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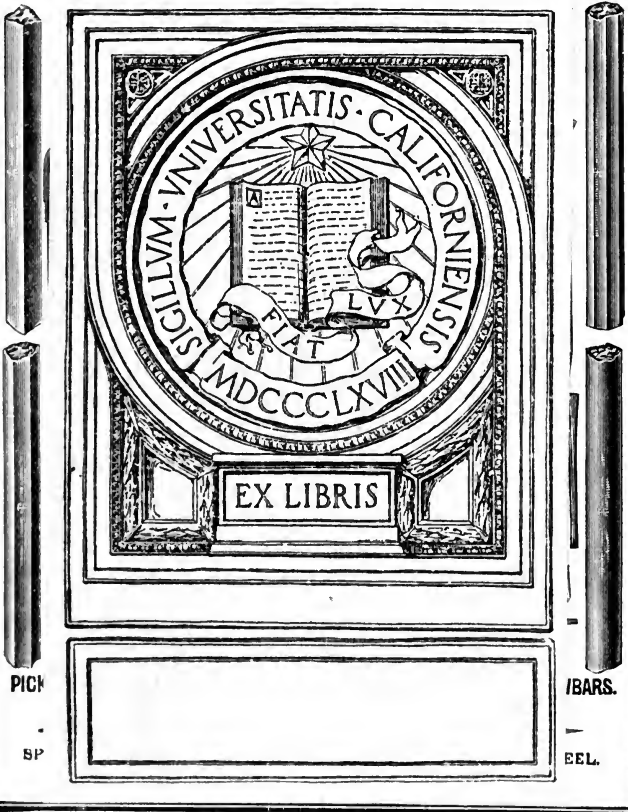

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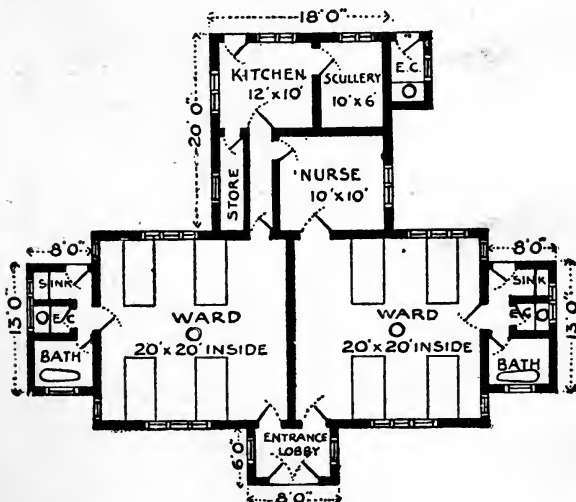

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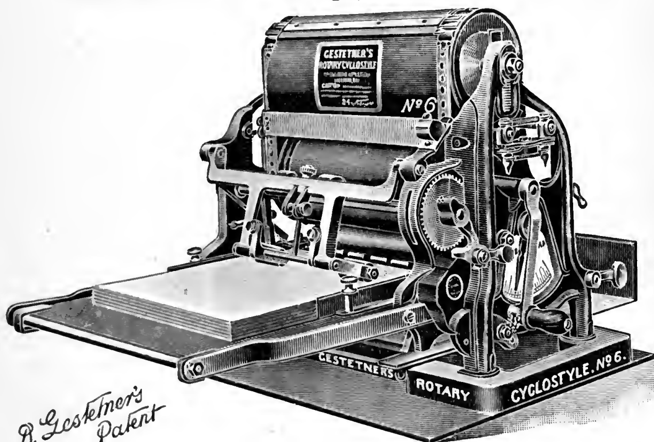

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THE MUNICIPAL MANUAL

A DESCRIPTION OF THE CONSTITUTION AND FUNCTIONS OF URBAN LOCAL AUTHORITIES

BY

ALBERT E. LAUDER

Solicitor

UNIV. OF CALIFORNIA

LONDON:

P. S. KING & SON

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PREFACE.

THE student of public affairs who aspires to a professional appointment or an elective office in the municipal service, naturally seeks a popular manual which will give him an introduction to the scheme and work of English local government. To his surprise, he finds that no such handbook exists. There is a plenitude of legal text books and treatises, appalling in their size and measureless in their profundity; but these appear rather as fortresses guarding the path of inquiry from attack than as the gateways to knowledge. This little book is therefore issued in the hope that it will be useful to all those who desire to make an acquaintance with the subjects which, in practice, call for the attention of members of local authorities, municipal officers, and others engaged in the public work of our towns.

At the outset, one is confronted with

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the difficulty of dealing with the subject in such a manner as to give the reader a clear view of the whole ground. Local government may be treated from many points of view—for example, area, or structure, or function. In any event, overlapping can hardly be entirely avoided. The method I have adopted has been to give a preliminary sketch of the constitution of the authorities responsible for the government of our towns, and then to classify their duties in a few large groups. The Acts of Parliament under which their powers are conferred are indicated in the footnotes. The latter will be useful to the student who desires further information than this book can afford.

The reader should be warned of the multitude of varying powers in force in different classes of urban areas. Rousseau described government as "the science of combinations, applications and exceptions." Unfortunately, local government seems to be burdened with more than its fair share of exceptions. General laws there are, it is true, which are applicable to the whole of the English towns, but even these vary

according to whether the town is a county borough, an ordinary borough, or an urban district; while in other cases the possession of a court of quarter sessions, or the number of the population, creates important distinctions. General legislation has also been totally inadequate to keep pace with urban needs; and new requirements have in many cases been met by Parliament, in somewhat timorous fashion, with discretionary Acts, which are only operative in towns where the town or district councils have formally adopted them. In addition to this element of confusion, numerous private Acts, containing many provisions of great importance, have been obtained by the more enterprising and wealthy councils. The costly procedure of Private Bill legislation, of course, keeps these powers out of the reach of the smaller authorities, however much they need them. The medley is intensified by provisional orders of a legislative nature applying to specific districts, issued from time to time by the Local Government Board and the Board of Trade. Local authorities also all possess the power of enacting bye-laws (subject to approval or

to disallowance by Government departments) with regard to various subjects within their jurisdiction, and it is only natural that the local requirements in these matters differ with the circumstances of each town.

It is not suggested that uniformity is either possible or desirable in this connection, but the present condition of affairs is unnecessarily complex, and is quite bewildering to the average citizen. Many of the powers which the larger towns have secured by private Acts are obviously needed also by the smaller areas. A Bill to codify the law of public health and to make some of these powers of universal application has, it is understood, been in preparation for the last few years. If Parliament bore more resemblance to a business assembly, and less to a debating society, the promised measure would doubtless already have become law, and many of the existing anomalies would have been swept away.

I trust that the various enterprises of modern municipalities have been adequately treated. I have not, however, devoted any

special chapter to what is loosely called municipal trading, as in my opinion there is no operation now carried on by local bodies that is properly described by such a title.

The essential characteristic of trading is the production and exchange of commodities or services for the purpose of making a profit. Even to the etherealised trader of Ruskin, profit is a "due and necessary adjunct." It is quite obvious, of course, that if the private trader fulfils useful functions in society, he deserves some remuneration for his labour, his risk and his ingenuity.

The basis of municipal enterprise, however, is in no sense the making of pecuniary profit, although local authorities are, perhaps, justified in seeking to rectify the inequitable system of rating by obtaining revenue from some of their undertakings. The citizen may prefer to relieve his rates by paying more than is necessary for the services rendered by his tramway system, his electric lighting installation, or his gas or water works, but, so soon as any such institution is brought under public ownership, other considerations are forced to the front. The

business prosperity of the town, or the convenience of its inhabitants, demands that certain branches of work shall be entered upon that cannot possibly exhibit favourable results upon a cash balance sheet. Tramways are required to develop outlying portions of the district; improved public lighting is called for; consumers clamour for a reduction in the price of gas or water, with a voice that is far more effective in the council chamber than in the board room of a company; and the usual demands of labour for more adequate remuneration are backed by its voting power. Criticism of inefficiency or price, that is silent before the obvious fact that a company exists for the purpose of making dividends, becomes shrill and insistent when an undertaking passes into public hands.

