms or parts of the sea within the 50

territorial jurisdiction of *Tasmania*, for the period in such Order mentioned; and may by any subsequent Order abridge or extend such period.

- (2.) Any Regulation as aforesaid may provide for detaining any public conveyance, railway train, or vessel, or any person travelling thereby, and may regulate the landing of passengers and cargo from boats or vessels or from railway trains, and the receiving of passengers or cargo on board the same, and for the removal or keeping under surveillance of persons living in infected localities, and for removal to any hospital or quarantine station (and keeping there until duly discharged) of such persons or of persons suffering from an infectious disease, including the prevention of the departure of persons from infected localities, and for preventing persons or vehicles from passing from one locality to another, and for detaining persons or vehicles which have been exposed to infection for inspection or disinfection until the danger of infection is over.
- (3.) Any Regulation may also provide by whom the expenses of any cleansing, ventilating, or disinfection required thereby, whether the property affected is public or private, is to be paid.
- (4.) The publication in the *Gazette* of any such Regulation or Order shall be for all purposes conclusive evidence thereof.

Detaining vessels and railway trains and persons and cargoes.

Removal and quarantine of persons from infected localities.

Expenses, by whom to be paid.

Publication.

- 461**—(1.) The Local Authority of any Area within which or part of which Regulations or Orders so made by the Board are in force shall, if required by the Board, superintend and see to the execution thereof, and shall appoint and pay such medical or other officers or persons, and do and provide all such acts, matters, and things as may be necessary for mitigating any such disease, or for superintending or aiding in the execution of such Regulations or Orders, as the case requires.
- (2.) During the time that any such Regulations or Orders are in force in any part of an Area, all By-laws of the Local Authority which in any manner conflict with any such Regulations or Orders shall be suspended.

Local Authorities to see to the execution of Regulations. See Sect. 536. 38 & 39 Vict. c. 55, Sect. 136.

Conflicting Local By-laws suspended. O.P.H.A., Sect. 17.

- 462**—(1.) Whenever, in compliance with any Regulations or Orders so made by the Board, the Health Officer performs any medical service on board any ship or vessel, he shall be entitled to charge for such service at the general rate of his allowance for services in the Area; and such charge shall be payable by the master of such ship or vessel on behalf of the owners thereof, together with any reasonable expenses for the treatment of the sick.

Health Officer entitled to costs of attendance on board vessels. 38 & 39 Vict. c. 55, Sect. 138.

- (2.) Where such services are rendered by any medical practitioner who is not a Health Officer, he shall be entitled to charges for any service rendered on board, with extra remuneration on account of distance, at the same rate as those which are usually paid by private patients of the class of those attended and treated on shipboard, to be paid as aforesaid.

- (3.) In case of dispute in respect of such charges, the dispute may, where the charges do not exceed Fifty Pounds, be determined by any Two Justices, who shall determine summarily the amount which is reasonable, according to the usual rate of charge at the place where the dispute arises, for attendance on patients of the like class as those in respect of whom the charge is made.

A.D. 1899.

Isolating houses,
&c.

H.A., '87 (14.)

463 When the Board shall be satisfied by the certificate in writing of an Officer of Health, or of a duly qualified medical practitioner, that any infectious or contagious disease exists within an Area, that there is danger that the same may be spread, and that to prevent the spreading thereof it is necessary to the public safety that power should be given to isolate any tenements, it shall be lawful for the Governor to make an Order empowering and directing such persons as the Board may for that purpose appoint to stop the traffic into or through any public place or private way which the Board shall specify, and to limit or prevent ingress, egress, or regress of any persons to or from any house or premises within the places or ways so specified, for so long as shall seem to the Board necessary for the public safety; and no proceedings at law or otherwise shall be taken or lie against any person for anything done in conformity with such order and direction.

Violating or
obstructing Regu-
lations and
Orders.

See Sect. 603 (4.).

464 Any person who—

15

I. Wilfully violates any Regulation or Order made by the Governor or the Board; or

II. Wilfully obstructs any person acting under the authority or in the execution of any such Regulation or Order;

is liable to a penalty not exceeding One hundred Pounds.

20

Burial of dead
body may be
ordered.Compare
H.A., '89, (35.)
N.Z., 114, (321.)

465 Where the 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, either order the body to be removed to any proper place which the Local Authority may have set apart for the reception of dead bodies before interment, and (whether the body is first so removed or not) may order 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 Local Authority to cause such body to be buried; but any expense so incurred may be recovered by the Local Authority in a summary way from any person legally liable to pay the expense of such burial.

35

Penalty for
obstructing.

Any person obstructing the execution of an order made under this Section is liable to a penalty not exceeding Five Pounds.

TITLE VII.—CEMETERIES.

- Division I.—Cemeteries under other Authorities. (Sects. 466 and 467.)
II.—Cemeteries under the Local Authority. (Sects. 468 to 470.)

Division I.—*Cemeteries under other Authorities.*New cemeteries to
be approved by
Local Authority.
H.A., '89 (28.)

466 No new Cemetery shall be laid out or used for the burial of the dead without the approval of the Local Authority of the Area in which it is situated.

40

Local Authority
may order
cemetery to be
closed.
H.A., '89, (29.)

467—(1.) If it shall appear that any existing Cemetery is from its position or condition injurious to the public health, the Local Authority may give notice to the Trustees or other persons in whom the Cemetery is vested, or having charge of the same, that it shall, on a day to be

named in such notice, being not less than Six months from the date thereof, be closed. A.D. 1899.

(2.) Any Twenty electors residing within a radius of half a mile of any Cemetery may petition their Local Authority on the ground that it is injurious to the public health. Power of electors to petition for closing.

(3.) The Local Authority may, if satisfied that such Cemetery is injurious to the public health, give notice to the Trustees or other persons in whom it is vested or having charge thereof that it shall, on a day to be named in such notice, being not less than Six months from the date of such notice, be closed.

(4.) If after having received any such Petition as aforesaid the Local Authority neglects or refuses without sufficient cause to order any such Cemetery to be closed, the Board may, upon receipt of a like Petition, and if satisfied that the Cemetery is injurious to the public health, order it to be closed, in the same manner as such Local Authority is hereby empowered to close any such Cemetery. Appeal to Board.

(5.) Whosoever, on or after any date so as aforesaid fixed for closing any Cemetery buries, or causes to be buried, or permits or suffers to be buried, any corpse or coffin contrary to this enactment shall for every such offence forfeit and pay a penalty of not less than Five Pounds nor more than Fifty Pounds. Penalty for burying corpse in closed Cemetery, &c.
H.A. '89, (30.)
H.A., '89, 29, (3.)

(6.) Provided, that in any case in which there is an exclusive right of interment in any vault or enclosure in any Cemetery the Chief Secretary may, on application being made to him, grant permission for the exercise of such right after such Cemetery has been closed as aforesaid during such time, and subject to such conditions and restrictions as he may think fit. Chief Secretary may permit interments.

(7.) Any person who shall bury the body of any dead person in any place other than a Public Cemetery without the consent in writing of the Local Authority is liable to a penalty not exceeding Five Pounds. Penalty for burying the dead in place other than a Cemetery, &c.
H.A. '89, (27.)

(8.) Any Local Authority may by notice order the Trustees or other persons in whom any Cemetery is vested or having charge of the same, to do such works as may be set forth in such notice as may appear to the Local Authority necessary to improve the sanitary condition of such Cemetery or to protect the graves therein. Local Authority may order certain works in Cemeteries.
H.A. '89, (33.)

Division II.—*Cemeteries under Local Authorities.*

468—(1.) If any Cemetery shall be closed under this Act, and the Trustees or other persons in whom the same is vested or having charge of the same fail or neglect to provide another Cemetery, the Local Authority may, and if there be no Cemetery within Six miles of the Cemetery so closed, shall provide a Cemetery in the place or stead of the Cemetery so closed. Local Authority to provide Cemetery in certain cases.
Ib., 34.

(2.) Whenever a Cemetery has been closed under this Act or any other Act, and there is not upon the same piece of land any place of worship, the Local Authority may petition the Governor to vest the same in them, or the Trustees thereof may proceed as in the case of a Public Hall or Recreation Ground, as prescribed in Section *Two hundred and sixty-two* of this Act. Closed Cemeteries may be vested in Local Authority.

(3.) The Governor may in any such case by Proclamation declare that the closed Cemetery shall, on and after a date to be therein named, not being less than Six months from such date, be vested in the Local Authority, subject to the provisions of this Act, as a pleasure ground for the use of the inhabitants of the Area, and the Local Authority By Governor, under conditions to be named in.

A.D. 1899.

Regulations.

may thereafter expend moneys upon such Ground out of the Local Fund.

(4.) The Governor may from time to time make, alter, or revoke Regulations defining the conditions upon which any such Ground shall be held by the Local Authority; and especially providing for the care and maintenance of monuments either in their existing positions or in such other positions as may be prescribed. And the Governor may prescribe penalties to be recovered against the Local Authority for any breach of any Regulation.

Penalties for breaches.

Public Cemeteries may be vested in Local Authority.

469—(1.) The Governor may by Proclamation vest in the Local Authority of an Area the control of any Public Cemetery or Cemeteries therein.

Land reserved, &c. for Cemeteries may be granted to Local Authority.

(2.) The Governor may from time to time grant to the Local Authority, in trust for use as a Cemetery, any land which may have been or may be set apart or acquired by the Crown under the authority of Parliament for the use aforesaid.

Compare 62 Vict. No. 60, Sect. 3.

(3.) Whenever any land shall be so granted a notice, signed by the Chairman and Clerk, of the grant of such land for the purpose of a Cemetery, and containing a description of its situation and extent, shall be gazetted Three times successively.

Notice to be gazetted. *Ib.*, Sect. 4.

20

When Local Authority authorised to exercise functions of Cemetery Trustees.

470—I. Upon the issue of a Proclamation under the preceding Section; or

II. Upon the completion of the publication of the notice mentioned in Third Sub-section thereof; or

III. Upon the publication of a gazetted notice, signed by the Chairman and Clerk, that the Local Authority have provided a Cemetery (the situation and extent of which shall be described in such notice) in place of any Cemetery closed under this Act;

the Local Authority mentioned in any such Proclamation, or issuing any such notice as aforesaid, shall thereafter exercise all the powers and functions conferred upon and be subject to all the obligations imposed upon and perform the duties of Trustees under "The Cemeteries Act, 1865."

29 Vict. No. 7. See Sect. 110.

TITLE VIII.—NUISANCES IN GENERAL, AND REMEDIES.

Local Authority to inspect Area for detection of nuisances.

H.A. 144.

Compare 38 and 39 Vict., c. 55, Sect. 92.

471 It shall be the duty of every Local Authority—

35

I. To cause inspection to be made of all premises within the Area from time to time in order to ascertain whether the provisions of this Act relating to health are being observed, and what nuisances exist calling for abatement, and to enforce the provisions of this Act in order to abate the same; and also

II. To cause an inspection to be made of all premises in which articles of food are kept stored or prepared for sale, of which inspection a written report shall be prepared for presentation at the next following meeting of the Local Authority, when the same shall be read and a copy thereof shall immediately thereafter be forwarded to the Board.

Inspection of food stores. H.A. '87, (13.) See also Sects. 421 and 611.

45

472—(1.) On the receipt of any information respecting the existence of a nuisance, the Local Authority shall, if satisfied of the existence of a nuisance, or of the likelihood of the recurrence of a nuisance, serve a notice on the person by whose act, default, or suffer-
 5 **ance** the nuisance arises or continues, or, if such person cannot be found, on the owner or occupier of the premises on which the nuisance exists, requiring him to abate the same within a time to be specified in the notice, and to execute such works and do such things as are necessary for that purpose :

10 **Provided**, as follows :—

- i. When the nuisance arises from the want of any structural convenience or defective construction of any house, or where there is no occupier of the premises, notice under this Section shall be served on the owner :
- 15 **ii.** When 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, the Local Authority may itself abate the same without order.

20 **(2.)** If the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the notice, is, in the opinion of the Local Authority, likely to recur on the same premises, the Local Authority shall cause a com-
 25 **plaint** relating to such nuisance to be made before a Justice, and such Justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before any Two Justices.

473—(1.) If the Justices are satisfied that the alleged nuisance exists, or that, although abated, it is likely to recur on the same
 30 **premises**, they shall make—

- i. An order requiring such person to comply with all or any of the requisitions of the notice, or otherwise to abate the nuisance within a time specified in the order, and to do any works necessary for that purpose : or
- 35 **ii.** An order prohibiting the recurrence of the nuisance, and directing the execution by such person of any works necessary to prevent the recurrence ; or
- iii.** An order both requiring abatement and prohibiting the recurrence of the nuisance.

40 **The Justices** may by the order impose a penalty not exceeding Five Pounds on the person on whom the order is made, and shall give directions as to the payment of all expenses incurred up to the time of the making the order for abatement or prohibition of the nuisance.

(2.) Where the nuisance ascertained to exist is such as to render a
 45 **building**, in the judgment of the Justices, unfit for use or occupation, they may prohibit the use or occupation until, in their judgement, it is rendered fit for use and occupation.

When any Two Justices are satisfied that it has been rendered fit for that purpose, they may vary the previous order by another, declaring
 50 **the building** fit for use and occupation, and from the date thereof such building may be used and occupied.

474 Any person not obeying an order to comply with the requisitions of the Local Authority, or otherwise to abate the nuisance, shall, unless he satisfies the Justices that he has used all due diligence

A.D. 1899.

Local Authority to serve notice requiring abatement of nuisance. H.A. 144, 104.

Compare P.A. 232, 234. 38 and 39 Vict., c. 55, Sect. 94. See Sch. 14 (A. B.).

On non-compliance with notice, complaint to be made to Justice. *Ib.*, 95.

Justices' power in dealing with nuisance. *Ib.*, 96. See Sch. 14 (B. C.).

Order of prohibition, in case of house unfit for occupation. See Sects. 407, 408, 410.

Compare H.A., 107. 38 & 39 Vict. c. 55, s. 97.

Penalty for contravention of order. *Ib.*, 98.

A.D. 1899.

to carry out such order, be liable to a penalty not exceeding Ten Shillings for every day during which his default continues.

Any person who wilfully disobeys an order of prohibition shall be liable to a penalty not exceeding Twenty Shillings for every day during which such disobedience continues. 5

Local Authority may enter to abate nuisance.

Compare H.A., 147.

The Local Authority, or any person authorised by it in that behalf, may enter the premises to which any order relates, and abate the nuisance, and do whatever may be necessary in execution of such order, and recover the expenses incurred by it from the person against whom the order is made. 10

In certain cases order may be addressed to Local Authority. *Ib.*, 100. See Sch. 14 (D.).

475 Whenever it appears to the satisfaction of any Two 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 the order of the Justices may be addressed to and executed by the Local Authority. 15

Power to sell manure, &c. *Ib.*, 101.

476 Any matter or thing removed by a Local Authority in abating any nuisance under this Act may be sold by public auction, and the money arising from the sale may be retained by the Local Authority and applied in payment of the expenses incurred by it with reference to such nuisance, and the surplus, if any, shall be paid on demand to the owner of such matter or thing. 20

Expenses of execution of provisions relating to nuisances. 38 & 39 Vict., c. 55, s. 104.

477—(1.) All reasonable expenses incurred in making a complaint or giving notice, or in obtaining any order of the Justices or any Justice, in relation to a nuisance, or in carrying the same into effect, shall be deemed to be money paid for the use and at the request of the person against whom the order is made; or if the order is made on the Local Authority, or if no order is made, but the nuisance is proved to have existed when the complaint was made or the notice was given, then of the person by whose act or default the nuisance was caused. 25

(2.) In case of nuisances caused by the act or default of the owner of premises, such expenses may be recovered from any person who is for the time being owner of such premises. 30

Limitation.

(3.) Provided that such expenses shall not exceed in the whole One year's rack-rent of the premises.

May be divided by Court.

(4.) Such expenses, and any penalties incurred in relation to any nuisance, may be recovered in any Court of competent jurisdiction; and the Court shall have power to divide costs, expenses, or penalties between persons by whose acts or defaults a nuisance is caused as to it may seem just. 35

Power of individual to complain to Justice of nuisance.

Compare H.A., 105; also Eng. Act, 105.

478—(1.) Complaint may be made to a Justice of the existence of a nuisance on any premises within the Area by any person aggrieved thereby, or by any inhabitant of the Area, or by any owner of premises within the Area, and thereupon the like proceedings shall be had with the like incidents and consequences as to making of orders, penalties for disobedience of orders, and otherwise, as in the case of a complaint relating to a nuisance made to a Justice by a Local Authority. 40 45

Justices may adjourn enquiry to have premises examined.

(2.) Provided that the Justices may, if they think fit, adjourn the hearing or further hearing of the summons for the purposes of having an examination made of the premises where the nuisance is alleged to

exist, and may authorise any officer of police or other person to enter any such premises for the purpose of such examination. A.D. 1899.

(3.) The Justices may authorise any officer of police or other person to do all necessary acts for executing an order made under this Section, and to recover the expenses from the person against whom the order is made. Justices may appoint officer to see order executed.

(4.) Any officer of police, or other person authorised under this Section, shall have the like powers and be subject to the like restrictions as if he were an officer of the Local Authority authorised to enter any premises and do any acts thereon. Justice's Appointee has power of Local Authority's officer.

479 When a nuisance under this Act within the Area appears to be wholly or partially caused by some act or default committed or taking place beyond the Area, the Local Authority may take or cause to be taken against any person, in respect of such act or default, any proceedings authorised by this Act in relation to nuisances, with the same incidents and consequences as if such act or default were committed or took place wholly within the Area. Power to proceed where cause of nuisance arises beyond Area. Compare H.A., 106. Eng. Act, 108

480 Where Two convictions against the provisions of this Act relating to the overcrowding of a house have taken place within a period of Three months (whether the persons convicted were or were not the same), any Two Justices may, on the application of the Local Authority of the Area in which the house is situated, direct the closing of the house for such period as the Justices think necessary. Provision in case of two convictions for overcrowding. 38 & 39 Vict., c. 55, s. 109.

481—(1.) For the purpose of the provisions of this Act relating to nuisances, any ship or vessel lying in any river, harbour, or other water, within the Area, shall be subject to the jurisdiction of the Local Authority in the same manner as if it were a house within such Area; and any ship or vessel lying within any river, harbour, or other water, not within the Area of a Local Authority, shall be deemed to be within the Area of such Local Authority as the Governor by Proclamation declares, and where no Proclamation has been made, then of the Local Authority whose Area is nearest to the place where such ship or vessel is lying. Provisions as to ships. *Ib.*, 110.

(2.) The master or other officer in charge of any such ship or vessel shall be deemed to be the occupier of such ship or vessel.

(3.) This Section shall not apply to any ship or vessel which is under the command or charge of any officer bearing Her Majesty's Commission, or to any ship or vessel which belongs to the Government of any Foreign State.

482 No matter or thing done, and no contract entered into, by a Local Authority, and no matter or thing done by any member of a Local Authority, or by any officer of a Local Authority, or other person whomsoever acting under the direction of a Local Authority, shall, if the matter or thing was done or the contract was entered into *bonâ fide* for the purpose of executing this Part of this Act, subject any such person to any personal liability in respect thereof; any expense incurred by any member, officer, or other person acting as last aforesaid shall be deemed to be an expense authorised by this Act. Protection of Local Authority and their officers from personal liability. Compare H.A., 168.

A.D. 1899.

Other Remedies.

Local Authority may take proceedings in Supreme Court for abatement of nuisances.

483—(1.) A Local Authority may, if in its opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in the Supreme Court to enforce the abatement or prohibition of any nuisance, or for the recovery of any penalties from, or for the punishment of, any person offending against the provisions of this Act or any By-laws made thereunder, and may defray the expenses of and incident to all such proceedings out of the Local Fund.

Provisions relating to nuisances not to affect other remedies.

(2.) And generally the provisions of this Act relating to nuisances shall be deemed to be in addition to, and not to abridge or affect, any right, remedy, or proceeding under any other provisions of this Act, or any other Act, or at common law :

38 & 39 Vict., c. 55, s. 107.
P.A., 238.

Provided that no person shall be punished for the same offence both under the provisions of this Act and under any other law or enactment.

Miscellaneous Nuisances, Polluted Wells, &c.

Provision for obtaining order for cleansing offensive ditches lying near to or forming the boundaries of Areas.
Q., 256.

484—(1.) Where any watercourse, waterhole, swamp, or open ditch lying near to or forming the boundary between the Area of a Local Authority and any adjoining Area is foul and offensive, any Justice may, on the application of the Local Authority of the first-mentioned Area, summon the Local Authority of such last-mentioned Area to appear before a Stipendiary Magistrate to show cause why an order should not be made for cleansing such watercourse, waterhole, swamp, or open ditch, and for executing such permanent or other structural works as may appear to the Stipendiary Magistrate to be necessary.

The Stipendiary Magistrate may make such order with reference to the execution of the works, and the persons or Authorities by whom the same shall be executed, and by whom and in what proportions the costs of such works shall be paid, and as to the amount thereof and the time and the mode of payment, also as to the costs of the proceedings before him as he thinks reasonable.

Low lying land.
H.A., 122.
See also Sect. 381.

(2.) Whenever it appears to the Local Authority of any city or town that the surface of any yard or land within such city or town, and not being a road therein, is lower than the level of the nearest road, or of the road, sewer, or drain into which the water off the said yard or land should in the opinion of the Local Authority flow, the Local Authority may order the owner or occupier of such yard or land to raise the surface thereof to such height, in such manner, and within such time as the said Local Authority may by such Order direct.

Power to close polluted wells.
H.A., 115.
H.A., '96 (9.).

485 Any Local Authority may, with the consent of the Board, from time to time direct that any well or other source of domestic water supply which may, by an Officer of Health, or by any Two legally qualified medical practitioners, or by the Government Analyst, or by a bacteriologist employed by the Board, be certified in writing to be so polluted or unwholesome as to be unfit for human consumption, shall forthwith, and until the Local Authority has given a notice revoking such direction, be closed, and that the contents thereof shall not be used for human consumption; and any person so using or causing to be used any such well or other source of water supply as aforesaid while such direction remains in force, shall be liable to a penalty not exceeding Five Pounds for each day during which such well or other source of water supply shall be used.

50

486 If any person throw or cast, or cause or allow to be thrown or cast, any night-soil into any watercourse, river, drain, gutter, or water-channel, lake, lagoon, swamp, or waterhole; or if any person place or cause, or allow to be placed, any night-soil on any land whence such night-soil flows or falls, or is liable to flow or fall, into any watercourse, river, drain, gutter, or water-channel, lake, lagoon, swamp, or water-hole, he shall on conviction forfeit and pay a penalty not exceeding One hundred Pounds, or be imprisoned for any period not exceeding Six months, or both.

A.D. 1899.

Penalty for throwing night-soil into or placing it near rivers or running streams.

H.A., 116.

10 **487** Any person who—

i. Keeps any swine or pig-stye in any place forbidden by this Act, or keeps any swine or pig-stye in any place so as to be a nuisance to any person; or

15 ii. Suffers any waste or stagnant water to remain in any place for Twenty-four hours after written notice to him from the Local Authority to remove the same; or

iii. Allows the contents of any water-closet, privy, or cesspool, to overflow or soak therefrom; or

20 iv. Allows any waste water to run from any premises so as to cause an offensive smell; or

v. Suffers any rubbish, filth, or unwholesome matter or thing to collect on any land abutting on a public place or private way and lying below the level thereof;

shall be liable to a penalty not exceeding Forty Shillings, and to a further penalty not exceeding Five Shillings for every day during which the offence is continued.

The Local Authority shall abate or cause to be abated every such nuisance, and may recover the expenses incurred in so doing from the occupier of the premises on which the nuisance exists.

Penalty in respect of certain nuisances on premises.

P.A., 180, 230.

H.A., 130, 132,

119.

Compare 38 & 39 Vict, c. 55, s. 47.

TITLE IX—RELATION OF LOCAL AUTHORITIES TO THE BOARD.

SPECIAL POWERS OF THE BOARD. APPEALS TO THE BOARD.

30 **488**—(1.) In order to provide uniformity and efficiency of Administration the Board may—

i. On receiving the consent of the Council of any Town or Rural District within a Shire, or may—

35 ii. As to any Town within a Shire having less than Six hundred inhabitants or with a less annual rateable value than Three thousand Pounds or as to any Rural District with less than Two hundred inhabitants or with less annual rateable value than One thousand Pounds,

40 cause to be gazetted an Order declaring all or any of the powers and authorities vested in the Council of such Town or Rural District under this Part of this Act, and also the power of levying General or Special Health Rates or Cleansing Rates in the area thereof to be thenceforth of such period as is mentioned in any such Order absolutely transferred to the Shire Council, provided such Shire Council shall have first

45 passed a Resolution agreeing to the issue of the Order.

(2.) Any power so vested in a Shire Council is subject to the provisions of Section *One hundred and thirty-eight* hereof.

Transfer of powers of Town Councils and Rural District Councils to Shire Councils.

See Sect. 589 (Proviso).

Compare N.Z. 113 (335).

Sect. 138 to apply.

50 **489** Where it is proved to the satisfaction of the Board that a Local Authority have made default in doing their duty in relation to the abatement of nuisances under this Act, the Board, after due notice

Power of Board to order police to proceed in certain cases against

A.D. 1899.

nuisances where
Local Authority
in default.

H.A., 15.

38 & 39 Vict.
c. 55, s. 106.

Compare
Vic. H. Act,
Sec. 197.

Proceedings on
complaint to
Board of default
of Local
Authority.
Ib., s. 299.
H.A., 16.

Mandamus may
be applied for
and officer
appointed to
perform duty.

Appointee of
Board to have
powers of Local
Authority.

Compare
Vic. H. Act,
Sect. 196.

Report to Board.

Compare
H.A., 74.

Board's powers
under Sects. 459,
460, and 463, also
to exercise powers
of Sections 407
and 408.

Compare
H.A., '87, (11.)

Provision for
cases of emer-
gency.

Compare
Q. 319 & Vic. H.
Act, Sect. 15.

to such Local Authority of their intention, may authorise a member of the police force acting within the Area of the defaulting Authority to institute any proceeding which the defaulting Authority might institute with respect to the abatement of nuisances; and such constable, in case of a conviction of the person causing the nuisance in respect of which 5 such proceedings have been taken, may recover from the defaulting Authority any expenses incurred by him and not paid by the person proceeded against.

490—(1.) Where complaint is made to the Board that a Local Authority has made default in enforcing or carrying out or complying 10 with any provisions of this Act which it is their duty to enforce, carry out, or comply with the Board, if it does not proceed under the last preceding Section and is satisfied, after due inquiry, that such Local Authority has been guilty of the alleged default, may make an Order limiting a time for the performance of the duty of the Local Authority 15 in the matter of such complaint.

(2.) If such duty be not performed within the time limited in such order, the performance thereof may be enforced by writ of Mandamus, or the Board may appoint some person to perform the duty, and shall order that the expenses of performing the same, together with 20 a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the Order, together with the costs of the proceedings, be paid out of its Local Fund by the Local Authority in default; and any Order made for the payment of such expenses and costs may be removed into the Supreme Court 25 and be enforced in the same manner as if the same were an Order of such Court in its Equitable Jurisdiction.

(3.) Any person appointed under this Section to perform the duty of a defaulting Local Authority shall, in the performance and for the purposes of such duty, be invested with all the powers of such Local 30 Authority; and the Board may from time to time remove any person so appointed and appoint another in his stead.

(4.) Any Report of an Officer of the Board may be deemed to be a complaint within the meaning of this Section.

491 Every Local Authority shall make an Annual Report to the 35 Board, in such form and at such time as the Board directs, in regard to the health, cleanliness, and general sanitary state of its Area; and such Report shall contain a statement of all sums received from Health Rates levied, and disbursements made and of all works executed and proceedings taken by the Local Authority; a copy of every such 40 Report shall be open for inspection of any elector at the office of the Local Authority.

492 In addition to the powers conferred upon the Board by Sections *Four hundred and fifty-nine*, *Four hundred and sixty*, and *Four hundred and sixty-three* hereof, the Board has power to make an 45 Order under Sections *Four hundred and seven* and *Four hundred and eight* hereof, and every such Order shall have the same force and effect as a notice given by a Local Authority under the same Sections.

Board's Powers in Emergencies.

493—(1.) In any case of emergency or sudden necessity, of the existence of which emergency or necessity the Board shall be the sole 50 and final judge, the Board may exercise all or any of the powers by

this Part of this Act conferred upon a Local Authority; in any such case the expenses incurred in the execution of such powers shall be paid out of the Consolidated Revenue Fund. A.D. 1899.

- (2.) In case the Board reports to the Governor that on account of the presence in any Area of an epidemic or contagious disease it would be dangerous to hold an election therein, the Governor may, upon the application of the Local Authority thereof in that behalf, by a Proclamation, postpone the holding of any intended election for a period not exceeding Three months, and may from time to time further postpone such election if, in the opinion of the Board, the necessity for postponement continues. Suspension of elections in cases of epidemics. Compare O.P. H. Act, Sect. 38.
- (3.) The Governor may, by Proclamation, exercise any of the powers in regard to such postponed election which are by this Act conferred upon him in regard to first elections of Local Authorities.
- (4.) The members who would otherwise have gone out of office but for the postponement of such election shall continue to hold office until their successors are elected.

Appeals to the Board.

- 494** If any person think himself aggrieved by any Health By-law of any Local Authority, such person may address a memorial thereon to the Local Authority, stating the grounds of his complaint and the manner in which he may be prejudiced by the By-law, and if the Local Authority do not alter or amend it wherein it is prejudicial to him, he may by like memorial address the Board, who may hear and decide between such Local Authority and such person, and if satisfied of the justice of his complaint, may (notwithstanding any previous confirmation or allowance thereof) rescind or annul the By-law or such part thereof as to them sees fit. Appeal from By-laws of Local Authority to Board. H.A., 30.

- 495**—(1.) Any person dissatisfied with any notice given under Section *Four hundred and seven* or Section *Four hundred and one* hereof, or aggrieved by any decision of a Local Authority under this Part of this Act, in any case in which the Local Authority is empowered to recover any expenses incurred by it, may, within Twenty-one days after service of such notice or, as the case may be, after notice of such decision, address a memorial to the Board, stating the grounds of his complaint, and shall deliver a copy thereof to the Local Authority. Appeal to the Board. When expenses are about to be recovered. Q. 543. Compare P.A., '81 (7.).

- (2.) The Board may make such Order in the matter as to it seems just, and the Order so made shall be binding and conclusive on all the parties.
- (3.) Any proceedings that have been commenced for the recovery of such expenses by the Local Authority shall, on the delivery to the Local Authority of the copy of the memorial, be stayed. See Sect. 594.
- (4.) The Board may, if it think fit, by its Order direct the Local Authority to pay to the person so proceeded against, such sum as the Board considers to be a just compensation for the loss, damage, or grievance sustained by him.

A.D. 1899.

PART X.

IMPOUNDING AND TRESPASS.

- Title I. Impounding. Sects. 496 to 510.
 II. Trespass. Disputed Impoundings and Actions. Sects. 511 to 516.

TITLE I.—IMPOUNDING.

- Div. I. Impounding. (Sects. 496 to 501.)
 II. Duties of the Poundkeeper. (Sects. 502 to 508.)
 III. Sales of Impounded Animals. (Sects. 509, 510.)

Establishment of
pounds.

496—(1.) A Local Authority may either itself erect or establish, or may authorise any person to erect or establish pounds within the Area.

Existing pounds.
For these Sections
Compare
Q., 169-200, and
11 Geo. IV. No. 3,
46 Vict. No. 6,
58 Vict. No. 20.

(2.) Every pound already established within the Area of a Local Authority shall be deemed, to all intents and purposes, to have been established by the Local Authority.

Repair of
pound, &c.

(3.) The Local Authority shall keep, or cause to be kept, every pound in good repair, including sufficient means of shelter for the animals impounded therein; and the poundkeeper shall keep it clean and free from nuisance, and shall supply the animals impounded therein with sufficient and wholesome food and water. He may send the animals out of the pound at fit times and to fit places for grazing or watering, but not more than Six miles from the pound.

Responsibility to
proprietor.

(4.) The poundkeeper shall be responsible to the proprietor of an impounded animal for any loss or damage occasioned by the wilful act or neglect of himself or his servants.

Local Authority
may impound.

497—(1.) For the purpose of impounding, the Local Authority is deemed to be the owner of all public places within the Area.

At night or on
Sunday.

(2.) The Local Authority may at any time, whether in the night time, or on Sunday, or other holiday, impound any animal in respect of which a breach of this Act is being committed.

See Sect. 173 (7.).
Bulls, &c. at large.
Sect. 32.

(3.) If any bull, ram, or stallion, is suffered by the proprietor thereof to be at large in any public place without being under the immediate control of some competent person, such proprietor is liable to a penalty of not less than One Pound, nor more than Twenty Pounds.

Power to impound
cattle put to graze
or found upon
a road.

(4.) Any animal driven along or on to any road for the purpose of grazing, without the consent of the Local Authority (other than travelling stock being depastured within the limits and in accordance with the conditions imposed by the laws in force for the time being relating to travelling stock), or any animal found wandering, straying, or lying on any enclosed road, shall be deemed to be trespassing on such road, and may be impounded by the Local Authority or by any person finding the same there.

Compare
R.A., 140.
P.A., 178.
P.A., '79, 9.

Prevention of
disease.

498—(1.) The Local Authority shall use and adopt all proper means and appliances to secure the prevention of the spread of any disease in any pound under its control, and may under proper conditions order the removal or destruction of any diseased, infected, or worthless animal, matter, or thing in any such pound.

Destruction of
suffering animals.
46 Vict. No. 6 (9.)

(2.) Any animal impounded found to be diseased, injured, or disabled to such an extent that its existence involves continual suffering, may be destroyed upon the authority of any Two Justices.

499—(1.) The Local Authority may prescribe—

A.D. 1899.

- i. The scale of rates of damage payable to any owner or occupier of land or to the Local Authority in respect of impounded animals :
- 5 ii. The scale of fees payable to the poundkeeper in respect of each and every impounded animal for the respective times during which the same are impounded :
- 10 iii. The scale of charges payable to the poundkeeper for the sustenance of impounded animals, except when such sustenance is undertaken by the proprietor thereof.
- iv. The scale of charges payable in respect of driving or leading any animal for the purpose of impounding the same ;
- 15 v. The scale of fees payable to the poundkeeper in respect of notices sent by him to the proprietors of any impounded animals, and in respect of certificates, and the inspection of any book kept by the poundkeeper and the making of entries therein or extracts therefrom.

Fees, rates, and charges.
See Sec. 588
(1.) iv.

But until the Local Authority otherwise prescribes there shall be payable to poundkeepers the poundage fees and charges for food set forth in the Schedule (30.).

Schedule (30.).

- (2.) The proprietor of every entire horse or bull above the age of One year impounded or detained shall be liable to pay, by way of damages, any sum not exceeding Five Pounds over and above the prescribed fees, rates, and charges.
- 25 If the proprietor does not release such animal, and it does not by sale realise sufficient to pay the sum of Five Pounds together with such fees, rates, and charges, the Local Authority or the person entitled, as the case may be, may recover the balance due to it or him from the proprietor by action before any Two Justices.
- 30 (3) The Local Authority shall erect and maintain on or near the pound a board having thereon in legible characters a table showing the fees, rates, and charges prescribed by the Local Authority.

Proprietor of entire horse or bull to pay extra damages.
Q., 195.

Local Authority to erect board with fees thereon.

500—(1.) Any owner or occupier of land upon which any animal is found trespassing may—

Animal trespassing to be impounded in nearest pound.

- 35 i. Drive the same to the pound nearest by a practicable road to such land, or if such land is equidistant or nearly so from two pounds, then to either of them, and on any business day, between sunrise and sunset, deliver it to the poundkeeper to be impounded. He shall at the same
- 40 time deliver to the poundkeeper a written memorandum specifying—
The brands (if any), and description of the animal impounded ;
The name of the proprietor or supposed proprietor of the same (if known) ;
45 The place where such animal was trespassing ; and
The amount of damages claimed.

- ii. If he know the proprietor, temporarily impound the animal in any convenient place for any period not exceeding four
- 50 days ;

Temporary detention in other place than pound.

He shall in that case, within twenty-four hours, give like notice to the proprietor as herein enacted to be given by the pound-keeper in the case of animals not immediately

A.D. 1899.

claimed, and shall feed and maintain the animal while so impounded ;

He may at the expiration of such time, if the animal is not sooner duly released, deliver it to the nearest pound-keeper to be impounded ;

He may make a charge for the sustenance of the animal and for giving notice, not exceeding the charges and fees prescribed to be payable to the nearest poundkeeper ;

But he shall not be entitled to any compensation for damage, except for such as was done before the temporary impounding.

Animal trespassing may be taken home and damage recovered.

III. Send the animal to any convenient place near the residence of the proprietor, and at the same time demand payment of the damage done according to the rate prescribed by the Local Authority of the Area in which the animal was trespassing ;

Thereupon the proprietor shall pay the same in satisfaction of such trespass ;

If he fails to pay the same any two justices may, upon proof of the trespass, and of the sum claimed being due, and of such default being made, order the said sum, together with costs, to be paid by the proprietor.

Penalty for unauthorised Pound.

(2.) Any owner or occupier of land who impounds any animal in any pound or place not authorised by this Act, or in any manner contrary to its provisions, shall be liable to a penalty not exceeding Ten Pounds.

Penalty for rescue.

Compare "The Impounding Act, 1882," Sect. 10.

(3.) Every person who rescues, or incites or assists any other person in rescuing, any animal lawfully impounded or seized for the purpose of being impounded shall be liable to pay all fees, rates, and charges payable in respect thereof, and in addition, to a penalty not exceeding Twenty Pounds.

Exemptions.

(4.) No person shall impound any horse employed by the Police Force of the Colony or the property of the Crown, and no damage for trespass or driving charges shall be payable in respect thereof.

Lodging animals for safe custody.

501 Any officer of police in charge of any animal alleged or proved to have been stolen may lodge the animal in any pound for safe custody, and may remove or authorise the removal of the same at his discretion on payment to the poundkeeper of the cost of the sustenance of such animal according to the prescribed scale.

Division II.—Duties of the Poundkeeper.

Poundkeeper to keep book for entry of all impounded cattle, which book may be inspected. Schedule (31.).

502 The poundkeeper shall keep and preserve at the pound a copy of this Act, and shall also keep a pound-book as near as may be in the form in the Schedule (31.).

He shall enter in the pound-book—

- i. The particulars of all animals lodged in the pound, specifying the day and hour as near as may be, when, and the cause for which they were impounded ;
- ii. The name of the persons by whom they were impounded ;
- iii. The time and mode of giving notice of the impounding, as required by this Act ;
- iv. The time when and the manner in which they were released, and by whose order, and to whom they were delivered : and

A.D. 1899.

v. The particulars of all sales and of the proceeds thereof.

The said entries shall be made at the time the said acts were respectively done, or as soon thereafter as possible, but not after any dispute concerning an entry has arisen.

- 5 The pound-book shall, if the pound is distant not more than Twenty-five miles from the office of the Local Authority, be produced for the inspection of the members at every ordinary meeting of the Local Authority.

A copy of this Act and the pound-book shall, at all reasonable 10 times, be produced by the poundkeeper to and be open for the inspection of any Justice or officer of Police free of charge, and of any other person desiring to see the same upon payment of the prescribed fee.

The poundkeeper shall grant extracts signed by himself from the 15 said pound-book upon payment of the prescribed fee.

If the poundkeeper neglects or refuses to produce a copy of this Act or the pound-book for the inspection of a Justice or officer of police, or of any person desiring to see the same, upon the lawful fee for the same being first paid or offered to be paid, or neglects to make 20 any lawful entry therein, he shall be liable to a penalty not exceeding Five Pounds.

503 The poundkeeper shall also keep a book in which he shall from time to time enter the descriptions of all stray animals coming under his observation or brought to his knowledge, with the names 25 and addresses of their proprietors, if known to him, together with such other particulars as may lead to the recovery of them by their proprietors.

Book for particulars of stray animals.

Such books shall at all reasonable times be open to the inspection of any person on payment of the prescribed fee.

30 504 The poundkeeper shall also keep a book for registering the brands or other marks of animals in the form approved by the Local Authority.

Poundkeeper to keep register of brands.

Any person upon payment of the prescribed fee shall be entitled to have his brands, together with his name and place of residence, entered 35 in such book.

505 Within Twenty-four hours after the impounding of any animal, the poundkeeper shall post a written notice on the gate or on some other conspicuous part of the pound setting forth a description of such animal. Poundkeeper to post on gate notice of animals in pound.

Such notice shall remain so posted until such animal has been 40 claimed or otherwise disposed of according to this Act.

Every poundkeeper who neglects to post such notice or keep the same so posted shall for every day of such neglect be liable to a penalty not exceeding Forty Shillings.

506 When any cattle, horses, or sheep impounded are not immediately 45 claimed by the proprietor or someone on his behalf, the poundkeeper shall, within Twenty-four hours thereafter, deliver a notice to the proprietor, if his name is known to the poundkeeper and he resides within Ten miles of the pound; if he resides at a greater distance, then the notice shall be sent in a registered letter through the post office.

Notice of impounding to be sent to proprietors.

50 The notice shall contain—

- i. A description of the animal impounded, with its brands and marks;

[Bill 1.]

A.D. 1899.

ii. The place from which and the person by whom it was impounded ;

iii. The date of the impounding ;

iv. A statement of the time and place of its intended sale, if not duly released ; and

v. A statement of the fees, rates, and charges then lawfully chargeable on the same :

Provided, that every proprietor residing within Ten miles of a pound may instruct the poundkeeper in writing by which of such modes such notice shall be sent, and the poundkeeper shall act accordingly :

Provided also, that when the poundkeeper knows the proprietor of any impounded goat or swine to be residing within Three miles of the pound he shall forthwith send him a like notice.

Notices of impounding to be sent by telegram.

Where practicable every notice under this Section shall be sent by telegram, the cost whereof shall be a charge on the animal in respect of which it is incurred.

Notice to persons unknown.

If the name of the proprietor is not known to the poundkeeper, the poundkeeper shall, within Twenty-four hours after the impounding, post a like notice at the office of the Local Authority, and the Local Authority shall cause the same to be gazetted and advertised.

Copy to be kept.

A copy of every such notice of impounding shall be kept by the poundkeeper.

Indistinct brands to be clipped.

When any horses or cattle are impounded, the brands of which are illegible or indistinct, the poundkeeper shall cause all such brands to be clipped or otherwise denuded of hair, and a correct diagram or *fac simile* of them to be entered in the pound-book.

Fees for notices.

The poundkeeper shall, in addition to the actual cost of any telegram or postage, as the case may be, demand the prescribed fee for every notice sent to the proprietor of an impounded animal :

Provided, that where more animals than one belonging to the same proprietor are impounded at the same time, not more than one notice shall be given or charged for in respect of them.

Animal to be detained for charges due.

507 The poundkeeper shall detain an animal impounded until all fees, rates, and charges authorised by this Act are paid, or until the animal is sold, as hereinafter provided.

Release of animals on payment of charges.

The poundkeeper shall, upon receipt of all fees, rates, and charges due in respect of an animal impounded, release the same to the proprietor.

Unless appeal pending, impounder entitled to charges.

He shall, unless notice of appeal has been given to him under this Act, pay to the person impounding, on demand, the prescribed charges for driving or leading (together with the actual amount of tolls and dues, if any, incurred in such driving or leading), and the prescribed rates of damage :

Restriction as to unenclosed lands.

Provided, however, that where an animal other than an entire horse or bull has been impounded from unenclosed lands, none of the charges payable for driving or leading shall be so paid.

Save as aforesaid the poundkeeper shall pay to the clerk all moneys received by him in respect of fees, rates, and charges, under the provisions of this Act.

Offences by poundkeeper.
11 Geo. 4, No. 3,
s. 2

508 Any poundkeeper who—

i. Refuses or wilfully neglects to receive into the pound any animal brought there to be impounded ; or

ii. Wilfully suffers any animals affected with any contagious or or infectious disease to be in the same enclosure with animals not so affected ; or

- iii. Neglects to keep his pound clean and free from nuisance; or
 iv. Fails to pay to the proprietor on demand any moneys received by him which it is his duty to pay to the proprietor; or
 5 v. Neglects to give or post up any prescribed notice or make any prescribed entry in any book, or knowingly gives or posts up any false notice, or makes any false entry, or wrongly erases or destroys any entry; or
 vi. Neglects to provide an impounded animal with proper food and water; or
 10 vii. Works or uses an impounded animal; or
 viii. Is guilty of any offence or neglect under this Act whereby damage is incurred by the Local Authority or by any person,
 shall be liable to a penalty not exceeding Twenty Pounds, and also to
 15 make compensation for all damage occasioned by any offence against this Section.

Division III.—Sales of Impounded Animals.

509 Sales of impounded animals shall be held as follows:—

- 20 i. When the animal is impounded in a Town or Urban District (and when a notice of impounding has been given to the proprietor personally, or by leaving the same at his usual place of abode, or by telegram) immediately after the expiration of Twenty-four hours from the time the notice was so given, and in every other case on the expiration of
 25 Seven days after such notice has been despatched through the post or advertised.
- 30 ii. When the animal is impounded in any other place (and when a notice of impounding has been given to the proprietor personally, or by leaving the same at his usual place of abode, or by telegram) on the expiration of Five days from the time the notice was so given, and in every other case on the expiration of Ten days after such notice has been despatched through the post or advertised.
- 35 iii. Every sale shall be by public auction, shall commence at the hour of Noon, and be held and made by the pound-keeper or other person appointed by the Local Authority.
 The poundkeeper or other person so appointed shall have power and authority to sell by public auction without taking out a licence as an auctioneer.
- 40 iv. Not more than Ten head of sheep or goats or Five pigs shall be put up in one lot, and not more than one horse or one head of cattle.
- 45 v. If the person who impounded the animal, or the pound-keeper or any other person selling the animal, by himself or by or through any other person purchases such animal, he shall forfeit the same, together with the purchase money, to the Local Authority, and in addition be liable to a penalty not exceeding Five Pounds.
- 50 vi. Before any sale is held the clerk shall examine every animal impounded and the pound-book, and shall certify under his hand that the animals intended for the then next sale are (if such be the case) correctly described in such pound-

When impounded in Town or Urban District.

Compare 46 Vict. No. 6. ss. 6 & 7.

When impounded elsewhere.

Sales by public auction at noon.

Lots.

Impounder or poundkeeper not to buy.

Clerk to certify before sale.

A.D. 1899.

book and in the prescribed notices, and that sufficient time has elapsed to entitle such animals to be sold.

No animals, except in the cases provided for in this Act, shall be sold except upon such certificate.

If the clerk wilfully gives a false certificate he shall be liable to a penalty not exceeding Fifty Pounds.

Animal may be sold on authority of proprietor.

VII. The poundkeeper may, under the written authority of any proprietor of an impounded animal, cause the same to be sold at the then next appointed day of sale.

Unbranded cattle or horses.

VIII. The poundkeeper may sell or cause to be sold at the next appointed day of sale any unbranded cattle or horses impounded above the age of Twelve months, with their foals and calves, if any.

Proceeds of sales, how disposed of.

510—(1.) The person other than the poundkeeper holding the sale shall receive the proceeds thereof, and shall pay over the same to the poundkeeper.

(2.) The poundkeeper shall apply the proceeds of all sales first in payment to the person impounding of all damages and charges for driving or leading, and shall within Ten days after the sale transmit the residue to the clerk, together with a detailed account of the several animals sold, and of the amount realised upon each lot, of the moneys paid to the person impounding, and of the fees, rates, and charges in respect of each animal: Provided that when the poundkeeper is paid a salary in lieu of fees, he shall also transmit to the clerk the amount of all poundage fees and charges.

Monthly account, sales to be furnished by poundkeeper laid before Local Authority. Schedule (32.).

(3.) The poundkeeper shall, at the termination of every calendar month, furnish to the clerk an account in writing, in the form in the Schedule (32.), of all impounded animals sold during the month, and shall with such account forward the certificates or authorities upon which such sales were made, and the clerk shall compare the account with the certificates or authorities, and cause any error or omission in the account to be rectified by the poundkeeper, and on being satisfied of the correctness thereof shall place the account, with a certificate under his hand of its correctness, before the Local Authority at its next ordinary meeting.

(4.) A copy of the account shall also be affixed by the clerk on some conspicuous part of the office of the Local Authority and maintained there for One month at the least.

(5.) If the poundkeeper or clerk fails or neglects to perform any of the several matters hereby directed by them respectively to be performed, he shall be liable to a penalty not exceeding Five Pounds.

Appropriation of moneys.

(6.) All moneys received by the clerk as fees, rates, and charges in respect of impounded animals shall be paid into the Local Fund.

All moneys received by him in respect of the sale of an animal shall be applied, in the first instance, in payment of all fees, rates, charges, and expenses due to the Local Authority in respect of the impounding, sustenance, and sale of the animal, and the residue, if any, shall on demand be paid to the proprietor thereof.

TITLE II.—TRESPASS. DISPUTED IMPOUNDINGS AND ACTIONS.

Illegal entry on lands.

511 Every person who drives or attempts to drive any animal, being his own or belonging to any person duly authorising him, from the lands of any owner or occupier or out of the herds or flocks

of any owner or occupier, without first giving him notice of his intention so to do, shall be liable to a penalty not exceeding Five Pounds. A.D. 1899.

Every person who so drives or attempts to drive any animals, not being his own or belonging to any person duly authorising him as aforesaid, shall be liable to a penalty not exceeding Ten Pounds.

Provided that nothing herein shall affect any such other proceedings for such driving as are applicable thereto.

512—(1.) Any person who—

10 I. Without reasonable or lawful excuse enters upon the enclosed land of another person without the consent of the owner or occupier of the land :

II. Wilfully or negligently leaves open or down the gate or slip-panel of another person :

15 III. Wilfully or negligently damages or leaves open a licensed gate :

IV. Wilfully lets in or knowingly suffers to enter upon the enclosed land of another person any animal without the consent of the owner or occupier of the land :

20 shall be liable to a penalty not exceeding Five Pounds, which shall be paid to and retained by the complainant : Provided proceedings be commenced within Two months after the act was committed, and that notice in writing of the intention to commence the same, and the cause of action be given to the defendant One month at least before the commencement thereof.

25 (2.) Any person found committing an offence against this Section, and who refuses, when required, to state his name and place of abode, may be apprehended by the owner or occupier of the land, or any officer of the Local Authority, or any officer of police, and be dealt with according to law.

30 (3.) Any such person who, when required to state his name and place of abode, states a false name or place of abode, shall be liable to a penalty not exceeding Five Pounds.

35 (4.) In any proceeding under this Section the defendant may plead the general issue, and give this Act and the special matter in evidence ; and an information laid hereunder shall be a bar to any action instituted in respect of the subject matter of such information against the same defendant.

40 **513** The owner or occupier of any enclosed land may destroy any goat, swine, or geese found trespassing thereon. If the proprietor of any such animal so destroyed fails to remove the same within Twelve hours after the destruction of it, the owner or occupier of the land may dispose of the same as he thinks fit.

45 **514** Where the proprietor of any animal impounded disputes the amount of damages claimed, or the nature of the trespass alleged to have been committed, or the legality of the impounding, he may allow such animal to remain in the pound until the appeal has been decided as hereinafter provided, or may release the animal by paying the fees, rates, and charges demanded, giving at the same time notice to the poundkeeper that he intends to appeal, and stating the grounds thereof.

50 Upon receipt of any such notice the poundkeeper shall not pay over any money received by him to any person, but shall retain the same until such appeal has been decided.

Wilful trespass.
Compare
Trespass to Lands
Act, 1882.
26 Vict. No. 7.

Q., 202.

Summary
apprehension.

Trespasser
refusing to give
name.

General issue.
26 Vict. No. 7,
ss. 3 & 4.

Proceedings here-
under bar to
action.
Ib., s. 5.

Power to destroy
goats, swine, or
geese.

If damages or
impounding dis-
puted, animals to
be released, but
poundkeeper to
keep damages
until appeal
decided.

A.D. 1899.

Justices to hear
and decide upon
legality of
damages or
impounding.

515 Any proprietor of an animal impounded may appeal to any Two Justices, who shall hear and determine the matter of such appeal and make such order in the premises as to them seems just.

If the Justices dismiss the appeal, then, if the animal impounded has not been released, the same course shall be observed with regard to 5 its detention, sale, and other matters as in all other cases of impounding; or if the proprietor has released the animal, the poundkeeper shall deal with all moneys paid to him in manner provided by this Act.

If the Justices sustain the appeal and adjudge either that the impounding was unlawful or that the amount of damages demanded 10 was excessive, then they may order the person impounding the animal to pay to the proprietor such compensation as they think fit not exceeding the amount of the damages demanded, and in addition to pay all fees, rates, and charges due in respect of the animal.

This Act not to
prevent actions for
special damages.

516 Nothing herein contained shall prevent the owner or occupier 15 of any land trespassed upon from waiving the prescribed damages and claiming in any court full satisfaction for any special damage sustained by him in consequence of any trespass.

If such a plaintiff does not recover more than the amount of the prescribed damages, he shall not be entitled to the costs of the action, 20 but the defendant shall be entitled to the costs thereof.

If the plaintiff becomes nonsuit or discontinues his action, or a judgment is given against him therein, the defendant shall be entitled to recover from him the full costs of such action, to be taxed as between solicitor and client.

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PART XI.

UNITED MUNICIPALITIES, WORKS ON BOUNDARIES, AND JOINT UNDERTAKINGS.

Title I. United Municipalities. (Sects. 517 to 523.)

II. Works on Boundaries of, or benefiting more than one Area, and Joint Undertakings. (Sects. 524 to 529.)

TITLE I.—UNITED MUNICIPALITIES.

Div. I. Constitution and Powers of Joint Councils. (Sects. 517 to 520.)

II. Expenses of Joint Councils. (Sects. 521 to 523.)

Division I.—*Constitution and Powers of Joint Councils.*

Formation of
United Municipalities.

Compare
Tas., 295-299.
Q., 506-517.

517—(1.) Where, on the application of the Councils of any two or more Shires, Cities, or Towns, it appears to the Governor that it would be for the advantage of their respective Areas or portions thereof to be constituted the Area of a United Municipality, for all or any of the purposes following; viz. :—

30

I. Providing waterworks and a common supply of water; or

II. Making a main sewer or carrying into effect a system of sewerage or drainage works; or

III. The carrying out of any local work, or the making and enforcement of any By-law for the common benefit of the 35 United Areas;

iv. Constructing, maintaining, managing, or controlling any rabbit-proof fencing within or bounding the whole or any part of two or more Shires; A.D. 1899.

v. For any purpose authorised by this Act such as, in the opinion of the Governor, is likely to be of permanent utility and is best capable of being carried out by concerted action;

the Governor may, by Proclamation, form such Shires, Cities, or Towns, or portions thereof as aforesaid into the Area of a United Municipality, by defining the Area, assigning a name thereto, and fixing the day on which such Proclamation shall take effect. All expenses of and incidental to the formation of a United Municipality shall be a first charge on its funds.

(2.) The governing body of a United Municipality shall be a Joint Council, consisting of such *ex officio* Members and of such number of elective Members as the Governor may, by the Proclamation forming the United Municipality, determine. The Joint Council shall be a body corporate, by such name as may be determined by the Proclamation, having perpetual succession and a common seal, with power to hold real and personal property for the purposes of its constitution. Governing body of United Municipality.

518—(1.) By the Proclamation forming a United Municipality, or by any subsequent Proclamation, the Governor may exercise any of the powers of Sub-sections iv. to ix. of Section *Thirteen*, and any of the powers of Section *Eighteen*, of this Act; and may define the purposes for which such United Municipality is formed, and the powers (including powers to make either General or Health By-laws), rights, duties, liabilities, obligations, and borrowing powers under this Act which the Joint Council are authorised to exercise or perform or are made subject to. And the Governor may relieve any United Municipality from compliance with limitation of loan to Ten times the average Annual Income for the Three years preceding the year in which the loan is raised. Contents of Proclamation forming United Municipality.

(2.) Any such Proclamation may also contain Regulations as to the qualification and mode of election of elective Members of the Joint Council, as to their continuance in office, as to casual vacancies in the Joint Council, failure to elect Members, or failure of such Members to attend, as may be prescribed by the Governor, the meetings of the Joint Council, and reserving power to the Government to fill up any vacancies caused thereby, as to the meetings of Joint Council, and officers, and any other matter or thing, including the adjustment of present and future liabilities and property with respect to which the Governor may think fit to make any Regulations, for the better carrying into effect the provisions of this Act with respect to United Municipalities.

519—(1.) Every such Joint Council shall at its first Meeting, and thereafter annually, elect by ballot one of the Members thereof to be Chairman of such Joint Council during the year succeeding his election. And all meetings of such Joint Council and the proceedings thereat shall be conducted according to the provisions of this Act relating to meetings of Councils, except in so far as such meetings and proceedings are regulated by the Proclamation constituting the Joint Council. Chairman and meetings, &c., of Joint Council.

(2.) If any Member refuses or neglects to act, or to attend any duly convened meeting of the Joint Council, all lawful acts and proceedings thereof shall be as valid and effectual as if they had been done or authorized by the full Joint Council: Provided the quorum provided Failure of Members to attend not to invalidate proceedings. Quorum.

A.D. 1899.

By-laws as to business.

by any Regulation as aforesaid is present, which shall not be less than one-third of the whole number of Members of the Joint Council.

(3.) A Joint Council may make any By-law that a Local Authority can make for regulating the conduct of its meetings or business.

Local Authorities to cease to exercise powers.

520—(1.) From and after the constitution of a Joint Council, and during the existence thereof, but no longer, the several Local Authorities having jurisdiction within the United Areas shall cease to exercise or perform therein any of the powers, duties, or authorities, or to be subject to any of the obligations, which the Joint Council is authorised to exercise or perform, or to which it is liable: 5 10

But By-laws to continue until specifically repealed.

(2.) Provided nevertheless, that all By-laws of any such Local Authority relating to the aforesaid transferred powers, duties, or authorities which were in force in the Area at the time of the constitution of the Joint Council shall continue in force therein, or in that part thereof in which they were in force, so far as the same By-laws may be applicable, until the Joint Council makes other By-laws repealing, suspending, or superseding them. And the Joint Council may take, under any such By-laws, any action which the Local Authority might have taken if the Joint Council had not been constituted: 15

(3.) And provided, also, that no licences granted or rights arising under any such By-laws of a Local Authority shall be prejudiced or affected by any such repeal, suspension, or supersession. 20

Joint Council may delegate power to Local Authorities.

(4.) A Joint Council may nevertheless delegate to any Local Authority of any Constituent Area the exercise or performance; within so much of the Area of the Joint Council as is within the Area of that Local Authority, of any of the powers, duties, or authorities of the Joint Council. 25

Division II.—*Expenses of Joint Councils.*

Expenses of Council to be equitably apportioned among Component Local Authorities.

521—(1.) Any expenses incurred by a Joint Council in pursuance of this Act, unless otherwise determined by a Proclamation, shall be defrayed out of a common fund to be contributed by the Local Authorities of the Constituent Areas, in such proportions as the Joint Council determines, subject to the following general rules; that is to say,— 30

- I. When the expense is incurred for a matter of general, and, as nearly as may be, equal benefit of the whole of the United Municipality, the amounts to be severally contributed shall be in the proportion which the value of the rateable property in each of the Constituent Areas, as shown by the Assessment Roll, bears to the total value of all such property within the Area of the United Municipality; 35
- II. When the expense is incurred for a matter of unequal benefit to the several parts of the Area, the respective contributions shall, as nearly as practicable, be in proportion to the benefit severally received by the several parts of the Area; 40
- III. When the expense is incurred for the exclusive benefit of a portion only of the Area, the contributions in respect thereof shall be made solely by the Local Authorities whose Areas or parts of whose Areas are comprised in such portion. 45

Appeal to Governor, who may refer matter to Supreme Court.

(2.) If a Local Authority thinks itself aggrieved by any such apportionment, such Local Authority may appeal against the same to the Governor, who shall cause to be made such inquiry as he deems 50

necessary, and whose decision shall be final and binding upon all the Local Authorities, or the Governor may direct the matter to be settled by a reference to the Supreme Court as on an appeal provided for in Section *One hundred and eighty-three*. A.D. 1899.

- 5 (3.) For the purpose of obtaining payment from such Local Authorities of the sums to be contributed by them, the Joint Council may issue a precept signed by the Chairman and in the form in the Schedule (48.) to each Local Authority, stating therein the sum to be contributed by such Local Authority, and requiring such Local Authority, within a time limited by the precept, to pay the sums mentioned to the Joint Council, or to such person as the Joint Council directs. Precepts: Schedule (48.).

- 10 (4.) The amount so required to be paid in any one year by a Component Local Authority shall in no case, whether on the precept of one Joint Council or on the precepts of several Joint Councils, exceed in the whole a sum equivalent to One Shilling in the Pound of the value of the rateable property within so much of the Area of such Local Authority as is comprised in the Area of the Joint Council or Joint Councils. Limit of rate.

- 20 (5.) Any sum mentioned in such precept shall be a debt due from the Local Authority of such constituent Area, and may be recovered accordingly in any competent Court by such Joint Council. Recovery of amount.

- 25 (6.) Every such contribution shall be deemed expenses to be defrayed out of the Local Fund, and shall be paid by the Local Authority accordingly, and the receipt of the Chairman of the Joint Council shall be a good discharge for the amount so paid. Contribution to be defrayed out of Local Fund.

- 30 (7.) If a Local Authority has no moneys to the credit of the Local Fund, it shall, or, if it has paid out of such Fund the amount required by such precept, it may, for the purpose of reimbursing itself, notwithstanding any limit prescribed by this Act, increase the amount of the next ensuing General Rate levied and collected in its Area, or such part of its Area as is within the Area of the Joint Council, by an amount which, added to the endowment or subsidy payable under the provisions of any Act upon such increase, will be equivalent to the sum mentioned in the precept. Rate may be increased to reimburse such contributions.

- 35 (8.) The Local Authorities of any constituent Area may provide the cost of a local work executed by a Joint Council out of moneys raised by way of loan; but in such case the proportions of the cost to be defrayed by them respectively shall be agreed upon by them respectively, before the execution of the work, and the Local Authorities shall severally raise their respective proportions of such sums, and shall pay the amounts so raised to the Joint Council. Works executed from loan moneys.

- 40 (9.) All amounts required by the laws in force for the time being to be paid from time to time to the Treasurer in respect of any such loan shall be so paid by the several Local Authorities, and such payment may be enforced in the same manner as in the case of other debts due by a Local Authority to the Treasurer in respect of loan moneys advanced under the laws in force for the time being relating to loans to Local Authorities. Component Local Authorities to pay instalment on such loans.

- 50 **522**—(1.) All penalties recovered for offences against any By-laws of the Joint Council, or any By-laws in force in the Area relating to any matter under the control of the Joint Council, or for offences against this Act, so far as such offences relate to the Joint Council or the performance of its duties, shall be paid into the Common Fund. Application of penalties.

- 55 (2.) When any fees or other moneys are received by a Joint Council, the same shall be applied in the first instance towards defray- Disposition of revenue of Joint Council.
[Bill 1.]

A.D. 1899.

ing the expenses of the collection thereof and of the carrying out of the public work or administration of the By-law in respect whereof such fees or moneys were received, and towards defraying the amounts required to be paid from time to time to the Treasurer in respect of any loan to the Joint Council; and the surplus (if any) shall be divided 5 amongst the Local Authorities in the same proportions in which such Local Authorities would under the provisions of this Act be liable to contribute.

Dissolution of a Joint Council.

523 The Governor shall have power by Proclamation to dissolve a Joint Council, and upon such dissolution its rights, assets, and liabilities 10 shall devolve upon the constituent Local Authorities, and the Governor may, by Proclamation, declare and apportion the rights and liabilities of the several Local Authorities in respect thereof, and such Local Authorities shall respectively have and be liable to such part of the rights, assets, and liabilities of the Joint Council as are so declared. 15

Every such Proclamation shall have the same effect as if it were a part of this Act.

TITLE II.—WORKS ON BOUNDARIES OF, OR BENEFITING MORE THAN ONE AREA, AND JOINT UNDERTAKINGS.

- DIV. I. Joint Undertakings for mutual benefit. (Sects. 524 to 528.)
 II. Joint Action for Prevention of Disease, &c. (Sect. 529.)

Division I.—*Joint Undertakings for mutual benefit.*

Contracts in matters of joint interest.

Compare
 Q., 518.
 N.Z., 230.

524—(1.) A Local Authority, which expression as used throughout this Section includes the Local Authority of each of the Cities of *Hobart* and *Launceston*, may, after passing a Special Resolution, from 20 time to time contract with any other Local Authority for the following purposes; that is to say—

- I. For the construction, alteration, maintenance, or management of any local work for the joint use or benefit of the contracting parties, or which is in great measure used by 25 or may be used by the inhabitants of the contributing Area for purposes of recreation, health, convenience, or other purpose of public utility;
- II. For the employment of engineers, surveyors, clerks, or other officers or servants for the joint service of the con- 30 tracting parties;
- III. For payment of a contribution, either annually or otherwise, towards the expenses of any such work when undertaken by one of such Local Authorities:

Joint construction and maintenance of roads and bridges.

Compare
 Q., 520.
 R.A., 102.

- (2.)—I. Every public road serving more than one Area; 35
 II. Every boundary road; and
 III. Every boundary bridge, including all proper approaches to such bridge, shall be formed, constructed, and maintained at the joint cost of; and

except where any such is included in any main or common road, or 40 has been dealt with under the provisions of Section *Five hundred and twenty-eight* of this Act, shall be under the joint care and management of the Local Authorities the areas of which are so served, or between whose areas such road or one side of it, or, in the case of a boundary bridge, the river, or watercourse forms the boundary. 45

Power to execute works in adjoining Area.

(3.) Any Local Authority may, with the consent of the Local Authority of any adjoining Area, execute and do in such adjoining

Area all or any of such works and things as they may execute and do within their own Area, and on such terms as to payment of the expenses thereof or otherwise as may be agreed on between the two Local Authorities. A.D. 1899.

5 (4.) Any of the Local Authorities may request the other or others to enter into an agreement for the formation, construction, rebuilding, alteration, maintenance, or control of any such road, bridge, and approaches, or any such local work as is mentioned in the first Sub-section of this Section; and if the Local Authority or Local Authorities so requested refuse or neglect within a reasonable time to enter into a reasonable agreement for that purpose, the Local Authority making the request may apply to the Minister to exercise the powers hereby conferred. A Local Authority may request another to enter into agreement as to local works, and may apply to Minister if such request refused. See T.B.A., 232-237.

15 (5.) Upon such application the Minister shall give notice to the Local Authority or Local Authorities so refusing or neglecting, and shall consider all such representations as may be made to him by any of the Local Authorities, and may thereupon, by order published in the *Gazette*, direct that such road or bridge and approaches, or other local work, shall be formed, or constructed, or maintained, or controlled at the joint expense of the Local Authorities, on such terms and conditions as he thinks just, but so that the conditions shall not be more onerous upon the refusing or neglecting Local Authority or Local Authorities than the conditions of the agreement into which it or they was or were requested by the first-mentioned Local Authority to enter: Provided, that the Minister may, if he shall think fit so to do, order that the control of any such work shall be vested in one only of such Local Authorities, and may make such order as he deems just in regard to any expenses incurred by him in relation to the exercise of the powers of this Section. R.A., 141, &c. L.C.A., Part XX. Minister to proceed to enquire into matter, and may make order for neglecting Local Authority to assist, and may vest control in one only.

30 (6.) Any order so made and published shall have the same effect as if it were an agreement made between the Local Authorities, and may be rescinded or varied by an agreement made between them or by a subsequent order of the Minister made and published in like manner. Such order to have same effect as Contract, and may be varied.

35 (7.) If none of the Local Authorities requests the other or others to enter into such an agreement, the Minister may require them so to do, and, in default of their so doing within a reasonable time, may make and publish an order in the same manner, and which shall have the same effect, as if one of such Local Authorities had made such request and the other or others had refused or neglected to comply with it, except that an order so made shall not be liable to be rescinded or altered without the consent of the Minister. Minister may act upon his own initiative.

45 (8.) Obedience to any order made under this section may be enforced by action or motion for a mandamus at the suit of any owner of land abutting upon, or within the distance of a mile from, the boundary road or the road in the line whereof the bridge is, or ought to be, constructed, or of any such owner of land abutting upon, or within the distance of a mile from the site where any such local work is, or ought to be, constructed. Ratepayer may compel observance of order.

50 (9.) The Treasurer is hereby empowered from time to time to pay to any such constructing or repairing Local Authority out of any moneys which the defaulting Local Authority may be at any time thereafter entitled to receive out of the Consolidated Revenue Fund, the share of such defaulting Authority as ordered by the Minister in the expenses of any such work as aforesaid. Treasurer may pay share of defaulting Local Authority out of any moneys it may become entitled to.

55 (10.) Any expenses which under the provisions of this Section become payable by one Local Authority to another shall be deemed to Expenses to be deemed expenses on works within Area.

A.D. 1899.

be expenses incurred by them in the execution of works within their Area.

Construction, &c.,
of bridges on
main roads.
Q., 521.

525—(1.) Any Local Authority having the construction, care, and management of a bridge, or the Local Authorities having the joint construction, care, and management of a bridge under the provisions 5 of the last preceding Section, may, if the site of such bridge is situated upon a main road, request any Local Authority or Local Authorities through whose Area or Areas the main road passes to enter into an agreement with them for contributing towards the cost of the construction, rebuilding, or maintenance of such bridge and approaches 10 thereto. And if the Local Authority or Local Authorities so requested shall refuse or neglect within a reasonable time to enter into a reasonable agreement in accordance with such request, the Local Authority or Local Authorities making the request may apply to the Minister to exercise the powers hereby conferred. 15

(2.) The Minister shall thereupon proceed in the same manner as prescribed by the last preceding Section in the case of boundary roads, and may make the like order, which shall have the like effect, as in that case, and may be rescinded, altered, or enforced in like manner.

Repairs of main
roads.
Q., 522.

526—(1.) Any two Local Authorities having jurisdiction over 20 portions of a main road may, if such portions are in fair repair, request the Local Authority or Local Authorities having jurisdiction over the remainder thereof to put in fair repair, or to enter into an agreement with them for that purpose. And if the Local Authority or Local Authorities so requested shall refuse or neglect within a reasonable time 25 to enter into a reasonable agreement in accordance with such request, the Local Authorities making the request may apply to the Minister to exercise the powers hereby conferred.

(2.) The Minister shall thereupon proceed in the same manner as prescribed by the last preceding Section but one in the case of boundary 30 roads, and may make the like order, which shall have the like effect, as in that case, and may be rescinded, altered, or enforced in like manner.

Level of road
on boundary.
N.Z., 227.

527 In the case of any public highway coming within the provisions of Section *Five hundred and twenty-five* of this Act, and in the case of any road crossing the boundary of another Area, or meeting 35 another road on such boundary, it shall not be lawful to alter the level of any such public highway or road on or along such boundary, or at such point of crossing or meeting, unless both the Local Authorities concerned agree as to the new level; but the Minister shall have power to settle any question as to level, including the ordering of 40 payment of expenses, in the same manner as prescribed in that Section in the case of boundary roads, and may make an order accordingly.

If any disagree-
ment, Minister
may make order
including the
payment of
expenses of
settling dispute.

Power to appoint
control of bridge
or ferry at bound-
ary of Area.

528 When a river or watercourse is so situated that at any place one bank thereof only is within the Area of a Local Authority, the Governor may, by Proclamation, order that any bridge or ferry across 45 such river or watercourse, at such place and the approaches thereto; and so much of either bank of the river or watercourse as may be necessary for the convenient construction and use of such bridge or ferry, and proper approaches thereto, shall be under the exclusive control of such Local Authority, notwithstanding that such approaches 50 and bank are within the Area of another Local Authority, and may exclude the same from the jurisdiction of such other Local Authority.

Division II.—*Joint Action to prevent Epidemics and destroy Pests or Noxious Weeds.* A.D. 1899.

- 529**—(1.) The Governor may, by Proclamation, authorise or require any Two or more Local Authorities to act together for the purposes of the provisions of this Act relating to—
- 5 I. Prevention of epidemic diseases :
 II. Destruction of pests :
 III. Eradication of noxious weeds :
 IV. Control of a Cemetery :
 v. Acting as Board of Advice under “The Education Act” as to schools within their Areas, or any District as hereinafter provided :
- 10 and may prescribe the mode of such joint action and of defraying the costs thereof.
- (2.) Such joint action may be taken through the medium of a Joint Committee appointed as provided in Section *Ninety-six* hereof.
- 15 (3.) The Governor may, by Proclamation, define the Areas or portions of Areas of the Local Authority required to take such joint action which shall form the District within which the Joint Authority shall exercise its functions.
- Governor may combine Local Authorities for prevention of disease. Compare Q., 519.
- Joint action by a Joint Committee.
- District for joint action may be defined.

PART XII.

ORDINARY REVENUE.

Title I. Local Fund. Sects. 530 to 533.

II. Rates, Charges, &c. Sects. 534 to 563.

TITLE I.—LOCAL FUND.

- 530** The ordinary revenue of an Area shall consist of the moneys following ; that is to say—
- 20 Rates (not being Special Rates), tolls, ferry dues, market and other dues, fees, and charges authorised by this Act or any By-law, and the rent of tolls and dues, land, and buildings :
- 25 Moneys received by the Council under any grant or appropriation by Act of the Parliament of *Tasmania* not containing any provision to the contrary :
- All other moneys which the Council may receive under this or any other Act not being the proceeds of a loan.
- All such moneys shall be carried to the account of a Fund to be
- 30 called “The Local Fund of the Town or Rural District of _____,” or “The Local Fund of the Shire of _____,” or as the case may be.
- Local Fund.
- 531**—(1.) Except where otherwise provided, all fines, penalties, and forfeitures recovered under the provisions of this Act or any other enactment administered by the Local Authority shall be paid into and
- 35 form part of its Local Fund or Common Fund, as the case may be.
- (2.) The Clerk or other proper officer of the Court in which any such fines or penalties are recovered, and which are payable to the Local Authority, shall pay the same at such times and in such manner
- 40 as the Treasurer, subject to any law in force relating thereto, directs.
- (3.) The Clerk or other proper officer of the Court in which any such fines and penalties are inflicted shall once in every Three months
- Fines, &c., appropriated to Local or Common Fund.
- Penalties to be paid into Local Fund.
- Clerks of Court to furnish Returns.