In view of these circumstances, it is perhaps surprising that municipal incursions into the supply of commodities are as financially successful as the returns of the Board of Trade prove them to be. This is, to some extent, due to the fact that at present municipal trading has dealt only with monopolies, in respect of which the charges can be

raised or lowered to meet fluctuations in cost. Occasionally a loss has to be admitted, but public enterprise, even if subject to the test of profit, is no more to be judged by a few sporadic failures, than private trading is to be condemned on account of the bankruptcies and liquidations which occupy the attention of the courts. The return issued by the Local Government Board in 1902 with regard to municipal reproductive undertakings (which, in spite of its age and its limitation to municipal boroughs, has not yet been revised or extended), shows that, taken as a whole, no loss is incurred. The student should also remember that many operations which figure on that return, such as the provision of baths and wash-houses, workmen's dwellings, docks, harbours, and burial grounds, have only been undertaken publicly because private enterprise ascertained by painful experience that they were not remunerative. Moreover, it should be borne in mind that in the more profitable undertakings, the operations of local authorities are restricted to areas the boundaries of which were largely settled in the days of the Heptarchy, when our

counties and parishes first assumed definite shape, or in less remote times, when any conception of the modern town and its social and industrial needs was clearly impossible.

The object of this book being merely to describe in general terms the existing law and practice of municipal government, the more attractive fields of the history and economics of local administration have been left untouched. That there is to-day a general trend towards investing public bodies with greater powers of rendering service to the citizen, and supplying his necessaries and even his luxuries, is manifest. Public opinion is gradually widening its estimate of the minimum level of subsistence which should be guaranteed to every member of the community who performs his share of the necessary labour of the world. So far as local authorities are concerned, the result is seen in the improved standard of public health, the provision of housing accommodation, education and recreation, the feeding of necessitous school children, the provision of work for the unemployed, and, in many cases, the establishment of a

minimum wage for municipal workmen. The cause is doubtless as much economic as it is altruistic. With the increasing complexity of production and distribution, the growth of large urban communities and the interdependence of their various units, society is assuming the form of an organism in which the interests of each member are identical with those of the rest of the body politic; and collective action becomes in many instances both practicable and desirable. In this country social tendencies do not, as a rule, work themselves out to their apparently logical end, but it may well be that the prevailing course of economic evolution will continue until all the basic needs of life are supplied by collective effort. Whether that point will be reached depends on the relative merits of production for use and production for profit. The speculation is interesting, but the remorseless process of natural selection, and not the views of the theorist or the desires of the financier, will decide the point.

Unfortunately for the reputation of local authorities, duties of an entirely unremunerative character are continually being cast

upon them, and increased efficiency is for ever demanded, without any new and legitimate source of revenue being opened. As a consequence, we have the universal outcry against the rising rates,—a complaint which is so general that it is almost as strong in towns where wise administration has kept local contributions stationary, as it is where they have been doubled within a few years. It is quite certain that if the burdens of municipal government are to be adjusted in proportion to ability to pay, and to benefit received, an alteration in the system of rating and a revision of local areas are inevitable.

ALBERT E. LAUDER.

August, 1907.

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ABBREVIATIONS

USED IN THE FOOTNOTES.

A. A.	Allotments Act.
C. E. A.	County Electors Act.
E. A.	Education Act.
E. E. A.	Elementary Education Act.
F. and W. A.	Factory and Workshop Act.
G. C. O.	General Consolidated Order.
H. A.	Highways Act.
H. and B. A.	Highways and Bridges Act.
H. and L. A.	Highways and Locomotives Act.
H. W. C. A.	Housing of the Working Classes Act.
I. D. N. A.	Infectious Disease (Notification) Act.
I. D. P. A.	Infectious Disease (Prevention) Act.
L. A.	Locomotives Act.
L. B. A.	London Building Act.
L. G. A.	Local Government Act.
M. C. A.	Municipal Corporations Act.
M. M. A.	Metropolis Management Act.
M. P. A.	Metropolitan Poor Act.
P. A. A.	Parochial Assessment Act.
P. H. A.	Public Health Act.
P. H. (L.) A.	Public Health (London) Act.
P. L. A.	Poor Law Act.
P. R. A. and C. A.	Poor Rate Assessment and Collection Act.
S. F. D. A.	Sale of Food and Drugs Act.
T. I. C. A.	Towns Improvement Clauses Act.
W. and M. A.	Weights and Measures Act.

UNIV. OF CALIFORNIA

THE MUNICIPAL MANUAL.

CHAPTER I.

URBAN LOCAL GOVERNING BODIES—CONSTITUTION AND GENERAL POWERS.

1. The Town Council. 2. The Urban District Council. 3. General Powers of Town and Urban District Councils. 4. The Metropolitan Borough Council. 5. The County Council.

1. The Town Council.

THE fabric of local government in England has been greatly simplified by the legislation of the last quarter of a century. For all practical purposes it may be regarded as consisting of two departments, represented by the county and the district. In rural areas the unit of administration is the parish, the strictly local affairs of which are managed by the parish council, or, if the population is less than 300, the parish meeting. For more general matters, parishes are grouped into rural districts, under rural district councils, and these

TO VIMU AMERICAN

districts in their turn are included in administrative counties (which are not necessarily identical with geographical counties), the business of which is transacted by the county councils.

In urban districts, the unit is the town, governed by a town council or an urban district council. In most cases the town is also included in the county area, and the county council have jurisdiction for certain purposes. Some 73 large towns, however, each of which either has a population of 50,000, or is an ancient local government "county," are county boroughs; their councils are endowed with county powers, and they are practically independent of the administrative counties surrounding them.

London has received special attention from the Legislature. It is divided into the City of London, ruled by the unreformed corporation, and twenty-eight metropolitan boroughs (including the City of Westminster), created by the London Government Act, 1899, and managed by borough councils. The whole area forms the Administrative County of London, the governing body of which is the London County Council.

Excluding the metropolis, our modern English towns are divided into two classes—municipal boroughs and urban districts.

The former are of high and ancient lineage, some of them claiming a continuous corporate life of a thousand years. The latter are the offspring of recent legislation.

The borough derives its existence from the incorporation of the inhabitants of a town (either by prescription or charter) into a municipal corporation, which is a body legally distinct from any of its individual members—an entity constituted for the purpose of carrying out certain defined duties imposed upon it by law, possessing a capacity for holding property, and capable of suing and being sued in the courts of justice.

The power to create a municipal corporation is nominally a royal privilege. All petitions for incorporation are referred to a committee of the Privy Council, who usually hold a local inquiry into the matter, and, following upon their report, the prayer of the petition is refused, or a charter of incorporation is issued, dividing the borough into wards, fixing the number of councillors for each ward, and settling other necessary details.[1]

The number of petitions for incorporation is restricted by the fact that the costs of unsuccessful applications have to be borne by the petitioners. The amount of these costs, of course, varies according to the strength and persistence of the opposition. If the petition is acceded to, they are paid out of the borough fund of the newly constituted borough.[2]

There are no statutory requirements as to the area, population or rateable value which must be attained by a town before it may be granted a

[1] Municipal Corporations Act, 1882, ss. 210—218.
[2] M. C. A., 1882, sch. 5.

charter of incorporation, but the Privy Council do not, as a rule, recommend the issue of a charter to a town possessing a population of less than 20,000.

The boundaries of a borough may be revised, and any consequential alterations made in the arrangement of the wards, by a provisional order of the Local Government Board, confirmed by an Act of Parliament.[1] Apart from such an alteration of the borough boundaries, the number and extent of the wards may be varied by the Privy Council, the new ward boundaries and the re-apportionment of the councillors being then settled by the Home Office.[2]

The title of the corporation is "The Mayor, Aldermen and Burgesses of the Borough," or, if the town is a city, "The Mayor, Aldermen and Citizens of the City",[3] and it is to the burgesses or citizens that the local government of the town is primarily entrusted. Although all the inhabitants of the borough collectively constitute the corporation, a burgess (or citizen) must be specially qualified by being of full age, and having occupied in the borough a building of any value, or land of the yearly value of £10, duly rated to the poor rate, for one year ending on the previous 15th July. Throughout this period he or she must have resided in the borough or within seven miles of its boundaries, and the rates due in respect of the

[1] Loc. Gov. Act, 1888, s. 54.
[2] M. C. A., 1882, s. 30; M. C. A., 1893.
[3] M. C. A., 1882, s. 8.

property must be paid. If the qualification of the burgess is the occupation of land, or of a building of the yearly value of £10, the assessed taxes must also have been paid, but the period of residence (not occupation) is reduced to six months. Women are included, if fully qualified, and unmarried, but not otherwise. A burgess need not, of course, necessarily have been in occupation of the same property during the whole of the qualifying period, if no interval has elapsed between vacating one set of premises and occupying another.[1]

The occupation of a dwelling-house by virtue of any office, service or employment (which might give a right to vote at a Parliamentary election), does not entitle the occupier to be enrolled as a burgess. In no case is an alien, or a person who has received parochial relief (other than medical relief) within the twelve months already referred to, entitled to be enrolled.[2]

Lists of persons duly qualified are prepared by the overseers and posted on the doors of the churches, chapels and public offices of the borough before the 25th August in each year. These lists, together with the claims of any persons whose names are omitted, and objections to the insertion of any names that are included, are subsequently settled by the Revising Barrister before the 12th October, and published by the town clerk on or

[1] M. C. A., 1882, ss. 9, 33, and 63; County Electors Act, 1888, s. 3.