A.D. 1899.

Fees paid in stamps.

Remitted penalties to be repaid by Local Authority.

Application of Local Fund.
R.M.A., 179.Payments out of Local Fund for authorised purpose.
See Sect. 99.

When moneys deemed to have been lawfully expended.

Deposit at interest.

furnish the Local Authority with a written statement, signed by him, of all such fines or penalties, distinguishing therein those that have from those that have not been paid into the Fund.

(4.) Whenever any fines or penalties which ought to be paid over to the Local Authority are by law required to be paid in stamps, and have been so paid, the Clerk or other proper officer aforesaid shall certify to the Treasurer the amount thereof, and the name of the Area entitled to receive the same ; and thereupon the Treasurer, without the necessity of any appropriation by Parliament, shall pay the amount of such fines or penalties out of the Consolidated Fund to the Local Fund or Common Fund, as the case may be, of such Area.

(5.) Provided that when a penalty or part of a penalty which has been received by a Local Authority is thereafter remitted by the Governor, the amount so remitted shall thereupon be repaid by the Treasurer of the Local Authority to the person from whom the same was recovered, and in default he may either apply to the Supreme Court for a Writ of *Mandamus* to compel such Treasurer to repay the penalty, or may recover the same from the Local Authority, with full costs of suit, in any Court of competent jurisdiction.

532—(1.) The Local Fund shall, subject to the provisions of this Act, be applied by the Local Authority towards the payment of all expenses necessarily incurred in carrying this Act into execution, and in doing and performing any acts and things which the Local Authority is by this or any other Act empowered or required to do or perform.

(2.) The Local Authority may pay out of the Local Fund any sum due under an agreement lawfully made for the purposes of this Act, and any sum recovered against the Local Authority by process of law, and any sum which by any order made or purporting to be made under this Act the Local Authority is directed to pay by way of compensation, damages, costs, fines, penalties, or otherwise.

(3.) All moneys expended by any Local Authority shall be deemed to have been lawfully expended if such expenditure appears in their accounts duly audited and passed in manner provided by this Act.

533 The Local Authority may, in any case where it is deemed advisable that any sum of money at credit of General or Special Loan or any other account should be placed on deposit at interest, deposit such sum of money with any bank approved by them.

TITLE II. — RATES, CHARGES, &C.

Div. I. Provisions as to levying Rates. Sects. 534 to 539.

II. General Health Rates. Sect. 540.

III. Special and Separate Rates, Water and Cleansing Rates. Sects. 541 to 545.

IV. Limits of Rating Power, Exceptions and Remissions of Rates. Sects. 546 to 548.

V. Rate Books. Sect. 549.

VI. Payment of Rates and Charges. Sects. 550 to 555.

VII. Remedies for Recovery of Rates and Charges. Sects. 556 to 563.

NOTE.—For Powers to lease and sell. See Sects. 608 and 609.

Division I.—Provisions as to levying Rates.

Kinds of Rates.
Compare
P.A., 259.
Tas., 319-341.
Q., 350-392.

534—(1.) Rates under this Act are of two kinds, namely, General Rates and Special Rates.

Subject to the provisions hereinafter contained relating to sub-divided Areas, General Rates must be made and levied equally upon all rateable property within the Area

Special Rates may be made and levied either equally upon all rateable property within the whole Area, or equally upon all rateable property within a particular part of the Area.

- (2.) Rates for any of the purposes of Parts VIII. and IX. of this Act may be named according to the purpose for which the proceeds are to be expended, and may be made and levied either as General or Special Rates by the Local Authority from time to time, subject to the provisions herein contained, and of such amounts as it thinks fit.

A.D. 1899.

Rates for any of purposes of Parts VIII & IX may be either General or Special.

R.A., 56.

T.B.A., 53, 54.

Compare R.M.A., 119-136.

Obligation to levy a minimum Rate.

Tas., 319.

Q., 354 357.

Case of subdivisions.

- 535—(1.) Every Local Authority shall in every year make and, subject to the provisions of Section *Five hundred and thirty-eight* hereof, levy a General Rate of not less than Sixpence in the Pound of the annual value of the whole of the rateable property in the Area.

- (2.) When an Area is subdivided the amounts of the General Rates made and levied upon the rateable property in the several subdivisions need not be the same, but every General Rate made and levied in respect of a subdivision shall be made and levied equally upon all rateable property within the subdivision.

- (3.) The Local Authority of every newly constituted Area shall, within Six months after its constitution, make at least one General Rate of not less than the minimum amount hereinbefore specified.

Duty of new Local Authorities.

- (4.) If a Local Authority has, at the beginning of any year, to the credit of the Local Fund, sufficient money to defray all its probable and reasonable expenses for that year, the Governor may excuse the Local Authority from making any General Rate during that year in respect of the whole Area or any subdivision thereof, or may direct that the maximum amount of any Rate to be made during that year shall not be more than an amount to be specified by the Governor.

Provision in case money not required.

- (5.) Subject to the foregoing provisions every Rate may be made for and in respect of such period after the making of the Rate as the Local Authority thinks fit, and as is named in the Resolution for making the Rate, but this provision shall not prevent the Local Authority from afterwards altering or diminishing such period or from making or levying during any such period another Rate, if the Local Authority otherwise has power under this Act to make or levy the same.

Rates to be made for particular periods.
Q., 359.

Estimates before Rate made.

536—(1.) Before making any Special Rate the Local Authority shall cause an estimate to be prepared of the proposed expenditure upon the purpose to which the Rate is to be devoted.

Estimate to be prepared before Special Rate made.

- (2.) Before making any General Rate the Local Authority shall cause an estimate to be prepared of the proposed expenditure of the Council during the period for which the Rate is made and the several heads of expenditure in respect of which the Rate is required.

See Sect. 99.

Compare E.L.G. Act, 94.

Sect. 11 (5.)

N.Z., 113 (107),

114 (110.)

O.M.A., 359.

- (3.) Every such estimate shall show the sums already available for the purpose or purposes of the Rate, the additional sum required, the total rateable value of the property liable to be rated for such purpose or purposes, and the Special or General Rate thereon, as the case may be, necessary to raise the money required; and such estimate, being approved by the Local Authority, shall remain open to inspection at the office of the Local Authority for one week at least before the making of the proposed Rate.

Also before a General Rate is made.

What estimates are to contain.

To be open for inspection.

- (4.) Before any Rate, except a Rate levied by or at the request of another Local Authority, is levied by a Shire Council, the fact of the

Shire Council to give notice by advertisement.

A.D. 1899.

Provisions not to
apply to certain
Rates.

With Minister's
approval
Recurring Rate
for a period of
more than One
year may be
levied.
T.B.A., 53.

preparation of such estimate, and that it is open for inspection, shall be advertised at least Five days before the Rate is finally made and levied.

(5.) The provisions of this Section do not apply to a Special Loan Rate, a Separate Local Rate, or to any Rate levied as the result of a poll of Electors.

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537 For more effectually carrying out any of the purposes and objects of this Act a Local Authority may, by Special Resolution and subject to the other provisions of this Act, make and levy a General Rate or a Special Rate, to be called a "Recurring Rate," extending over more than One year but not exceeding Five years, and so as the amount levied under this power shall not exceed Sixpence in the Pound upon the annual value of rateable property within the Area.

Provided that the limit to the rating powers of Local Authorities hereinafter specified for any year of such period shall not be exceeded by reason of any such annually recurring Rate, and that the sanction of the Minister, to be testified by his approval written below the notice of levying such Rate and gazetted, has been first obtained.

Powers of Shire
Council in regard
to rates and
charges required
to be made by
certain Local
Authorities.
See Sect. 138.

538—(1.) The Shire Council shall levy all Rates in the Areas of—

I. Every Rural District :

II. Every Local District ; and

III. Every Town having less than Two thousand Pounds worth of rateable property—

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make and publish the notice of levy, and (unless it delegates the collection as hereinbefore authorised) shall collect all Rates, and may also, at the request of any Local Authority of any such Area, collect any prescribed charge or any expenses payable to such Local Authority.

Local Authorities
to request Shire
Council to levy
Rates.

(2.) The Local Authority of any such Area shall, after complying with the provisions of Section *Five hundred and thirty-six* hereof as to the annual Rates by a writing under the hands of its Chairman and Clerk giving the particulars of the Rate resolved upon by the Local Authority, request the Shire Council to levy the same.

Before 1 *July*.

(3.) Such request may be forwarded to the Shire Council on or before the First day of *July* in every year.

Rates levyable in
July.

(4.) All Rates shall, whenever practicable, be levied in the month of *July*.

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Other Town
Councils may
request Shire
Council to collect
their Rates.

(5.) When the Local Authority of a Town other than such Towns as are included in the First Subsection of this Section, by a Resolution, signifies its desire that all Rates levied by the Shire Council upon properties within the Area of the Town shall be demanded, together with the Rates such Local Authority levies, then the Shire Council may comply therewith, and either itself issue the demands and collect all such Rates as hereinbefore provided in regard to other Local Authorities, or delegate the collection thereof to the Town Council, and in such latter case the Town Council is authorised to issue a demand including all such Rates, and to collect the same.

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Net amount to be
paid to Local
Authority.

(6.) All Rates so as aforesaid collected by one Authority for another Authority shall be paid over, less only the actual cost of collecting, but the deduction on this account shall in no case exceed Five per cent.

Shire Council's
power to make
adjustment when
property liable to
pay Two Rates
while deriving
little or no benefit
from One set of
Roads.

(7.) Whenever a property is bounded by a Main or Common Road, and is liable to pay a Shire Council Rate for the maintenance thereof, and is also liable to pay another Local Authority Rate for the maintenance of its Local Roads, the Shire Council may consider an application by the owner of such property for relief, upon the ground of the small advantage derived from the Local Roads, and may allow him a

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Compare
O.M.A., 614.

relief of the Local Rate equal to not more than One-half of the Local Rate payable in respect of such property ; but no such allowance shall reduce the amount payable by such owner below the larger amount to which his property would be liable under the higher of the Two Rates.

A.D. 1899.

(8.) Except when for any cause it may be necessary to levy a Rate for any purpose of this Act, after the making and levying of the Rates for the year, all Rates, whether General or Special, levied in any such Area as aforesaid upon the properties therein, shall be demanded together, but the demand shall show the several Rates.

Rates to be consolidated into one demand.

(9.) The form of the demand, counterfoil, and receipt used by a Local Authority collecting Rates shall be such as the Auditor-General from time to time prescribes.

Form of demand.

539 Any Rate which a Local Authority is empowered to make and levy shall be considered to have been duly levied and to be payable by the persons liable to pay the same at the places and in manner stated in the demand to be issued as provided in the preceding Section, when a notice, signed by the Chairman and not less than Three Members, specifying the amount in the Pound of the Rate, the purpose and period for which the same is made, and at what times the same is payable, has been gazetted. Such notice shall state whether the Rate is levied upon the annual value or capital value of the property within the Area, as shown by the Assessment Roll.

When a Rate is to be considered duly levied.
R.A., 57.
T.B.A., 55.

A notice as aforesaid, signed by the Chairman and Three Members of the Shire Council, shall be sufficient in the cases mentioned in Sub-section (1.) of the preceding Section.

Notice where Shire collects.

Division II.—General Health Rates.

540—(1.) For the purpose of defraying any of the expenses mentioned in this Section, the Local Authority may from time to time make and levy, in addition to any other Rate leviable by it, a Rate to be called a "General Health Rate."

General Health Rate.
See Sect. 488.

(2.) Such Rate may be made and levied either prospectively in order to raise money for the payment of future expenses, or retrospectively in order to raise money for the payment of expenses incurred at any time within Six months before the making of the Rate.

(3.) No moneys raised by a General Health Rate shall be applied for any purpose other than the purpose of defraying the expenses incurred or payable by the Local Authority in the execution of Part IX. of this Act, or any By-laws relating to health, or any Regulations or orders of the Board, and not being expenses incurred in respect of any undertaking or contract for the removal of house refuse from premises, or the cleansing of earth-closets, privies, ashpits, or cesspools.

Purposes to which such proceeds may be applied.
See Sect. 543.

(4.) When any part of the cost of any such last-mentioned undertaking or contract has been defrayed out of the Local Fund, and by reason thereof such Fund is insufficient to meet the other expenses incurred in the execution of this Act, it shall not be lawful to apply any part of the moneys raised by a General Health Rate for the purpose of making up the deficiency in the Local Fund so caused.

(5.) Separate and distinct accounts shall be kept of all moneys raised by General Health Rates, and of all expenditure defrayed out of such moneys.

Separate accounts of proceeds of General Health Rates.

[Bill 1.]

A.D. 1899.

Division III.—*Special and Separate Rates. Water and Cleansing Rates.*Purposes of
Special Rates.**541** The Local Authority may make and levy Special Rates for the purpose of defraying the cost of—

- I. Constructing and maintaining any works for or relating to sewerage or drainage :
- II. Constructing and maintaining works for the manufacture or conservation and supply of gas, or electricity, or hydraulic or other power :
- III. Watering, cleansing, or lighting roads :
- IV. Establishing, maintaining, and managing premises for public recreation and instruction according to the provisions of 10 Part VIII., Title XI. of this Act :
- V. The destruction of pests, or preventing the spread of diseases in animals :
- VI. The eradication of noxious weeds :
- VII. Any of the other purposes of Part VIII., Title XI., of this 15 Act, or of Part IX. of this Act.

Tas., 232.

See Sect. 488.

*Water Rates.*Special Water
Rate.**542**—(1.) Every Local Authority controlling a Water District may, for any of the purposes of Part VIII., Title VIII. of this Act, make and levy a Special Water Rate upon all rateable property therein.

Limit One
Shilling, unless
Poll-taken.
Minimum Rate.
Compare
62 Vict. No. 66,
Sect. 78.
*Hobart and
Launceston Water
Acts.*
How poll to be
taken.

(2.) Except a poll of Electors has otherwise determined, such Rate shall not in any year exceed One Shilling in the Pound upon the annual value of such property, or, if the Local Authority elects to rate upon capital value, Five-eighths of a Penny upon such capital value ; but the Rate payable in respect of a dwelling-house shall in no case be less than Ten Shillings per annum. 20 25

(3.) The poll mentioned in the last Subsection shall be taken as prescribed in Section *One hundred and forty-one* of this Act ; and thereafter, if the proposal be assented to in accordance with the provisions of this Act relating to such polls, the properties in the Water District shall be liable to be annually rated by the Local 30 Authority to the extent so determined.

Where several
premises have a
common pipe
each pays.
62 Vict. No. 66,
sect. 81.

(4.) Where several premises in separate occupation are supplied by one common pipe, each shall be liable to the same Rate as if served by a separate pipe.

Limitation of
Rate unless
premises supplied
&c., or pipes near
boundary.
T.B.A., 162.

(5.) No person is liable to pay a Water Rate greater than upon 35 One-fourth only of the assessed value of the premises he owns or occupies unless the same are actually supplied with water for domestic or other purposes, or unless the mains or other pipes of the Local Authority are laid down and properly supplied with water within Fifty feet from the outer boundary of the property. 40

Water may be
cut off when
default made in
paying Rate or
charge.
62 Vict. No. 66,
Sect. 82.

(6.) If any person liable to pay a Water Rate or any prescribed charge for water neglects to pay the same within due time after the same has been demanded, the Local Authority, after giving Twenty-four hours' written notice of their intention so to do, may stop the water from flowing into the premises in respect of which such Rate or 45 charge is payable by cutting off the pipe supplying the same, or by such means as the Local Authority thinks fit ; and such action shall not affect any remedy for recovery of the amount of such Rate or charge.

A.D. 1899.

Cleansing Rates.

543—(1.) When a Local Authority undertakes or contracts for the removal of house refuse from premises, or the cleansing of earth-closets, privies, ashpits, or cesspools, the expense of such work shall be defrayed from moneys raised by a Special Rate, to be called a "Cleansing Rate," and which Rate the Local Authority is hereby authorised to make and levy.

Cleansing Rates.
Compare
S.R.A.

(2.) A Cleansing Rate shall be made and levied upon all occupied property with respect to which the Local Authority undertakes or contracts for the performance of the duties aforesaid, and may be made and levied either—

Upon occupied
property where
service rendered.
See Sect. 400.

- i. Upon the basis of and in proportion to the rateable value thereof ; or
- ii. Upon the basis of the number of persons who may reasonably be expected to occupy the several premises ; or
- 15 iii. Upon the basis of the superficial measurement of the buildings upon the several properties ; or
- iv. Upon one such basis with respect to rateable property the occupation whereof is of one kind, and upon another basis with respect to rateable property the occupation whereof is of another kind ;
- 20 v. Upon such other basis as the Local Authority thinks just and reasonable.

(3.) When a Local Authority so contracts as aforesaid, on the basis of payment at an agreed rate for the work done in respect of each closet, privy, ashpit, cesspool, house, or premises, the occupier of such premises so served (if the Local Authority elects not to levy a Cleansing Rate as aforesaid), shall pay the actual cost thereof as may from time to time be prescribed by the Local Authority.

Cost of cleansing
may be charged
directly on
occupier instead
of by Cleansing
Rate.
Q., 366, 367.

(4.) Notice of the liability to pay the amount of the charge so prescribed shall be given to the occupier in the same manner in which notices of Rates are required to be given.

Notice of liability
to be given.

(5.) Provided that in cases where the work is done while the premises are unoccupied, or as to properties coming within the provisions of Subsection (3.) of Section *Five hundred and fifty* hereof, the owner shall be liable to pay the actual cost of so cleansing the premises.

Owner liable in
certain cases.

Separate Local Rates.

544—(1.) For defraying the expenses incurred or to be incurred in the execution of a work for the special benefit of any particular part of the Area, whether of the kind specified in Section *Five hundred and forty-one* hereof or not, the Local Authority may also make and levy a Special Rate, herein called a "Separate Local Rate," equally upon all rateable property situated within such part.

Separate Rates
for works for
local benefit.
Compare
T.B.A., 82-88.
R.M.A., '84.
(16-21.)

(2.) Provided that the question whether any work is or is not for the special benefit of any particular part of the Area, shall in all cases be referred by the Local Authority to the Minister, who shall have power to decide that question, and to define the part of the Area specially benefited, and to direct, if in his discretion he thinks fit so to do, when such Rate is more than Sixpence in the Pound on the annual value of the properties to be rated, that the question of levying

Question of benefit
to be referred to
Minister, who
defines the
district, and
directs submission
of matter to
Electors in certain
cases.

A.D. 1899.

Electors to be consulted if more than One yearly Rate.

Restraint upon levy of Rate till Electors decide.

Electors to have notice.

Chairman to call meeting to consider question, if required by Electors.

Powers of such meeting.

Continues any existing Separate Local Rate. T.B.A., 88.

Distinct accounts. Q., 370.

the same be left to the decision of the Electors of the defined part of the Area as hereinafter provided.

(3.) Whenever the expenses to be incurred involve more than one yearly Rate, the question shall be referred to the said Electors.

(4.) The Local Authority is not authorised to levy a Separate Local Rate until the definition of the part of the Area has been gazetted and such question has been referred and decided.

(5.) When any such question as aforesaid is referred to the Electors, the Local Authority shall cause a notice containing the definition of the District as gazetted, and also a statement of the amount of annual Rate to be imposed to be gazetted Four times consecutively, advertised twice, and posted throughout the District for Four weeks next before the time when such notice is to take effect.

(6.) If a requisition in writing signed by Fifteen or more Electors resident in the District shall be presented to the Chairman not less than Seven days before the time when such notice is to take effect, requiring him to call a Public Meeting of the Electors within the District to consider the question of making such Separate Local Rate, the Chairman shall, within Five days after the receipt by him of such requisition, convene a Public Meeting of such Electors accordingly.

(7.) The Electors present at any such Meeting may by a majority of votes alter, but not extend, the boundaries of the District in respect of which such Separate Local Rate is to be payable, or may agree to the boundaries as gazetted.

(8.) If such Public Meeting decide that the proposed Separate Local Rate is to be levied on the annual value or capital value of the property within the District as gazetted or as so determined by the Meeting, it shall be and continue an annual recurring Rate upon all rateable property in the District until the aforesaid expenses have been paid and all liability on account of the work discharged.

(9.) Any Separate Local Rate leviable under any Act hereby repealed shall be continued and be leviable under the provisions of this Act as though the District had been defined hereunder.

545 The Local Authority shall keep a separate and distinct account of—

i. All moneys received in respect of every Separate or Special Rate levied under this Act, and of all moneys received by the Local Authority by way of endowment or subsidy upon such Rates respectively, so that the moneys so received shall be credited to the same accounts as the Rates in respect of which they were respectively received ; and

ii. All moneys disbursed in respect of the purposes for which such Rates are levied ;

and shall apply the moneys standing to the credit of such account for the purposes for which such Rates are levied and no other.

Division IV.—*Limits of Rating Power—Exceptions and Remissions.*

Maximum General Rate.

546—(1.) No General Rate made in any one year shall exceed the amount of Eighteen Pence in the pound of the annual value, or One Penny in the pound of the capital value of the rateable property upon which it is made.

Minimum General Rate.

(2.) No General Rate payable in respect of any property shall be of a less amount than Two Shillings and Sixpence.

Limit of Special Rates.

(3.) The total amount of all Special Rates made and levied under this Act, not being Separate Local Rates, Cleansing Rates, Special

Water Rates, or Special Loan Rates, shall not in any one year exceed A.D. 1899.
in the aggregate a sum equal to Eighteen Pence in the pound of the
annual value, or One Penny in the pound on the capital value of the
rateable property upon which such rates are made.

- 5 (4.) Provided always that no Council of a Town or Rural District shall make or levy General Rates and Special Rates which altogether for the year in which such rates are levied shall exceed Two Shillings in the pound of the annual value, or Two Pence in the pound on the capital value of the rateable properties within its area without first
10 obtaining the sanction of the Council of the Shire within which such Town or Rural District is situate; but this condition shall not apply to separate Local Rates, Cleansing Rates, Special Water Rates, or Special Loan Rates.
- Council of Shire to be consulted before included. Local Authority levies more than Two Shillings in the £.

547—(1.) The Local Authority is not empowered to levy any rate As to Rate, &c.,
15 or charge (except for water, prevention of fire, cleansing, or sewerage, upon Crown property, &c
or for light or power actually supplied, or for any service actually Exceptions
rendered) upon— R.A., 75.
T.B.A., 73.

- i. Any property used as a Church, Chapel, Sunday-school, or otherwise solely for public worship :
- 20 ii. Any State School or any dwelling and premises occupied by a State School teacher, whether attached to such school or not :
- iii. Any Public Library, Public Museum, Mechanics' Institute, School of Arts, School of Mines, Literary or Scientific
25 Institution, or any Cemetery :
- iv. Any Hospital, Lunatic Asylum, Benevolent Asylum, or other building used solely for charitable purposes :
- v. Any building or place vested in Trustees for any Agricultural or Pastoral Society for the purposes of a Show
30 Ground.

(2.) Property occupied by or used on behalf of the Crown, save as aforesaid, shall be subject to all rates levied by a Local Authority under this Act, the assessment being on the same principle as on similar property in the same part of the Area.

- 35 (3.) Before any such rates are demanded the Local Authority shall make By-laws regulating the scale or principle of assessing or calculating the amount thereof, and such scale or principle may be different in respect of different kinds of properties affected thereby.

(4.) The Crown may in any such case commute its liability to pay
40 any such rate by the payment or contribution of a sum agreed upon between the Local Authority and the Treasurer.

Other property occupied or used for the Crown liable.

Compare Eng. Taxing Acts 62 Vict. No. 47 sect. 49. By-laws.

Liability may be commuted.

Remission of Rates.

548—(1.) In every case where—

- i. Any dwelling-house or other building remains actually vacant and unoccupied for a period of not less than Six months in
45 any rating year, whether continuously or not ; and
- ii. The person rated in respect thereof gives to the Local Authority, within Fourteen days after the expiration of such period, notice in writing of the dates on which such house or building became vacant and unoccupied, and on
50 which it again became occupied,—

then such person shall be liable to pay only half the amount which would otherwise be payable for the year's rates in respect of such

Unoccupied dwelling to pay half Rates.

Compare T.B.A., 71. N.Z., 113 (112.)

A.D. 1899.

Rates may be
remitted in case
of poverty.

dwelling-house or other building, and shall be entitled to a refund of whatever sum he may have paid in excess of such half.

(2.) Upon the petition of any person praying for a remission of any rates upon the ground of extreme individual poverty, arising from accident or continued illness or other cause beyond the control of such person, the Local Authority may, if it think fit, upon being satisfied after full inquiry that the allegations in such petition are true, remit the payment of any rates by the petitioner, either wholly or in part, or for such time as the Local Authority thinks fit.

Division V.—*Rate-Books.*

Form of "Rate-
Book."
Q., 374.

549—(1.) Every Rate shall be fairly transcribed in a book to be called the "Rate-Book," to be kept for that purpose, which shall be in such form as may from time to time be prescribed by the Auditor-General, or as near thereto as the circumstances of the case will permit; and every such Rate-Book shall contain an account of every particular set forth at the head of the respective columns so far as the same can be ascertained, and shall be signed by the Chairman and at least One other Member of the Local Authority.

The Rate-Book shall be open to inspection by every ratepayer without payment of any fee at all reasonable times during office hours.

Rate-book may
be amended by
Local Authority.
Compare
T.B.A., 98-101.

(2.) The Local Authority may and shall from time to time amend any Rate-Book by inserting therein the name of any person claiming and entitled or liable to have his name inserted therein as owner or occupier, or by inserting the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated, if such person has been underrated or overrated, or by making such other amendments therein as will make such Rate-Book conformable to this Act, but not so as to alter the assessed value of any property, except in case of a clerical error in the Assessment Roll, or as provided for in Sub-section (3.) of Section *Five hundred and fifty-three* hereof.

At a Meeting,
and initialled by
the Chairman.

(3.) No such amendment shall be held to avoid the Rate, but no amendment in such Rate-Book shall be valid unless the same is made at a meeting of the Local Authority and initialled by the Chairman, with the date of such alteration or amendment.

Appeal by person
aggrieved.

(4.) Every person aggrieved by any such amendment may apply to any Two Justices sitting in Petty Sessions in the Area, or at the nearest place thereto where sittings of Petty Sessions are usually held, to determine the question. And, provided the appellant has given at least Seven days' notice of the day appointed for the hearing and of the ground of his appeal to the Clerk of the Local Authority, such Justices shall hear and determine the question accordingly, and may make such order on the application as they think fit.

Notice of altera-
tion to taxpayers.

(5.) Every person with respect to whom Rates are altered shall be entitled to receive Twenty-eight days' notice of such alteration before the Rate shall be payable by him.

Division. VI.—*Payment of Rates and Charges.*

Rates and charges
payable in
advance.
T.B.A., 59.

550—(1.) All Rates and also all charges authorised to be made by a Local Authority under this Act, not depending upon measurement for ascertaining the amount thereof, are payable in advance to the

Local Authority at such times and in such parts or instalments as A.D. 1899:
may be prescribed by the Local Authority.

(2.) All other charges are, unless otherwise prescribed by the Local Authority, payable to the Local Authority on demand.

5 (3.) All Rates payable in respect of property, the capital value of which does not exceed Four hundred Pounds or the annual value of which does not exceed Twenty Pounds, or which is let to weekly or monthly tenants, or payable in respect of buildings let in separate apartments or portions, shall not be payable by the occupier or
10 occupiers thereof but by the owner, who for the purposes of this Sub-section shall be deemed to be the person letting the same, or receiving the rents for the same.

(4.) Any Rate or prescribed charge may be made payable to any such Collector or Collectors, as the Local Authority by gazetted notice
15 from time to time appoints for that purpose, and who may then make the demands for payment thereof.

551—(1.) Except when otherwise prescribed, the amount of every Rate or charge is payable in the first instance by the occupier of the property rated; but, except in the case of Crown Lands,—

20 I. He is entitled (in the absence of special agreement to the contrary) to recover from the owner thereof one-half of the amount of such Rate or charge, except a Water Rate, or Cleansing Rate, or any other Rate or charge expressly prescribed to be payable by the occupier only;

25 II. And the occupier is further entitled to recover from the owner all expenses or Rates he pays overdue at the time of the commencement of his tenancy, and such proportion of the current Rates and charges, as under the provisions of Section *Five hundred and fifty-three* hereof, is not finally
30 chargeable to him as a new tenant.

And any receipt for expenses, Rates, or charges so paid may be tendered to and shall be accepted by the owner in satisfaction, to the extent above specified, of any rent due to him.

35 This deduction may be made by any tenant, though his immediate landlord be not the owner of the property; but every such landlord shall be entitled to the same deduction from the landlord to whom he pays his rent.

(2.) If there be no occupier of the property rated, or the occupier cannot be found, or is not known, the Rate or charge in respect thereof,
40 except such as is prescribed to be paid by the occupier only, is payable by the owner in the first instance; but he is (subject to the provisions of Section *Five hundred and fifty-three* hereof) entitled to recover one-half from the tenant, if any, as money paid to his use, or, if not paid on demand, by distress as for rent in arrear.

45 An owner is liable under this Subsection who does not when requested in writing so to do left at or posted to his usual residence, forthwith deliver to the Chairman of the Area a statement in writing setting forth the names of the occupiers of his property, the rent payable by each, and the area of their respective holdings. And a
50 person who sells any property without giving the Local Authority notice of such sale, and of the name and address of the purchaser, continues liable to all Rates in the same manner as if he were still the owner thereof.

(3.) Notwithstanding the preceding provisions for payment of Rates
55 in the first instance by the occupier, the Local Authority has the option

Certain charges on demand.

Rates on property under £20, &c., or let to weekly or monthly tenants, to be paid by owner. T.B.A., 58.

Rates and charges payable to Collectors. R.A., 65. T.B.A., 59.

Occupiers liable to pay Rates. R.A., 58. T.B.A., 56.

Right to half from landlord.

Or, all if overdue when he enters.

Compare 21 Vict. No. 35, s. 21.

Remedy of tenant. R.A., 58.

If no occupier, owner liable, but he may recover half from tenant. T.B.A., 57. R.A., 59.

Owner liable who does not give particulars of tenancies when requested. 62 Vict. No. 66, s. 87.

Or, who sells without informing Local Authority.

Option of Local Authority to recover from owner.

A.D. 1899.

(in such cases as to it may appear expedient) of recovering the same from the owner of the property rated.

Change of boundaries not to affect payment of Rates.

552 When, in consequence of the alteration of the boundaries of an Area, a portion which forms part of one Area becomes a new Area or portion of another Area, then—

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All Rates which have accrued due in respect of land situate within the portion so affected, and which remain unpaid at the date of the alterations of the boundaries, shall be and remain due, payable, and leviable, and may be paid to and received, levied, and recovered by the Local Authority of the new Area or the 10 Area to which such portion is added :

Subject to Sect. 18. but subject to any apportionment of assets or liabilities that may be made by any Proclamation issued under Section *Eighteen* of this Act.

Rates to be apportioned on the occupier, &c. quitting.

553—(1.) When an occupation or ownership ceases before the end of the period in respect of which a Rate is made, the occupier or 15 owner shall, as between himself and the succeeding occupier or owner, be liable to pay a portion only of the Rate proportionate to the time during which he continued to be the occupier or owner of the property rated, and the person who is the occupier or owner during the remainder of the period shall be liable to pay a portion of the Rate in 20 proportion to the time during which he is such occupier or owner.

Rates continued notwithstanding Compare T.B.A., 70. R.M.A., 133. R.A., 60, 61.

(2.) But the Rate in respect of the property shall continue in force, and payment thereof may be enforced against the occupier or owner for the time being as if no change had taken place in the occupation or ownership, and as if the new occupier or new owner had been on 25 the Assessment Roll at the time the Rate was made.

Cases of subdivision of property. R.A., 62.

(3.) Provided that if any one property on the Assessment Roll is subdivided and occupied by more than one occupier, the Local Authority may (so long as the totals do not exceed the respective values in the Roll of the property) fix the proportionate annual or 30 capital values of each subdivision, and may demand and collect Rates on such proportionate values as though the same and the names of the several occupiers appeared on the Roll.

Persons liable to be resorted to in succession.

554 An unsatisfied judgment or Order of any Court for the recovery of any Rates from any person shall not be a bar to the recovery thereof 35 from any other person liable under the provisions of this Act to the payment thereof.

Rates to carry interest. Compare T.B.A., 79.

555 When any Rates have remained unpaid for a period of Twelve months from the date on which the same first became due and payable, such Rates shall bear interest thereafter at the rate of Six Pounds per 40 centum per annum, calculated at simple interest, and such interest shall be recoverable in the same manner as Rates are recoverable under the provisions of this Act.

Provided that all Rates due and payable to a Local Authority at the commencement of this Act, and which have remained unpaid for a 45 period of not less than Twelve months, shall bear interest up to the time of the commencement of this Act at the rate of interest prescribed by the enactment governing such Rate which is hereby repealed.

Division VII.—*Remedies for Recovery of Rates and Charges.*

A.D. 1899

556—(1.) If any person liable to pay any Rates under the provisions of this Act fails to pay the same for the space of Twenty-one days after demand as aforesaid given to him to pay the same, any Justice of the Peace may summon the defaulter to appear before him, or any other Justice of the Peace, at a time and place to be mentioned in the summons, to show cause why the Rates should not be paid; and in case the defaulter fails to appear according to the exigency of the summons, or no sufficient cause for non-payment be shown, the Justice of the Peace may, and he is hereby authorised and required to grant a warrant of distress under his hand authorising the Collector of Rates appointed by the Local Authority or some other fit person named therein to levy the amount with costs, according to the scale in the Schedule (33.), by distress and sale of the goods and chattels found on the property rated.

15 (2.) The Local Authority may, notwithstanding any change of occupation or ownership, recover any Rates in arrear from the occupier or owner of the land rated either by complaint of the Clerk before any Two Justices, or by action in any Court of competent jurisdiction; but no proceedings under this Section may be taken after One year has

20 elapsed from the gazetting of the notice of the levying of the Rate. Provided, however, that no person against whom an order has been made by Justices for the payment of any Rates shall be liable to be imprisoned for the non-payment thereof.

(3.) For the purposes of any such action all Rates shall be deemed 25 to be payable at the office of the Local Authority.

557 When Rates due in respect of any vacant land are unpaid and in arrear, any timber standing or lying thereon may be distrained and sold, and for that purpose may be cut and removed.

When any timber is sold by the bailiff, the purchaser thereof and 30 his agents and assistants may from time to time enter the land upon which the timber is situated, and may cut and remove the same, doing as little damage as may be.

Every person who in any way obstructs or prevents the purchaser or his agents or assistants shall, on the complaint of the purchaser, be 35 liable to a penalty not exceeding Twenty Pounds.

558—(1.) The Local Authority of a Shire or Town may from time to time appoint some person or persons to be its Bailiff or Bailiffs for the purpose of executing such Warrants of Distress.

(2.) A Bailiff so appointed shall have power and authority to sell 40 by public auction any goods and chattels and timber seized under Warrant of Distress without taking out a licence as an auctioneer.

(3.) If the levy is to be made more than Fifteen miles from the office of the Local Authority, a Bailiff shall be appointed residing within that distance of the place of the levy, and the mileage shall in 45 such case be computed from the place of the Bailiff's residence.

559 (1.) If a distress does not realise sufficient to pay the cost and expenses thereof as well as the Rates distrained for, further and other distress in manner aforesaid may from time to time be made until the whole amount has been fully paid.

50 (2.) The owner of the property shall be liable to pay any portion, not being more than one-half, of the Rates left unrecovered from the

[Bill 1.]

How Rates recoverable.
See Sect. 558.
R.A., 65.

Compare
R.M.A., 124.
T.B.A., 59.
R.A., 65.
Schedule (33.).
22 Vict. No. 27.

Proceedings where there is a change in occupation or ownership.
R.M.A., 70 (9).
R.A., 67.

Proceeding must be taken within One year.
T.B.A., 70.
R.A., 73.

Rates where payable.

Timber may be seized for Rates in arrear.

Local Authority may appoint bailiffs.

Bailiff may sell by auction without licence.

Mileage limit.

Further distress if first insufficient.
T.B.A., 65.
R.M.A., 130.
R.A., 69.

Owner always liable for half rates.
T.B.A., 62.
R.M.A., 126.

A.D. 1899.

Form of Distress
Warrant.
Schedule (34)Constables to aid
in making distress.
T.B.A., 63.R.M.A., 128.
R.A., 68.Time of sale of
goods distrained.
T.B.A., 66.
R.A., 70.Irregularities by
person acting
under Warrant of
Distress.
T.B.A., 67.
R.M.A., 131.
R.A., 72.Collectors of
Rates to preserve
Warrants, and
record particulars
of proceedings for
recovery of Rates.
T.B.A., 64.
R.M.A., 129.Surplus.
T.B.A., 59.Appeal against
costs of distress.
T.B.A., 69.
R.A., 71.

occupier, and the same proceedings may be had against him as in the case of the occupier.

(3.) The Warrant of Distress for the recovery of any Rate may be in the form contained in the Schedule (34.); and in all cases where a distress is by this Act authorised to be made, all constables shall, upon 5 being required by a Collector of Rates or other person named as afore-said in such Warrant, aid in making a distress or sale, and any constable who refuses so to do shall be liable to a penalty not exceeding Five Pounds.

(4.) The goods and chattels distrained under any such Warrant of 10 Distress shall be sold and disposed of within any time not being less than Four days after the making of the distress.

(5.) No person acting under any Warrant of Distress shall be deemed a trespasser *ab initio* on account of any irregularity which he may afterwards commit, but the person aggrieved by such irregularity 15 may recover full satisfaction for the special damage in an action on the case.

(6.) Every Collector of Rates shall preserve all Warrants of Distress for recovery of Rates, and shall enter in a book to be kept for that purpose the names of the parties proceeded against, whether by Warrant 20 of Distress or otherwise, the Rates due, the expense of the proceedings, and the true proceeds of each sale, which book shall be open to the inspection (without fee) of all parties interested for Three months after the date of each sale respectively.

(7.) All surplus remaining after satisfying the Warrant and paying 25 the costs, charges, and expenses thereon, shall be paid to the person whose goods were distrained on demand.

(8.) Any person deeming himself aggrieved by the amount of the costs, charges, and expenses in connection with any distress sale of his goods may forthwith apply to the Chairman or any Justice of the Peace 30 who may, after proper investigation and taking any evidence the disputing parties may have to lay before him, make such order in the matter as to him seems just; and any person who disobeys or fails to comply with such order is liable to a penalty not exceeding Five Pounds. 35

Application of 22
Vict. No. 27.

560 The provisions of "An Act to facilitate the Collection and Recovery of Rates," and every Amendment thereof, shall be applicable to the collection and recovery of Rates under this Act.

Recovery of sub-
scriptions towards
making Roads.
R.A., 76.

561 Any persons who may subscribe to an agreement in writing to pay any money for or towards the making or maintaining of any road 40 under the care, control, and management of a Local Authority, shall pay the sums of money so agreed to be paid within such time and in such proportions as may be expressed in the agreement; and in case no time or proportions are so expressed, then at such time and in such proportions as the Local Authority directs; and the same shall be 45 demanded by and paid to their Clerk; and if any person fails to pay any such sum, the Local Authority may recover the same as a debt due to them.

Refusal to give
name of person
liable.
R.A., 63.

562 If, on the request of the Local Authority or any gazetted Collector of Rates—

1. The occupier of any land refuses or wilfully omits to disclose, or wilfully misstates to the Local Authority or Collector making such request, the name of the owner of such land,

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or of the person receiving or authorised to receive the rents A.D. 1899.
of the same; or

- ii. The person receiving or authorised to receive the rents of the land, on the like request so refuses or wilfully omits to disclose, or wilfully misstates the name of the owner of the land;

he shall be liable to a penalty not exceeding Five Pounds.

Surrender of Land to Crown.

563 Any owner of unencumbered land in respect of which any Rates are unpaid may by deed poll surrender to the Crown all his right, title, and interest in the land. Surrender of land to Crown. Q. 385.

No stamp duty shall be payable upon the execution of the deed.

The Registrar of Titles, upon the production to him of any such deed, shall register the same.

Thereupon the land shall be and be deemed to be Crown land.

PART XIII.

LOANS AND PUBLIC WORKS CARRIED OUT BY MEANS OF LOANS.

- Div. I. Provisions as to Debentures and all Loans. (Sects. 564 to 567.)
II. Provisions as to Loans advanced or guaranteed by the Governor. (Sects. 568 to 574.)
III. Temporary advances against Rates. (Sect. 575.)
IV. Unlawful Loans. (Sect 576.)

Division I.—*Provisions as to Debentures and all Loans.*

- 564**—(1.) Every loan hereafter raised by or advanced to a Local Authority shall be subject to the conditions prescribed herein. In raising future Loans.
(2.) The Local Authority shall first pass a Special Resolution authorising the loan. Special Resolution required.
(3.) To liquidate any existing loan, or for the execution of any Local Work, the Local Authority of every Shire and Town Council, the average income of which, for Three years immediately preceding the year in which the loan is raised, has not been less than Two hundred Pounds per annum, may borrow upon security of the revenues of the Local Authority any sum of money which, together with any existing loans, does not exceed Ten times the average annual income of such Council as aforesaid; but this limit shall not apply when it is intended to pay off an existing loan larger than would be covered thereby. Limit upon Loans. T.B.A., 106.

- 565** A Shire Council may borrow on behalf of any other Local Authority whose Area is included in the Shire, such sum of money within the aforesaid limit as such Local Authority may request the Shire Council to raise, and of which proposal the Shire Council shall by Special Resolution approve to be secured as between the Shire Council and the borrowing Local Authority (by the issue of a Debenture according to the form prescribed by "The Local Bodies Loans Act"), upon the revenues of the borrowing Authority, but to be guaranteed, if the Shire Council so determine, by being secured upon the revenues of the Shire. It shall not be necessary in this case for the Local Authority to have had an income of Two hundred Pounds per annum. Shire Council may borrow for minor Local Authority.

A.D. 1899.

Electors' consent
necessary under
45 Vict. No. 16.
60 Vict. No. 4.

Alternative
methods of
raising loans.
45 Vict. No. 16.

Application of
terms in
45 Vict. No. 16.

Only surplus
revenue from
waterworks, &c.,
to be included in
estimating income
for purposes of
this Section.

Provisions apply
to all Loans.
Exceptions.

Recourse by
Shire Council
when loans
guaranteed are
in arrears.

566—(1.) Except in cases where the money is being raised for the purpose of liquidating an existing loan, no money shall be borrowed by a Local Authority until the provisions of Sections *Thirteen* to *Sixteen* and Sections *Twenty-two* to *Twenty-four* of "The Local Bodies Loans Act" and the provisions of "The Local Bodies Loans Act, 1896," 5 have been complied with in the Area, the revenues of which are to be the primary security for the loan; but this condition is not imposed upon a Shire Council proposing to guarantee a loan for an included Local Authority under the provisions of the last preceding Section.

(2.) Any loan authorised by this Act may then be raised, either by 10 sale of debentures under the provisions of "The Local Bodies Loans Act," or the money may be borrowed for the Treasurer under the provisions hereinafter contained.

(3.) The terms "Local Body" and "Trustees" as used in "The Local Bodies Loans Act" include "Local Authority" and the terms 15 "District" and "Ratepayer" respectively include "Area" and "Elector" as used in this Act.

(4.) No revenues of a Local Authority derived from any undertaking for which a loan has been raised, and is still existing, shall be taken into consideration in estimating the average annual income of such 20 Local Authority for the purposes of this Section, excepting such portion of the same revenues as is in the nature of surplus net annual revenue after payment of all working expenses of the undertaking, and of all interest and Sinking Fund charges in respect of the loan raised for it. 25

(5.) The provisions of this Section shall, subject to any special stipulations imposed by Parliament, be applied to all loans that any Local Authority may be authorised to raise, save such temporary advances as are provided for in Section *Five hundred and seventy-five* hereof, and advances made by the Governor under Sub-section (2.) of 30 Section *Five hundred and sixty-nine* hereof.

567 Whenever a Shire Council shall guarantee any loan in behalf of any other Local Authority, the Shire Council shall have all the powers over the revenues of such Local Authority that a borrower under "The Local Bodies Loans Act" has in cases of default in payment of 35 the interest or principle of a loan, and may also levy on the properties within the Area of the Local Authority, and collect such Rates as the Shire Council may consider necessary to meet any payments due or falling due in respect of any such guaranteed loan.

Division II.—*Provisions as to Loans guaranteed or advanced by the Governor.*

Governor may
guarantee interest
on the loan.
T.B.A., 108.

If so, to be a first
charge upon
Rates.

568—(1.) In order to facilitate the raising of any sum of money 40 which a Local Authority is authorised to raise, the Governor may with the approval of Parliament, guarantee the payment of interest upon the same or any part thereof to the lender.

(2.) In every such case, and so far as the Governor, in consequence of such guarantee, advances and pays any sum of money to any such 45 lender, all moneys so paid shall be and the same are hereby declared to be a first or primary charge upon the rates and charges to be received by the Local Authority under the authority of this Act.

(3.) A return of all loans upon which the Governor has, during the preceding year, guaranteed the payment of the interest shall be laid 50 upon the Table of both Houses of Parliament within Fourteen days after the first Meeting of Parliament in every year.

(4.) Before raising any sum of money upon which the payment of interest is so guaranteed by the Governor, the Local Authority shall (and may in all cases when a Loan has been authorised under the provisions of this Act) make and levy a Special Rate, not to exceed One 5 Shilling in the Pound, to be called a Special Loan Rate, which shall be levied and collected and be payable by the same persons and at such times as may be appointed in the notice of the making thereof, in the same manner in every respect as any Special Rate authorised by this 10 Authority or otherwise, be and continue to be an annual recurring Rate at such so appointed time upon all rateable property within the area, until all moneys owing in respect of the moneys so raised shall have been paid; and it shall not be lawful to diminish such Rate at any time so as to render the annual produce thereof insufficient to provide the 15 interest and sinking fund on account of the loan.

A.D. 1899.
Special Loan
Rate to provide
for interest on
loan, &c.
T.B.A., 109.
See 46 Vict. No.
14.

569—(1.) Subject to the provisions hereinafter contained, the Governor may, by warrant under his hand addressed to the Treasurer, direct him to advance to any Local Authority by way of loan, out of any moneys appropriated by Parliament for that purpose, such sums 20 as the Governor in Council may think fit for the undertaking of local works.

Loans granted by
the Governor.

(2.) For the purpose of constructing private roads and unformed public roads as provided in Part VIII., Title VI., of this Act, the Governor may also authorise advances to be made to a Local Authority 25 after having approved of the scheme prepared by the Local Authority for that purpose, and gazetted such approval, subject to such conditions as the Governor may in any such case or generally as to all such cases prescribe in regard to—

Loans for Private
Roads, &c.
Title VI.,
Part VIII.

- i. Sinking Fund if such shall be by him considered advisable :
- 30 ii. The repayment to the Treasurer of principal and interest moneys :
- iii. The powers to be exercised by the Treasurer for compelling payment by the Local Authority of such principal and interest moneys, or for compelling payment by any person 35 liable to contribute to the construction of any such private road or unformed public road as aforesaid ; and
- iv. Any other condition in respect to any such advance that the Governor may deem it expedient to impose.

Special conditions
may be prescribed
by the Governor.

Provided that the total amount so advanced under this Sub-section to 40 any one Local Authority shall not exceed Three thousand Pounds, nor be more than One thousand Pounds, unless the rateable properties within its area have an annual value exceeding Twenty thousand Pounds.

Limitation of
advances for such
purpose.

Sections *Five hundred and sixty-four*, *Five hundred and sixty-six*, 45 and *Five hundred and seventy-two* of this Act do not apply to advances made under this Sub-section, and the remaining provisions of this Part of this Act in their application to any such advance shall be construed subject to the modifications made by any condition prescribed as aforesaid by the Governor.

Sections not
applicable.

50 (3.) The Treasurer shall, within Fourteen days of the assembling of Parliament, make a Return of all advances made under the authority of this Act.

Return of Loans.
Compare
54 Vict. No. 30.

A.D. 1899.

Local works to
be of Six classes.
Compare
Q., 406.

570 For the purposes of this Act local works to be hereafter undertaken by Local Authorities shall be deemed to be of Six classes (that is to say),—

- I. Waterworks, wharves, jetties, and other permanent and reproductive undertakings, if constructed of stone, brick, concrete, or iron, or a combination of the whole or any of these materials; tramways:
- II. Permanent works for drainage or sanitary purposes, if constructed of stone, brick, concrete, or iron, or a combination of the whole or any of these materials; works for the supply and distribution of gas, electricity, or hydraulic or other power; public cemeteries:
- III. Bridges, culverts, fords, and crossings, if constructed of stone, brick, concrete, or iron, or a combination of the whole or any of these materials; wooden pavements on roads, excluding footways and permanent works for drainage or sanitary purposes other than those hereinbefore mentioned; public recreation grounds:
- IV. Buildings constructed of stone, brick, concrete, or iron, or of a combination of the whole or any of these materials: 20
- V. Roads properly cleared, drained, graded, and formed not less than half a chain wide at formation level, and satisfactorily pitched and metalled with hard stone, the latter at least Six inches thick to a width of not less than Sixteen feet; and bridges, wharves, jetties, culverts, fords, and buildings substantially constructed of hardwood timber: 25
- VI. Roads newly cleared, drained, graded, and formed, but not metalled, and all "log" or "plank" roads, and other works of a temporary character.

Provided that the Governor may assign to any specific work which may hereafter be undertaken in pursuance of this Act, a higher or lower classification, as the case may require, than would be assigned to such work by the operation of this Section.

The price of any land required for any of the above purposes shall be considered as part of the cost of the undertaking; and where any Local Authority is authorised to purchase an existing undertaking, the purchase money may be lent as though the same were to be expended on an original undertaking of the Local Authority.

Terms of loans
for different
classes of work.
Compare
Q., 371, 407-413.

571—(1.) The term of any loan advanced as aforesaid for the construction of any such public work shall not exceed the period hereunder prescribed for the class to which such public work has been assigned under the provisions of the last preceding section (that is to say),—

- I. For works of the first class, a term of Forty years:
- II. For works of the second class, a term of Thirty years: 45
- III. For works of the third class, a term of Twenty-one years:
- IV. For works of the fourth class, a term of Fourteen years:
- V. For works of the fifth class, a term of Ten years:
- VI. For works of the sixth class, a term of Five years.

(2.) Loans existing at the date of this Act raised for any of the purposes mentioned in the preceding Section may be repaid by a loan made hereunder, according to the above classification.

(3.) Every such loan shall be liquidated by the payment to the Treasurer by the Local Authority on the First days of *January* and *July* respectively, in every year, of One moiety of the annual payment 55

Loans to be
repaid by half-
yearly instal-
ments.

of interest on the loan and of principal by way of Sinking Fund or otherwise required to redeem such loan within the term applicable thereto, as determined by the aforesaid classification, and according to the scale from time to time prescribed by Parliament: Provided that the scale prescribed and in force on the date any loan is made shall be the scale applicable thereto during its currency.

And, save as herein provided, such sums shall continue to be payable until all the moneys advanced from time to time by the Treasurer, together with the interest accruing thereupon, have been so paid.

- 10 Provided that the term of such loan shall be deemed to begin on such date, not more than Five years after the authorisation of the same, as the Governor prescribes; but the interest thereon shall be payable from the date on which it is actually advanced by the Treasurer.

- 15 (4.) Every moiety of every annual payment by a Local Authority shall be placed to the credit of the Local Authority making the same, and shall be appropriated by the Treasurer in the manner following; that is to say—

- 20 The proportion of interest included in each such payment shall be placed to the credit of the Consolidated Revenue Fund, and the balance to the credit of an account to be opened by the Treasurer, and entitled "The Loans to Local Authorities Account," and to which account all loans authorised by the Governor shall be charged.

- 25 (5.) In the months of *February* and *August* respectively, in every year, the Treasurer shall cause to be published in the *Gazette* a detailed statement of all loans at that time advanced to and not repaid by all Local Authorities under the provisions of this Act.

- 30 (6.) If after the publication of any such statement any payment of moneys required by this Act to be made by any Local Authority to the Treasurer is overdue and in arrear, he shall forthwith by a gazetted and advertised notice declare his intention to enforce payment of the same. And the last day on which such notice is published shall be deemed to be the day of publication thereof.

- 35 (7.) If after the expiration of Sixty days from such day of publication the moneys remain unpaid, the Treasurer shall forthwith exercise all or any of the powers conferred upon him by this Act for the recovery of overdue moneys payable by a Local Authority to him.

- 40 (8.) Interest shall be paid to the Treasurer by any Local Authority upon every instalment in arrear for a calendar month after the due date thereof at the rate of Five Pounds per cent., unless the Governor in any case, considering the circumstances justify the reduction, order the same interest to be at a lower rate, but so as the same shall not be less than that at the time paid by the Treasurer on current issues of Consolidated Stock.

- 45 (9.) If at any time the revenue derived from Special or Separate Rates made or levied in respect of any Local work carried out by means of money raised by loan is insufficient to provide the aforesaid Half-yearly sums upon the money so raised, the Local Authority may, and, if required by the Governor, shall from time to time cause a Special Loan Rate of sufficient amount, the proceeds of which shall be devoted solely to the payment of such sums, to be levied equally upon all rateable property in the Area, or if he thinks fit, in the case of a Shire, upon all rateable property in the part of the Area specially benefited by such Local work.

- 55 (10.) If through the default, neglect, or refusal of any Local Authority—

1. A Special Rate, a Special Loan Rate, or other Rate of sufficient amount to defray the said Half-yearly sums to be so paid by

A.D. 1899.

According to classification of work and according to scale of payments of interest and principal.

Repayments may be postponed for Five years.

How payments appropriated.

Loans to be entered to account of Local Authorities.

Half-yearly loan statement to be published by the Treasurer.

If payments in arrear, Treasurer shall give sixty days' notice of his intention to enforce payment.

If arrears still unpaid, Treasurer to enforce payment.

Interest on arrears.

Rates to be levied to meet instalments on Loan.

If Local Authorities refuse or neglect to levy rate, or collect Special Loan

A D. 1899.

Rate, the
Treasurer may do
so.

the Local Authority is not from time to time made and levied, or any Special Loan Rate levied under Section *Five hundred and sixty-eight* hereof is not collected in the manner prescribed by this Act ; or

II. The proceeds of every such Rate are not from time to time 5 paid to the Treasurer according to Law ;

the Treasurer may forthwith collect any such Special Loan Rate as aforesaid, or make and levy a Rate or additional Rate of sufficient amount, and for that purpose he shall have and may exercise all the powers enjoyed and exercised by the Local Authority for the making, 10 levying, and recovering General or Special Rates upon all rateable property within the Area of such Local Authority.

Inspector to
report on work
before loan is
advanced.

Compare
Q., 49, 423.

572—(1.) Before any sum of money is advanced by way of loan to a Local Authority, the provisions of Section *Five hundred and sixty-six* hereof shall be complied with, except that the notice 15 required by Section *Fifteen* of “The Local Bodies Loans Act” shall state that the money is proposed to be borrowed under these provisions, not by debentures; and the plans, specification, and estimates of such work shall be submitted to the Minister, who may refer the same to an inspector, and the inspector shall examine the same and report to 20 the Minister thereupon in respect of the following matters ; that is to say—

- I. As to the necessity or expediency of the proposed work :
- II. As to the accuracy and sufficiency of the plans, specification, and estimates thereof ; 25
- III. As to the competency of the officers of the Local Authority to undertake and satisfactorily complete the same ; and
- IV. As to the net revenue (if any) that may reasonably be expected to be yielded by such work.

Minister to
submit report to
Governor or
order inspector to
supervise the
work.

(2.) On receipt of such report the Minister shall submit the same 30 with a recommendation to the Governor, who may authorise the proposed loan, or alter or modify the amount or conditions thereof; or the Minister may authorise and instruct an inspector at the cost of the Local Authority to—

- I. Alter or remodel the plans, specification, or estimates, or 35 substitute other plans, specification, or estimates, in such manner as seems to him necessary for the proper execution of the work ; or
- II. Supervise the execution of the work, and prohibit any payment by the Local Authority on account thereof, unless on the 40 certificate of the inspector.

Local Authority
may appeal to
Minister.

(3.) If the Local Authority thinks itself aggrieved by any proceeding of the inspector under the provisions of the last preceding Section, or otherwise, it may appeal to the Minister.

After inquiry,
Governor to
decide.

The Minister shall thereupon appoint some fit person to inquire into 45 and report upon the allegations of the Local Authority, and shall submit the report to the Governor, whose decision thereupon shall be final, and who may apportion the costs of such inquiry in such manner as to him seems just.

If Local
Authority refuses
compliance,
subsidy may be
withheld.

(4.) If the Local Authority refuses to— 50

- I. Abide by such decision ; or
- II. Execute under the supervision of the inspector any work undertaken by it ; or
- III. Defray the reasonable costs of such supervision ;
- IV. Or is in arrears with any annual instalments as aforesaid ; 55

the Treasurer may withhold payment of any moneys, or any portion thereof, then next accruing to the Local Authority under the provisions of any Act. A.D. 1899.

(5.) If an officer of the Local Authority refuses to comply with any lawful order of the inspector, he shall be liable to a penalty not exceeding Twenty Pounds. Penalty.

573 The Local Authority shall cause a separate account to be kept in some bank for every loan incurred by it, and all money forming part of such loan shall be paid into such account, and shall be applied solely to the purposes for which the same was borrowed. Separate accounts of loan to be kept.

If after all such purposes are performed there is any surplus of such money, it shall be repaid to the Treasurer, who shall credit the same to "The Loans to Local Authorities Account," and thereafter the Local Authority shall be charged interest only upon the balance remaining due of the original loan. Loan surpluses.

574 Where under the provisions of this Act a loan has been advanced for the carrying out of a local work upon land, the fee-simple of which is in the Local Authority— Lands of Local Authority to be mortgaged to Treasurer under certain circumstances. Q., 442.

1. The Governor may require such Local Authority to execute a mortgage to the Treasurer of such land, or any portion thereof, as security for the due payment of such half-yearly payments ;

2. Such mortgage shall embody such terms and conditions, so far as they are applicable thereto, as are required and imposed by "The Real Property Act" in the case of land mortgaged under its provisions, or such other terms and conditions as the Governor may in any case require.

Division III.—*Temporary Advances.*

575 The Local Authority may, after a special notice has been given to every Member as provided in Section *Ninety-nine* hereof, at any time before the making of any Rate, borrow for the purpose of providing funds for carrying out in the Area any of the objects of this Act, any such sum not exceeding One-half the expected total proceeds of such Rate, and pay interest upon the amount so borrowed, charging the same against the said Rate ; but every such loan shall be paid off within Twelve months of the date of borrowing. Temporary advances against Rates. T.B.A., 111: 26 Vict. No. 26.

Division IV.—*Unlawful Loans.*

576—(1.) No person or bank lending money to a Local Authority, in excess of the moneys which this Act allows such Local Authority to borrow, shall be entitled to recover such money or such excess, as the case may be, by action in any Court or otherwise. Person on bank lending unlawfully not to recover back. Q., 432.

(2) If a Local Authority borrows any money which it is not legally bound to repay, all the Members of the Local Authority who have consented to the borrowing shall be jointly and severally liable to repay the money and all interest thereon to the person from whom the same was borrowed, and the same may be recovered from such Members, or any of them, as money lent by such person to such Members by action in any Court of competent jurisdiction. Members borrowing money in excess of their powers to be personally liable. See Sect. 581. Tas., 390. Q., 433.

(3.) If any moneys are appropriated from the Local Fund or Common Fund for the purpose of repaying any money so borrowed, the Members of the Local Authority who have consented to the misappropriation of such moneys for that purpose shall be jointly and If Local Fund used to repay an unlawful loan an action lies against Members.

[Bill 1.]

A.D. 1899.

Members
borrowing
illegally liable to
a penalty of £200.
Tas., 390.
Q., 434.

Auditor to insti-
tute proceedings.

Costs of
proceedings.
Recoveries to go
to Local Fund.
Compare
N.Z., 113, (155.),
114 (156.).

severally liable to refund the same, with interest, at the rate of Six per centum per annum, and the same may be recovered from such Members, or any of them, by action in any Court of competent jurisdiction, at the suit of any ratepayer or creditor of the Local Authority who, on recovery of the same, shall pay the amount recovered into the 5 Local Fund or Common Fund, but shall be personally entitled to full costs of suit, including costs as between solicitor and client.

(4.) If a Local Authority borrows any money which it is not legally bound to repay, or if a Local Authority purports or attempts to bind itself or its successors to pay any money borrowed after the commence- 10 ment of this Act, which the Local Authority is not legally bound to pay, every Member of the Local Authority who consents to such borrowing, or to such purporting, or attempting to bind shall, for every such offence, in addition to any liability to repay such money, be liable to a penalty not exceeding Two hundred Pounds, which may 15 be recovered with full costs of suit, including costs as between solicitor and client, by any person who may sue for the same in any Court of competent jurisdiction. Any money so recovered shall be paid into the Local Fund or Common Fund.

(5.) It shall be the duty of the Auditor-General to institute the 20 necessary proceedings against any member liable to pay any such penalty.

(6.) All costs incurred by the Auditor-General in any such proceed- ings shall be paid out of the Local Fund, and all moneys recovered for penalties and costs shall be deemed to be part of the Local Fund, and 25 be paid over accordingly.

PART XIV.

ACCOUNTS AND AUDIT.

Accounts to be
kept.
See R.M.A., '70
(3.).

Form as pre-
scribed.

General account
of the Local
Fund.

See Sects. 113,
123.

Separate accounts.
See also Sects.
116, 306, 552, 584.

Transfer from
Local Fund to
meet deficiencies.

Compare
R.M.A., 158-165.
T.B.A., 114-123,
237.

R.A., 89-96.
N.Z., 114.

Advances to be
repaid.

No transfer from
one separate
account to
another.

Accounts to be
open to inspection.

577—(1.) Every Local Authority shall keep such accounts, and keep them in such form or manner as the Auditor-General may from time to time prescribe, but so always that,—

i. An account of the Local Fund or Common Fund shall be 30 kept, and credited with all moneys not required by this Act to be carried to any other account, and debited with all expenditure authorised by this Act to be charged to or paid out of such Fund :

ii. Separate accounts shall be kept of all moneys raised or levied 35 for or appropriated or allocated to or held in trust for any special purpose.

(2.) If the balance in any of the said separate accounts is at any time insufficient to meet the lawful charges thereon, such sums as are neces- 40 sary may be transferred from the Local Fund to meet the same; but the Local Authority shall repay any such advance out of the next excess of receipts over liabilities of the separate account.

(3.) Except as provided in Section *One hundred and three* hereof, no transfer from one separate account to another is to be made.

(4.) The accounts shall at all reasonable times be open to the 45 inspection of any member and of any elector for or creditor of the Local Authority, any of whom may, at all reasonable times during office hours, and without payment of any fee, make a copy thereof or take extracts therefrom.

If the clerk does not, on the reasonable demand of any such member, 50 elector, or creditor, permit him to inspect any such accounts, or to make

or take such copy or extract, he shall be liable to a penalty of Five Pounds. A.D. 1899.

578 The officers and the accounts of every Local Authority shall be subject and liable to all the provisions of "The Audit Act, 1888," including the right of any elector or creditor to object to such accounts, in the same manner in all respects as if such officers and accounts had been specifically mentioned therein, and such officers shall at all times comply with the requirements of the Auditor-General in respect thereto.

Officers and accounts to be subject to 52 Vict. No. 43. T.B.A., 126, 128. R.A., 96, 98.

579—(1.) Where the Area of a Local Authority is subdivided, and if the amount received for General Rates levied on the whole Area is more than enough to meet the expenditure payable out of General Rates levyable upon the whole Area, in accordance with the provisions of this Act, the overplus (after complying with Subsection *Four* hereof), unless the same is less than One hundred Pounds, shall be credited in the books of the Local Authority to the accounts of the several subdivisions of the Area in the same proportions as such subdivisions contributed to the total amount of such General Rates, and there shall also be credited the proportionate amount of any subsidy received by the Local Authority in respect of such Rates.

After certain expenditure met Rates to be credited to subdivisions. Compare Q., 402.

(2.) Save as to such expenditure upon main or common roads, and save, as hereinafter provided, all moneys expended upon works within the limits of a subdivision shall be debited to the account of that subdivision.

Expenditure.

(3.) Provided that where a work is of such importance to the whole of the Area that the cost of its construction and maintenance may reasonably be a charge upon the general revenue of the Local Authority, in every such case the Local Authority may from time to time, by resolution passed at a meeting specially summoned for the purpose, declare such work to be a "general work," and direct that the cost of its construction and maintenance shall be defrayed out of the Local Fund, and shall not be debited to the separate account of any subdivision, and such expenditure shall be so defrayed accordingly.

General works.

(4.) Provided also that the expenditure in respect of all salaries and allowances and the management of the office of the Local Authority, together with any other expenditure as to which the Local Authority may from time to time by resolution so direct, shall be paid out of the Local Fund, and shall not be debited to the separate account of any subdivision.

Salaries, &c.

(5.) Any Twenty ratepayers of an Area may, by petition to the Governor, appeal against a resolution of the Local Authority under the provisions of this Section, and the Governor shall thereupon cause such inquiry to be made as he thinks necessary, and shall either confirm such resolution with or without amendment, or disallow the resolution, and his decision shall be final and binding. But the Governor may reconsider such decision at any time upon the petition of the Local Authority or any Twenty ratepayers of the Area.

Appeal to Governor.

580—(1.) Every Local Authority shall, on or before the Thirty-first day of *January* in each year, cause the accounts of the Local Authority up to and including the last day of *December* next preceding to be balanced.

Statement of accounts to be annually prepared. T.B.A., 124.

(2.) And shall cause full and true statements and accounts, according to the form from time to time prescribed by the Auditor-General, to be drawn out of the amount of all Rates made and levied, of all con-

R.A., 98. R.M.A., 166. To be passed at meeting of Local Authority.

A.D. 1899.

Duplicate to be open for inspection at office of Local Authority. Copy to be furnished.

Objections to accounts.
See Sect. 589.

Chairman to forward duplicate to Auditor-General.
T.B.A., 127.

Auditor-General may require explanations. Statement, &c., to be gazetted.
T.B.A., 125.
R.M.A., 168.
R.A., 99.

Proceedings when Auditor reports misapplication of Funds.
Sect. 612.

Compare Q., 400-401.
N.Z., (113), 180, 181.

Governor deals with Report.

Auditor-General to hear explanations.

Effect of confirmation of certificate.

Proceedings on Order.

tracts then unconcluded, and of all moneys received and expended during the preceding year, and also of all debts then owing by and owing to the Local Authority, and such statements and accounts, prepared in duplicate; shall be signed by the Chairman and not less than Two Members at a meeting of the Local Authority to be called 5 for that purpose not later than the Tenth day of *February* following.

(3.) One of such duplicate statements and accounts shall remain at the office of the Local Authority, where any elector or creditor, or any person on behalf of any creditor of the Local Authority, may, at all reasonable times, inspect and compare the same with the books and 10 documents relating thereto in the possession of the Local Authority, and shall be entitled, upon payment of the sum of Two Shillings and Sixpence, to receive from the clerk a copy of the statement and account.

(4.) Any such person may object, in writing, to any part of the accounts referred to in the statement. 15

(5.) The other of such duplicate statements and accounts shall be forwarded by the Chairman, not later than the last day of *February* in every year, to the Auditor-General, accompanied with proper vouchers in support of the same, and all such books, papers, and writings in the custody or power of the Board relating thereto as the Auditor- 20 General requires to be furnished to him; and the Auditor-General shall make and deliver to the Chairman a special report upon such accounts, or, if the accounts are found correct, the Auditor-General shall simply confirm and sign the same in token of his allowance thereof. 25

(6.) The Auditor-General may require the Local Authority to answer any comments he may make in any such special report, and shall cause the statement and accounts to be gazetted, together with any report he deems it his duty to make thereon.

(7.) The form of the statements and accounts referred to in this 30 Section may be from time to time prescribed by the Auditor-General.

581—(1.) If it appears to the Auditor-General that any money, forming part of the Local Fund, or Common Fund, or any other fund under the control of the Local Authority, has been wilfully or corruptly misapplied to purposes to which it was not lawfully applicable, or that 35 any Member has wilfully or by culpable negligence misapplied or connived at or concurred in the misapplication of such money, he shall certify accordingly to the Treasurer.

(2.) The Governor may by Order in Council, to be gazetted within Three months from the date of such certificate, wholly or in part 40 confirm or disallow the same.

(3.) The Auditor-General, before certifying as aforesaid, shall give notice that he will by himself or his officer receive and consider such explanations as may be offered by or on behalf of the Local Authority, or any Member thereof, and he or his officer shall receive and consider 45 such explanations accordingly.

(4.) Every such Order of confirmation of a certificate shall be conclusive evidence in all Courts, and for all purposes whatsoever, of the fact of the misapplication of the moneys therein mentioned, of the amount so misapplied, and of the liability of the Member or Members 50 named in such Order, as having so misapplied the same or concurred at the misapplication thereof, to pay the same.

(5.) Any sum of money mentioned in any such Order of confirmation as having been so misapplied may be recovered in any Court of competent jurisdiction, together with full costs of suit, from any one or 55

more of the Members mentioned in such Order as liable to pay the same, at the suit of the Local Authority, or at the suit of any ratepayer of the Local Authority, or at the suit of any of the creditors of the Local Authority. A.D. 1899.

5 (6.) But no Member shall be made liable unless he was present at the Meeting when the improper expenditure was authorised, and did not object thereto, nor if the Local Authority acted *bond fide* and under legal advice. Saving from liability.

10 (7.) Any sum of money so recovered shall be paid into the Local Fund, or Common Fund, or other fund from which the amount sued for was improperly taken. Destination of moneys recovered.

(8.) If the Auditor-General reports that the books and accounts of the Local Authority have been negligently or improperly kept, or wilfully falsified, the Treasurer shall withhold payment of any further subsidy or endowment until the Auditor-General certifies that the said books and accounts are being kept to his satisfaction. Treasurer may withhold subsidy.

15 (9.) The whole or any of the costs and expenses of, and connected with, any examination undertaken by the Auditor-General may be deducted from and detained out of any moneys payable to the Local Authority by the Treasurer by way of endowment or otherwise. Expenses.

PART XV.

BY-LAWS.

Div. I. Passing and Enforcement, &c., of By-laws. Sects. 582 to 587.

II. General By-laws. Sect. 588.

III. Health By-laws. Sect. 589.

Division I.—*Passing and Enforcement, &c., of By-laws.*

582—(1.) A By-law may be either—

I. A General By-law ; or

II. A Health By-law ;

and shall be passed by a Special Resolution of the Local Authority, and be sealed with its common seal, or (if the Local Authority is gazetted under Section *Ninety-four* hereof) be signed by the Chairman and Two Members thereof.

25 (2.) Immediately after the Special Meeting at which the By-law is first considered a copy of the same shall be deposited at the Office of the Local Authority, or, if the Office is not usually kept open, a copy shall be exhibited on the outside of the door thereof, to the end that the same may be inspected by any person at all reasonable times until the meeting for confirmation of the same is held. Notification of By-law. T.B.A., 220. H.A., 25.

35 (3.) A notice setting forth the general purport of the proposed By-law, that a copy thereof is so open to inspection as aforesaid, and the date of the meeting for confirmation, shall be advertised within Seven days after the said Special Meeting, and also within Seven days before the meeting for confirmation. These advertisements shall, so far as regards a Special Resolution for passing a By-law, take the Advertisement of general purport.

Passing of a By-law.
Compare R.M.A., 100

A.D. 1899.

Copy to be furnished if required.
H.A., 25.

Attorney-General to approve By-law.
T.B.A., 221.
H.A., 26.

Health By-law to be confirmed by the Board.
H.A., 24, 26.

Proof of By-law.
H.A., 163.
Compare
T.B.A., 221, 225.
R.M.A., 101.

Except otherwise prescribed, Local Authority may make By-law obligatory either on owner or occupier.

By-laws may apply to part of an Area.
H.A., 22.
Must not conflict with Statute Law; and may be repealed by the Governor.
T.B.A., 223.
Copies of By-laws to be exhibited.

Penalties, fees for licences and registration, &c.
Q., 321.

Penalties.
Compare
T.B.A., 224.
H.A., 23.
Arrest of offenders.
S.A., 24.

Recovery of expenses.

place of the notices and posting required by paragraph III. of Section *Ninety-eight* of this Act.

(4.) Any person may have a copy of the By-law or of any part thereof upon paying to the Local Authority Sixpence for every One hundred words to be copied. 5

(5.) After a By-law has been sealed or signed as hereinbefore provided, it shall be submitted for the approval of the Attorney-General, and if approved shall, unless it be a Health By-law, be at once gazetted.

(6.) If the By-law be a Health By-law, the same, if certified by the Attorney-General or Solicitor-General not to be repugnant to any law in force in *Tasmania* or to the provisions of this Act, shall be considered by the Board, who shall, if it be allowed by the Board, cause the same to be gazetted. 10

(7.) Upon a By-law being gazetted it has the force of law in the Area of the Local Authority which passed it, and a copy of the *Gazette* containing it shall be conclusive evidence of the due making of the By-law and of its contents, and of compliance with this Section, until the contrary is shown. 15

(8.) Except where by the provisions of this Act any particular duty or obligation in relation to the subject-matter of a By-law is specifically cast upon the owner or specifically cast upon the occupier of the premises, any By-law may be framed to impose the obligation of complying therewith, either upon the occupier or upon the owner, as to the Local Authority may seem expedient. 20 25

(9.) Any By-law may be made so as to apply to and have operation in the whole or any part or parts of the Area of the Local Authority making it, but no such By-law may contain any matter contrary to this Act or any other law in force in *Tasmania*.