[2] M. C. A., 1882, s. 9; Medical Relief Disqualification Removal Act, 1885.

before the 20th October. The burgess roll thus formed comes into operation on the 1st November, when the annual election of town councillors is held, and continues valid for twelve months.[1]

The town council, who administer local affairs in a borough, consist of the mayor, aldermen and councillors. Membership of the council is restricted to males who are enrolled and entitled to be enrolled as burgesses, or who would be so entitled if they resided within seven miles of the borough, but who actually reside within a further radius of eight miles. In this last case, however, a property qualification is also necessary.

Certain persons are specially disqualified, from various reasons, including anyone holding a place of profit under the council (other than that of mayor or sheriff), clergymen, and persons having, directly or indirectly, an interest in a contract with, or employment by, the council. This last restriction is, of course, very wide, and it has therefore been modified to make an exception in favour of contracts with regard to the leasing or purchase of land, or the loan of money, or interests in newspapers inserting the council's advertisements, or in companies supplying water or light in the borough, or insuring any part of the borough against fire, railway companies, ordinary joint stock companies, and industrial and provident societies.[2]

[1] Parl. and Mun. Registration Act, 1878 ; M. C. A., 1882, ss. 44, 45 ; C. E. A., 1888, s. 4 ; Registration Order 1895.
[2] M. C. A., 1882, ss. 10—12 ; M. C. A. 1906.

The councillors are all elected for a period of three years, and one-third of them retire on the 1st November in each year, and are eligible for re-election.[1]

The aldermen are a body equal in number to one-third of the councillors. They are elected by the council, and hold office for a period of six years, one half of them retiring on the 9th November every third year.[2] They have nominally no direct connection with any special ward of the borough, but it is a custom of many councils to pay regard to ward representation when electing aldermen, while upon other councils seniority or special service is the principal ground upon which the matter is decided.

The whole council, as thus constituted, is presided over by the mayor. Usually the aldermen and mayor are chosen from amongst the elected members of the council, but anyone who is qualified to be a councillor is eligible for either office. The mayor is the civic head of the borough, and is entitled to the courtesy title of "Worshipful." If the town has a separate commission of the peace, he is chairman of the borough justices during his year of office, and continues to be a justice for the ensuing year. The mayor of a non-county borough is also, during his mayoralty, a justice for the county in which the borough is situate. In any event, the

[1] M. C. A., 1882, s. 13.
[2] *Ib.*, ss. 14 and 60.

mayor is chief magistrate of the town during his term of office.[1]

The council are empowered to pay the mayor a salary,[2] as a considerable expenditure is often considered necessary to keep up the dignity of the office and to meet the calls of local philanthropic and other institutions. Upon the chief magistrates of a few of the largest towns in the kingdom, such as Manchester, Liverpool, Birmingham, Bristol, Sheffield, York, Leeds, and Cardiff, the title of Lord Mayor has been conferred by letters patent.

The mayor is at liberty to appoint a member of the council to act as his deputy during his illness or absence, but such appointment does not authorise the deputy mayor to preside at a meeting of the council, or to act as a justice of the peace.[3]

The mayor is returning officer at municipal elections if the borough is not divided into wards. If it is so divided, the council must, at their annual meeting on the 9th November, assign an alderman to act as returning officer in respect of each ward.[4] In practice, the principal duties of the returning officer are to superintend the detailed arrangements for ward elections (which are conducted by ballot), and to declare and publish the results. He may also give a casting vote, in the event of a poll resulting in a tie between two or more candidates.

[1] M. C. A., 1882, ss. 15, 61, 155, and sch. 2.
[2] M. C. A., 1882, s. 15.
[3] *Ib.*, ss. 16 and 67.
[4] *Ib.*, ss. 53, 57, 58, and 67.

Town councils usually meet fortnightly or monthly. It is compulsory upon them to meet at least quarterly, one of such meetings being an annual meeting to be held at noon on the 9th November, at which the mayor and aldermen are elected, and the committees of the council are usually appointed. The dates of all the other meetings may be settled by resolution of the town council, and special meetings may be called by the mayor, or by any five members, if the mayor refuses to comply with a requisition, signed by them, asking him to call a meeting. At least one-third of the members must be present to constitute a valid meeting, but, providing this number is in attendance, all matters coming before the council, with a few special exceptions, are decided by a bare majority of those voting, the chairman always being entitled to a casting vote in the event of an equal division.[1] The detailed conduct of the business is left for the members themselves to determine, and is generally regulated by standing orders which they frame with this object. A member of the council, however, is not allowed to vote or take part in the discussion of a matter under consideration by the council or a committee, in which he has a direct or an indirect pecuniary interest.[2] No remedy is provided for a breach of this rule, and although the chairman should refuse to permit such a member to vote or speak, it is difficult to see

[1] M. C. A., 1882, sch. 2.
[2] M. C. A., 1882, s. 22.

how he can be fully aware of the financial investments of all the gentlemen over whom he presides.

Minutes of all the proceedings of the council have to be kept, and any burgess may, on payment of a fee of one shilling, inspect and make a copy of those minutes, or of the minutes of committees which have been submitted to the council for approval.[1]

The council have full power to appoint committees from amongst their own members, to deal with any matters which they consider will be better regulated and managed by such bodies, but it is essential that the acts of those committees (with certain special exceptions to be noticed later) shall be submitted to the council for approval.[2] Under the usual form of standing orders, the whole of the ordinary business of local government is first referred to various committees, each entrusted with special branches of the work. Large powers in dealing with minor matters are, as a rule, delegated to them, but on more important questions no action can be taken until the committee have reported to the council, and their recommendations have been considered. The invariable custom is for their reports to be printed, and sent to each member of the council a few days before the meeting of the latter body, at which those reports are discussed,

[1] M. C. A., 1882, ss. 22, 233, and 235, sch. 2; *Williams* v. *Mayor of Manchester*.
[2] M. C. A., 1882, s. 22.

and the recommendations adopted, amended, or rejected. It follows, therefore, that although the public are usually admitted to the meetings (unless for any special reason the council resolve to meet *in camera*), it is not always possible for the spectators to follow the proceedings when they have not had the advantage of reading the reports. Of course, any member is able to propose a motion relative to the affairs of the borough, after due notice, and the question covered by such motion will thus come directly before the council, but it is important to remember that the greater part of the work is, in the first instance, examined and discussed by committees, whose recommendations always receive due weight, as they are presumably founded upon a close examination of the details.

A person who is elected mayor, alderman, councillor or elective auditor (to be referred to later on) must make a declaration before two members of the council, or the town clerk, formally accepting the office, in order to be qualified to act in his new capacity. If he fails to make this declaration within five days of notice of his election, or if he resigns his office, he is liable to pay a fine to be fixed by the council, which is usually £1, but may be as high as £50, or, in the case of a mayor, £100.[1] A member of the council will also cease to hold office if he is declared bankrupt, or makes an arrangement with his

[1] M. C. A., 1882, ss. 34—36 and 239, sch. 8.

creditors by deed or under the Bankruptcy Act, or if he is continuously absent from the borough (unless he is ill or on active military service)[1] for more than six months, or, in the case of the mayor, for more than two months. A member disqualified by absence is liable to pay the fine due on resignation, but he again becomes eligible for election upon his return to the borough. The penalty for acting in a corporate office without being properly qualified is £50, which any burgess may recover by action.[2]

A bankrupt is also incapable of being elected to the council for a period of five years after he has obtained his discharge, unless his bankruptcy is annulled, or is, upon discharge, certified to be due to misfortune and not to misconduct.[3]

As already stated, some large towns, besides being municipal boroughs, are also county boroughs, and their councils possess nearly all the powers, rights and duties of the council of an administrative county. Provision is made for the promotion of any other municipal borough to the rank of a county borough, when its population attains the figure of 50,000.

Application for this purpose must be made by the county council or town council to the Local Government Board, who hold an inquiry into the

[1] Members of Local Authorities Relief Act, 1900.

[2] M. C. A., 1882, ss. 39 and 41.