(10.) The Governor may repeal a By-law or part of a By-law by Proclamation. 30

(11.) Copies of such By-laws or parts of By-laws as relate to the conduct of the public in any Public Recreation, Ground, or Institution mentioned in Part VIII., Title XI. of this Act, or in regard to any Market, Public Bath, or Washhouse or other Undertaking of the Local Authority, shall be exhibited on the premises; but the fact that the same is not so exhibited shall not be pleaded as excuse for any breach of any such By-laws. 35

583—(1.) A By-law may impose reasonable fees or charges for or in respect of licences granted under the By-law. 40

(2.) A By-law establishing tolls, rates, or dues upon or in respect of bridges, ferries, wharves, jetties, or markets, may impose the same in the form of taxes or charges upon vehicles passing over or into the same.

(3.) A By-law may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches; but no such penalty shall exceed Twenty Pounds, nor Five Pounds in case of a penalty for a continuing daily breach, and may authorise a police constable or officers, servants, or persons appointed by the Local Authority, to arrest or remove persons offending against any By-law. 45 50

(4.) A By-law may provide that in addition to a penalty any expense incurred by the Local Authority in consequence of a breach of such By-law, or in the execution of work directed by the By-law to be executed by any person and not executed by him, and which the Local Authority is hereby empowered to execute in case of his default, shall 55

be paid by the person committing such breach or failing to execute such work. A.D. 1899.

(5.) A By-law may provide for the suspension or cancellation by the Local Authority or the Chairman of any licence upon breach or successive breaches by the licensee of the provisions thereof. Suspension of licences.

584 Any By-law shall, if Parliament is sitting at the time the Attorney-General approves thereof, be laid upon the Table of both Houses of Parliament within Fourteen days of the date of such approval, and if Parliament is not sitting at that date, then within Fourteen days after the commencement of the next Session of Parliament; and either House of Parliament may, within Fourteen days after the By-law has been laid upon the Table as aforesaid, disallow such By-law or any part thereof; and upon such disallowance being notified in the *Gazette*, the By-law, or the part thereof so disallowed, shall thereupon cease to be of any force or effect whatsoever. By-laws to be laid before Parliament. T.B.A., 222. H.A., 26.

585 If any Elector of the Area desires to dispute the validity of a By-law or part of a By-law, he may pay into the Supreme Court the sum of Twenty Pounds as security for the costs of the proceedings hereinafter mentioned, and may thereupon apply to the said Court or a Judge for a rule calling upon the Local Authority to show cause why such By-law or part of a By-law should not be quashed for the invalidity thereof. Mode of testing the validity of By-law. Compare T.B.A., 226.

Upon the hearing of the matter the Court or Judge may quash or amend the By-law, or make such other order, with or without costs, as to the Court or Judge seems meet.

586 All By-laws heretofore made by a Local Authority or in force in any Area which would have been valid if they had been made under this Act shall, after the commencement of this Act, be as valid as if they had been made under this Act, and shall remain in force until they are repealed or amended by other By-laws or otherwise under the provisions of this Act. Existing By-laws. See Sect. 4 (3.) Compare T.B.A., 223.

587 — (1.) The Governor, as soon as conveniently practicable after the commencement of this Act, and thereafter from time to time, may cause to be prepared model forms of General By-laws for all or any of the purposes for which General By-laws may be made by a Local Authority. Model By-laws.

(2.) The Board, with the gazetted approval of the Governor, may also prepare model forms of Health By-laws.

(3.) Such forms shall be published in the *Gazette*; and a Local Authority may then by Special Resolution adopt the whole or any specified portion of such By-laws.

(4.) Upon such Resolution being gazetted it shall operate to extend the By-laws or portion of By-laws so adopted to the Area, and with the same legal effect for all purposes as if they had been made and approved of in manner hereinbefore provided. Special Resolution adopting model By-law to be gazetted.

(5.) Provided that nothing herein contained shall be deemed to deprive a Local Authority of the power to make By-laws with respect to any of the matters mentioned in this Part of this Act. Local Authority's initiative preserved.

(6.) It shall be sufficient in any Resolution or advertisement required under this Section to refer to the parts or chapters or paragraphs or sections of the parts or chapters into which such model By-laws may be divided. Quoting model By-laws.

A.D. 1899.

Division II.—*General By-laws.*

General By-laws.

588 Subject to the foregoing provisions of this Act, a Local Authority may from time to time make, amend, or revoke General By-laws for all or any of the purposes in any Part of this Act, except Part IX., or in this Section mentioned ; that is to say—

Animals.

Trespass of
animals and fowls.
T.B.A., 218.

Destruction or
removal of
animals, &c.

Prevention of
disease.

Poundage fees.
See Sect. 499.

Rates of damage.

Driving charges.

Impounding.

Dogs, goats.
See Sect. 360.

Agistment.

(1.) *Animals*—

- I. Prohibiting the straying or trespass of any animal or fowls upon roads or land under the control of the Local Authority, or upon any land not securely fenced off from any such road or land, and prescribing a penalty in respect of the offence, or authorising the seizure and detention of the animal or fowl until the payment to the Local Authority of a reasonable sum of money by way of liquidated damages : 5
- II. Prescribing the conditions under which any diseased, infected, or worthless animal, matter, or thing in any pound may be removed or destroyed : 15
- III. Securing the prevention or spread of disease in pounds :
- IV. Prescribing the scale of fees payable in respect of each and every impounded animal for the respective times during which the same are impounded, and the scale of charges for sustenance of impounded animals, not exceeding the poundage fees and charges specified in the Schedule (30) : 20
- V. Prescribing the scale of rates of damage payable to any owner or occupier of land or to the Local Authority in respect of animals impounded : Provided that such rates of damage shall not in the case of an owner or occupier of land exceed Five Shillings in respect of any animal trespassing in or upon any paddock of grass enclosed by a sufficient fence, or Twenty Shillings in respect of any animal trespassing in or upon any garden, uncut meadow, or growing crop of any kind enclosed by a sufficient fence ; or, in the case of the Local Authority, shall not exceed Ten Shillings in respect of any animal trespassing upon any road or land not securely fenced off from any road or land under the control of the Local Authority : 25 30 35
Provided further, that in every case in which the same animal is found trespassing more than once on the same land, or on any road or land not securely fenced off from any road or land under the control of the Local Authority within a space of Thirty days, damage in respect of repeated trespasses may be fixed at a progressive rate : 40
- VI. Prescribing the scale of charges payable in respect of driving or leading any animal for the purpose of impounding it :
- VII. Regulating and prescribing the fees that may be demanded by the poundkeeper for the inspection of any book kept by him, and the making of entries therein or extracts therefrom ; the fees for giving notice to the proprietors of impounded animals, and the rates to be charged for the sustenance of such animals : 45
- VIII. Regulating the mode in which registered dogs may be identified, and the registration of goats, and authorising the sale or destruction of unregistered dogs or goats, or goats found straying in the Area : 50
- IX. Prohibiting or licensing and regulating the depasturing of animals upon any land under the control of the Local 5

Authority, and prescribing the fees to be paid in respect of such licences. A.D. 1899.

(2.) *Buildings and Structures*—

- | | | |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| | i. Requiring the foundations of any new building, and the ground over which such building is to be placed, shall be made dry and sound, and be well drained, so that no water, soakage, or damp shall lodge there : | Buildings and structures.
Foundations.
H.A., 27. |
| 5 | | |
| | ii. The structure of walls, foundations, and roofs, and generally the construction, elevation, materials, and form of buildings in the Area generally, and also but then only subject to the provisions of Section <i>Two hundred and thirteen</i> hereof in any specified part of the Area : | Structure.
T.B.A., 213.
See Sect. 213. |
| 10 | | |
| | iii. The distance at which buildings may be erected from the centre line of any street, which shall not be a less distance than is specified in Section <i>Two hundred and eight</i> hereof : | Distance from centre line.
See Sects. 203, 214. |
| 15 | | |
| | iv. Space about buildings to secure free circulation of air, not being less than is required by Section <i>Two hundred and nine</i> hereof : | Free air space.
H.A., 27. |
| | v. For requiring notice of intention to build, and the deposit of plans and sections or other specified particulars of buildings and structures by persons intending to construct the same, for the approval of the Local Authority, and that a tracing of such plans and sections shall be left in the custody of the Local Authority : | Notice of intention to build, &c.
See Sect. 220. |
| 20 | | |
| | vi. For the inspection, during construction, of any building, and for enforcing any requirement of the Local Authority in respect to such construction or the materials employed therein which is in accordance with this Act : | Inspection during construction. |
| 25 | | |
| | vii. The construction, elevation, materials, form, and cleansing of fireplaces, furnaces, and chimneys, for securing safety from accidents and protection from sparks, and for the prevention of nuisances from smoke, ashes, or soot : | Fireplaces, furnaces, and chimneys. |
| 30 | | |
| | viii. Prohibiting the deposit or erection of scaffolding, building materials, or obstruction of any kind in or upon any road or land under the control of the Local Authority without its consent, and prescribing the conditions under which the same may be deposited or erected and the provisions of Section <i>Two hundred and seventeen</i> are to have effect : | Scaffolding, &c.
See Sect. 217, v. |
| 35 | | |
| | ix. Prohibiting or regulating the placing of any matter or thing so as to project upon or hang across or over any road or footway : | Projections. |
| 40 | | |
| | x. The construction, elevation, materials, and form of balconies, porticoes, awnings, verandahs, and other projections upon or across any road or footway : | Awnings.
See Sect. 216. |
| 45 | | |
| | xi. Regulating and controlling the demolition of houses and other structures, and whether such houses or structures are or are not ruinous or unfit for habitation : | Demolition. |
| | xii. Regulating or prohibiting the erection of any tent, pavilion, shed, or other temporary structure. | Tents, &c. |

(3.) *Business*—

- | | | |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| 50 | i. The times for holding Meetings of the Local Authority and Committees thereof, the summoning and adjournment of such Meetings, and of Meetings of the Electors, the proceedings and preservation of order and punishing | Business.
Meetings.
Committees. |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|

[Bill 1.]

A.D. 1899.

Officers.

Seal.

Sect. 94.

Notices,

Delegating
Powers.See Sect. 595,
597.Determining
Officer.Election of Chair-
man and Deputy
Chairman.Business
generally.

Fires.

Generally.
See Sect. 242.Inflammable
substances.Storage of the
same.

Licences.

Application, &c.

Conditions.

Markets.

Market-place, &c.
See Sect. 271.Articles and
market days.

misconduct, obstruction, and disturbance, at all such Meetings, and the powers and duties of the Finance and other Committees of the Local Authority :

- II. The powers and duties of the analysts, health officers, medical officers, inspectors, surveyors, officers, and servants of the Local Authority, and the punishment of persons falsely representing themselves to be officers or servants of the Local Authority :

- III. The use of the Common Seal :

- IV. The regulating the form and places of posting, and the giving, signing, and publication of notices required by this Act, or by any By-laws made thereunder :

- V. For granting or delegating to members or officers of the Local Authority the power to sign, seal, or sign and seal, notices, orders, petitions, and agreements, the power to issue, sign, seal, renew, revoke, or cancel licences, permits, authorities, or consents which the Local Authority is entitled to issue, sign, seal, renew, revoke, or cancel, the power to sign letters, receipts, and other documents, and to do or perform any act, deed, or thing necessary, ancillary, or incidental to the carrying out of the powers or duties of the Local Authority.

- VI. For determining who shall be the proper officer of the Local Authority within the meaning of any Section of this Act or any Act relating to Local Authorities or being administered by a Local Authority or in any By-law, Regulation, Notice, or Order made under this Act.

- VII. The mode of electing the Chairman, and the election of a member to perform the duties of the Chairman during the illness of the Chairman or his temporary absence from the Area :

- VIII. The transaction and management of the business of the Local Authority.

(4.) *Fires*—

- I. The prevention and extinguishing of fires, including power to prohibit the lighting of a fire within a specified distance of any building or fence :
- II. Regulating the manner of stacking, storing, and keeping any hay, straw, bark, oil, coal, wood, or any combustible substance or thing other than explosives, and the place where the same may be stacked, stored, or kept :
- III. Prescribing the kind and quantity of any combustible substances or things other than explosives that may be stored or kept at any time in any place.

(5.) *Licences*—

- I. Regulating the mode of application for licences, the manner and form in which licences shall be granted, and the duration of licences :
- II. Prescribing any conditions on which any licences may be granted, suspended, or revoked.

(6.) *Markets*—

- I. For regulating the market-place and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein or in the approaches thereto :
- II. For prescribing what articles may be sold or offered for sale in any market, and fixing the days and the hours during each day on which the market shall be held :

- | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| | III. For licensing yards and premises for the sale of cattle within the Area, and for fixing the dues to be paid for such licences : | A.D. 1899.
Sale of cattle. |
| 5 | IV. For regulating the carriers resorting to the market, and fixing the rates for carrying articles carried therefrom within the limits of the Area : | Carriers. |
| | V. For regulating the amount, and the time and manner of payment, of all market charges, any of which may be commuted into an annual payment : | Market charges.
See Sect. 272.
58 Vict. No. 29,
s. 4. |
| 10 | VI. For prohibiting every kind of fraudulent device and practice in relation to the sale of marketable commodities. | Fraudulent devices. |
| | (7.) <i>Noxious Weeds</i> — | Noxious weeds. |
| | I. Declaring any weed or plant to be a noxious weed or plant, and to be a nuisance within the meaning of this Act : | Nuisance.
Sect. 357. |
| 15 | II. Prescribing the means to be adopted for the destruction and extirpation of any noxious weed. | |
| | (8.) <i>Pests</i> — | Pests. |
| | I. Regulating or prohibiting the introduction into or the removal from the Area or part thereof of any pest, or any animal, tree, plant, vegetable, or any part or product thereof, or any matter or thing affected by a pest : | Conveyance of pest.
Sect. 357. |
| 20 | II. Ensuring the seizure, detention, examination, and disinfection of animals, trees, plants, vegetables, or any part or product thereof suspected to be affected by pest, and of vehicles, boxes, baskets, and packages suspected to contain the same or to harbour or to be infested by pests, and the disposal | Search, &c. |
| 25 | of all such animals, trees, plants, vegetables, products, vehicles, boxes, baskets, and packages : | |
| | III. Prescribing methods and appliances for the effectual destruction of pests and preventing the spread of diseases : | Methods and appliances. |
| | IV. The establishment, control, and management of dips : | Dips. |
| 30 | V. Imposing fees or charges to be paid by persons using any dips, appliances, or methods under the control of the Local Authority for the destruction of pests or preventing the spread of disease in animals, trees, plants, and vegetables, and the conditions under which such appliances or methods | Fees. |
| 35 | may be used. | |
| | (9.) <i>Public Safety and Public Decency, &c.</i> — | Public safety and public decency, &c. |
| | I. The enclosure of land where necessary for the public safety : | Enclosure of land. |
| | II. Regulating and controlling quarrying and blasting operations and the use of steam engines and steam whistles in any Town or Urban District : | Quarrying and blasting, steam-engines, &c.
T.B.A., XXXIX. |
| 40 | III. Preventing or regulating the carrying of loaded firearms or any other dangerous weapons, and the discharge of firearms : | Firearms. |
| | IV. Public decency : | Decency. |
| 45 | V. The prevention of disorderly conduct and the use of foul or abusive language in any road, reserve, or place under the control of the Local Authority : | Disorder. |
| | VI. The suppression of brothels and houses of ill-fame, and the prohibition of prize fights, dog fights, and cock fights, gaming houses, gambling tables, and gambling of every description in public places, including the right, notwithstanding any law to the contrary, to prohibit within its | Brothels, gambling, &c. |
| 50 | Area the use of any machine or device for public gambling : | |

A.D. 1899.

Seating space.
See Sect. 348.Dancing saloons.
S.A., 22.

- vii. Regulating the space for each person in places of worship and places of public entertainment :
- viii. Regulating billiard and bagatelle tables.
- ix. For licensing, regulating, and inspecting dancing rooms or saloons, theatres, halls, and places for public entertainment ; for regulating the management thereof and the conduct of persons frequenting the same ; for prohibiting young persons (under an age to be stated in the By-law), persons of bad character, and persons misconducting themselves from coming or being in such premises ; for regulating the renewal, revocation, cancelling, or transferring of such licences.

Roads, footways,
&c.Control and
management.
Kerbing, &c.Roads less than
66 feet wide.
As to private
roads, &c.Plans of roads,
&c.
See Sect. 171,
201.Extension of
private road
provisions.
See Sect. 197.Cellars, &c., under
roads.Opening up soil
or road.

Lighting.

Protecting lights.

Timber.

Naming and
numbering.
See Sect. 163.Advertisements,
&c.(10.) *Roads, Footways, &c.*—

- i. The control and management of roads :
- ii. The aligning, forming, metalling, curbing, paving, guttering, gravelling, asphaltting, repairing, cleansing, and watering 15 of public and private roads, including the determining of the respective widths of the carriage and footways of such roads, and the materials to be used for any of the aforesaid purposes :
- iii. Exercising as to new roads the powers mentioned in Section 20 *One hundred and fifty-eight*, Sub-section (5.) of this Act :
- iv. Exercising the power mentioned in Section *One hundred and ninety-nine* of this Act, and providing specifications for construction of the roads therein referred to, varying according to the locality in the Area in which the road is to be made, 25 and generally for more fully carrying out the purposes of Title VI., Part VIII., of this Act :
- v. Prescribing, until Regulations are made by the Governor, particulars required in plans of roads submitted to the Local Authority, and the plans mentioned in Section *Two hundred and one* of this Act :
- vi. Providing, if the Local Authority be a Shire Council, for the extension of Title VI., Part VIII., of this Act to any part of the Shire :
- vii. Defining the conditions of the construction, if the Local 35 Authority determines to allow such construction, of any cellar, subway, or other like structure under a road, including power to fix annual or other charges for the privilege ; but no right shall be granted to endure for more than Twenty-one years : 40
- viii. Prohibiting or regulating and prescribing fees for the opening up of the soil of roads and footways by persons other than the authorised officers of the Local Authority or persons authorised by any enactment so to do :
- ix. The lighting of public places with gas, electricity, or other- 45 wise :
- x. The protection of lights maintained by the Local Authority in public places :
- xi. The control of timber standing or lying upon any road or land under the control of the Local Authority : 50
- xii. The naming of roads, the numbering of houses, and the marking of the names of roads and numbers of houses upon walls or otherwise, and preventing their removal or effacement therefrom :
- xiii. Prohibiting or licensing and regulating the making, erection, 55 putting up, and situation of advertisements, signboards, or

- other signs, upon, over, or near to any road or footway, or on the roof of or projecting from the roof or walls of any building : A.D. 1899.
- 5 xiv. Imposing upon the owners and occupiers of premises abutting on a road or footway the duty of constructing and maintaining spouts, gutters, and other means for conducting storm and other water away from such premises : Spouts, &c.
- 10 xv. Prohibiting mining under the surface of roads without the licence of the Local Authority where any road is likely to be injured by such mining, and prescribing the conditions on which such licences may be granted : Mining.
See 57 Vict. No. 24, ss. 57-59.
- 15 xvi. The prevention of injury or obstruction to roads or other public places by digging or otherwise : Digging, &c.
- 20 xvii. In the case of mining districts within the Area, imposing a toll upon vehicles (other than cars used on railways) passing over any road and carrying stone, quartz, or ores to or from a mine or quarry or crushing or reducing machine ; provided that such toll shall not exceed One Penny for every ton of stone, quartz, or ore so carried in such vehicle. Toll on ores.
- (11.) *Tolls, Rates, and Dues*— Tolls, rates, and dues.
Imposing, collecting, and managing tolls, rates, and dues upon roads, bridges, ferries, wharves, jetties, and markets under the control of the Local Authority. Imposing, &c.
- (12.) *Trades and Callings*— Trades and callings.
- 25 i. The licensing of persons to construct and repair works and appliances connected with the supply of water, gas, electricity, or hydraulic or other power, and with sewerage and drainage ; and the prohibiting of unlicensed persons interfering with such works or appliances : Plumbers, &c.
- 30 ii. Prohibiting or regulating and licensing the setting up and use of coffee stalls, and vehicles, stalls, or stands for the sale of goods or for the pursuit of any business, calling, or employment in or upon any road or land under the control of the Local Authority : Coffee stalls, &c.
- 35 iii. Prohibiting or regulating the itinerant vending of goods and things in or upon any road or land under the control of the Local Authority. Itinerant vendors.
- (13.) *Traffic*— Traffic.
- 40 i. For regulating the time, place, and manner of landing from and shipping animals and carcasses of animals on board of vessels : Landing and shipping animals, &c.
P.A., 114.
- 45 ii. For fixing the place within the Area where, and the restrictions under which, animals and carcasses of animals may be sold by public auction : Sales of animals, &c.
P.A., 114.
- 50 iii. For fixing the hours when, and streets or other public places where, and other restrictions under which, animals imported into this Colony or brought within the Area may be driven, but not so as to apply to working bullocks in yoke, or tame milch cows being driven to or from pasture : Droving exception.
P.A., 115.
- iv. For providing and letting for hire, or regulating or licensing any persons letting for hire, pleasure-boats on any piece of water in any pleasure resort or public recreation ground or adjacent thereto, or on any water within or bordering the Area not under the control of a Marine Board, including provisions for numbering and naming such boats, the Boats and boatmen.
53 & 54 Vict., c. 59, s. 44.

A.D. 1899.	number of persons to be carried in each, the rates of hire and the qualification of boatmen, and for securing their good and orderly conduct while in charge of the boats, and prescribing a licence fee for Twelve months not exceeding Two Shillings and Sixpence for each boat and 5 for each boatman :
Form of vehicles.	v. The form and construction of vehicles ordinarily used, kept, or let for the conveyance of passengers for hire, not being cars used on tramways :
Tires.	vi. The width of the tires of wheels of vehicles used in the 10 Area, either with respect to the weight of the load carried, or with respect to the diameter of the axles of such vehicles, with power to prescribe that the measure of such diameter be kept painted on every vehicle carrying goods :
Number of passengers.	vii. The number of passengers that may be carried in vehicles 15 ordinarily used, kept, or let for the conveyance of passengers for hire, including cars used on tramways :
Traffic on tramways.	viii. Regulating the traffic upon tramways :
Badges.	ix. Prescribing the badges to be worn by boatmen and by 20 drivers and conductors of licensed vehicles :
Stands.	x. Appointing and regulating public stands for cars used upon tramways ; establishing and regulating shelters and waiting-places for passengers and for boatmen, drivers, and conductors :
Lost property.	xi. Regulating the safe custody of any property which may be 25 accidentally left in any car used upon a tramway or at any public stand, shelter, or waiting-place :
Sale of lost property. See Sect. 326 as to cabs.	xii. Regulating the sale, after reasonable notice and upon reasonable conditions, of any unclaimed articles found in any licensed vehicle or car used upon a tramway, or at a 30 public stand, shelter, or waiting-place :
Ferries.	xiii. Regulating ferries under the control of the Local Authority, and the form, construction, and loading of ferry boats ; and regulating or prohibiting private ferries within a reasonable distance of a ferry controlled by the Local 35 Authority :
Regulating vehicles, &c., in towns.	xiv. Regulating in any town vehicles when waiting for hire ; the pace at which animals and vehicles may be ridden or driven or drawn, and preventing the racing or jostling between vehicles plying for hire : 40
Funerals ; processions.	xv. Regulating and prescribing the route of funeral processions, and prohibiting or regulating and prescribing the route of processions generally :
Bicycles. Lights.	xvi. Regulating the use of, and prescribing the lights to be carried by, bicycles, tricycles, and other velocipedes : 44
Hand carts.	xvii. Regulating the use and management of hand-carts :
Advertising vans, &c.	xviii. Prohibiting or regulating the passage of advertising vans and men carrying advertisements and placards, and the throwing or distributing of handbills or other printed matter : 50
Steam rollers.	xix. Prescribing the hours within which and the conditions under which steam rollers may be used :
Meetings in streets ; music.	xx. Prohibiting or regulating the holding of meetings, or the use of musical instruments :
Extraordinary traffic.	xxi. Regulating traffic at times of public interest, amusement, 55 or excitement :

- xxii. The temporary diversion of the traffic from any road : A.D. 1899.
- xxiii. Prohibiting loitering and the obstruction of traffic generally upon any road : ———
Diversion of traffic.
- 5 xxiv. Prohibiting expectoration and the casting or throwing of peelings of fruit or other vegetable substances, or any offensive, noxious, or dangerous matter or thing upon any road : Obstruction to traffic.
Nuisances.
- xxv. Providing for the prevention of accidents arising from the improper use of vehicles and horses, or from the driving of animals : Accidents.
- 10 xxvi. The powers immediately preceding, and numbered v. to xxv., apply to lands as well as roads under the control of the Local Authority : Application of certain of above powers.
- 15 xxvii. Providing for extending any powers hereby given to make By-laws respecting a road to any jetty or wharf under the control of the Local Authority, and for preventing injury to any such wharf or jetty or any bridge, and especially the speed at which vehicles shall traverse the same, and the number allowed to be thereon at one time, and the manner in which vehicles may move on to and off from such structures. Traffic on bridges, wharves, and jetties.
Road includes bridges.
See Sect. 5.
See 54 Vict. No. 3.
- 20
- (14.) *Water*—
- i. Exercising as to water supplies the power mentioned in Sub-section ix. of Section *Two hundred and thirty-one* of this Act, and prescribing the description of pipes and apparatus by means of which water shall be supplied to any premises in a Water District : Water.
Water supplies.
See Sect. 231.
- 25
- ii. Determining the times and seasons at which it may be expedient to permit or prevent the flow of water along the whole or any portion of any river or watercourse in which locks, dams, or other works have been commenced or constructed by the Local Authority :
- 30
- iii. Regulating the use of the water in any tanks, reservoirs, wells, or dams constructed under their directions or vested in them :
- 35
- iv. The collection of tolls or rates from the owners of stock travelling through the Water District :
- v. Prohibiting or regulating bathing or washing in any public water or near any road or land under the control of the Local Authority. Bathing, &c.
- (15.) *Weights and Measures*—
- 40 i. Regulating and inspecting weights and measures, with power to compel persons to compare and adjust their weights and measures with and by copies and models of the standard weights and measures deposited in the Treasury when such copies and models shall have been made, verified, and stamped in accordance with Section One of the Act of Council 4 *William* the IV., No. 3, and shall have been deposited in the office of the Local Authority : Weights and measures.
58 Vict. No. 29.
Sects. 8, 10, 11.
Regulation, &c
- 45
- ii. Regulating the use of public weighing machines or weighing bridges, and fixing fees to be charged for the use of them : Public machines.
- 50
- iii. Licensing and regulating the use of weighing machines, weighing bridges, and automatic machines and appliances for the sale of goods : Private machines.

A.D. 1899.
Checkweighers.

- iv. In cases where workmen are paid according to the weight of mineral, material, or produce gotten, worked up, or prepared by them, and in cases where vendors of agricultural or other produce are paid according to the weight of the produce supplied to purchasers, registering the names of 5 and defining the powers and duties of persons called checkweighers appointed by such workmen or vendors to take, at the places of weighing or delivery, an account on their behalf of the weight of such mineral, material, or produce:

Wharves and
jetties.
T.B.A., 133.
R.A., 14.

(16.) *Wharves and Jetties*—

- i. Regulating as to any wharf or jetty under the control of the 10
Local Authority—

(a) The time during which goods (according to the nature thereof) may remain thereon, and the several parts thereof on which it shall be lawful to deposit goods : 15

(b) The wharfages and tolls to be paid in respect of goods landed on, shipped from, or deposited upon any such wharf or jetty :

Continuing
penalty for con-
tinuing breach.

And any offender against any such By-law shall, in addition to the ordinary penalty after a conviction for leaving goods 20 contrary to its provisions, be liable to a further penalty not exceeding Forty Shillings for every day after such conviction during which such goods or any of them so remain.

Works and
undertakings.
Reserves and
foreshores.
Recreation
grounds, pleasure
resorts, and fore-
shores, &c.
Baths, &c., places
of recreation and
instruction.
T.B.A., xxviii.
38 & 39 Vict. c.
55, s. 164.
See Sect. 583 (3.)

(17.) *Works and Undertakings*—

- i. The control and management of reserves, foreshores, and other land under the control of the Local Authority : 25

ii. For the control of fires, including the appointing of special places for making fires, the collection of litter and rubbish in public recreation grounds or pleasure resorts, or on any beach or foreshore within the Area, and for the prohibition of the use therein or thereon of vehicles or animals, or 30 allowing such use within conditions to be specified in the By-law; and for the establishment, care, protection, and management of public baths and wash-houses, and of all such places of public recreation or instruction as are mentioned in Title XI., Part VIII., of this Act, with power 35 to make charges for the use of any such places, and for the preservation of good order therein, and generally as to the use and occupation thereof by the public:

Tramways.

- iii. The regulation of tramways and the traffic thereon, where such tramways have been constructed at the expense of the 40
Local Authority, or have been vested in or acquired by a Local Authority in due course of law :

Tree planting.

- iv. Planting and preserving trees and shrubs in roads and lands under the control of the Local Authority :

Gas, &c.

- v. The supply and distribution of gas, electricity, or hydraulic 45
or other power, and the making, levying, and collection of rates payable therefor by consumers in cases where the works have been constructed or acquired by and are under the management and control of the Local Authority :

Refrigerating
works.

- vi. The establishment, control, and management of refrigerating 50
works and works for cold storage under the control of the Local Authority, and imposing fees or charges payable by persons using the same :

- vii. Exercising the power mentioned in Section *Two hundred and seventy-four* of this Act : A.D. 1899.
- viii. Authorising any person to erect, maintain, and work pumping engines and gear for the supply of water or hydraulic power from any foreshore, river, watercourse, reservoir, or other water under the control of the Local Authority, and prescribing fees and conditions in respect of the granting of such authority : Subsidies.
Permits for pumping engines, &c.
- ix. The erection, control, and maintenance of flood warnings : Flood warnings.
- x. Preventing injury to or misuse of bridges, ferries, buildings, wells, reservoirs, sewers, or other works, appliances, or things, being the property of, or under the control of, the Local Authority. Injury to property.

Division III.—*Health By-laws.*

589 Subject to the foregoing provisions of this Act, a Local Authority may, from time to time, make, amend, or revoke Health By-laws for all or any of the purposes of Part IX. of this Act, or in this Section mentioned, that is to say— Health By-laws.
H.A., 22.

(1.) *Food Supply—*

- i. The Regulation of bakehouses and butchers' establishments, including the annual registration of all persons selling meat and bread within the Area, and the payment by each such person to the Local Authority of a reasonable fee not exceeding Ten Shillings for each such registration : Food supply.
Registration of bakers and butchers.
H.A., 27.
- ii. Regulating the killing of any live stock for sale as the food of man, and the establishment and locality of slaughter-houses or abattoirs, and the supply of water thereto, and the management and charges for the use of any abattoir provided by the Local Authority : Slaughter-houses.
- iii. The registration annually with the Local Authority of all persons carrying on the trade of cowkeeper, dairyman, or purveyor of milk, and the payment by each such person to the Local Authority of a fee not exceeding Two Shillings and Sixpence per animal, nor a total of One Pound for each such registration : Registration of dairies.
H.A., 27.
See Sect. 428 (2).
- iv. Prescribing and regulating the lighting, ventilation, cleansing, drainage, and water supply of houses, dairies, and cowsheds in the occupation of persons following the trade of cowkeeper or dairyman, and requiring special sanitary appliances to be used on all such premises : Sanitation of dairies.
- v. The securing the cleanliness of milk stores, milk shops, and of milk vessels used for containing milk for sale by such persons : Cleanliness.
- vi. The prescribing of precautions to be taken for protecting milk against infection or contamination, and for destroying or removing from any milk store, milk shop, or dairies, any diseased cows or other animals, or for removing from any such premises any sick person : Precautions against infection.
See Sect. 428.
- vii. The inspection of dairy cattle, the cowsheds, grazing ground, and water supply of dairy cattle, with power to provide that if in any particular these are found in a state likely to affect the milk so as to be prejudicial to the health of any consumer, the milking of the cattle, the use of the sheds, grazing ground, and water supply, or any of them, may be Inspection of premises, &c.

A.D. 1899.

Prohibition of
sale of milk.

Sale of food.

Unsound food,
meat, &c.
Sect. 421.

Fees for analysis.

Buildings used
for preparation or
sale of food.Sewers and
general sanitation.
Cesspools.Sewers, closets,
&c.

Sewer connection.

Sanitary
appliances.
Sect. 392.

H.A., '89 (11.)

Public neces-
saries.Power of im-
posing duty of
cleansing, &c., on
occupier.Receptacles.
H.A., 27.
See Sect. 401.

prohibited by the Local Authority making the inspection, and to prescribe a penalty for any disregard of the order of prohibition.

VIII. The prohibition of the sale of milk from any dairy, or by any cowkeeper, dairyman, or purveyor of milk, when any provision of this Act or any order of the Local Authority has been or is being disregarded, and to provide a penalty for any want of compliance with any such prohibition: 5

IX. The carriage, distribution, inspection, and sale of meat, bread, milk, poultry, eggs, fish, fruit, vegetables, and other kinds of perishable food: 10

X. The destruction and disposal of unsound food; the marking of meat and its sale when not sold as the food of man:

XI. Prescribing fees to be paid for analyses of any food or drug by the analyst: 15

XII. Prescribing the method of constructing all buildings used for the preparation or sale of food to secure the cleanliness thereof, and especially that impervious floors and walls with smooth surfaces shall be provided in all cases where the Local Authority may consider the same necessary, and such as shall afford facilities for frequent washing and cleansing of the same. 20

(2.) *Sewers and general Sanitation of Premises—*

I. Defining localities in the Area within which no cesspools shall be permitted to exist or to be used:

II. The construction, situation, management, control, and inspection of sewers, drains, water-closets, earth-closets, ash-pits, cesspools, and urinals: 25

III. Prescribing the conditions on which any connection of a private drain with a public sewer or drain may be made, cut off, or repaired: 30

IV. Prescribing sanitary appliances as defined in Section *Three hundred and ninety-two* of this Act, including the definition of the particular make or pattern and material to be used, which may be by reference to models kept for that purpose by the Local Authority. 35

V. The ventilation, drainage, and plumbing of buildings, with power to require the deposit for safe custody by the Local Authority, but allowing inspection by the owner of the building of plans of such drainage and plumbing:

VI. The establishment, regulation, and use of closets, urinals, and other conveniences for public accommodation under the control of the Local Authority: 40

VII. Imposing upon the occupier of any premises—

(a) The duties of the cleansing of footways and pavements adjoining such premises: 45

(b) The cleansing and keeping such premises free from offensive or unwholesome matters, and the removal of house refuse and offensive matter therefrom, and preventing the placing or depositing of any such refuse or matter in any place so as to be an annoyance or nuisance to any person: 50

(c) The providing boxes or other specified receptacles for the temporary deposit of house and other refuse, and for authorising and directing the placing of such boxes or other receptacles at or 55

between certain specified hours in places at or contiguous to such premises convenient for the discharge and removal of the contents of such boxes or receptacles : A.D. 1899.

- 5 (d) When so ordered by the Local Authority, the paving with some impervious material (to be specified in the By-law) any yard or part thereof on such premises, or any lane or passage giving access thereto : Paving yards, &c. H.A., 136.
- 10 VIII. Regulating the times and manner of cleansing, emptying, and managing of earth-closets, water-closets, privies, cesspools, and places for the deposit of night-soil or other offensive or refuse matter, and for regulating the disinfecting or the deodorising of the nightsoil or other offensive matter contained therein or removed therefrom, and for 15 the prevention of annoyance, nuisance, or injury to health from the transport, deposit, or use as manure, of nightsoil, or other offensive matter : Cleansing closets, &c., treatment of nightsoil.
- 20 IX. The prevention of nuisances arising from filth, dust, ashes, and rubbish : Filth, &c.
- x. Preventing or regulating the deposit of filth, dust, ashes, rubbish, sludge, or other offensive matter upon roads and other lands and places under the control of the Local Authority : Deposit of rubbish.
- 25 XI. Preventing the overcrowding of persons in houses and premises : Overcrowding.
- xii. The whitewashing, cleansing, or purifying of any premises : Cleansing premises.
- 30 XIII. Fixing, and from time to time varying, the number of lodgers who may be received into a common lodging-house, and for the separation of the sexes therein ; promoting cleanliness and ventilation therein ; enforcing the giving of notices, and the taking of precautions in the case of any infectious or contagious disease occurring in such house ; and generally for the good conduct of such houses : Lodging-houses.
- 35 XIV. Fixing, and from time to time varying, 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, and prescribing the separation of the sexes therein ; the registration and inspection of such houses ; 40 enforcing drainage and the provision of privy accommodation for such houses, and promoting cleanliness and ventilation therein ; the cleansing and limewashing at stated times of the premises, and the paving of the courts and court-yards thereof ; and the giving of notices and the taking of precautions in case of any infectious or contagious disease occurring in any such house : Houses let in lodgings.
- 45 xv. Exercising the powers mentioned in Section *Four hundred and six* of this Act : Stables.
- xvi. When the Local Authority proposes to make and levy a 50 Cleansing Rate upon the Second basis or Third basis upon which such Rates may be levied, defining the mode in which the principle of such basis is to be applied to the several rateable properties affected. Cleansing rates. See Sect. 543.
- (3.) *Infectious Diseases and Offensive Trades—*
- 55 I. Removing to any hospital to which the Local Authority is entitled to remove patients, and keeping in such hospital so Removal to hospital of infected persons brought by ships.

A.D. 1899.

Precautions
against infection.
H.A., '96, 3.

Prohibiting
keeping of
offensive or
dangerous things.
T.B.A., XL.

Swine.
H.A., 130.

Situation of
offensive trades.

Licensing.
Disinfection of
materials.
H.A., 27.

Burial.
Cemeteries.
29 Vict. No. 7.

Elsewhere than in
cemeteries.
H.A., '89, 31.
And also in
public cemeteries
where Trustees
have made no
rules.
H.A., '89, 32.

Dead animals, &c.

Generally.

Special powers of
Shire Council.

See Sect. 488.

Compare
S.A.H.A.

As to animals.

long as is necessary, any person brought within the Area by any ship or vessel who is infected with an infectious or contagious disease :

II. Regulating the precautions to be taken on bringing any person suffering from an infectious disease into the Area of the Local Authority :

III. Preventing the storage or the keeping in any place of any animal or thing in the opinion of the Local Authority offensive or injurious to health, within the Area or any part thereof specified in the By-law, or within a distance of any habitation specified in the By-law :

IV. Defining localities in the Area within which the keeping of swine or a pigstye is forbidden :

V. Defining localities in the Area within which offensive trades may not be established or carried on :

VI. Licensing and regulating offensive trades :

VII. The disinfection of, and the prevention of nuisance or injury to health from, rags or other materials used or stored in marine stores, flock or bedding or furniture manufactories :

(4.) *Burial*—

I. Subject to the provisions of *The Cemeteries Act*, 1865, the establishment, maintenance, and management of cemeteries under the control of the Local Authority, and prescribing the fees to be paid in respect of the burial and disinterment of the dead, and for the construction and maintenance of mortuary chapels, vaults, monuments, and erections therein :

II. Regulating or prohibiting the interment of the dead and the depth of the graves, construction of coffins to be admitted into vaults, and the covering of vaults, so as to prevent the escape of noxious exhalation or evaporation elsewhere than in cemeteries, subject to the provisions of *The Cemeteries Act*, 1865, and also in such cemeteries in cases where the Trustees thereof for Six months after the passing of this Act or for a like period after their appointment, fail to make all necessary rules and regulations under Section Eleven of the said Act :

III. The removal and destruction of dead, dying, or diseased animals found upon any road or land under the control of the Local Authority or any land not securely fenced off from such road or land :

The prevention and abatement of any nuisance, and generally for the promotion of the public health.

Provided that any Shire Council may, subject to compliance with the foregoing provisions of this Act, make Health By-laws which it may declare to be applicable within certain or all Rural Districts contained in the Shire, and such By-laws shall supersede any existing Health By-law in force in any such Area, and shall have force and be applied therein by the Local Authority administering the provisions of this Act relating to Health, and any such Shire Council may make special Health By-laws providing for—

I. Inspection of herds or flocks of animals for the detection and prevention of disease therein :

II. Requiring and providing for the destruction of diseased animals, and the burning or other method of disposing of the carcasses :

III. The application of tuberculin or other test for tuberculosis or other diseases of animals.

A.D. 1899.

PART XVI.

PROCLAMATIONS AND REGULATIONS. LEGAL PROCEEDINGS.
OFFENCES AND PENALTIES.

- Title I. Proclamations and Regulations. Sects. 590 to 593.
 II. Compensation Claims and various Provisions as to Legal Proceedings. Sects. 594 to 606.
 III. Recovery of Overdue Rates and Expenses, &c. Sects. 607 to 609.
 IV. Powers to be exercised on Inquiries and Inspections. Power of Health Officers to take Proceedings. Sects. 610 and 611.
 V. Offences, Penalties. Sects. 612 to 615.

TITLE I.—PROCLAMATIONS AND REGULATIONS.

590—(1.) No Proclamation purporting to be made under this Act and within the powers by this Act conferred on the Governor shall be deemed invalid on account of any non-compliance with any of the matters required by this Act as preliminary to such Proclamation, nor because of its being made before the date fixed for the commencement of this Act.

Non-compliance with matters preliminary not to invalidate Proclamation. Proclamations may be issued before commencement of Act.

(2.) Every Proclamation shall take effect immediately from the date of its First publication in the *Gazette* unless otherwise stated.

Proclamation to take effect on publication in *Gazette*.

(3.) Any error in any Proclamation, whether made under this Act or under any of the analogous provisions of the Acts hereby repealed, may be rectified by any subsequent Proclamation.

Rectification of errors. Sect. 601 (1.).

(4.) After the constitution of any Area or Local Authority by any such Proclamation, all previous proceedings hereinbefore required shall be deemed to have been duly taken; and no objection shall be allowed on the ground of any defect or irregularity in such proceedings, or any non-compliance with the provisions of this Act.

No objection allowed to preliminary proceedings.

(5.) The Governor may by Proclamation rescind, alter, or vary any Proclamation made under the powers of Sections *Thirteen* and *Eighteen* hereof, and also (upon petition of the same authority or authorities moving the Governor in the first instance) any Proclamation made under the powers of Section *Two hundred and twenty-two* or of Section *Five hundred and seventeen*, and thereupon any of the same powers may be exercised afresh.

R.M.A., 8.

Power to vary or rescind a Proclamation.

(6.) Whenever a discretionary power is vested in the Governor to do any act upon the petition of members of a Local Authority, he may postpone any action upon such petition beyond advertising the same in the *Gazette* until after there has been a periodical Election of Members of such Local Authority, and may then require a confirmation of the First request before issuing the Proclamation.

Exercise of Governor's powers may be deferred till Election of Local Authority.

(7.) Whenever the Governor does so exercise any such discretionary power by Proclamation, he may, in regard to the subject-matter thereof by the same or any subsequent Proclamation, exercise all or any of the powers reposed in him by Section *Eighteen* of this Act.

Powers of Section 18.

591 The Governor may from time to time make, alter, and rescind Regulations prescribing—

Governor's power to make Regulations.

I. The form of and particulars required in any petition under Part II. of this Act:

Petitions and declarations, &c. under Part II.

II. The form of statutory declaration for verification of any such petition:

A.D. 1899.

First Councils.

Leases.

Noxious Trade
Areas.

H.A., '89 (17.).

As to Meetings.

Verification of
Regulations.*Gazette* to be
evidence.Short quoting of
Act in Proclama-
tions, Regu-
lations and adver-
tisements, &c.

- III. What information shall be supplied before granting the prayer of any petition under this Act :
- IV. For the election of First Councils of any Local Authority :
- V. The length of the leasehold terms, and generally the covenants, terms, and conditions to be embodied in any leases 5 for which the consent of the Governor is by this Act required, or in any other leases authorised to be granted by a Local Authority, and whether or not such leases shall be put up to public auction or public tender at a reserved rent, and with power to provide in such Regulations for 10 allowing to any lessee upon the expiration of his lease the value of any buildings or improvements erected or made by him, or for re-letting to him at a rent to be fixed by valuation, and to provide for the making of any valuations rendered necessary by the Regulations : 15
- VI. The conditions under which any person may obtain land within a Noxious Trade Area to conduct or carry on any noxious trade, manufacture, or business :
- VII. The mode or manner in which such trade, manufacture, or business shall be carried on : 20
- VIII. The methods to be adopted for giving publicity to meetings called under the provisions of Section *One hundred and ninety-two* of this Act or of any other provision of this Act authorising meetings to be held, the results of which are to be brought under the notice of the Governor. 25

592 Where by this Act a power is conferred to make a Regulation, and subject to any provisions specially made applicable to the exercise in any particular case of such power, it shall be sufficient—

- I. When made by the Governor, if it be signed by the Chief Secretary by order of the Governor ; or 30
- II. When made by the Minister, if it be signed by him ; or
- III. When made by the Board or a Local Authority, if it be signed by the Chairman of the body making it and is gazetted.

A copy of the *Gazette* containing any such Regulation shall be conclusive evidence of the due making of the Regulation and of its 35 contents until the contrary is shown.

593— I. In any Proclamation extending or referring to any of the provisions of this Act ; and

II. In any Regulation, By-law, Order, Advertisement, or Notice referring to any of the provisions of this Act ; 40

it shall be sufficient to refer to the same provisions by the number of the Part, Title, Division, or Section as may be necessary.

A.D. 1899.

TITLE II.—COMPENSATION CLAIMS AND VARIOUS PROVISIONS AS TO
LEGAL PROCEEDINGS.

- Div. I. Claims for Compensation. (Sect. 594.)
 II. Evidence, Time Notices, &c. (Sects. 595 to 597.)
 III. Proceedings to compel compliance with Notices. (Sect. 598.)
 IV. Owners and Occupiers, and Proceedings where Nuisance occasioned
 by Two or more Persons. (Sects. 599 and 600.)
 V. Misnomer, &c. (Sect. 601.)
 VI. Actions against the Local Authority and its Officers. (Sect. 602.)
 VII. Sundry Provisions as to all Proceedings. (Sects. 603 to 606.)

Division I.—*Claims for Compensation.*

- 594**—(1.) If any person sustains damage by reason of the exercise of any of the powers of Part IX. of this Act, in relation to a matter as to which he is not himself in default, compensation shall be made to him by the Local Authority exercising such powers. Compensation in case of damage by Local Authority under Part IX.
- 5 (2.) Except in this Act otherwise expressly provided, and notwithstanding the provisions of any other Act to the contrary, any compensation payable by a Local Authority to any person by reason of the exercise of the powers of this Act shall be such sum as may be agreed upon by and between the parties, or, as in the case of dispute, Compensation payable, how to be fixed. E.G., Sects. 153, 225.
- 10 may be fixed by Two Justices in a summary way, who shall have jurisdiction to hear and determine the matter of such dispute, and to grant such costs as, in their opinion, are just and reasonable. Justices' powers.
- Any party may appeal to the Supreme Court from the whole or any part of an order made under this Section. Appeal to Supreme Court.
- 15 Every such appeal shall be by way of rehearing.

Division II.—*Evidence, Time, Notices, &c.*

- 595**—(1.) In any proceeding instituted by or against a Local Authority under this Act it shall not be necessary for the plaintiff to prove the corporate name of the Local Authority, its constitution, or the limits of its Area, or the limits of any subdivision, Local District, Name of Local Authority need not be proved. H.A., 164.
- 20 Water District, or Tramway Area. But this Section shall not prejudice the right of any defendant to prove such constitution or limits.
- (2.) Every order, summons, notice, or other such document requiring authentication by the Local Authority may be sufficiently authenticated, without the seal of the Local Authority, if signed by Certain documents, how authenticated by the Local Authority. T.B.A., 251. H.A., 29. See Sect. 588 (3.) iv. See also Sect. 597 as to notices.
- 25 Two members or by the clerk, or in accordance with any By-law passed by the Local Authority.
- (3.) Any printed or written copy purporting to be a copy of the Electors' List of an Area, and signed by the Returning Officer of such Area, shall be *prima facie* evidence of such List and of the contents Copy of Electors' List to be evidence. Evidence of entries. Evidence of Election or appointment of Chairman or Officers.
- 30 thereof.
- (4.) Every entry in any book kept by the clerk, purporting to be an entry relating to the proceedings of a Local Authority or of a Committee thereof, and to be signed by the Chairman, or a certified copy of or an extract from any such entry, sealed with the seal of the Evidence of Election or appointment of Chairman or Officers.
- 35 Local Authority, and signed by the Chairman and clerk, shall, upon the production thereof alone, be received in any Court as evidence of any election or appointment of a Chairman or officer, or of the proceedings appearing by such entry to have been taken, without proof of the meeting to which the same refers having been duly convened or

A.D. 1899.

49 Vict. No. 22
to apply, except
as varied by
this Act.
T.B.A., 52.
Gazette to be
proof of Elections
appointments,
By-laws, Orders,
and Regulations.
H.A., 163.
T.B.A., 225.

Rate Books to
be evidence.
See Sect. 549.

As to the making
of the Rate.
See Sect. 539.

Presumption
against registered
proprietor.

Evidence of
register of
common
lodging-houses.

Evidence as to
family in pro-
ceedings.

Certificate of
analyst *prima*
facie evidence for
the prosecution,
but analyst to be
called if required.
H.A., 55.

Court may have
food or drug
analysed.
H.A., 56.

held, or of the persons attending such meeting having been or being members of the Local Authority, or members of Committee respectively, or of the signatures of the Chairman or clerk, or of the fact of their having been Chairman or clerk respectively; and all such last-mentioned matters shall be presumed until the contrary is proved. 5

(5.) The provisions of "An Act to facilitate Proof of By-laws and Proceedings of Corporations, and for other purposes," shall, except as varied by this Act, apply to Local Authorities, their By-laws, and Proceedings and Common Seal.

(6.) The production of a copy of the *Gazette*— 10

i. Containing a notification signed by a Returning Officer or by a Chairman or clerk of any election of a Member or Chairman, or the appointment of any officer of a Local Authority; or

ii. Containing a notification of Resolution of adoption under 15 Section *Five hundred and eighty-seven* hereof; or

iii. Containing any Order or Regulation or By-law made under this Act,

shall be sufficient evidence of the election or appointment, or of the adoption as aforesaid of any model By-law, or of the due making of 20 such Order or Regulation or By-law, and of the contents thereof, as the case may be, until the contrary is shown.

(7.) In any proceeding to levy and recover, or consequent on the levying or recovering of, a Rate under the provisions of this Act, the Rate Book of the Local Authority and all entries purporting to be 25 made therein in manner by this Act directed, sealed with the seal of the Local Authority, or certified copies thereof or extracts therefrom, signed by the Chairman, and sealed with such seal, shall, upon the production thereof alone, be *prima facie* evidence of the contents of such books, and of the obligation of the person charged with the Rate 30 to pay the same, without any evidence that the notices required by this Act or the other provisions of this Act have been given or complied with.

(8.) The production in any Court of a certificate of title, memorandum of transfer, or other instrument creating an interest in land, 35 or of a duly certified copy thereof, shall be sufficient evidence that the person named therein as registered proprietor, or as entitled to such interest, is the owner of or person entitled to an interest in such land until the contrary is shown.

(9.) A copy of any entry in the register of common lodging-houses 40 certified by the clerk is to be evidence in all Courts, and be sufficient proof of the matter registered without production of the register or of any document or thing on which the entry is founded. A certified copy of any such entry shall be supplied gratis by the clerk to any person applying at a reasonable time for the same. 45

(10.) If in any proceedings relating to common lodging-houses or houses let in lodgings, it is alleged that any inmates of any house or part of a house are members of the same family, the burden of proving such allegation shall lie on the person making it.

(11.) In any proceedings relating to food or drugs, the production 50 of the certificate of the Analyst shall be sufficient evidence of the facts therein stated, unless the defendant requires that the Analyst shall be called as a witness, and that the parts of the food or drug retained by the person who purchased the same shall be produced.

The Court before which any complaint is made, or before which any 55 appeal is heard, may cause any food or drug to be sent to the Minister,

who shall direct a Government Analyst to make an analysis thereof, and give a certificate to the Court of the result, which certificate shall be received in evidence by the Court. A.D. 1899.

The costs of such analysis shall be paid as the Court in its discretion directs.

(12.) Every Schedule of this Act, or of any Regulation or By-law made hereunder, shall be deemed to form part of such Act, Regulation, or By-law, as the case may be. Schedules deemed part of Act.

(13.) Words referring to any locality, district, place, body, corporation, society, officer, office, functionary, person, party, or thing shall be construed distributively as referring to each locality, district, place, corporation, society, officer, office, functionary, person, party, or thing, to whom or to which the provision is applicable. References to persons, places, or things.

(14.) Whenever forms are prescribed, slight deviations therefrom, but to the same effect and not calculated to mislead, shall not vitiate them. Variation of forms.

Time.

596 When any day, or when one or the last of several days, provided or appointed by or under this Act for any purpose in any year happens on *Sunday*, or a day which is a public holiday throughout *Tasmania*, or in the Area, then such provision and appointment shall take effect as for the next following day which is not a *Sunday* or a public holiday. *Sundays* and public holidays. Q., 525.

Notices, Summonses, Orders, &c.

597—(1.) notices, demands, orders, or other documents under this Act which require authentication by the Local Authority or Board may be in writing or print. Notices may be printed or written. See Sect. 588 (3.)

(2.) Every notice, order, or demand shall be signed by, or bear the printed signature of, the Chairman or clerk or other authorised officer delivering or transmitting the same. H.A., 160. R.A., 66. T.B.A., 250. See Sect. 595 (2.).

(3.) Any notice, demand, summons, complaint, order, or other document (all of which are in this Section hereafter included in the term "Notice") under this Act required or authorised to be given to or served upon any person may be so given or served—

i. By delivering the same to such person ; or

ii. By leaving the same at his usual or last known place of abode ; or

iii. By delivering it or by forwarding the same by post in a registered letter addressed to such person at his usual or last known place of abode, or if absent from *Tasmania* and has an agent known to the Local Authority, then to such agent.

(4.) Any such notice, if addressed to the owner or occupier of premises, may be served by delivering the same, or a true copy thereof, to some person on the premises, or, if there is no person on the premises who can be so served, by fixing the same on some conspicuous part of the premises.

(5.) A notice forwarded by post shall be deemed to have been given at the last moment of the day on which the same ought to be delivered at its destination in the ordinary course of post ; and in proving such service it shall be sufficient to prove that it was properly stamped and addressed and put into the post.

[Bill 1.]

A.D. 1899.

(6.) Where a notice under this Act is required to be given to a person whose name and address are unknown to the Local Authority, and there is no agent of such person in *Tasmania* known to the Local Authority, it may in lieu of service, be gazetted and advertised Three times, at intervals of not less than One week between any Two 5 publications.

(7.) Any notice by this Act required to be given to the owner or occupier of any premises may, if the name of the owner or occupier is not known to the Local Authority, be addressed to him by the description of the "owner" or "occupier" of the premises (naming 10 them), in respect of which the notice is given without further name or description.

Continued
operation of
notices and orders.
H.A., 161.

(8.) All notices required under this Act to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or 15 under such owner or occupier to the same extent as if such order or notice had been served on such last-mentioned persons respectively.

Division III.—*Proceedings to compel compliance with Notices.*

Proceedings may
be taken to
compel compli-
ance with Notices,
under Sects. 162,
218, &c.

598—(1.) The Local Authority, if Three days have elapsed since the giving of any notice specified in Sections *One hundred and sixty-two* and *Two hundred and eighteen*, or in any other Part of this Act 20 where a like notice is mentioned, without any attempt to comply therewith, or if the work ordered is not completed as speedily as the nature of the case will admit, may make complaint thereof before any Two Justices, who may order—

Owner or occupier
to secure or pull
down building,
&c.

i. The owner, or in his default the occupier, if any, of any 25 building, wall, or fixture mentioned in Section *Two hundred and eighteen* hereof, or the owner of any pipe, post, or apparatus mentioned in Section *One hundred and sixty-two* hereof, to take down, renew, rebuild, repair, or otherwise secure the same to the satisfaction of the Local 30 Authority ; or

Owner of fixtures.
See Sect. 162.

ii. The owner of any such pipe, post, or apparatus to comply with any of the requirements of Sub-section iii. of the said Section *One hundred and sixty-two* ; or

Fence in or fill
up excavations.

iii. As the case may be, the owner of any land whereon there is 35 any such excavation as mentioned in Section *Two hundred and eighteen*, to fill up or fence in the same, or, in order to prevent the same becoming the source of any nuisance or annoyance, to so deal with the excavation in such terms as the Justices may order, 40

General power
for Justices to
enforce Notices
under Act.
See *e.g.*, Sects.
407, 408.

iv. The owner or, if the Justices so order, the occupier, in respect of which any notice under this Act has been given to comply with the terms of the notice, or with such order as the Justices may consider expedient,

As Justices order.

within a time to be fixed by such Justices ; and in case the order 45 of the Justices is not fully complied with, or if no owner or occupier can be found on whom to serve such order, the Local Authority shall with all convenient speed cause—

On owner's
default Local
Authority may
do the work.

i. All or so much of such building, wall, or fixture as is in a ruinous condition, and dangerous to the public or to the 50 occupiers of neighbouring buildings or lands, to be taken down, rebuilt, renewed, repaired, or otherwise secured in such manner as in the opinion of the Local Authority is requisite ; or

ii. Any such excavation to be filled up, fenced in, or otherwise dealt with as in the order is mentioned ; or

iii. Any order of such Justices to be carried out.

(2.) All expenses incurred by a Local Authority in carrying out any of the provisions of this Section, or of Sections *One hundred and sixty-two* and *Two hundred and eighteen* of this Act, or in the removal of any materials, shall be repaid by the owner to the Local Authority, and the Local Authority may sell the materials of any structure that may be pulled down by them as aforesaid, and may pay any part of the proceeds thereof which shall exceed the said expenses and costs of sale to the owner ; but the Local Authority shall not be obliged to sell, and shall have the same remedies for recovering any balance remaining due after the application of such proceeds as are herein contained for compelling payment of the whole of the said expenses.

A.D. 1899.

And recover expenses.

Materials may be sold.

H.A., 123.

P.A., 218, 220.

Division IV.—*Owners and Occupiers and Proceedings where Nuisance occasioned by Two or more Persons.*

599—(1.) Whenever default is made by the owner of any premises in the execution of any work by this Act required to be executed by him, the occupier thereof may, with the approval of the Local Authority, cause such work to be executed. In such case, and in any case in which any occupier is compelled to do any work or pay any money which ought primarily to be done or paid by the owner, the expenses of such work or the money so paid shall be repaid to the occupier by the owner, and the occupier may deduct the amount out of the rent from time to time becoming due from him to such owner.

(2.) In any case in which any overdue expenses or Rate (for which the owner is liable as between himself and the tenant) have been demanded from a tenant, and he not then owing any rent, has given notice of such demand to the owner of the property, such tenant, in case his goods are distrained or seized and sold for the satisfaction of such expenses or Rate, shall be entitled to recover from such owner double the value of the goods so sold with costs as between solicitor and client.

Occupier may act in certain cases on default of owner. See Sects. 376, 474.

Compare H.A., 147, 120.

May recover from owner. P.A., 81 (6).

Tenants' recourse to owner when no rent due for overdue expenses or Rate. S.A., 88.

600—(1.) Where any nuisance appears to be wholly or partially caused by the acts or defaults of Two or more persons, the Board, Local Authority, or other complainant may institute proceedings against any One of such persons, or may include all or any Two or more of such persons in one proceeding ; and any one or more of such persons may be ordered to abate the nuisance so far as the same appears to the Court having cognisance of the case to be caused by any acts or defaults on his or their part, which, in the opinion of the Court, contribute to the nuisance, or may be fined or otherwise punished, notwithstanding that the acts or defaults of any one of such persons would not separately have caused a nuisance ; and the costs may be distributed as to the Court may appear fair and reasonable.

Proceedings in cases of nuisances caused by two or more persons.

Compare H.A., 16.

(2.) Proceedings against several persons included in one complaint shall not abate by reason of the death of any of the persons so included, but all such proceedings may be carried on as if the deceased person had not been originally so included.

(3.) Nothing in this Section shall prevent persons proceeded against from recovering contribution in any case in which they would otherwise be entitled to contribution by law.

A.D. 1899.

Division V.—*Misnomer, &c.*Misnomer, &c.,
not to prejudice.

601—(1.) No misnomer or inaccurate description or omission contained in this Act, or in any Proclamation, shall in anywise prevent or abridge the operation of this Act with respect to the subject of such description, provided the same is designated so as to be understood.

Not to affect
proceedings for
recovery of
Rates.
T.B.A., 68.

(2.) No misnomer, mistake, or informality committed in any proceedings for recovery of any Rates, costs, or expenses under this Act shall prejudice the recovery thereof, nor shall such proceedings lapse, cease, or abate by the death, resignation, or removal of the Collector or other officer instituting the same; but it shall be lawful for the succeeding Collector or officer to prosecute and follow forth procedure commenced and carried on in the name of any previous Collector or officer in all respects as if such procedure had been taken by himself.

As to Warrants
of Distress.

(3.) No action or proceeding shall be taken against the Local Authority, or any person executing any Warrant of Distress under this Act, by reason of any misnomer, mistake, or informality, if the goods or other effects seized or sold under such Warrant were *bonâ fide* the property or in the lawful possession of the person actually liable to pay under the provisions of this Act, the amount distrained for.

Proceedings not
to be quashed
for want of form.
38 & 39 Vict., c.
55, s. 255.
H.A., 166.

(4.) No Rate, order, conviction, or thing made or done under or in the execution of this Act shall be vacated, quashed, or set aside for want of form, or be removed by *certiorari*, or any other writ or process whatsoever, into the Supreme Court: Provided that nothing in this Section shall prevent the removal of any case stated for the opinion of the Supreme Court, or of any Rate, order, conviction, or thing to which such special case relates.

Defective election,
&c., not to
invalidate pro-
ceedings.
See Sects. 44, 80.
Compare
T.B.A., 37.
R.M.A., 69, 75.

(5.) No proceedings of the Local Authority or of any Committee thereof, or of any person acting as Chairman or member of the Local Authority or of a Committee, shall be invalidated by reason of any defect in the appointment or election or of any disqualification of any such person, or by reason of there being any vacancy in the number of members of the Local Authority or Committee at the time of such proceedings, nor shall any advantage be taken of any such invalidity in any action or suit which is brought by or against a Local Authority.

Division VI.—*Actions against the Local Authority and its Officers.*Where action
to be brought.

602—(1.) Every action under this Section shall be brought in the Court having jurisdiction to the amount claimed sitting nearest to the place where the cause of action occurred, and shall be tried without a jury.

Service of
proceedings.
T.B.A., 249.

(2.) Any summons, notice, writ, or other proceedings requiring to be served upon a Local Authority may be served by being given personally to the Chairman or clerk, or by posting the same in a registered letter addressed to the clerk.

Conditions on
which actions for
negligence may
be brought.
Q., 223.

(3.) No person shall be entitled to recover against a Local Authority any damages in respect of any injury to the person or to property alleged to have been sustained by himself or any other person by reason of the negligence of the Local Authority in respect of any local work vested in or under the control of the Local Authority, unless the following conditions are complied with by him or on his behalf; namely—

Notice.

- i. Notice in writing that injury has been sustained shall be given to the Local Authority within One month, and the action shall be commenced within Three months from the date on which the injury was sustained, or, in case of the death of

the person injured, within Six months from the date of A.D. 1899.
death :

- ii. In the case of injury to the person, the medical officer of the Local Authority shall, on the demand of the Local Authority, be permitted to examine the person injured, and all facilities and information shall be given to him necessary to enable him to fully ascertain the nature and extent of the injury : Examination of injured person,
- 5
- iii. In the case of injury to property, an officer of the Local Authority shall, on demand of the Local Authority, be permitted to inspect the property injured, and all facilities and information shall be given to him necessary to enable him to fully ascertain the value of the property injured, the nature and extent of the injury, and the amount of money (if any) expended in repairing the same. or injured property.
- 10
- (4.) Non-compliance with all or any of the conditions herein imposed shall be no bar to the maintenance of such an action for negligence if the Judge who tries the action is of opinion that there was reasonable excuse for such non-compliance. Judge may waive compliance.
- 15
- (5.) No person who caused or contributed to the injury by his own negligence shall be entitled to recover any damages against the Local Authority. Contributory negligence a bar.
- 20
- (6.) A notice in respect of an injury under this Section shall give the name and address of the person injured, or of the owner of the property injured, and shall state in ordinary language the cause of the injury, and the date and place at which it was sustained, and shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the Judge who tries the action is of opinion that the Local Authority is prejudiced in its defence by such defect or inaccuracy, and that the defect or inaccuracy was intentional and for the purpose of misleading. Contents of Notice.
- 25
- (7.) Every Local Authority may, for the purpose of this Section, from time to time appoint a medical officer or medical officers at such remuneration as the Local Authority thinks fit. Only substantial defects to affect validity of Notice.
- 30
- (8.) No person shall be entitled to recover against a Local Authority damages in respect of any injury to the person or to property alleged to have been sustained by himself or any other person by reason of the defective or dangerous state or condition of any road or portion of any road or land vested in or under the control of the Local Authority and contiguous to any road or portion of a road, which road or portion of road or land contiguous thereto has not been interfered with by the Local Authority, notwithstanding that some other road or portion of road or part of such land, whether distant laterally or longitudinally, has at any time been interfered with or improved by the Local Authority. Local Authority, when not answerable for nonfeasance.
- 35
- (9.) Provided that any portion of a road which has been formed by a Local Authority shall be so formed at the place where the accident occurred for a width of not less than Fifteen feet. Nothing in this Section shall relieve any Local Authority from any duty to take precautions for guarding against accident and preventing injury during the construction, alteration, or repair of works vested in or under the control of the Local Authority, or in respect of any place from which materials are or have been taken by the Local Authority. But Local Authority liable if formed road not formed 15 feet wide and if works left unprotected. Compare T.B.A., 262.
- 40
- (10.) An action shall not be brought against a Local Authority, or any member thereof, or any officer of a Local Authority, or person acting in his aid, for anything done or intended or omitted to be done under the provisions of this Act, until the expiration of One month after notice in writing has been served on such Local Authority, As to other actions against Local Authority, &c. Compare T.B.A., 261. R.M.A., 198. Q., 314.
- 55

A.D. 1899.

Necessity for
notice, time for
beginning action.

member, officer, or person, clearly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his solicitor or agent, nor unless it be commenced within Three months next after the accruing of the cause of action, and not afterwards.

On the trial the plaintiff shall not be permitted to go into evidence 5 of any cause of action which is not stated in the notice so served, and the defendant may plead the general issue and give this Act and the special matter in evidence, and unless such notice is proved, the defendant shall be entitled to a verdict.

Amends may be
tendered.

(11.) Any person to whom any such notice of action as is mentioned 10 in the preceding Sub-section is given may tender amends to the plaintiff, his solicitor, or agent, at any time within One month after service of the notice, and, in case the same is not accepted, may plead such tender, and though a verdict is given for plaintiff in any such action he shall not have costs against the defendant unless the Judge 15 before whom the case is tried certifies his approbation of the action.

Plaintiff not
entitled to costs
unless Judge
certifies.

Division VII.—*Sundry Provisions as to all Proceedings, &c.*

Summons for
Rates without fee.
T.B.A., 252.

603—(1.) No fee shall be payable on any summons issued to enforce payment of any Rates or in respect of the service thereof.

Proceedings in
bankruptcies, &c.
T.B.A., 253.

(2.) The Chairman or clerk may, in all bankruptcy proceedings in respect of any person against whom the Local Authority has any claim 20 or demand, represent the Local Authority, and act in its behalf in all respects as if the claim or demand were the claim or demand of such Chairman or clerk.

Local Authority
may direct
prosecutions, &c.

(3.) The Local Authority may order proceedings to be taken for the recovery of any penalties, and for the punishment of any person 25 offending against the provisions of this Act, and may order the expenses of the prosecution or other proceedings to be paid out of the Local Fund or Common Fund, as the case may be.

Offences against
Health Regu-
lations.

(4.) The Chairman of the Board may from time to time direct any prosecution or legal proceedings for or in respect of the wilful violation 30 or neglect of any Regulations or Orders made by the Board under the provisions of this Act or any of the Acts hereby repealed.

Appearance of
Local Authorities
in legal pro-
ceedings.

(5.) A Local Authority may appear before any Court, or in any legal proceedings, by its clerk, or by any officer or member authorised generally or in respect of any special proceedings by resolution of the 35 Local Authority; and the clerk, or any officer or member so authorised, may institute and carry on any proceeding which the Local Authority is authorised to institute and carry on under this Act.

Compare
T.B.A., 249, 254.
H.A., 165.
E.L.G., '94, Sch.
1, Part II. (16.)

(6.) The clerk or other officer or member so authorised shall be reimbursed out of the Local Fund or Common Fund all damages, costs, 40 charges, and expenses to which he may be put, or with which he may become chargeable by reason of anything contained in this Section.

Reimbursement
of officer.
T.B.A., 255.

(7.) A summons in respect of any perishable food or drug shall be served within Twenty-eight days after the purchase, shall state the name of the prosecutor and particulars of the offence, and shall not be 45 made returnable in less than Seven days from the date of service.

Perishable
articles, food or
drug.

Compare
H.A., 54.
42 and 43 Vict.
c. 30, s. 10.

604—(1.) Proceedings for a breach of any of the provisions of this Act contained in Part VIII., Title XIII, Divisions I. to VII., or in Sections *One hundred and seventy-three, One hundred and seventy-four, Two hundred and forty-one, Four hundred and eighty-six, and 50 Four hundred and ninety-seven*, or of any other provisions of this Act as to breach of which the Governor may by Proclamation direct the

Police to take
proceedings in
certain cases.
See also Sect. 247.

Police to take proceedings, or of any provisions of any By-law made under this Act relating to Recreation Grounds and pleasure resorts, or to traffic on roads and loads to be carried thereon by vehicles, shall be taken as heretofore in regard to provisions in "*The Police Act, 1865*," hereby repealed by constables or officers of Police under the direction of the Commissioner of Police, and

(2.) It shall be the duty of every constable who finds any person committing a breach of any of the provisions of this Act to demand from such person his name and place of abode, and to report the fact of such breach and the name and place of abode of such person, as soon as conveniently may be, to the Clerk.

Duty of police officers to report breaches of Act to Local Authority.

(3.) Any person who refuses to state his name and place of abode when required by a constable so to do, or who in his opinion states a false name or place of abode, may, without any other warrant than this Act, be apprehended by him and taken before a Justice of the Peace, there to be dealt with according to law.

(4.) Any person who refuses to state his name and place of abode, or states a false name or place of abode, shall be liable on conviction to a penalty not exceeding Five Pounds.

605—(1.) No elector discharging any judicial or civil functions whatever shall be disabled from acting therein by reason of his being a Member, or as one of several ratepayers, or as one of any other class of persons, liable, in common with others, to contribute to, or be benefited by, any Rate or Fund out of which any expenses incurred by such Local Authority are under this Act to be defrayed.

Judges, &c., may adjudicate although ratepayer. Compare R.M.A., 74.

(2.) Whenever in this Act a matter is directed to be heard before Two Justices, it shall be competent for more than Two Justices to be present and take part in the determination thereof.

More than Two Justices may act.

(3.) Matters which are directed to be brought before a Court of summary jurisdiction may, in the discretion of the Local Authority, be brought before a Court of higher jurisdiction, and in any such case such Court shall be understood as taking the place of the Justices mentioned in any Section under which the matter is being dealt with.

Court taking place of Justices. Compare H.A., 171.

606—(1.) The Judges of the Supreme Court may from time to time make, amend, or repeal such Rules as they see fit for regulating any proceedings under this Act in the said Court or in any other Court, and for prescribing any forms in reference thereto.

Judges may make rules. Tas., 375.

(2.) All such Rules shall be gazetted and be laid before both Houses of Parliament within Fourteen days thereafter, and if Parliament be not then sitting, then within Fourteen days after Parliament assembles for the despatch of business.

To be gazetted and laid before Parliament.

TITLE III.—RECOVERY OF OVERDUE RATES AND EXPENSES.

Div. I. General Powers for Recovery. (Sect. 607).

II. Powers to Lease and Sell Properties. (Sects. 608 and 609).

Division I.—*General Powers for Recovery of Overdue Rates and Expenses.*

607—(1.) All expenses are recoverable in the same manner in which rates are recoverable, and may be so recovered after Thirty days from service of notice to pay the same, and shall bear interest at the rate of Six per cent. per annum if not paid within Thirty days of such

Expenses recoverable as Rates, and to bear interest. T.B.A., 188.

A.D. 1899.

service or from the date (if any) stated in any agreement between the Local Authority and person liable as the date on which payment to be made.

Unpaid Rates and expenses charged upon property. T.B.A., 189. 52 Vict. No. 31, s. 37. 21 Vict. No. 35, sect. 21. P.A., 243. P.A., 81, sects. 6, 7, 8. H.A., 148.

(2.) Any unpaid expenses or rate is a charge upon the property in respect of which it is due, or in respect of which any action 5 under this Act has been taken by a Local Authority, in priority to all mortgages, charges, liens, and incumbrances whatsoever, and, notwithstanding such property may be sold and transferred, may be recovered at any time from the then owner thereof, whether he be the owner at the time it became payable or not, at the suit of the Local Authority 10 in an action in any Court of competent jurisdiction as for a debt due by him; and if the then owner be not the owner at the time such expenses or rate became payable, he shall be entitled to recover from the person who was the owner of the property when the same became payable the proportion thereof to which such person was liable as 15 money paid to his use.

Register of such charges to be kept. Sch. (35.).

(3.) The Local Authority shall cause to be entered in a Book or Register (in the form in Schedule (35.)), or as near thereto as the circumstances of the case will permit, particulars of any rates overdue more than Twelve months, or of any expenses which may be under 20 the provisions of this Act a charge upon any property within the Area; and such Register shall at all reasonable times be open to the inspection of any person.

Certificate of property being clear may be demanded.

(4.) The purchaser of any property may require the Local Authority to state what, if any, unpaid rates or expenses there may 25 be due in respect thereof or charged thereon, and may, in case there is none such so due or charged, upon payment of the sum of One Shilling, require from the Clerk of the Local Authority a Certificate under his hand to that effect, and thereupon such purchaser shall not be liable for any unpaid rates or expenses in respect of the same 30 property.

Expenses may be made payable by instalments.

(5.) The Local Authority may, by a gazetted order, declare any such expenses to be payable by annual instalments within a period not exceeding Twenty years, with interest at a rate not exceeding Five Pounds per centum per annum, until the whole amount is paid; and 35 any such instalments and interest, or any part thereof, may be recovered from the owner for the time being of such premises.