[3] Bankruptcy Act, 1883, ss. 32 and 34; Bankruptcy Act, 1890, s. 9.

matter, and, if satisfied that the alteration is desirable, make a provisional order to that effect, and introduce into Parliament a bill to confirm the order.[1]

A few ancient towns are, by royal favour, counties of cities or counties of towns, and have the constitution in some respects of a geographical county. The chief distinction between these and other boroughs is that the council have power to appoint a sheriff, who must be elected at the annual meeting on the 9th November.[2]

The gift of the freedom of the borough is now of a purely honorary nature, and carries with it no right to vote in the local elections or to share in the corporate property, except in the city of London. Persons of distinction, and others who have rendered eminent service to the borough, may be admitted as freemen by a resolution passed at a meeting of the council at which not less than two-thirds of the members are present and vote.[3]

There are 324 municipal boroughs, of which 73 are county boroughs. In size, the boroughs vary from Liverpool with a population of 739,180 and a rateable value of £4,587,393, to Hedon (Yorkshire) with a population of 1,010 and a rateable value of £3,329.

The smaller boroughs, of course, obtained their corporate existence many years ago, when they

[1] Local Government Act, 1888, ss. 31 and 54, sch. 3.
[2] M. C. A., 1882, s. 170.
[3] Honorary Freedom of Boroughs Act, 1885.

were relatively far more important than they are to-day.

2. The Urban District Council.

Urban districts are quite recent creations of the Legislature. They were brought into existence by the Local Government Act, 1894, in place of the local boards of health and improvement commissioners, who formerly governed towns not sufficiently large to be incorporated under the Municipal Corporations Acts.

The council for the urban district are the local and sanitary authority for the district. They have no powers or duties under the Municipal Corporations Acts, but, so far as the provisions of the Public Health Acts are concerned, there is very little distinction between ordinary urban districts and municipal boroughs—in fact, the town council of a municipal borough act as the urban district council for the town.

The Local Government Act, 1888 (s. 57), provides machinery for the creation of an urban district. Application must be made to the county council, who may hold an inquiry into the matter, take a poll of the electors thereon, and afterwards make the necessary order constituting the urban district, providing for its division into wards, and settling the number of councillors for each ward, and other details.

This order must be confirmed by the Local

Government Board before it becomes operative. The Board are entitled to disallow it, after a local inquiry, if they receive a petition against it from the council of any district affected, or from one-sixth of the electors of any ward or district concerned. If no such petition is presented the Board are bound to confirm the order, but they may introduce into it various modifications which they consider desirable.

An urban district may be divided into wards, or existing wards may be varied in number or extent and the councillors re-apportioned among the new wards, or altered in number, by an order of the county council, made after holding a local inquiry into the matter.[1]

The register of those entitled to vote in the election of urban district councils is much wider than that of the burgesses in a municipal borough. Instead of the burgess roll, the urban district has a list of parochial electors, which comprises occupiers who would be burgesses if the town were a borough and all persons who are on the parliamentary register, thus including those qualified in respect of ownership of property, the service occupiers already alluded to, and lodgers who have a parliamentary vote. In urban districts a woman elector is not disqualified by reason of marriage, although husband and wife may not both be on the register in respect of the same property. The disqualifica-

[1] L. G. A., 1888, s. 57.

tion of infants, paupers and aliens applies as in a borough.[1]

The parochial register is prepared by the overseers, settled by the revising barrister as described on page 5, published by the clerk of the peace for the county, and comes into force on the 1st January in each year.

The members of the council must either be parochial electors or have resided in the district for the twelve months preceding their election.

Women may be elected, whether married or single.[2]

The elections take place on the first Monday in April, or, if that day happens to be Easter Monday, on the last Monday in March, but for special reasons the county council may fix the date between the preceding Saturday and the following Wednesday. The clerk of the council acts as returning officer.

The persons who are elected must either accept office, or, if they have consented to be nominated as candidates, pay a fine (which the council may fix as high as £50), as in the case of town councillors. A similar fine is payable upon resignation. Their term of office is three years, and usually one-third of the whole number go out of office on the 15th April in each year, but the county council may, upon a resolution of the urban council, passed

[1] County Electors Act, 1888; Loc. Gov. Act, 1894, ss. 23, 43, 44, and 75.

[2] L. G. A., 1894, s. 23.

by a two-thirds majority, order that the whole council shall retire on that date every third year.[1]

The chairman is appointed annually, and, if not a woman or otherwise disqualified, is by virtue of his office a justice of the peace for the county. He need not be an elected councillor.[2] There are no aldermen upon an urban district council.

The disqualifications referred to on pages 6 and 11 apply in the case of urban district councils, but clergymen are eligible for election. The rule as to absence is more stringent, for a member who is not present at any meeting for more than six consecutive months loses his seat, unless his absence is due to illness, active military service,[3] or some reason approved by the council.

A sentence of imprisonment with hard labour, without the option of a fine, for a criminal offence, also carries with it disqualification for membership for a period of five years.[4]

The proceedings at the meetings of the council must be transacted in accordance with rules laid down in schedule 1 of the Public Health Act, 1875, and the regulations which the council are empowered by that schedule to frame for their own guidance. Meetings must be held at least once a month.

[1] L. G. A., 1894, ss. 23 and 48 (4); Urban District Councils Election Order, 1898.

[2] L. G. A., 1894, ss. 22 and 59.

[3] Members of Local Authorities Relief Act, 1900.

[4] L. G. A., 1894, s. 46.

The quorum of members which is necessary to constitute a valid meeting is one-third of the whole council, or seven members if the total number is over twenty-one. With a few special exceptions, every question coming before the council must be decided by a majority of the members present at the meeting and voting on the matter, but in the case of an equal division the chairman may give a casting vote.[1]

The council have power to refer any of their business to committees (upon which persons who are not councillors may be appointed), except the power of raising a loan, making a rate, or entering into a contract. The acts of these committees must, however, be submitted to the council for approval.[2]

There are no less than 818 urban districts in England and Wales, ranging from Willesden in Middlesex, with a population of 140,879 and a rateable value of £811,861, to places such as Kingsbury, in the same county, which has a population of 780 and a rateable value of £6,530; or Childwall, in Lancashire, with a population of 218 and a rateable value of £4,178.

[1] Public Health Act, 1875, s. 199, sch. 1; L. G. A., 1894, s. 59.

[2] L. G. A., 1894, s. 56.

3. General Powers of Town and Urban District Councils.

Joint Action.

All councils, whether of municipal boroughs or urban districts, are authorised to combine for the benefit of their districts. To a joint committee so formed, the councils concerned may delegate any powers in which they are mutually interested, except those of borrowing money and making rates.[1]

The county council may also appoint the town or district council to be their agents in transacting any administrative business in the town or district, such as the granting of licenses to perform stage plays.[2]

Joint boards (as distinct from committees) may be formed by a provisional order of the Local Government Board, confirmed by Act of Parliament. These boards are corporate bodies, charged with special functions which it is considered may be more conveniently or economically carried out by one authority for the combined district; and they consist of ex-officio members and elected representatives from the various constituent authorities, as laid down in the provisional order. This order also sets out the duties of the board, and usually provides that their expenses shall be met by contributions from the associated districts in

[1] P. H. A., 1875, ss. 131 and 285; L. G. A., 1894, s. 57.
[2] L. G. A., 1894, s. 64.

proportion to their rateable value. Sewerage boards, water boards, hospital boards, and joint port sanitary authorities are cases in point.[1]

The Local Government Board may order any two or more councils to act together for the purpose of the prevention of epidemic diseases, and may also unite districts for the appointment of a medical officer of health.[2]

Officers.

The council have full power to engage all the officers they may consider to be necessary, but there are certain officials whom it is essential that they should appoint.[3]

The town council of a municipal borough must appoint a town clerk, who must not be a member of the council, or treasurer, or an elective auditor. In all important towns the council stipulate that he should be a solicitor. He has charge of the charters, deeds, records, and documents of the borough, and acts as legal adviser and chief officer of the council. A deputy town clerk may also be appointed, to act during the absence or illness of the town clerk, with authority to do all things which may legally be done by the town clerk.

The town council must also appoint a fit person to be treasurer of the borough. In many cases, the nominal treasurer is the local manager of the

[1] P. H. A., 1875, ss. 279—284 and 297.
[2] P. H. A., 1875, ss. 139 and 286.
[3] M. C. A., 1882, ss. 17—21; P. H. A., 1875, ss. 189—196

bank with whom the council place their funds, and the financial work is carried out by the borough accountant, or, in small towns, by the town clerk.

An urban district council must also appoint separate persons as clerk and treasurer.

The council of either a borough or an urban district must appoint a duly qualified medical practitioner as medical officer of health, and a surveyor, and an inspector of nuisances. The same person may be medical officer of two or more districts, or the council may, by arrangement with the county council, utilise the services of the medical officer for the county. The Local Government Board have issued regulations, by their general order of the 23rd March, 1891, with regard to the appointment and duties of medical officer and inspector of nuisances, and, if these regulations are complied with and the appointment is approved by the Board, a grant amounting to half the salaries of those officials is made by Parliament to the county council, who (except in the case of the county boroughs) pay over to the town or district council their share of such grant.[1] In this case the officers cannot be dismissed without the sanction of the Local Government Board, but to overcome any possible difficulty which might thus arise, they are often appointed by the council merely for the term of one year, and afterwards re-appointed annually. The majority of councils

[1] L. G. A., 1888, ss. 17, 18, and 24.

now stipulate that the person appointed as inspector of nuisances shall have gained a certificate of some recognised sanitary institution, such as the Royal Sanitary Institute.

There are, of course, many other officers whom it is necessary to appoint if the council undertake certain branches of the work of local government, such as chief constable, public analyst, inspectors of foods and drugs, or weights and measures, superintendents of public baths, fire brigade, or cemetery, public librarian, etc.

It is illegal, as a general rule, for the officer of a council to be interested in any contract with them. Exceptions are made, however, in the case of contracts for the purchase or hiring of offices or lands if two-thirds of the council who are present at the meeting considering the matter consent to such a contract, and also in the case of contracts in which the officer is merely concerned as a shareholder in a joint-stock company.[1]

The Public Bodies Corrupt Practices Act, 1889, contains stringent provisions for the prevention or punishment of bribery on the part of members or officials of public authorities.

The council cannot, under the general law, grant superannuation to their officers, but, in the case of a few large boroughs, power to establish pension schemes has been obtained by local Acts.

Notices issued by the council under the Public

[1] P. H. A., 1875, s. 193; Public Health (Members and Officers) Act, 1885.

Health Acts may be authenticated by the signature of the town clerk, clerk, surveyor, or inspector of nuisances, and the council may carry on legal proceedings by the clerk or other duly authorised officer.[1]

Purchase of Land.

The council may, of course, purchase, lease, sell or exchange land within or without their district for the purpose of fulfilling the duties imposed upon them by Parliament. They have, however, no statutory power to hold land in order to derive revenue from it, and, generally speaking, any land purchased by them and found not to be needed for the express purpose for which it was acquired must now (unless the Local Government Board otherwise direct) be sold at the best price to be obtained for it).[2] Many ancient boroughs, however, have large estates, the rents from which result in a considerable relief of the rates.

A town council have special power to purchase five acres of land in order to erect a town hall or similar public building. They may not sell or mortgage any corporate land already in their possession, nor let it for a longer term than thirty-one years, or, if upon a building lease, seventy-five years, without the consent of the Local Government Board.[3]

[1] P. H. A., 1875, ss. 259 and 266.
[2] P. H. A., 1875, ss. 175 and 177.
[3] M. C. A., 1882, ss. 105—108.

It often becomes necessary for the council to secure from Parliament power to acquire land compulsorily. This is usually done by a private Act of Parliament, or by a provisional order from the Local Government Board (which must be confirmed by an Act), incorporating, with or without modifications, the provisions of the Lands Clauses Consolidation Acts, 1845, 1860, 1869, 1883 and 1895.[1] The Act of 1845 not only empowers the compulsory purchase of land required for purposes laid down in the special Act or Order, upon payment of a price to be settled by agreement or arbitration, but enables the council to acquire such land when the owner is missing, or is under disability, or has only a limited interest in the property. It further provides for the disposal of the purchase money in such cases, and settles the method of awarding compensation. The powers must be exercised within three years; otherwise they lapse, unless the confirming Act gives a different period.

Before such a provisional order can be obtained, it is necessary to give full public notice and to serve a special notice upon all persons interested in the land and premises, and the Board also hold an inquiry into the application for the order. The confirming Act of Parliament is obtained by the Board, unless the Bill for the Act is opposed, when the council must take it in charge.

Land which is thus purchased under compulsory

[1] P. H. A., 1875, ss. 176 and 297.

powers cannot, as a rule, be used for purposes other than that for which it was acquired.

Legislation.

The council have an inherent power to oppose any local Bill introduced into Parliament which threatens their property or their rights.

They may also promote Bills in Parliament, but in this case the procedure under the Borough Funds Acts, 1872 and 1903, must be strictly observed, in order that the expenses incurred may be payable out of the public funds. These Acts provide that a special resolution of the council, authorising the promotion of the Bill, must be passed by a majority of the whole council, duly advertised, and confirmed by another special resolution fourteen days after the deposit of the Bill in Parliament. The approval of the Local Government Board is to be obtained, and the Board may hold a local inquiry with regard to the matter. The Bill must also be submitted to a meeting of the parochial electors for approval or rejection. If the decision of this meeting is considered unsatisfactory, a poll may be demanded by one hundred electors, or, if the total number of electors is under 2,000, by one-twentieth of them, or the council may themselves demand a poll by passing a resolution to that effect. The poll is taken by ballot, and if there is a majority against the Bill, it must be withdrawn, but the costs of promotion up to that stage may be paid out of the rates. The council may divide the Bill

into separate parts, and take the decision of the electors on each part, in order that the whole Bill need not be abandoned, if only a portion of it is rejected.

It is worthy of notice that the question of promoting a Bill in Parliament is now the only specific matter which is submitted directly to the vote of the whole of the electors.

The same procedure applies if the council desire to oppose a local Bill in Parliament which does not directly threaten their rights or interests. No second resolution of the council, or meeting or poll of the electors is, however, necessary to support such an opposition.

Provisional Orders.

There are numerous instances in which the council may secure legislation by means of a provisional order. Examples may be found in the compulsory acquisition of land, already referred to, the conversion of an ordinary municipal borough into a county borough, the establishment of gasworks, the execution of an improvement scheme under the Housing of the Working Classes Acts, the constitution of joint boards, and the repeal or amendment of certain local Acts.

The order must be obtained from a Government Department, usually the Local Government Board, and must be confirmed by Parliament, except in a few cases which will be noticed later. The Department may hold a local inquiry into the matter, and

full provision is made for the service of proper notices upon all persons interested, before the order is granted. The confirming Act is obtained from Parliament by the Department if the Bill is unopposed, but if opposition is raised, it must be supported by the council at their own expense.[1]

Bye-laws.

By various Acts of Parliament, the council have had conferred upon them extensive powers of making bye-laws for the regulation of certain matters within their district. All such bye-laws must be made under the seal of the council, after public notice, and copies must be kept open for inspection at the council's offices. The statutes authorising the bye-laws specify the maximum penalties for offences against them, and provide for their summary recovery.

Most of the bye-laws made by the council must receive the sanction of the Local Government Board before they become operative, but those made by a town council "for the good rule and government of the borough," must be submitted to the Home Office, who may disallow them. In the case of an urban district which is not a borough, the latter bye-laws can only be made by the county council.[2]

The Local Government Board and the Home

[1] P. H. A., 1875, ss. 297 and 298.

[2] P. H. A., 1875, ss. 182—188; M. C. A., 1882, ss. 23 and 24; L. G. A., 1888, s. 16.

Office have both issued model sets of bye-laws for the guidance of local authorities.

All bye-laws must, of course, be within the power of the council; otherwise they will be void, in spite of official approval.

Contracts.

It is a rule of law that the contract of a corporate body must be made under seal. It is also specially enacted that a contract entered into by the council under the Public Health Acts, of which the value or amount exceeds £50, will only be binding when made in writing and under the common seal of the council. If the value or amount is £100, the council must give ten days' public notice, inviting tenders for the work required to be done, and also take security for the due performance of the contract. They must also obtain an estimate and report from their surveyor before entering into any contract for the execution of works under the Public Health Acts.[1]

Legal Proceedings.

The council are invested with full discretion to take legal proceedings for the enforcement of their powers and duties. Under the Borough Funds Act, 1872, they may also institute or defend legal proceedings which may be necessary for the

[1] P. H. A., 1875, ss. 173 and 174.

promotion or protection of the interests of the inhabitants, at the cost of the rates.

So far as legal proceedings against the council are concerned, valuable assistance is given by the Public Authorities Protection Act, 1893. This enacts that all proceedings against the council for any act, neglect or default in the execution of any Act of Parliament or any public duty, must be commenced within six months of the act, neglect or default, or, in the case of the continuance of the injury or damage, within six months of its cessation. In such an action for damages, tender of amends by the council before the action is a good defence, and judgment for the defendants carries costs as between solicitor and client. Similar costs may also be granted if the plaintiff (although successful) does not give the defendants sufficient opportunity of tendering amends before commencing the action.