Liability of occupier. T.B.A., 187.

(6.) Any such expenses recoverable under this Act by a Local Authority from any owner of premises may be recovered from the occupier for the time being of such premises, and the owner shall 40 allow the occupier to deduct any moneys which he is compelled to pay under this Act out of the rent from time to time becoming due in respect of the premises, as if the same had been actually paid to such owner as part of the rent.

Limited to rent due and to accrue due.

(7.) Provided that no occupier shall be required to pay any further 45 sum than the amount of the rent for the time being due from him, or which became payable by him, after demand of such expenses from him, and after notice not to pay his landlord any rent without first deducting the amount of such expenses, unless such occupier refuses, on application to him by the Local Authority, truly to disclose the 50 amount of his rent and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded from any occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall lie on the occupier.

(8.) Provided also, that nothing herein contained shall affect any contract between any owner or occupier of any premises whereby it is agreed that the occupier shall pay or discharge all Rates, dues, and sums of money payable in respect thereof, or to affect any express contract between landlord and tenant, inconsistent with the provisions of this Section.

A.D. 1899.

Not to interfere with contracts.

(9.) In all summary proceedings by a Local Authority for the recovery of expenses, the time within which such proceedings may be taken shall be reckoned from the date of the service of notice of demand.

Date from which proceedings may be taken.

(10.) A judgment or order for the payment of any Rates or expenses due may be given by any Court against an owner whose name is not known to the Local Authority, under the designation of "the owner" of the property in question without stating his name, on proof by the Chairman or Clerk that the name of such owner is unknown to the Local Authority, and that service of the complaint or summons was made in manner herein provided.

Judgment where name of owner unknown.

(11.) In all proceedings for the recovery of Rates and expenses which under this Act are collectable either for itself or for any included Local Authority by a Shire Council, the amount thereof and of any interest thereon shall be deemed, for the purposes of such proceedings, to belong to the said Shire Council.

Shire Council, power to proceed for recovery of sums collectable by it.

Division II.—*Powers to Lease and Sell Property.*

608 (1.) When in respect of any property any rates accrued thereon or any expenses incurred in respect thereof under this Act, or any of the Acts hereby repealed, have been unpaid for Four years or longer, the Local Authority may, subject to the conditions hereinafter prescribed, and notwithstanding anything to the contrary contained in *The Real Property Act*, and notwithstanding any change that may have taken place in the meantime in the ownership thereof—

Power to take possession of and lease land on which arrears of Rates are due. Compare. P.A., 81 (8). T.B.A., 75-81. Tas. 342-348. H.A., 150-156. 28 Vict. No. 16.

- 30 i. Take possession of such property ;
 ii. Hold the same as against any person interested therein ; and
 iii. From time to time grant leases of the same.

(2.) The Local Authority shall not take possession of any such property until the expiration of Three months after a notice has been given to every person in *Tasmania* who is entitled to—

Notice to be given before taking possession.

- i. An estate of freehold in possession in the property ; or
 ii. The possession of the property under any lease.

(3.) The notice shall be in the form or to the effect of the Schedule (36.). It shall contain a sufficient description of the property to identify it, and shall set forth and state—

Schedule (36.).

- 40 i. That Rates (or expenses, as the case may be), and interest are unpaid in respect of such property to the amount specified in the notice :

- 45 ii. That payment thereof is thereby demanded ; and
 iii. That in default of payment the Local Authority will take possession of the property under the provisions of this Act.

(4.) A notice in the form or to the effect of the Schedule (37.) shall also be affixed upon some conspicuous part of the property.

Schedule (37.).

(5.) But any lease granted by the Local Authority otherwise in accordance with the provisions of this Act shall be valid, notwithstanding the non-compliance with any of the provisions of this Section, unless all arrears of Rates and all expenses due in respect of the

Any lease to be valid if Rates, &c., are in arrear.

[Bill 1.]

A.D. 1899.

property, together with interest thereon as herein provided, and all expenses of and incidental to the giving of any notice and the execution of the lease, are paid and a release is demanded from the Local Authority within Twelve months after the taking possession thereof by the Local Authority.

Notice to be
affixed on taking
possession.
Schedule (38.)

(6.) On taking possession of any property as aforesaid the Local Authority shall cause to be affixed upon some conspicuous part thereof a notice, in the form or to the effect of the Schedule (38.), that the Local Authority has taken possession of the property under the provisions of this Act, and that it is to be let on lease.

Terms of lease.

(7.) Every such lease shall—

- i. Be for such term, not exceeding Twenty-one years, as to the Local Authority seems fit :
- ii. Reserve the best rent which can be reasonably obtained for the property ; and
- iii. Contain such other reservations and such exceptions, covenants, and conditions as to the Local Authority seems fit.

To be registered.

(8.) The Recorder of Titles, upon the production to him of any such lease of land which is subject to the provisions of *The Real Property Act*, and upon proof of compliance with the provisions of Sub-sections *Two*, *Three*, *Four*, and *Five* of this Section, shall register the same, and for that purpose shall, if necessary, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or not produced.

Release of pro-
perty after
demand and pay-
ment of arrears.

(9.) Upon demand made by any person who but for the provisions of this Act would be entitled to the possession of any such property, such demand being made within Twenty-one years after the taking possession thereof by the Local Authority, and upon payment of all Rates and expenses due in respect thereof, and interest as aforesaid, the Local Authority shall, within Three months, execute under its seal a release of such land from all such rates and expenses.

(10.) If the Local Authority makes default in executing such release, the Supreme Court may, at the suit of any person interested in that behalf, order it to execute the same.

(11.) Upon the execution of the release such person shall, subject to any lease theretofore lawfully granted by the Local Authority under the provisions of this Act, be entitled to the property and the possession thereof as he would have been so entitled if this Act had not been passed ; and the tenant thereof under any such lease shall attorn to such person accordingly.

Appropriation of
rents received by
Local Authority.

(12.) All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of Twenty-one years from the taking possession thereof by the Local Authority, whichever first happens, be received by the Local Authority, and shall be applicable—

To defray
expenses.

- i. In defraying the expenses of and incidental to the giving of the notices hereinbefore mentioned, and the execution of the lease, and the collection of the rents ;

To pay arrears
of Rates,
Expenses, and
Interest.
See Sects. 555 &

- ii. In payment to the Local Authority of all arrears of Rates, expenses, and other payments due in respect of such property, together with interest on all such arrears as herein provided, and in payment of all Rates, expenses, and other payments accruing due thereon.

Residue.

(13.) The residue of any such moneys shall belong to such person as would, when the same respectively were received, have been

entitled to receive the rents and profits of the property if this Act had not been passed. A.D. 1899.

(14.) Unless within Twenty-one years after possession is taken under the foregoing provisions of this Act some person entitled in that behalf performs the conditions entitling him to demand a release of the property, it and all accumulations of rent and other moneys recovered on account thereof shall vest absolutely in the Local Authority. After twenty-one years land to vest in Local Authority.

(15.) The Recorder of Titles and the Registrar of Deeds shall permit the clerk or other authorised officer of the Local Authority, free of charge, to make searches and to make copies of or extracts from any documents registered in their respective offices relating to property within the Area. This Section shall take effect from the passing of this Act. Free search at Real Property and Registrar of Deeds Offices.

Power of Sale.

609—(1.) When in respect of any property any Rates or expenses accrued thereon under this Act, or any of the Acts hereby repealed, or any of the Acts thereby repealed, have been unpaid for Five years or longer, the Local Authority, instead of letting such property, may apply by petition to the Supreme Court or a Judge thereof for a sale thereof, portion thereof, or of such as may be necessary to produce the amount due and accruing due to the Local Authority. Provisions for sale of property for unpaid Rates, &c. Compare 52 Vict. No. 3. Sects. 38-41. Q., 393.

(2.) One month at least before presenting such petition the Local Authority shall cause to be gazetted and advertised thrice a notice in the form in the Schedule (39.). Notice to be published. Schedule (39.).

(3.) The Court or Judge, on being satisfied by the affidavit of the clerk or otherwise, that the amount claimed to be due to the Local Authority is so due in respect of such property, that the other provisions of this Section have been complied with, and that such further notice (if any) as the Court or Judge upon hearing a petition may consider necessary, has been given to the owner of the property, shall order the sale of the same or of so much thereof as shall be sufficient to pay the claim of the Local Authority up to the time of the sale, together with all costs of and attending the application, and of and attending the sale, and that the proceeds be paid into Court. Court to direct sale. But may first order further notice to owner.

(4.) A conveyance or transfer, as the case may be, of the property, shall be executed to the purchaser in such form and by such officer of the Court as the Court or a Judge may approve and direct. The purchaser shall take an estate in fee simple free from incumbrances, and where the land is subject to *The Real Property Act* he shall be entitled to a Certificate of Title therefor. Conveyance to the purchaser.

(5.) The Court or a Judge shall order payment of the claim of the Local Authority to be first made out of the proceeds of the sale, together with interest as hereinbefore provided, and also all Rates and expenses accruing at the date of the sale, and the balance shall be subject to any orders of the Court for the benefit of the parties interested therein. Application of proceeds of sale. See Sec. 555.

TITLE IV.—POWERS TO BE EXERCISED ON INQUIRIES AND INSPECTIONS. POWER OF HEALTH INSPECTOR TO TAKE PROCEEDINGS, &c.

610—(1.) Where, under any of the provisions of this Act, the Governor, or the Minister, or the Board shall direct an inquiry to be made, the Board or any Member thereof, or the officer or person directed to hold an inquiry shall, for the purposes of such inquiry, and the Commission hereinafter mentioned shall for all its purposes have Powers of persons directed to hold inquiries, also of the Commission. Compare V.H.A., Sect. 14. E.G., see Sec. 222 and 366.

A.D. 1899.

19 Vict. No. 8.

False evidence
punishable as
perjury.
H.A., 167.

Health inspection.
Powers of the
Board and Local
Authority.
Compare.
H.A., 145, and
38 & 39 Vict.
c. 55, Sects. 102,
103.
Q., 269, 546.
See Sect. 421.

General Powers
of entry by
officers of Local
Authority.

Powers to con-
tinue entries until
nuisance abated
or work done, &c.
See Sch. (14.) F.

Inspectors of
pests.

Health In-
spector's duty to
enforce Health
provisions.
H.A., 28.
Expenses of
inspections.

free access to all books, plans, maps, documents, and other things belonging to any Local Authority or any contractor and used in the performance or execution of the provisions of this Act, or of any local work or intended local work, and shall have in relation to witnesses and their examination and the production of documents similar powers to those 5 vested in Justices by *The Magistrates Summary Procedure Act*, with power to compel the production of documents, and may enter and inspect any premises the entry or inspection whereof appears to them or him requisite for the purposes of such inquiry.

(2.) Any person who on any examination on oath under any of the 10 provisions of this Act wilfully and corruptly gives false evidence, shall be liable to the penalties inflicted for wilful and corrupt perjury.

611—(1.) The Board or the Local Authority may for the purposes of this Act—

- i. By itself or its officers and with such assistance as may be 15 necessary :
- ii. From time to time at all reasonable times in the daytime, or wherein in Part IX. of this Act so provided in the night-time, or in case of a nuisance or cause of inquiry or complaint arising in respect of any business, then at any hour 20 when such business is in progress or is usually carried on, enter and inspect any premises, ship, or vessel whatsoever under the jurisdiction of the Local Authority in order to ascertain—
- iii. If any person has recently died there of any infectious disease, or if there be any nuisance existing therein or thereupon ; 25 or
- iv. If there is ground for believing that necessity exists in relation to the execution of any of the provisions of Part IX. of this Act ; or
- v. For the purpose of superintending the execution of any 30 prescribed Regulation or Order of the Board.

(2.) And the Local Authority may also, by itself or its officers, enter at all reasonable hours in the daytime into and upon any premises within the Area for the purpose of executing any work or making any inspection authorised to be executed or made by it under this Act. 35

(3.) The officers and assistants of the Local Authority and Board may also, when any work has been ordered to be done, or when a nuisance has been ascertained to exist, or an order of abatement or prohibition has been made, or when such order has not been obeyed, enter the premises, ship, or vessel from time to time at all reasonable 40 hours, or at all hours during which business is in progress or is usually carried on until the works ordered to be done are completed, or until the nuisance is abated, or in order to abate the same, as the case may be, and may obtain a Justice's order for admission for any of the afore-said purposes. 45

(4.) Every Inspector of Pests and every person authorised in writing by the Minister or the Local Authority may, without notice, and with or without assistants, enter at all reasonable times upon any land for the purpose of enforcing the provisions of this Act relating to the destruction of pests and noxious weeds and plants. 50

(5.) Every officer of a Local Authority appointed or acting as a Health Inspector shall and is hereby empowered, without any express order or direction by the Local Authority, to take proceedings against any person offending against any Health By-law in force in the Area.

(6.) When by any of the provisions of this Act a Local Authority, 55 or any officer or servant of a Local Authority, is authorised to inspect

any premises, the expenses of any excavation, examination of sanitary appliances or of pipes or other apparatus, or of any part of the said premises in cases where the inspection is undertaken because of some default of some person, or of some offence committed by him against this Act, shall be paid by such person, unless as the result of such inspection the alleged default or offence is found to be non-existent, when the expenses shall be borne by the Local Authority, who shall also make good any damage done during or as the result of such inspection.

A.D. 1899.

TITLE V.—OFFENCES, PENALTIES.

Div. I. Misdemeanours by Members and Officers and others. (Sect. 612.)

II. Malicious Injuries to Property of Local Authorities. (Sect. 613.)

III. Sundry Offences against this Act. (Sect. 614.)

IV. Penalties and Recovery thereof. (Sect. 615.)

Div. I.—*Misdemeanours, &c., by Members and Officers and others.*

10 **612**—(1.) Every person who by himself or in conjunction with any other person—

Corrupt practices by members and officers and others. Compare 52 and 53 Vict., c. 69.

I. Corruptly solicits or receives or agrees to receive for himself or for any other person, any gift, loan, fee, reward, or advantage whatever; or

15 II. Corruptly gives, promises, or offers any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person,

as an inducement to or reward for, or otherwise, on account of any member, officer, or servant of a Local Authority doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said Local Authority is concerned; and

20 (2.) Every person who knowingly and wilfully breaks the seal of or opens any such sealed parcel as is mentioned in Part IV. of this Act, unless he is by some competent tribunal required so to do or to produce some portion of the contents of such parcel; and

Breaking seal of or opening parcel. Compare Q., 549.

25 (3.) Any member or officer who wilfully misapplies any money forming part of the Local Fund or Common Fund or of any other Fund under the control of the Local Authority, or who wilfully or by culpable negligence connives at or concurs in the misapplication of any such money; and

Misapplying Funds. *Ib.*, 550.

30 (4.) Every person wilfully making any false statement in any declaration required to be made by this Act, or having made any such declaration wilfully does any act in contravention of or contrary to the true intent and meaning thereof (where no other punishment is specially provided);

False Declarations. S.A., 606 (5.). R.M.A., 94.

35 (5.) Is guilty of a misdemeanour, and upon conviction is liable at the discretion of the Court before whom he is convicted—

Punishments. See Sects. 29, 42, 52, 168.

I. For any of the said offences to be imprisoned for any period not exceeding Two years, with or without hard labour; and

40 II. In case he is convicted of any of the offences mentioned in the First and Third Sub-sections of this Section, to a fine not exceeding Five hundred Pounds, or to both such imprisonment and such fine; and

45 III. In addition be liable to be ordered to pay to such Local Authority, and in such manner as the Court directs, the amount or value of any gift, loan, fee, or reward received by him, or any part thereof; and

A.D. 1899.

iv. Be liable to be adjudged incapable of being elected as member or appointed as an officer of a Local Authority for Seven years from the date of his conviction, and to forfeit any such position as member or officer held by him at the time of his conviction.

Forging or uttering documents, &c.
Ballot-papers.

Compare
R.M.A., 95.
S.A., 210.

Restrictions.
See 52 and 53
Vict., c. 69.

Choice of remedies.
Id.

Invalidity of Election, &c., not to exempt from prosecution.

Interpretations of "Person" and "advantage."
52 and 53 Vict., c. 69.

Declarations to be sent to the Minister.
R.M.A., 93.

(6.) Every person who shall forge, or alter, or shall utter, use, dispose of, or put off, knowing the same to be forged or altered, any ballot-paper, document, or writing required or authorised by this Act, or any signature thereto or seal thereon, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding Four years, with hard labour.

(7.) The expenses of any prosecution under this Section shall be defrayed in like manner as in a case of felony, but the consent of the Attorney-General is necessary before any prosecution can be instituted.

(8.) If offence be punishable under any other enactment or at Common Law such offence may be prosecuted and punished either under this Act or under the other enactment, or at Common Law, but so that no person shall be punished twice for the same offence.

(9.) No person is to be exempt from punishment under this Act by reason of the invalidity of his election or appointment.

(10.) In this Section the expression "person" includes a body of persons corporate or incorporate; and the expression "advantage" includes any office or dignity and any forbearance to demand any money or money's worth or valuable thing, and includes any aid, vote, consent, or influence, or pretended aid, vote, consent, or influence: also any promise or procurement of, or agreement or endeavour to procure, or the holding out of any expectation of, any gift, loan, fee, reward, or advantage as before defined.

(11.) All Declarations required to be made under this Act (except Electors' Declarations at elections) shall be transmitted immediately by the person before whom the same are made to the Minister.

Division II.—*Malicious Injuries.*

Malicious injuries to property of a Local Authority.
27 Vict. No. 7.
Sects. 51, 52.
62 Vict. No. 66.
Sects. 123, 124.

613—(1.) The provisions of "An Act to consolidate and amend the Legislative Enactments relating to Malicious Injuries to Property" apply to such injuries to the property of a Local Authority.

(2.) And every person who wilfully and maliciously—

i. Damages or destroys any waterworks or any article mentioned in Section *Two hundred and fifty* of this Act, or any other work, article, or thing the property of a Local Authority; or

ii. Does any act calculated to render the water in any waterworks, or supplying the same, unwholesome; or

iii. Does any act calculated to cause a waste of gas, or of electricity, or hydraulic or other power; or

iv. Does any act calculated to cause the entrance into any building of any noxious vapour from a sewer or otherwise: shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding Three years.

(3.) Any person found committing any offence mentioned in the last preceding Sub-section may be immediately apprehended by any constable, or any person who sees such offence committed, and forthwith taken before a Justice of the Peace to be dealt with according to law.

Offender may be immediately apprehended by any person witnessing offence.

Division III.—*Sundry offences against Act.*

A.D. 1899.

- 614**—(1.) Save as herein otherwise provided, any person who wilfully obstructs a Local Authority, or any person employed by it or authorised under this Act, or any person appointed by the Governor, or the Board, or the Minister, in the performance of anything which it or he is respectively empowered or required to do by this Act, is liable to a penalty not exceeding Twenty Pounds.
- (2.) If the occupier of any premises prevents the owner thereof from obeying any notice or order made under this Act, or from carrying into effect any provisions of this Act, any Justice to whom application is made in that behalf shall, by order in writing, require such occupier to permit the execution of any works required to be executed, provided that the same appear to the Justice to be necessary for the purposes of this Act; and if within forty-eight hours after the making of the Order such occupier fails to comply therewith, he shall be liable to a penalty not exceeding Five Pounds for every day during the continuance of such non-compliance.
- (3.) Every such owner, during the continuance of such refusal, is discharged from any penalties to which he might otherwise have become liable by reason of his default in carrying into effect any provisions of this Act.
- (4.) The occupier of any premises, who when requested by or on behalf of the Local Authority to state the name of the owner of the premises occupied by him, refuses or wilfully omits to disclose, or wilfully misstates the name, (unless he shows cause for his refusal) is liable to a penalty not exceeding Five Pounds.
- (5.) Every person who wilfully publishes in the *Gazette* any false petition, notice, or other document in any matter in which a petition, notice, or other document is by this Act required or authorised to be published in the *Gazette*, or wilfully posts any false notice in any matter of which public notice or any notice is by this Act required to be given, or tears down, mutilates, defaces, or obliterates any notice or other document posted in any place within the Area under the authority of this Act, is liable to a penalty of not less than One Pound nor more than Ten Pounds.
- (6.) In any indictment or other prosecution for an offence in relation to the ballot boxes or the voting papers at an election or poll of ratepayers, the property in such boxes and voting papers may be stated to be in the Returning Officer.
- (7.) If any master or person in charge of any ship shall not, on being thereto required by the proper officer of the Local Authority, remove his ship from any wharf or jetty, or from one part to another part thereof, or if any such master or person, or the owner of any ship, shall cause or suffer such wharf or jetty to be damaged by contact of such ship therewith or otherwise, every such master, owner, or person shall forfeit a sum not exceeding Ten Pounds, and such further sum by way of compensation to the Local Authority for any such damage as the convicting Justices shall, on the hearing, order.
- (8.) Any person representing himself to be an inspector or other officer of a Local Authority, not having any authority so to do, or acting under an authority after he has ceased to hold such office, is liable to a penalty not exceeding Fifty Pounds.

Obstructing execution of Act.

Compare

R.M.A., 192.

H.A., 146.

T.B.A., 263.

See Sect. 5 for "This Act."

Occupier preventing Owner from complying with Act.

Owner not liable to penalty when so prevented.

Occupier refusing name of landlord.

False advertisement in *Gazette*, false notice, defacing notice. S.A., 211.

Property may be stated as being in the Returning Officer.

Offences by masters, &c., of ships. T.B.A., 134.

Inspector acting without warrant.

A.D. 1899.

Division IV.—*Penalties and Recovery thereof.*

Penalty for non-performance of provisions of this Act.

Compare
Tas., 385, 418.
H.A., 172.
R.A., 130.
R.M.A., 191.

615—(1.) When any matter or thing is by this Act, or by any order or notice served upon any person, or made and published under the authority hereof, directed or forbidden to be done, or where any authority is given by this Act to any person to direct any matter or thing to be done, or to forbid any matter or thing to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, or any Chairman or Member wilfully neglects to perform any duty which by this Act he is appointed or enjoined to perform, or in any manner infringes any of its provisions, in every such case every person offending against such direction or prohibition, or so neglecting or infringing the provisions of this Act, shall be deemed guilty of an offence against this Act.

General Penalty.
Sect. 5 this Act.

(2.) Every person guilty of an offence against this Act is for every such offence liable, if no other penalty is imposed, to a penalty not exceeding Twenty Pounds.

Restriction on recovery of penalties.

(3.) Proceedings for the recovery of any penalty under this Act shall not, except as in this Act is expressly provided, be had or taken unless an information be laid or complaint made within Three months after the offence was committed, nor shall any proceedings be taken by any person other than by a party aggrieved, or by the Local Authority of the Area in which the offence is committed, or an officer of such Local Authority, without the consent in writing of the Attorney-General.

How penalties recovered.

R.M.A., 193.

Saving of civil remedy.

P.A., 238.

(4.) Any penalty or other moneys payable in respect of any offence against this Act may be recovered by complaint before any Two Justices.

(5.) The institution of criminal proceedings against, or the conviction of a person for any offence against this Act shall not affect any remedy which any other person aggrieved may be entitled to in any civil proceeding.

Persons not to be imprisoned for more than Three months.

R.M.A., 194.

(6.) No person shall, unless otherwise expressly provided, be imprisoned for non-payment of any penalty under this Act, or for want of sufficient distress, for a longer period than Three months, to be computed from the day, if such offender has been arrested, on which he was actually arrested.

One conviction only for same offence.

R.M.A., 195.

(7.) No person convicted under this Act shall be liable to be convicted under any other Act for the same offence.

Accessories to offence liable as principals.
59 Vict. No. 55, s. 45.

(8.) Where the doing of any act or thing is made punishable by this Act with any penalty, the causing, procuring, permitting, or suffering such act or thing to be done, is punishable in like manner.

Appeal from penalties.

R.M.A., 197.

19 Vict. No. 10.

(9.) Any person aggrieved by any penalty imposed under the authority of this Act may, unless it is otherwise expressly provided, appeal against the same in the manner prescribed by *The Appeals Regulation Act*.

PART XVII.

BRINGING ACT INTO OPERATION.

Confirming and Saving Clauses. (Sects. 616–620.)

Commission to define Shires and other Areas not scheduled.

Compare
N.Z., 114. (7. 8.)
Sch. 40.

616—(1.) For the purpose of defining the Areas to be constituted Shires under this Act, and for the purpose of defining or re-defining any Town, Rural District, or Urban District not included in the Schedules to this Act, there shall be a Commission to be constituted

and regulated and to have the powers and perform the duties as provided and set forth in the Schedule (40.). A.D. 1899.

(2.) The Governor may, by Proclamation, constitute—

- 5 i. Any Area so defined as a Shire by the Commission, a Shire under this Act, with the name and boundaries to be set forth in such Proclamation :
- ii. Any Area so defined as a Town by the Commission, a Town under this Act, with the name and boundaries, to be set forth in such Proclamation :
- 10 iii. Any Area so defined as a Rural District by the Commission, a Rural District under this Act, with the name and boundaries, to be set forth in such Proclamation :
- iv. Any Area so defined as an Urban District by the Commission, an Urban District, under this Act, with the name and boundaries, to be set forth in such Proclamation :
- 15 and may, for better effectuating any of the aforesaid purposes, exercise any of the powers vested in the Governor under any of the Parts of this Act.

Defined Shires may be proclaimed.

As to Subdivisions, see Sect. 13 (i.), &c.

Defined Towns. may be proclaimed.

Defined Rural Districts may be proclaimed.

Defined Urban Districts may be proclaimed.

Governor may, for those purposes, exercise powers, &c.

617—(1.) The powers conferred by this Act to make appointments, make or issue any Proclamation, Orders, Rules, Regulations, or other instruments, give notices, prescribe forms, or do any other thing for the purposes of this Act, may, unless the contrary intention appears, be exercised at any time after the passing of this Act, so far as may be necessary or expedient for the purpose of bringing any provision hereof into operation at the date fixed for the coming into operation thereof ; but no such instrument shall, unless the contrary intention appears herein, or the contrary is necessary for bringing such provisions into operation, come into operation until such provision does.

Preliminary steps may be taken before commencement of Act.

(2.) The Governor may, by Proclamation issued at any time after the passing of this Act, exclude, for any period not exceeding Six months beyond the First day of next, any part of *Tasmania* from the operation of the whole or any portion of this Act.

Governor's powers to delay operation of Act in portions of the Colony.

(3.) Any laws to which such excluded Area is subject at the commencement of this Act shall, notwithstanding any repeal thereof herein contained, be continued, so far as respects the excluded Area, until the date fixed by any such Proclamation, but not beyond the Thirty-first day of , One thousand nine hundred.

(4.) The Governor may provide for the effectually bringing of this Act into operation; and for the first making or collection of rates, either generally, or in certain classes of cases, or in any particular case; and for such purpose may, amongst other things,—

Powers of Governor for bringing Act into operation, see as to 1st Elections, &c., Sects. 13, 22, 44, &c.

- i. Make temporary appointments of any officers and other persons ;
- 45 ii. Fix dates, places, and times on, at, or within which any nomination, election, poll, meeting, or other matter or thing shall or may be made, held, or done ;
- iii. Direct the preparation and completion of any Electors' Lists, or rolls, rate-books, maps, and other documents, and retain in force any such documents for any time ; and
- 50 iv. Remove any difficulties standing in the way of bringing this Act into operation.

(5.) The Governor may make regulations for the more effectually and particularly carrying out this Part of this Act. Regulations.

(6.) All expenses of and incidental to the creation of any new Area under this Act and the First Election of Members of the Local R.M.A., 97.

[Bill 1.]

A.D. 1899.

Authority, or of any election held by order of the Governor, shall be certified under the hand of the Returning Officer, and shall be paid, in the first instance, out of the Consolidated Revenue Fund by Warrant under the hand of the Governor, directed to the Treasurer, who shall be repaid out of the Local Fund of the Local Authority within Six 5 months after the election.

Saving of powers of Minister of Lands and Works.

Compare R.A., 52.

Minister may exercise all powers of Act as to roads.

And also of certain other Acts in reference to *Sorell* and *Bridgewater* Causeways and *Cataract* Bridge. R.A., 145.

618—(1.) Nothing in this Act shall be held to prevent the exercise by the Minister of Lands and Works for the time being as Commissioner of Main Roads or otherwise in the exercise of any powers now or at any time hereafter conferred upon him by law for the construction 10 or repair of any road, and in so doing he may exercise all the powers, duties, and functions conferred upon Local Authorities by this Act in respect to roads.

(2.) And in particular the Minister may exercise the same and all powers and authorities which by any other Acts are given to or vested 15 in any Trustees or Commissioners named in such Acts with regard to—

I. The Bridge and Causeway across the River *Derwent*, at *Bridgewater*;

II. The *Sorell* Causeway and Bridge; and

III. The Bridge over the *South Esk*, near *Launceston*;

20

save the power to make rates and borrow money, and the provisions of the said Acts shall not be deemed to be repealed except in so far as they are repugnant to the provisions of this Act, and save as aforesaid this Act and the said several Acts, shall be read together as one Act. The powers conferred upon the Governor by any of the said Acts shall 25 be exercisable by the Governor in Council.

Expenditure of votes may be entrusted to Local Authority.

(3.) The Governor may from time to time cause to be placed to the credit of the Local Authority any sum of money appropriated by Parliament for any specific object within the Area, and not otherwise forming a part of the ordinary revenue of the Local Authority, which, 30 in the opinion of the Governor, may with advantage be expended by the Local Authority:

Provided that in every such case a separate detailed account of the expenditure incurred by the Local Authority upon such specific object shall, from time to time and whenever required, be furnished to the 35 Minister by the Local Authority, and shall be laid before Parliament.

Governor may appoint Inspectors. R.A., 22.

(4.) The Governor may appoint One or more persons (hereinafter called "Inspectors") possessing competent knowledge, skill, and experience to inspect or supervise local works, subject to the provisions of this Act.

40

Inspector of Works.

(5.) The Minister may order an Inspector to examine any local work and report thereon to the Minister, or order such work to be carried out under the supervision of an Inspector, subject to the provisions hereinafter contained with respect to works carried out by means of money raised by loan, so far as such provisions are applicable 45 to such work.

Regulations as to

(6.) The Governor may from time to time make, alter, and rescind Regulations prescribing—

expenditure of votes. R.A., 16, 119.

I. The times, form, and manner at which and in which, and the restrictions under which such moneys shall be applied 50 for, received, deposited, and expended, and accounts thereof rendered:

Estimates and statements. R.A., 12.

II. The times and methods in which a Local Authority, when so requested by the Minister, shall furnish him with state-

ments as to local works within its Area, and the particulars to be contained in such statements: A.D. 1899.

III. The mode in which Local Authorities of Areas shall undertake any such action and construct and maintain any such local works as are mentioned in Part XI., Title II., of this Act: Joint undertakings.
R.A., 119.

5

IV. The duties of Inspectors appointed under this Section: Duties of Inspectors.

Disputes between Local Authorities.

619 In any case not herein otherwise provided for of a dispute between Local Authorities the Governor may, upon the request of one of the parties, and after hearing the Local Authorities concerned, or giving such opportunity as he considers just for all the parties to be heard before him or before such Officers or other persons as he for that purpose, by gazetted notification, appoints, decide the matter in dispute, and determine the same by Proclamation stating his decision. Disputes between Local Authorities.
Compare O.M.A.

620 Notwithstanding anything herein contained, the provisions of "An Act to make special provision in certain particulars for the Great Lake Road District" shall apply to all roads heretofore made or laid out by the Trustees of that District, and shall continue applicable thereto, notwithstanding any change in the Authority controlling such roads. Provisions of Act relating to *Great Lake Road District* continued.
24 Vict. No. 8.
R.A., 156.

A.D. 1899.

See Sect. 595
(12-14).

SCHEDULE.

(1.)

Sect. 29.

DECLARATION OF CHAIRMAN, MEMBER, &c.

I, *A.B.*, having been elected Chairman [*or Member, as the case may be*] of the Council of the Shire [*or Town or Rural District, as the case may be*] of _____, do solemnly declare that I will faithfully and impartially, according to the best of my skill and judgment, execute all the powers and authorities reposed in me as the holder of such office by virtue of "The Local Government Act, 1900," and that I have not fraudulently or collusively obtained the said office to which I have been elected.

(Signed) *A.B.*

Taken before me at _____ in Tasmania,
the _____ day of _____ 19____

(2.)

Sect. 40.

CERTIFICATE OF VALUE OF PROPERTY.

R.M.A., Sch. (4.). WE hereby certify that we are acquainted with the property situate at _____, of which _____ is the [owner *or* occupier, *as the case may be*], and assessed in the Assessment Roll for the _____ of _____ at the annual value of _____ Pounds; and that _____ Pounds is in our judgment the annual value of that portion of the said property which is situate within the boundaries of the _____ of _____

(3.)

Sect. 41, 69.

ELECTORS' List for the Town [*or City or Shire*] of _____ [*or for the*
Ward (*or* Subdivision) of the Town (*or City or Shire*) of _____] made
in the year 19____

No.	Surname of person supposed to be entitled to vote.	Christian names of same person.	Trade or occupation.	Description and situation of property giving title to vote.	Whether as owner or occupier.	Value at which property is assessed.	Number of votes.

(Signed)

A.B.,

Clerk.

NOTE.—Names to be numbered consecutively in alphabetical order.

(4.)

Sect. 42 (1.).

I, *A.B.*, of [*address and occupation*], hereby solemnly and sincerely declare, as follows :—

1. My name was enrolled as an Elector for the Shire [*or Town, as the case may be*], of _____ to vote at the Polling-place in _____ Ward [*or Subdivision*], and it appeared in the copy of the Electors' List for the said Shire [*or Town, &c.*] dated _____ 19____

2. My name was omitted from the said Electors' List on or about _____ 19____, through inadvertence, and is not (to the best of my knowledge) now on the Electors' List.

3. I am now resident at _____ in _____ Shire [or Town, as the case may be], and desire to be enrolled as an Elector of the said Shire [or Town, &c.], and to vote at the Polling-place at (_____).

And I make this solemn declaration conscientiously believing the same to be true.

A.B.

Signed and declared by the above-named A.B., at
this _____ day of _____ 19 ____
Before me,
C.D.,
Justice of the Peace.

(5.)

I, A.B., of [address and occupation] hereby solemnly and sincerely declare, as Sect. 42 (11). follows:—

1. My name is not (to the best of my knowledge) on the Electors' List for the Shire [or Town, as the case may be] of _____

2. I am now living at _____, within the said Shire [or Town, &c.], and have paid Rates to the amount of £ _____ since I became a resident, and I desire to be enrolled as an Elector of the said Shire [or Town, &c.], and to vote at the Polling-place at (_____).

And I make this solemn declaration conscientiously believing the same to be true.

A.B.

Signed and declared by the above-named A.B., at
this _____ day of _____ 19 ____
Before me,
C.D.,
Justice of the Peace.

(6.)

RETURNING OFFICER'S AND DEPUTY RETURNING OFFICER'S DECLARATION.

I, A.B., Returning Officer [or one of the Deputy Returning Officers] at the ensuing Election of a Member [or Members] for the Council of the Shire [or Town &c., as the case may be] of _____, do hereby solemnly and sincerely declare that I will faithfully assist in the said Election, and will not in any manner interfere with any Elector when filling up his Ballot-paper, or attempt to ascertain the name or names of the person or persons for whom any Elector votes; and in case I should become acquainted with the name or names of the person or persons for whom any Elector votes, then that I will not disclose to any person whomsoever the fact so coming to my knowledge, nor by any word or action directly or indirectly aid in discovering the same.

Signed A.B.

(7.)

NOMINATION OF CANDIDATES.

Sect. 56.

We, the undersigned Electors of the Shire [or Town or Rural District, or as the case may be] of _____, do hereby nominate [stating Christian and Surname] of _____ [state occupation], as a fit and proper person for election as Member of the Council thereof.

[Here are to follow the signatures in the following form.]

Christian and Surname of Elector.	Place of Residence.

I, the above-named _____ consent to become a Candidate at the election of a Member [or Members] of the Council of the Shire [or Town or Rural District] of _____

(Signed) A.B.

A.D. 1899.
Sect. 60.

(8.)

NOTICE OF RETIREMENT.

I. *A.B.*, hereby retire from being a Candidate at the Election of Members to be held on the _____ day of _____ for the Town [or City or Shire] [or Ward or Subdivision of the Town (or City or Shire)], of _____
Dated this _____ day of _____ 19 _____.
(Signed) *A.B.*
Witness—
C.D.

(9.)

Sect. 61 (4) FORM OF BALLOT PAPER.

	ALLAN, JOHN
	BULL, JOHN (John Bull of Liverpool-street, Grocer.)
	BULL, JOHN (John Bull of Elizabeth-street, Butcher.)
	JONES, MORGAN
	O'CONNELL, PATRICK
	SMITH, SAMUEL

(10.)

Sects. 61, 69 SHIRE [or Town or Rural District or Urban District] of _____
(Election held _____ 19 ____.)

ELECTOR'S DECLARATION.

I, *A.B.*, do hereby solemnly declare as follows—
1. That I am the person named in the Assessment Roll [or Electors' List or Rate Book, whichever is in use at the Election.]
2. That I am twenty-one years of age.
3. That I am not an alien.
4. That I have not already voted at this Election.
5. That no part of any Rate due and payable by me is in arrear.
Witness—
A.B.