There are numerous offences under the Public Health Acts for which the council may recover penalties by summoning the offender before the magistrates in petty sessions, or before a stipendiary magistrate. The penalties recovered by the council are payable to the fund applicable to their general expenses. All such summary proceedings must be commenced within six months from the time when the offence was committed, or the termination of a continuing offence, unless some other period is specially laid down by the statute referring to the matter. The fact that a justice is

a member of the council, or a ratepayer in the district, does not disqualify him from adjudicating upon the matter in dispute. In actual practice, of course, a justice who is a member of the prosecuting authority will often retire from the bench.[1]

An appeal against any order or conviction of the magistrates under the Public Health Acts lies to the next ensuing court of quarter sessions for the borough or county.[2]

The council may take proceedings in the county court for the payment of any sum under £50, which they are authorised to recover in a summary manner, but the six months' limitation before alluded to applies to such proceedings, just as though they had been commenced before the magistrates.[3]

In many instances, such as the repair of private streets and structural alterations of premises, the owner of the premises is liable for the expense incurred by the council. In all such cases the council may recover the amount, with 5 per cent. interest, from the person who was the owner when the works were completed, and, until recovery, such expenses form a charge on the premises, and the owner for the time being is therefore also liable to pay them. The council have power to declare the amount due to be private improvement

[1] P. H. A., 1875, ss. 251—265.
[2] P. H. A., 1875, ss. 99 and 269; P. H. A. A., 1890, s. 7.
[3] P. H. A. 1875, s. 261.

expenses, payable by instalments within a period not exceeding 30 years, with 5 per cent. interest. The instalments and interest may be recovered from the owner or occupier, but, in the latter case, three-fourths of the amount paid may be deducted from the rent. The charge on the premises can, of course, be enforced in the High Court, and if the amount to be recovered does not exceed £500, proceedings may also be taken in the county court. There is no special limit of six months to such an action.[1]

In all cases where the council are authorised to recover expenses by summary proceedings, or to declare them to be private improvement expenses, an appeal against their decision may be made to the Local Government Board within twenty-one days after the person aggrieved receives notice of it. Immediately such an appeal is lodged with the Board, other proceedings which have been commenced by the council in the matter must be stayed. The Board may make any order which appears to them to be equitable, and there is no appeal from their decision.[2]

Although it is compulsory upon the council to carry out the duties imposed upon them by statute, they are not thereby authorised to create any unnecessary nuisance. It is expressly enacted that if any person sustains damage by reason of the exercise of the powers of the Public Health

[1] P. H. A., 1875, ss. 214 and 257.
[2] *Ib.*, s. 268.

Acts, where he is not himself in default, full compensation must be made to him by the council. The amount of such compensation, if disputed, is to be ascertained by a single arbitrator, if both parties concur, or, if they do not, by an arbitrator appointed by each of them, with an ultimate reference to an umpire appointed by the arbitrators or by the Local Government Board. If the claim does not exceed £20, either party may require it to be settled by the local magistrates.[1]

It need hardly be said that members and officers of the council are not personally liable for acts done in the *bonâ fide* execution of their duty, except that, as shown later, they may, in a few boroughs, and in all urban districts, be surcharged for making improper payments.[2]

As the council have frequently to take proceedings against persons whose identity it is difficult to discover, it has been specially provided that notices may be addressed to the "owner" or "occupier" without further description, and served upon the premises.[3]

Default.

If default is made by the council in enforcing the provisions of the Public Health Acts, complaint may be made to the Local Government Board, who may, after an inquiry, order the council to

[1] P. H. A., 1875, ss. 179—181, and 308.
[2] *Ib.*, s. 265.
[3] *Ib.*, s. 267.

perform the duty within a limited time. Should the council disobey that order, the Board may enforce it by mandamus, or by the appointment of a person to carry it out at the expense of the council.[1]

4. The Metropolitan Borough Council.

The latest local government areas to be created were the metropolitan boroughs, into which the London Government Act, 1899, transformed the parishes and districts in the metropolis which were formerly governed by vestries and boards of works. There are twenty-eight of these boroughs, covering the whole of the administrative county of London, except the city of London. One of the boroughs, Westminster, has the rank of a city, whilst another, Kensington, has secured from the Privy Council the right to the prefix "Royal."

The local authority of the metropolitan borough is the borough council, composed of the mayor, aldermen and councillors. The constitution of this body is very similar to that of the town council of a municipal borough, and it is therefore merely necessary to indicate the points with regard to which special provision has been made for the metropolis. The mayor (who may be paid a salary) is elected annually on the 9th November, and is an *ex-officio* justice of the peace for the county. The aldermen are only equal in number to one-sixth of the councillors, and sitting aldermen may not vote in the election of other aldermen.

[1] P. H. A., 1875, ss. 299—302.

The quorum of the council is one-third of the total membership. The mayor and aldermen may be selected from the councillors or persons qualified to be councillors. The councillors, who must be parochial electors or have resided within the borough during the previous year, are elected by the parochial electors, referred to on page 15, for the usual term of three years, and, under an order issued by the Local Government Board, they all retire upon the 1st November every third year. Clergymen are eligible, but otherwise the ordinary disqualifications prevail.

The town clerk is the returning officer at such elections. All members of the council who have been nominated with their consent must accept office within a month, or else pay the fine which is due on resignation, and vacate their seats. The amount of the fine is fixed by each council, but must not exceed £50. Six months' absence from the meetings of the council, unless on account of illness or active military service, or for some reason approved by the council, vacates the seat of the absentee member.[1]

Minutes of the meetings of the council must be made and kept open to public inspection.

The powers of the overseers are vested in the council, and the town clerk is charged with the duty of preparing the lists of electors, which are revised and published as in the case of a municipal borough.

[1] London Election Order, 1897.

The powers of a town council with regard to the appointment of committees and delegation of business are also enjoyed by a metropolitan borough council. The appointment of a finance committee, who have special functions alluded to later, is essential. All committees must report their proceedings to the council, but, to the extent to which the latter body so direct, their approval is not required to the acts of the committees. The power to borrow money or make a rate, however, cannot be delegated.

The council possess the ordinary powers of local authorities to purchase land for the purpose of carrying out their duties, and they may sell any land they hold, with the consent of the Local Government Board. The London Government Act, 1899, specially states, however, that it does not authorise them to alienate open spaces dedicated to the use of the public or held on trusts which prohibit building.

The provisions already noticed with regard to appointment of officers, legal proceedings, the promotion of and opposition to Parliamentary bills, and the making of bye-laws, are generally applicable to borough councils. Any bye-laws which they may make for the good rule and government of the borough under the Municipal Corporations Act, 1882 (s. 23), must not be inconsistent with similar bye-laws made by the London County Council.

The Local Government Board have power, on

the application of the London County Council and of the majority of the borough councils, to transfer to the latter bodies any powers exerciseable by the county council, or *vice versâ*, and to authorise similar transfers, as between the county council and the common council of the city, upon an application from both bodies.

5. The County Council.

The county council are charged with the conduct of the general business of an administrative county.[1] This district is in most cases identical with the geographical county, excluding county boroughs, but in seven instances a geographical county has been divided into two or more administrative counties.

County councillors are elected by the county electors, whose qualification is similar to that of a burgess already described, the county being substituted for the borough as the place of residence, etc. The list of electors is prepared by the overseers, and revised by the revising barrister, in the same way as the burgess roll. It must be published by the clerk of the peace on the 20th December, and comes into force on the following 1st January. In a municipal borough, however, the burgess roll which operates from the 1st November also takes immediate effect for any county council election which may afterwards be held.

[1] Loc. Gov. Act, 1888; County Electors Act, 1888; County Councils (Elections) Acts, 1891 and 1900.

Any county elector, except a woman, whether on the local government or parliamentary ownership register, is eligible for election. Clergymen are not disqualified, and peers owning property within the county may also be elected. The administrative county is divided into a number of electoral divisions, each of which returns one member. Generally speaking, the provisions of the Municipal Corporations Act apply to the election of county councillors, so far as taking the poll is concerned. The council appoint the returning officer, except in the case of a municipal borough, when the mayor acts in that capacity. A county councillor has three months within which to accept office, and twelve months' absence from the county (subject to the usual exemptions) will automatically disqualify him. The other ordinary disqualifications resulting from bankruptcy, interest in a contract with the council, etc., also apply to county councils. The councillors are elected for three years from the 8th March, at the end of which period they all retire. The triennial elections must be held on such date as the council may fix, between the 1st and the 8th March.

The aldermen, who number one quarter of the entire council, as in a municipal borough, hold office for six years, half of them retiring every third year. Anyone who is qualified to be a councillor may be elected an alderman, but it is the invariable custom for aldermen to be chosen from amongst those who have previously served the

office of councillor. They are elected by the councillors only, and not by the entire council, as in the case of a borough.

The annual meeting of the county council, at which the chairman, and, if thought desirable, a vice-chairman, are appointed, may be held in March, April, or May, except in the triennial year of election, when it must be held between the 8th and 18th March. The chairman (who may be paid a salary) is a justice of the peace for the county, by virtue of his position. He need not be an elected member of the council.

The council are only bound to hold four meetings yearly, including the annual meeting, and it is the practice of many councils to confine their gatherings to the minimum number, and entrust the greater part of the detailed business to committees. In no case, however, may these latter bodies borrow money or make a rate. The quorum of the council at their meetings is one-fourth of the whole membership.

The county council and the county justices each elect half of a standing joint committee, who control the police force of the county outside the metropolitan police district and boroughs possessing their own police. This committee also elect the clerk of the peace, who is, by virtue of that office, clerk of the county council. The other chief officers of the council are usually the surveyor, treasurer, and medical officer; they are, of course, appointed directly by the council.

The county council have the usual power of making bye-laws and purchasing land. They may also oppose or promote bills in Parliament, without submitting the matter in either case to a vote of the electors.[1]

The constitution of the council for the administrative county of London differs in some respects from that of other county councils.[2] Each parliamentary division in the county sends two members to the council, with the exception of the city, which sends four, making a total of 118 councillors. In addition to these, there are nineteen aldermen, elected as in the case of other county councils.

Under sec. 77 of the Local Government Act, 1888, the London county electors include all those otherwise qualified, who reside within fifteen miles of the county; and by the London County Council (Electors' Qualification) Act, 1900, all parochial electors may vote at elections of the councillors.

The London County Council are specially authorised to appoint a deputy-chairman, who need not be an elected member, and who may be paid a salary.[3] The office of clerk to the council is separate from that of clerk of the peace. The appointment is made by the council alone.

[1] County Councils (Bills in Parliament) Act, 1903.
[2] L. G. A., 1888, ss. 40—45.
[3] L. G. A., 1888, s. 88.

CHAPTER II.

PUBLIC HEALTH.

1. Adoptive and Local Acts. 2. Sewerage. 3. Drainage and Conveniences. 4. Collection of Refuse. 5. Nuisances. 6. Offensive Trades. 7. Notification of Infectious Diseases, etc. 8. Provision of Hospitals, Disinfection, etc. 9. Interment of the Dead. 10. Unsound and Adulterated Food. 11. Housing. 12. Factories and Workshops. 13. Dairies, Cowsheds and Milkshops. 14. Port Sanitary Authorities. 15. Miscellaneous.

THE primary function of local authorities is the preservation and improvement of the public health. Town councils and urban district councils are the sanitary authorities under the Public Health Acts for their respective towns, and their powers and duties in this respect are practically identical.

Dealing with these general powers, it should be pointed out that in conferring some of them Parliament has used the word "shall," and it is therefore incumbent upon the council to exercise such powers, whilst others are preceded by the word "may," and their operation is left to the discretion of the council.

Attention should, however, be called to sect. 7 of the Housing of the Working Classes Act, 1885,

which is sometimes overlooked by those responsible for the public health. It states that "It shall be the duty of every local authority entrusted with the execution of laws relating to public health and local government to put in force from time to time, as occasion may arise, the powers with which they are invested, so as to secure the proper sanitary condition of all premises within the area under the control of such authority."

1. Adoptive and Local Acts.

Most of the powers of the council of a municipal borough or urban district in this matter are contained in the Public Health Act, 1875, and the numerous amending Acts which have been subsequently passed. Two of these latter measures, however, are adoptive, that is, they are of no effect in any district until the council have passed a formal resolution adopting them. Nearly all important urban authorities have taken advantage of this permissive legislation. At present there are 1142 town and urban district councils in England, and 955 have adopted, wholly or in part, the Public Health Acts Amendment Act, 1890, and 687 have adopted the Infectious Diseases (Prevention) Act, 1890, the two statutes referred to.

It will be seen, therefore, that those Acts are nearly of universal application in the towns, and any legislation which codifies the law of public health will probably extend them compulsorily to

the few small districts from which they are still excluded.

Several of the larger councils have also found it necessary to secure, by local Acts of Parliament relating to their respective towns, much wider powers of control with regard to the public health than have been generally conferred by the Legislature.

In the administrative county of London, the principal statutes dealing with sanitary matters are the Metropolis Management Acts, 1855, 1858, 1862, and 1890, the Public Health (London) Acts of 1891 and 1896, and the London Building Act, 1894.

2. SEWERAGE.

The largest department of sanitation is naturally connected with the sewerage system, and the disposal of waste matters of all kinds. The council of a municipal borough or urban district are bound to provide and maintain all sewers necessary to effectually drain their area. For this purpose they may carry their sewers under any street or through any lands in their district, in each case paying proper compensation for damage done. All sewers within the district (with the slight exception of those constructed for private profit, or for the purpose of irrigating land, etc.) vest in the council, and are therefore repairable at the public expense.[1] Drains,

[1] P. H. A., 1875, ss. 13—16.

on the other hand, are private property, and must be kept in order by the owner or occupier of the premises to which they are connected. It is important, therefore, to appreciate the technical difference between a sewer and a drain. Section 4 of the Public Health Act, 1875, clearly lays down that a drain means any drain used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating with a cesspool or a sewer, while a "sewer" is stated to mean sewers and drains of every description, except drains to which the above definition applies, or which belong to a road authority other than the council.

The distinction between a drain and a sewer, however, has been greatly complicated by sect. 19 of the Public Health Act, 1890, which states that "where two or more houses belonging to different owners are connected with a public sewer by a single private drain," the council may recover from the owners of the premises any expense to which they have been put in carrying out repairs to that drain. What is precisely a "single private drain" has been the subject of much legal conflict, and depends largely upon the particular facts of each case.

To protect the sewers, the council may prevent buildings being erected over them. They may also make bye-laws as to the mode of drainage, prescribing the material to be used and the method of constructing the drains, and frame regulations

as to the manner in which the drains are to be connected with the sewers.[1]

The compulsory portion of the council's duty covers the disposal of ordinary sewage matter, including surface water, but although they are bound to give facilities for taking liquids from factories, they need not receive anything which would be injurious to the sewers or to the sewage, or which would prejudice the ultimate disposal of the latter.[2] Indeed, by the adoptive Act of 1890 (s. 17), before referred to, it is expressly enacted that no injurious matter, chemical refuse, steam, etc., is to be turned into the sewers. The council must not discharge unpurified sewage into any stream or lake, and they have no power to create a nuisance.[3] Several of the larger rivers are protected in this matter by local Acts, under which restrictions are placed upon the passing of sewage effluent into them. The Thames, the Lea, and the rivers in the West Riding of Yorkshire, for instance, have special conservancy boards appointed to protect their purity and flow, and to regulate their use.

Nor are the council confined to their own district in order to make their system of sewerage complete. After proper notice, they may construct works of sewerage or sewage disposal outside their area, and, if any objection is raised, the Local Government

[1] P. H. A., 1875, ss. 21, 26 and 157.
[2] Rivers Pollution Prevention Acts, 1876 and 1893.
[3] P. H. A., 1875, s. 17.

Board hold an inquiry into the matter, and adjudicate between conflicting authorities.[1]

Any owner or occupier in the district can, of course, drain into the public sewers, if he complies with the regulations of the council.

He may also require the council to make the necessary connections, on paying the estimated cost of the work.[2] Owners or occupiers of premises outside the district have the right to take their drains into the district, and connect them with the public sewers, upon terms, which in case of difference are to be settled by the local magistrates or by arbitration, as laid down in the Public Health Act.[3] Adjoining local authorities may, with the sanction of the Local Government Board, connect their sewers with their neighbours' system, providing they can agree upon terms.[4]

Sewers in new streets, or in private streets which are not maintainable by the council, must be made at the expense of owners of the land abutting upon such streets,[5] in exactly the same manner as the streets themselves,—a subject which will be referred to later on.