(11.)

A.D. 1899.

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

Sects. 64, 69, 82

The Voter will go into one of the compartments, and with the pencil provided in the compartment, place a cross, thus x, on the left hand side opposite the name or names of the Candidate or Candidates for whom he votes. The Voter will fold up the Ballot-paper so as to show the name or initials of the Presiding Officer signed on the back, and leaving the compartment will, without shewing the front of the Paper to any person, exhibit such Ballot-paper so folded, to the Presiding Officer, and, having placed the same in the Ballot-box, forthwith quit the polling-place.

If the Voter inadvertently spoils a Ballot-paper he may return it to the Presiding Officer, who will, if satisfied of such inadvertence, give him another Ballot-paper.

If the Voter votes for more or less Candidates than the number to be elected his Ballot-paper will be void.

If the Voter places any mark on his Ballot-paper by which he may afterwards be identified, or if the Ballot-paper may be torn, defaced, or otherwise dealt with by the Voter so that he can thereby be identified, it will be void, and will not be counted.

If the Voter takes a Ballot-paper out of the polling-place, or deposits in the Ballot-box any other paper than the one given to him by the Returning Officer, he will be subject to imprisonment for any term not exceeding One year, with or without hard labour, or to a penalty not exceeding £200, or to both such punishments.

NOTE.—Add to above a direction to be varied according to the circumstances of the Election; thus, if it be an Election of Five Members of a Shire Council add **“Put a X in the squares opposite to Five of the names on the Ballot-paper, and make no other mark, or your vote will not be counted.”**

(12.)

DECLARATION BY SCRUTINEER.

Sect. 68.

I, *A.B.*, a Scrutineer appointed by _____, a candidate for election in and for the Town [*or City or Shire*] [*or Ward (or Subdivision)*] of the Town [*or City or Shire*], of _____, do hereby solemnly declare that I will faithfully assist at such election, and that I will keep secret all knowledge of the person for whom any vote is given, which I may obtain in the exercise of my office, unless in answer to a question which I am legally bound to answer, and that I will not attempt to improperly discover, or by any word or action directly or indirectly aid in discovering, the person for whom any vote is given.

Signed and declared before me } *A.B.*
this day of 19 }

Returning Officer [*or Presiding Officer*].

(13.)

DECLARATION AGAINST BRIBERY.

Sect. 70.

I, *A.B.*, do solemnly declare that I have not received or had, by myself or any person whatsoever in trust for me or for my use and benefit, or for the use and benefit of any member of my family or kindred, or any friend or dependent, directly or indirectly, any sum or sums of money, office, place of emolument, gift, or reward, or any promise of or security for any money, office, place of emolument, gift, or reward, by way of consideration, either expressed, implied, or understood, for giving my vote at this Election.

Signed and declared before me } *A.B.*
this day of 19 }

Returning Officer [*or Presiding Officer*].

A.D. 1899.

(14.)

FORM A.

(See Section 595.)

NOTICE REQUIRING ABATEMENT OF NUISANCE.

Sect. 472.

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

Take notice that under the provisions of "The Local Government Act, 1900," the [describing the Local Authority], being satisfied of the existence of a nuisance at [describe premises or place where the nuisance exists], arising from [describe the cause of nuisance, for instance, want of a privy or drain; or, for further instance, a ditch or drain so foul as to be a nuisance or injurious to health; or, for further instance, swine kept so as to be a nuisance or injurious to health], hereby requires you within from the service of this notice to abate the same, and for that purpose to [state any things required to be done or works to be executed.] If you make default in complying with the requisitions of this notice, or if the said nuisance, though abated, is likely to recur, a summons will be issued requiring your attendance to answer a complaint which will be made to two justices for enforcing the abatement of the nuisance, and prohibiting a recurrence thereof, and for recovering the costs and penalties that may be incurred thereby.

Date this

day of

19 .

[Signature of Officer of Local Authority.]

FORM B.

SUMMONS.

TASMANIA }
TO WIT. }

Sects. 472, 473.

To the owner or occupier of [describe premises], situated at [insert such a description as may be sufficient to identify the premises], or to A.B., of

You are required to appear before [describe Court], at the Petty Sessions [or Court] holden at on the day of next, at the hour of in the noon, to answer a complaint this day made to me by that in or on the premises above-mentioned [or in or on certain premises situated at No. in the street in the town [or shire] of [or such other description or reference as may be sufficient to identify the premises], the following nuisance exists [describing it, as the case may be], and that the said nuisance is caused by the act or default of the occupier [or owner] of the said premises, or by you, A.B. [or in case the nuisance be discontinued, but likely to be repeated, say], there existed recently, to wit, on or about the day of on the premises, the following nuisance [describe the nuisance], and that the said nuisance was caused by [&c.], and although the same has since the said last-mentioned day been abated or discontinued, there is reasonable ground to consider that the same or the like nuisance is likely to recur on the said premises.

Given under my hand this

day of

19 .

J.S.

FORM C.

ORDER FOR ABATEMENT OR PROHIBITION OF NUISANCE.

TASMANIA TO }
WIT. }

Sect. 473.

To the owner [or occupier] of [describe the premises] situated [give such description as may be sufficient to identify the premises] or to A.B. of

Whereas on the day of complaint was made before Esquire, one of Her Majesty's Justices of the Peace by that in or on certain premises situated at the following nuisance existed [describing it], and that the said nuisance was caused by the act or default of the owner [or occupier] of the said premises [or was caused by A.B.] [If the nuisance has been removed say] the following nuisance existed on or about [the day the nuisance was ascertained to exist] and that the said nuisance was

caused by &c., and although the same is now removed the same or the like nuisance is likely to recur on the said premises: A.D. 1899.

And whereas the owner [or occupier] within the meaning of "The Local Government Act, 1900," [or the said A.B.] has this day appeared before us [(or me) describing the court] to answer the matter of the said complaint [or in case the party charged does not appear, say and whereas it has been this day proved to our [or my] satisfaction that a true copy of a summons requiring the owner [or occupier] of the said premises [or the said A.B.] to appear this day before us [or me] has been duly served according to the said Act]:

Now, on proof before us [or me] that the nuisance so complained of exists on the said premises, and that the same is caused by the act or default of the owner [or occupier] of the said premises [or by the said A.B.], we [or I], in pursuance of the said Act, hereby order the said owner [or occupier, or A.B.] within [specify the time] from the service of this order according to the said Act [here specify any things required to be done or works to be executed, as, for instance, to provide for the cleanly and wholesome keeping of the said premises, or to remove the animal kept so as to be a nuisance or injurious to health; or for further instance, to cleanse, whitewash, purify, and disinfect the said dwelling-house; or for further instance, to construct a privy or drain, &c., or, for further instance, to cleanse or to cover or to fill up the said cesspool &c., so that the same shall no longer be a nuisance or injurious to health as aforesaid]; [and if it appears to the Court that the nuisance is likely to recur on the premises, say: and we [or I], being satisfied that, notwithstanding the said cause [or causes] of nuisances may be removed under this order, the same is [or are] likely to recur, do therefore prohibit the said owner [or occupier or A.B.] from [here insert the matter of the prohibition, as for instance] using the said house or building for human habitation until the same, in our [or my] judgment, is rendered fit for that purpose.]

In case the nuisance was removed before complaint, say Now, on proof before us [or me] that at or recently before the time of making the said complaint, to wit on , as aforesaid, the cause of nuisance complained of did exist on the said premises, but the same has since been removed, yet notwithstanding such removal, we, [or I], being satisfied that it is likely that the same or the like nuisance will recur on the said premises, do hereby prohibit [order of prohibition]; and if this order of prohibition is infringed, then we [or I] [order to Local Authority to do works].

Given under our hands [or my hand and seal, describing the Court] this day of , 19 .

J. S.

J. T.

TASMANIA }
TO WIT. }

FORM D.

ORDER OF ABATEMENT OF NUISANCE BY LOCAL AUTHORITY. Sect. 475.

To the Council of

WHEREAS [state complaint of nuisance as in last form]: And whereas it has been proved to our [or my] satisfaction that such nuisance exists, but that no owner or occupier of the premises, or person causing the nuisance is known or can be found [as the case may be]: Now we [or I] in pursuance of the said Act, hereby order the said [Local Authority, naming it], forthwith to [here specify the works to be done].

Given, &c. [as in last form].

FORM E.

TASMANIA }
TO WIT. }

ORDER TO PERMIT EXECUTION OF WORKS BY OWNER. Sects. 614, 559.

Whereas complaint has been made to me, E.F., Esquire, one of Her Majesty's Justices of the Peace, by A.B., owner, within the meaning of "The Local Government Act, 1900," of certain premises [describe the situation of the premises so as to identify them] that C.D., the occupier of the said premises prevents the said A.B. from obeying and carrying into effect the provisions of the said Act in this, to wit, that the said C.D. prevents the said A.B. from [here describe the works generally according to circumstances, for instance thus: constructing and laying down in connection with the said house, a covered drain, of [here insert prescribed description and material of drain], so as to communicate with a sewer which the Local Authority of the Area of , is entitled to use under the said Act, such sewer being within Three hundred feet of the said premises]: And whereas the said C.D. has been duly summoned to answer the said complaint, and has not shown sufficient cause against the same, and it appears to me that the said works

Sect. 376.

[Bill 1.]

A.D. 1899.

are necessary for the purpose of enabling the said *A.B.* to obey and carry into effect the provisions of the said Act, I do hereby order the said *C.D.* to permit the said *A.B.* to execute the same in the manner required by the said Act.

Given under my hand, this _____ day of _____, 19____
J.S.

TASMANIA }
TO WIT. }

FORM F.

Sects. 611, 614. ORDER OF JUSTICE FOR ADMISSION OF OFFICER OF LOCAL AUTHORITY.

Whereas [*describe the Local Authority*] has, by its officer, [*naming him*], made application to me *A.B.*, one of Her Majesty's Justices of the Peace, and the said officer has made oath to me that demand has been made pursuant to the provisions of "The Local Government Act, 1900;" for admission to [*describe situation of premises so as to identify them*], for the purpose of [*describe the purpose, as the case may be*], and that such demand has been refused.

Now therefore I, the said *A.B.*, hereby require you [*name the person having custody of the premises*] to admit the said [*name the Local Authority, or the officer of the Local Authority*] to the said premises, for the purpose aforesaid.

Given, &c., [*as in last form*].

(15.)

TOWN OF

STREET. .

Notice.

Sect. 172. The Local Authority has gazetted the dimensions of this Street. See *Gazette* of the day of _____, 19____.

A.B.
Clerk.

NOTE.—The above Notice to be printed in clear type not less than Two inches high on a poster.

(16.)

Sects. 206, 311.
P.A., Sch. (4.).

COUNTERFOIL.

COACH LICENCE.

Licence for Coach numbered

No.

No.

Coach Licence issued

to

19 .

WHEREAS *A.B.*, Proprietor of a certain Coach, being [*insert kind of Carriage and the number of the Coach*] has applied to us the undersigned Justices to grant him a Licence to keep, use, and employ the said Coach between [*state the extreme points of distance*]: And whereas we have this day had the said Coach exhibited to us, and having examined the same, we are satisfied that it is calculated safely and conveniently to carry the number of Passengers hereinafter mentioned, we do hereby license the said *A.B.*, as such Proprietor, to carry and convey between the places aforesaid, in and by the said Coach, the number of [*14 or 18*] Passengers in the whole; that is to say, the number of [*4 or 6*] Passengers in the inside and [*10 or 12*] Passengers on the outside thereof. This Licence to be in force from the date hereof till the 31st day of December next and no longer.

Given under our hands this _____ day of _____, 19____

E.F. } Justices of the Peace.
G.H. }

Received the sum of _____ Shillings, fee payable hereon.

Clerk

Clerk of

(17.)

A.D. 1899.

COUNTERFOIL.

OMNIBUS LICENCE.

Sect. 307.

Compare
P.A., '88, Sch.*Licence for Omnibus numbered*

No.

Omnibus Licence

issued to

19 .

WHEREAS *A.B.*, Proprietor of a certain Vehicle being
[insert kind of Vehicle and the number thereof] has applied
 to us the undersigned Justices to grant to him a Licence to
 keep, use, and employ the same as an Omnibus under
 "The Local Government Act, 1900." And whereas we
 have this day had the said Vehicle exhibited to us, and
 having examined the same, we are satisfied that it is calcu-
 lated safely and conveniently to carry the number of
 passengers hereinafter mentioned: We do hereby license
 the said *A.B.* as such Proprietor to carry and convey in
 and by the said Vehicle, when used as an Omnibus, the
 number of *[14 or 18]* passengers in the whole, that is to
 say, the number of *[4 or 6]* passengers in the inside and
[10 or 12] passengers on the outside thereof. This Licence
 to be in force from the date hereof till the 31st day of
December next, and no longer.

Given under our hands this day of 19

E.F. } Justices of the Peace.
G.H. }

Received the sum of Shillings, fee payable hereon.
 Clerk. Clerk of

(18.)

COUNTERFOIL.

LICENCE FOR A CAB.

Sect. 308.

Compare
P.A., Sch. (11.).

No.

No.

Cab Licence issued

to

19 .

WHEREAS *A.B.*, Proprietor of a certain Cab numbered
 , has applied to us the undersigned Justices to grant him
 a Licence to keep, use, and employ such Cab in conveying
 passengers for hire, within *[state name of Town]*, and within
 the distance of Five miles from the principal Post Office
 thereof, and has paid into the hand of the *[Clerk of the*
] the sum of , being the Fee now fixed for the
 same; We do hereby license the said *A.B.* to carry and
 convey for hire, in and by such Cab, the number of
 passengers and no more at any one time, subject to the
 provisions of "The Local Government Act, 1900."

Given under our hands this day of 19

A.B. } Justices of the Peace.
C.D. }

Received the above-mentioned Fee.
 Clerk. Clerk of

A.D. 1889.

(19.)

Sect. 310.

COUNTERFOIL.

No.

Livery carriage Licence issued to

No.

WHEREAS *A.B.*, proprietor of a certain [*state the kind of vehicle*] numbered , has applied to us, the undersigned Justices, to grant him a Licence to keep, use, and let out such vehicle for hire as a Livery carriage, and has paid into the hand of the [*clerk of the*], the sum of being the fee payable in respect thereof, we having examined the said vehicle, do hereby License the said *A.B.*, as the proprietor thereof to keep, use, and let it out for hire as a Livery Carriage, subject to the provisions of "The Local Government Act," 1900.

Given under our hands, this day of 19 .

19 .

A.B.,
C.D.,

} Justices of the Peace.

Received the sum of Shillings.

fee payable hereon.

Clerk.

Clerk of

(20.)

Sects. 307, 314.
Compare
P.A., Sch. (5).

COUNTERFOIL.

No.

Coach [*or Omnibus*] Driver's Licence issued to

No.

WHEREAS [*here insert name and residence of Driver*] has applied to us, the undersigned, to grant him a Licence to act as the Driver of a Coach to run between [*state the extreme points of distance*] (*or as Driver of an Omnibus to ply from [*state the Town or place from which it is to ply*]*): And whereas [*insert name of Proprietor or Proprietors*] has signified his wish that the said [*here insert name of Driver*] should become and act as Driver of such vehicle by endorsing such application of the said [*here insert name of Driver*], and we have received a satisfactory certificate of the ability of the said [*Driver*] to drive, and of his good character ; we do hereby license the said [*name of Driver*] to be and act as Driver of the said Coach [*or Omnibus, as the case may be*].

Given under our hands this day of 19 .

19 .

A.B.,
C.D.,

} Justices of the Peace.

Received the sum of Shillings,

fee payable hereon.

Clerk.

Clerk of

(21.)

A.D. 1899.

Sect. 314.

COUNTERFOIL.	LICENCE FOR DRIVER OF CAB.
No.	No.
Cab Driver's Licence	WHEREAS [<i>here insert name and residence of Driver</i>]
issued to	has applied to us, the undersigned, to grant him a Licence
	to act as Driver of the Licensed Cab No. : And
	whereas <i>C.D.</i> , the Proprietor of the said Cab, has signified
	his wish that the said <i>A.B.</i> should become Driver of the
	said Cab by endorsing the application of the said <i>A.B.</i> :
	And whereas we, having received a satisfactory Certificate
	of his ability, do hereby license the said <i>A.B.</i> to act as
	Driver of the said Cab No. within the [<i>name of City</i>
	<i>or Town</i>] and within the distance of Five miles from the
	principal post office thereof, subject to the provisions of
	"The Local Government Act, 1900."
19	Given under our hands this day of 19
	<i>A.B.</i> , } Justices of the Peace.
	<i>C.D.</i> , }
	Received the sum of Five Shillings
	fee payable heron.
Clerk.	Clerk of

(22.)

Sect. 314.

COUNTERFOIL.	LICENCE FOR DRIVER OF LIVERY CARRIAGE.
No.	No.
	WHEREAS [<i>here insert name and residence of Driver</i>]
	has applied to us, the undersigned, to grant him a Licence
	as Driver of Livery Carriage belonging to <i>C.D.</i> , who has
Livery Carriage Driver's	signified his approval of such application by endorsing the
	same: And whereas we, having received a satisfactory
Licence issued to	Certificate of his ability, do hereby license the said <i>A.B.</i>
	to act as Livery Carriage Driver, subject to the provisions
	of "The Local Government Act, 1900."
	Given under our hands, this day of 19 .
19	<i>A.B.</i> , } Justices of the Peace.
	<i>C.D.</i> , }
	Received the sum of Five Shillings
	payable hereon.
Clerk.	Clerk of

(23.)

Sect. 343.

COUNTERFOIL.		CARTER'S LICENCE.
No.	No.	
	A.B., of	is a Licensed Carter within
	the Town of	having been approved by the
Carter's Licence issued	Chairman, and having paid to me the sum of	
	Shillings, the Fee payable hereon.	
to	Dated this	day of 19 .
19		
		Clerk of
Clerk.		

A.D. 1899.

(24.)

Sect. 350.

BE it remembered that on this _____ day of _____ 19 _____ A.B., C.D., and E.F. [here insert their residences and trades or callings respectively] came personally before us, G.H. and I.J., Esquires, two of Her Majesty's Justices of the Peace, and acknowledged themselves to owe to our Sovereign Lady the Queen as follows; that is to say, the said A.B. the sum of Fifty Pounds, and the said C.D. and E.F. the sum of Twenty-five Pounds each of lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements, to the use of our said Lady the Queen, Her Heirs and Successors, by way of Recognisance in case default is made in any or either of the conditions of such Recognisance; the conditions of which Recognisance are, that if the said A.B. shall receive a Licence to act, represent, perform, exhibit, or do certain Public Entertainments, to be in such Licence named, upon certain premises to be therein also named, and do and shall not, during the continuance of such Licence, permit any drunken person to remain on the said premises; and if the said A.B. do not permit any fighting, tumult, or impropriety of behaviour to take place thereon or therein, but, on the contrary, do and shall manage and conduct such premises, and the Public Entertainments to be therein acted, represented, performed, exhibited, or done peaceably and quietly, and with propriety and decency on all occasions, then this Recognisance shall be void; otherwise the same shall remain in full force and effect.

Taken and acknowledged before us,
at _____, in Tasmania.

G.H. (L.S.)
I.J. (L.S.)

A.B. (L.S.)
C.D. (L.S.)
E.F. (L.S.)

(25.)

Sect. 352.

By virtue of "The Local Government Act, 1900," I, A.B., [Warden or Chairman of the &c.] do hereby grant unto C.D., the owner [or occupier] of the house [or garden, &c., as the case may be] situate in [name the Town and street] full licence and authority in and upon the said house [or as the case may be] to act, represent, perform, exhibit, conduct, give, or do any of the Public Entertainments following; that is to say—[name the exhibition or entertainment.]

This is to remain in force for [name the time not exceeding Twelve months from the date hereof, or the particular occasion for which it is granted.]

Given under my hand this _____ day of _____ 19 .
Received the sum of _____ Shillings, fee payable hereon.

A.B.

Clerk.

(26.)

Sect. 352.

By virtue of "The Local Government Act, 1900," I, A.B., Warden [or Chairman, &c.] of _____ do grant unto C.D., the owner or occupier of the house [or garden, &c.] situate in [name the Town and street] full licence and authority in and upon the said premises to allow public dancing and music [or if any other amusement of the like kind name it] to be carried on and performed.

This Licence to remain in force for [name the time not exceeding Twelve months from the date hereof, or the particular occasion for which it is granted.]

Dated this _____ day of _____ 19 .

A.B.

Received the sum of _____ Shillings, fee payable hereon.

Clerk.

(27.)

A.D. 1899.

Sect. 360.

NOTICE OF REGISTERING DOGS.

A DESCRIPTION of Dogs intended to be kept by A.B. of
in the of during the Year ending
on the 30th April, 19

Number of Dogs.	Premises on which each Dog is intended to be kept.	Sex.	Age.	Colour or peculiar Mark.	Description or kind of Dog.

I A.B. do declare the above List and Description to be true in every particular to the best of my knowledge and belief.

A.B.

Date.

COUNTERFOIL.

FORM OF RECEIPT.

No. No.

Dog registered by— street. sum of RECEIVED this day of , 19 , the

A.B., shillings. the of Dog , registered by A.B., in

Fee paid— 19 . 19 . of , for the year ending 30th April,

Clerk. Clerk of C.D.,

28.

FORM OF CERTIFICATE.

Sect. 430.
H.A., Sch. (2.).

To* I, the undersigned, public analyst for the Local Authority of [name] or a Government analyst [as the case may be], do hereby certify that I received on the day of , 19 , from† a sample of for analysis (which weighed‡), and have analysed the same, and declare the result of my analysis to be as follows:—
I am of opinion that the same is a sample of genuine , or,

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under:—

Observations.§

As witness my hand this day of 19
at A.B.

* Here insert the name of the person submitting the article for analysis.
† Here insert the name of the person delivering the sample.
‡ When the article cannot be conveniently weighed, this passage may be erased or the blank left unfilled.
§ Here the analyst may insert, at his discretion, his opinion as to whether the mixture (if any) was for the purpose of rendering the article potable or palatable, or of preserving it or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.
In case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

A.D. 1899.

(29.)

Sect. 437.

COUNTERFOIL.

No.

Slaughtering Licence

issued to

19

Clerk.

SLAUGHTERING LICENCE.

No.

WHEREAS A.B. of

Chairman of the Town of

Two Justices of the Peace sitting in Petty Sessions in the

Rural District of

animals for sale, and also to sell meat at his house situate

in

and the said A.B. has paid the sum of

being the sum payable in respect of such Licence, I, the

said Chairman [or, we the said Justices] do therefore hereby

grant to the said A.B. this Licence to slaughter sheep,

cattle, and pigs, under the provisions of "The Local

Government Act, 1900," and to sell meat at his house

situate in

and not elsewhere ; and this Licence

shall continue in force from the date hereof until the 31st

day of December next, and no longer.

Dated at this day of 19

Received the sum of Shillings, being the fee

payable hereon.

Clerk of

(30.)

Sects. 499, 588 (I., IV.).

11 Geo. IV. No. 3.

POUNDAGE FEES.

s. d.

For each entire Horse above the age of 12 months

For each Mare, Gelding, Colt, Filly, Foal, Mule, Ass, Goat, and Pig

For each Bull above the age of 12 months

For each Ox, Cow, Steer, Heifer, or Calf

For each Ram above the age of 9 months

For each Ewe, Wether, or Lamb

The above fees to be paid for each day or part of a day during which the animal is kept in Pound.

Charges for Food.

s. d.

For every Horse, Mare, Gelding, Mule, Ass, Colt, Filly, or Foal

For every Bull, Ox, Cow, Steer, Heifer, or Calf

For every Sheep or Lamb, or Goat

For every Boar, Sow, or other Pig

The above charges to be paid for each day or part of a day during which the animal is supplied with food and water by the Poundkeeper, but the owner may supply food and water, in which case these charges are not to be made.

(31.)

A.D. 1899.

FORM OF POUNDKEEPER'S BOOK.

Sect. 502.

Date.	Time.	Particulars of animals impounded.	Brands and marks.	Owner.	By whom impounded.	For what cause impounded.	Time and mode of giving notice to owner.	How disposed of.	Time when released or sold.	Particulars of release or sale; if sold, the proceeds of the sale.

(32.)

Particulars of the Sale of Impounded Animals at

for Month of

Sect. 510.

Date of sale.	Description of animals.	Brands or mark.	To whom sold.	Gross amount of sale.	Particulars of expenses deducted.	Net produce of sale.	Particulars of charges, for driving, with dues and tolls.	Amount of damage.	Particulars of moneys paid.	To whom paid.	Remarks.

Dated at the day of 19
Examined at and found to be correct,
C.D.; Clerk of Town [or City or Shire] of

(33.)

For every Warrant of Distress.....	One Shilling.	Sect. 556.
For man in possession each day, or part of day	Five Shillings.	
For inventory, sale, commission, and delivery of goods	Not exceeding One Shilling in the Pound on the proceeds of the sale.	
Mileage.		
For every mile, or part of a mile, where the Warrant is executed, not more than Two miles from the office of the Local Authority	One Shilling.	
Where such distance exceeds Two miles, for every mile, or part of a mile beyond.....	Sixpence.	

(36.)

A.D. 1899.

TOWN [or City or Shire] of [insert name of Town (or City or Shire)] [Ward or Subdivision No.]. Sect. 608 (2.).

Notice under "The Local Government Act, 1900."

To Mr.

NOTICE is hereby given that the sum of Pounds Shillings and Pence is now due and unpaid to the Town [or City or Shire] Council of [insert name of Town or Shire], for rates and interest [or, as the case may be, expenses and interest] in respect of [describe the property as it appears in the Assessment Roll], situated at [or road or other situation].

Payment of the said sum is hereby demanded.

If the said sum is not paid within Three months from the date of this Notice, the Council of the said Town [or City or Shire] will take possession of and lease the said property, under the provisions of "The Local Government Act, 1900."

Warden [or Chairman or Clerk].

Town [or City or Shire] Council Office,
[Locality], 19

(37.)

Town [or City or Shire] of [insert name of Town (or City or Shire)] [Ward or Subdivision No.]. Sect. 608 (3.).

NOTICE.

"The Local Government Act, 1900."

To or the owner of, or other person or persons interested in [describe property as it appears in the Assessment Roll].

You are hereby informed that Rates and interest [or, as the case may be, expenses and interest] thereon to the amount of £ , in respect of the above-named land, are due and in arrears for a period of four years and upwards to the Town [or City or Shire] Council of [insert name of City, &c.].

Payment of the said sum is hereby demanded.

In default of compliance with this demand, the said Council will, after the lapse of three months from the date hereof, take possession of and deal with the said property, as provided by the provisions of the above-mentioned Act.

Warden [or Chairman or Clerk].

Town [or City or Shire] Council Office,
[Locality], 19

(38.)

Town [or City or Shire] of [insert name of Town (or City or Shire)] [Ward or Subdivision No.]. Sect. 608 (6.).

Notice under "The Local Government Act, 1900."

Possession has been taken of this land, being [describe property as it appears in Assessment Roll] by the Town [or City or Shire] Council of , in accordance with the provisions of the above-mentioned Act, and it is to be let on lease.

Warden [or Chairman or Clerk].

Town [or City or Shire] Council Office,
[Locality], 19

A.D. 1899.

Sect. 609.

(39.)

NOTICE OF SALE.

WHEREAS, under the provisions of "The Local Government Act, 1900," the sum of Pounds Shillings and Pence being now due and unpaid by [*full name, occupation, and address, if known*], as the occupier [*or owner or by the "owner,"*] of [*describe the property*], for arrears of rates and interest [*or as the case may be, expenses and interest*] due to the Council of [*name of Town, or City, or Shire,*] in respect of such property: the said Local Authority will, at the expiration of One month after the date of this Notice make application under the provisions of the said Act, for a sale of the said property, unless the above-mentioned amount and Interest, and all Rates accruing due on the property are sooner paid.

Dated this day of 19 .
Clerk of [City or Town or Shire of].

(40.)

APPOINTMENT AND PROCEEDINGS AND POWERS OF COMMISSION.

Sect. 616.

1. THE Commission shall consist of Seven Members—Two to be appointed by Proclamation, and the remaining Five to be elected by the Rural Municipal Councils, Town Boards, and Road Trustees constituted under the several Acts repealed by this Act.

2. The election shall be conducted in such manner and form in every respect as may be prescribed by Regulations.

3. Every appointment and election of Members of a Commission shall be gazetted, and each Member shall come into office on the day on which his appointment or election is so gazetted.

4. At its first meeting the Commission shall appoint one of its Members to be Chairman, and upon any vacancy occurring in such office shall at the next following meeting fill the same by the appointment of another Member. The Commission shall cause every such appointment to be gazetted.

5. A person disqualified within the meaning of Section *Twenty-eight* of this Act shall not be capable of being elected as or of being a Commissioner, and the provisions of Sections *Thirty-eight* and *Thirty-nine* shall, as consequentially altered, extend to the case of ouster of a Commissioner from office.

6. Save when sitting in committee, all meetings of the Commission shall be open to the public.

7. An extraordinary vacancy in the office of a Commissioner shall be filled in the prescribed manner, by election by the Local Authorities, or appointment by the Governor, according as the Commissioner was elected or appointed.

8. If default be at any time made by the Local Authorities in electing in the prescribed manner any Member or Members, the Governor may appoint any persons to fill the vacancies so occasioned.

9. The Commission shall from time to time report to the Governor the result of its proceedings and deliberations in respect of all matters referred to it by this Act.

10. The Governor may, by Regulations made under this Act, confer upon the Commission any further duties, powers, or discretions in relation to any such matters, or make any other provisions relating to the Commission. In particular, such Regulations may prescribe—

- I. The quorum and proceedings of the Commission.
- II. The taking by the Commission of evidence.
- III. The reporting by the Commission of its proceedings.
- IV. The times within which any proceedings must take place.
- V. The payment of travelling expenses to Commissioners.
- VI. The conducting of all elections of Commissioners and gazetting of appointments.

vii. Anything that may seem to the Governor necessary or convenient for the due or better or more effectual carrying out or completion of any matters referred to the Commission.

11. The Commission's powers include powers—

- I. To divide the Colony into Shires not exceeding a number which may be stated in a Proclamation, and to describe the boundaries of each Shire.
- II. To propose the names of Shires.
- III. To suggest subdivisions of Shires in conformity with the provisions of this Act.
- IV. To define or redefine within Shires, the areas of any Town, Rural District, or Urban District, and propose names for any such areas.

Sect. 22.

12. In effecting such divisions and definitions, the Commission shall conform to A.D. 1899 the following provisions:—

i. In dividing the Colony into Shires, the Commission shall have regard to community of interests, facilities for communication and topographical features, and, as far as practicable, shall follow existing boundaries and may, where practicable, arrange Areas or subdivisions of Areas, so that properties which are served by the same public road or roads shall be placed in the same Area or subdivision thereof.

ii. Save for the purpose of including any island (of the sea) as part of a Shire, or of a Rural District included in a Shire, every Shire, Rural District, Town, or Urban District shall consist of a continuous area:

Provided always that if special circumstances, sufficient in the opinion of the Governor, in any particular case exist requiring a departure from this rule, the Governor may, by proclamation, approve of the constitution of any such division or subdivision of the Colony, as aforesaid, not consisting of a continuous area.

(41.)

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
29 Vict. No. 8.	<i>The Rural Municipalities Act, 1865.</i>	The whole Act.
34 Vict. No. 14.	"The Rural Municipalities Amendment Act."	The whole Act.
41 Vict. No. 9.	"An Act to create the Municipal District of Portland, and for other purposes relating thereto."	The whole Act.
43 Vict. No. 15.	"An Act to create a new Municipal District to be called the Municipal District of Carnarvon, and for other purposes relating thereto."	The whole Act.
44 Vict. No. 26.	"The Rural Municipalities Amendment Act, 1880."	The whole Act.
47 Vict. No. 3.	"An Act to create a new Municipal District to be called the Municipal District of Macquarie, and for other purposes relating thereto."	The whole Act.
48 Vict. No. 27.	"The Rural Municipalities Amendment Act, 1884."	The whole Act.
56 Vict. No. 2.	"The Rural Municipalities Act Amendment Act, 1892."	The whole Act.
29 Vict. No. 10.	<i>The Police Act, 1865.</i>	The whole Act, except Sections to
31 Vict. No. 18.	"The Police Act Amendment, 1867."	The whole Act.
42 Vict. No. 25.	"The Police Act Amendment Act, 1879."	The whole Act, except Sections 3, 4, and 5.
45 Vict. No. 22.	"The Police Act Amendment Act, 1881."	The whole Act.
47 Vict. No. 6.	"The Police Act Amendment Act, 1883."	The whole Act.
52 Vict. No. 41.	"The Police Act Amendment Act, 1888."	The whole Act.
55 Vict. No. 46.	"The Police Act Amendment Act, 1891."	

A.D. 1899.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
49 Vict. No. 18.	"The Public Health Act, 1885."	The whole Act except Part III., Sections 65 to 73.
51 Vict. No. 35.	"The Public Health Act, 1887."	The whole Act.
53 Vict. No. 10.	"The Sanitary Rate Act, 1889."	The whole Act.
53 Vict. No. 39.	"The Public Health Act, 1889."	The whole Act.
60 Vict. No. 38.	"The Public Health Amendment Act, 1896."	The whole Act.
48 Vict. No. 28.	"The Roads Act, 1884."	The whole Act.
49 Vict. No. 38.	"The Roads Act Amendment Act, 1885."	The whole Act.
53 Vict. No. 48.	"An Act to further amend 'The Roads Act, 1884.'"	The whole Act.
54 Vict. No. 3.	"The Roads Act, 1890."	The whole Act.
58 Vict. No. 14.	"An Act to further amend 'The Roads Act, 1884.'"	The whole Act.
60 Vict. No. 31.	"The Town Boards Act, 1896."	The whole Act.
11 Geo. IV. No. 3.	<i>The Impounding Act.</i>	The whole Act.
46 Vict. No. 6.	"The Impounding Act, 1882."	The whole Act.
58 Vict. No. 20.	"The Impounding Act, 1894."	The whole Act.
48 Vict. No. 26.	"The Rural Voting Act, 1884."	The whole Act.
26 Vict. No. 7.	"The Trespass to Lands Act, 1862."	The whole Act.
31 Vict. No. 35.	"An Act to amend the Law relating to Public Libraries."	The whole Act.
52 Vict. No. 21.	"An Act to empower Municipal Councils of Rural Municipalities to sell certain Lands and to purchase other Lands in lieu thereof."	The whole Act.
54 Vict. No. 30.	"The Local Public Works Loans Act, 1890."	The whole Act.
56 Vict. No. 29.	"The Devonport Corporation Act, 1892."	Sections 5 and 6.
57 Vict. No. 11.	"The Hobart Corporation Act, 1893."	Sections
58 Vict. No. 30.	"The Launceston Corporation Act, 1894."	Sections

(42.)

A.D. 1899.

SCHEDULE OF RURAL MUNICIPALITIES HEREBY CONSTITUTED. Sect. 8 (1.)
SHIRES.

Name of Rural Municipality.	When and how defined.
	By Proclamation gazetted 190 .

(43.)

SCHEDULE OF TOWNS CONTINUED OR CONSTITUTED UNDER Sect. 5 and 8 (2.)
"THE TOWN BOARDS ACT, 1896," HEREBY CONTINUED AS
TOWNS UNDER THIS ACT.

Name of Town.	When and how defined.
Devonport.....	56 Vict., No. 29.
Zeehan, &c.....	By Proclamation, gazetted 11th October, 1898.

(44.)

SCHEDULE OF ROAD DISTRICTS HEREBY CONSTITUTED RURAL Sect 8 (3.)
DISTRICTS.

Name of Road District.	When and how defined.
	By Proclamation gazetted 190

A.D. 1899.

(45.)

I.

Sects. 5 and 9 (2.) SCHEDULE OF TOWNS PROCLAIMED UNDER "THE POLICE ACT, 1865," HEREBY CONSTITUTED TOWNS UNDER THIS ACT.

Name of Town.	When Proclamation Gazetted.

II.

OTHER TOWNS HEREBY CONSTITUTED.
(Names and Descriptions to be inserted.)

(46.)

Sect. 9 (3.) SCHEDULE OF AREAS HEREBY CONSTITUTED RURAL DISTRICTS.
(Names and descriptions to be inserted.)

(47.)

Sects. 9 and 120 (4.) SCHEDULE OF TOWNS HERETOFORE PROCLAIMED UNDER "THE POLICE ACT, 1865," HEREBY CONSTITUTED URBAN DISTRICTS.

Name of Town.	When Proclamation Gazetted.

(48.)

Sect. 521.

FORM OF PRECEPT.

[Name of United Municipality.]

To the Council of the Town [or City or Shire] of

These are to require you, the Council of the Town [or City or Shire] of
from and out of the moneys lying to the credit of your Town [or City or Shire] Fund,
to pay, on or before the day of 19 , into the hands of A.B.,
the Chairman of the Joint Council of the [Name of United Municipality], the sum
of , being the amount required for the expenses of such Joint Council;
and if there are no moneys to the credit of such Town [or City or Shire] Fund, to
raise the same by means of a Rate.

Dated this day of 19 .
(Signed) C.D., Chairman of the Joint Council.