With regard to the cleaning of sewers, it should be noted that water companies supplying water in towns under any Act incorporating the Water-

[1] P. H. A. 1875, ss. 16, 27, 32—34 and 285.
[2] P. H. A., 1875, s. 21 ; P. H. A., 1890, s. 18.
[3] P. H. A., 1875, s. 22.
[4] P. H. A., 1875, s. 28.
[5] P. H. A., 1875, s. 150; Private Streets Works Act, 1892.

works Clauses Act, 1847, are required by s. 38 to fix fire plugs on their system at the expense of the council, and, where these plugs are provided, they must also keep a supply of water constantly laid on for cleansing the sewers and drains, watering streets and supplying public pumps, baths and wash-houses, on terms to be agreed upon or, in default of agreement, settled by two magistrates.

In the exceedingly rare contingency of the council neglecting to provide proper sewers for their district, the Local Government Board may, upon a properly supported complaint being made to them, order the duty to be done within a limited time, and, if the council still remain recalcitrant, the board may either appoint a person to carry out the work, and direct all expenses to be paid by the council, or apply to the High Court for their order to be enforced by mandamus.[1]

One of the most onerous tasks imposed upon the council is the disposal of sewage matter. A wail of regret is continually going up from sanitarians and economists at the valuable manurial products annually finding their way, by more or less devious routes, to the sea, or which are otherwise practically wasted. Although many different methods of sewage disposal have been tried, up to the present no process has been introduced which combines the speedy clearance and profitable utilisation of the injurious matter.

[1] P. H. A., 1875, s. 299.

The council have power, for the purpose of sewage disposal, to buy land and to farm it themselves or to lease it. In many cases two or more councils have combined to form a joint board or joint committee for the disposal of sewage. The actual methods adopted vary, of course, according to the circumstances of each locality.[1]

The administrative county of London differs considerably from other districts with regard to these matters. The main sewers are vested in and must be maintained by the London County Council, but the local sewers are in the hands of the city and borough councils. Both bodies have practically the same power of carrying sewers through streets and private land as are possessed by a town council, but in other respects the county council exercise wide control over the borough councils. Their approval is required to any new sewers, upon which subject they may make byelaws (which do not apply, however, to the City of London). They may declare any local sewers to be main sewers, and take under their jurisdiction any other matters in relation to sewerage or drainage which may be vested in a borough council, and they may give directions to those bodies as to the construction, repair and intercommunication of their local sewers. With their consent, a borough council may transfer to them the powers of local sewerage, by a resolution passed at a meeting at

[1] P. H. A., 1875, ss. 29, 175 and 176.

which two-thirds of the members of the borough council are present.[1]

The definitions of the words "sewer" and "drain" are practically the same as in other urban districts, but "drain" also includes "any drain used for draining any group or block of houses by a combined operation" under the order of the borough council.[2]

The county council and the borough councils have the usual power to prevent injury to their sewers by the erection of buildings over them, or otherwise.[3] Trespassers in the sewers are dealt with by the London County Council (General Powers) Acts, 1890 and 1893, and injurious matters may be excluded by the operation of Part 4 of the London County Council (General Powers) Act, 1894.

Upon the county council is cast the task of disposing of the sewage,[4] which is deodorised, and the resultant sludge shipped to sea. The purity of the Thames is protected by the Rivers Pollution Prevention Acts, 1876 and 1893, and the Thames Conservancy Act, 1894.

Any owner or occupier of premises in the county

[1] Metropolis Management Acts, 1855, ss. 68—72, 89, 135, 137 and 138; 1862, ss. 28, 45—58 and 83; L. G. A., 1888, s. 40; M. M. A., 1890, City of London Sewers Act, 1897; Lon. Gov. Act, 1899.

[2] M. M. Acts, 1855, s. 250; 1862, s. 112.

[3] M. M. Acts, 1855, ss. 83, 204 and 205; 1862, ss. 68 and 69.

[4] M. M. A., 1855, s. 135; M. M. A., 1858.

may connect his premises with the local sewer, subject to obtaining the consent of the borough council to plans of the proposed work, and to complying with their requirements; and the latter authority may do the work at his expense.[1]

Sewers in new streets may be constructed by the borough council at the cost of the owners of the land abutting upon those streets, but the council may contribute towards the expense of this work.[2]

No special remedy is provided by the Metropolis Management Acts for the default of the county council in executing their duties as to sewerage. The common law right to apply to the High Court for a mandamus to compel them to act is, however, at the disposal of any aggrieved ratepayer. An appeal against any order or act of a borough council with regard to sewerage or drainage may be made to the county council, whose decision is final.

3. Drainage and Public Conveniences.

Turning to the duty of the private citizen in this matter, he is, of course, bound to properly drain the premises for which he is responsible as owner or occupier. No special method of carrying out this liability is laid down, and in sparsely populated districts it is quite common to drain houses

[1] M. M. A., 1855, s. 79; M. M. A., 1862, ss. 47—51 and 61; M. M. A., 1890, ss. 4 and 5.
[2] M. M. A., 1862, ss. 44 and 52—57.

into cesspools. Even in some of our large towns there was, until recently, no general system of drainage, but in whole districts each house was visited after dark by the public collectors of night soil.

In the case of premises without sufficient drains, the council of a municipal borough or urban district must enforce proper drainage into a covered cesspool, or into a public sewer, if there is one within 100 feet of the premises. Should there be greater expense in connecting the drains of two or more of such houses with a sewer than in providing a new sewer, they may construct the latter and recover payment from the owner or occupier of the premises connected with it. New houses must be drained into a public sewer if there is one within a distance of 100 feet, and the council may make bye-laws governing the drainage of all new buildings.[1]

The council may also enforce the provision of a proper water-closet, earth-closet, or privy in all dwelling houses, and they may make bye-laws compelling a supply of water to be provided for flushing water-closets. It is specially enacted that an earth-closet shall be sufficient if it is approved by the council.[2]

By the Public Health Act, 1890 (s. 22), or, if that has not been adopted, the Factory and Workshop Act, 1901 (s. 9), separate water-closet

[1] P. H. A., 1875, ss. 23, 25 and 157.
[2] P. H. A., 1875, ss. 35—37 ; P. H. A., 1890, s. 23.

accommodation must be provided for each sex in factories where persons of both sexes are employed.

The council have power to keep drains, water-closets, etc., in good condition, and for that purpose they may, on taking certain formal steps as to notice, etc., enter upon private premises to ascertain what is required, and afterwards compel the execution of the necessary work by the owner, or do it themselves and recover the cost from him.[1]

The obligations upon owners and occupiers of premises in the administrative county of London, as to drainage, and the powers of the metropolitan borough councils as to defective drainage, correspond to those in force in municipal boroughs.[2] The borough council must insist upon the provision of a proper water-closet to each new house, in accordance with the bye-laws of the county council, and they must make bye-laws with respect to keeping water-closets supplied with sufficient water. Separate accommodation for each sex is, of course, required at any factory or workshop where both men and women are employed. An appeal by any person aggrieved by a notice or act of the borough council with regard to these matters may be made to the county council, whose decision is final.[3]

The council of a municipal or metropolitan

[1] P. H. A., 1875, ss. 40—42.
[2] M. M. A., 1855, ss. 73—75 and 82—84; M. M. A., 1862, ss. 64 and 66.
[3] P. H. L. A., 1891, ss. 2, 37—46 and 126.

borough or urban district may establish sanitary conveniences for public accommodation, and regulate by bye-laws the use of those buildings, and charge fees for the use of the water-closets. For the purpose of the erection of these conveniences, the subsoil of any road (exclusive of the footway adjoining any building or the curtilage of a building) is vested in a metropolitan borough council, but not in other councils. It is illegal for anyone to erect a public convenience in or accessible from a street without the consent of the council, which may be given, of course, upon terms as to the repair and removal of the building. A railway company constructing a convenience in their station yard or its approaches is exempt from this provision.[1]

4. Collection of Refuse.

The collection of house refuse forms a humble but very necessary part of the routine work of the council. The duty of collecting such refuse is not actually compulsory outside London, but although the collection is often less frequent than it should be in the interests of the public health, it is never disregarded altogether. If it is neglected, complaint may be made to the Local Government Board, who may order the council to collect the house refuse free of charge.[2] It should be remembered, however, that "house refuse" does not

[1] P. H. A., 1875, s. 39; P. H. A., 1890, s. 20; P. H. L. A., 1891, ss. 44 and 45.
[2] P. H. A., 1875, ss. 42—44.

include what is manifestly trade refuse or garden rubbish, for the collection of which the council may make a charge—if they undertake the work at all.

With the growth of the large towns, and the higher standard of sanitation observed, it is increasingly difficult to find methods of disposing of house refuse. This was formerly much in demand by builders, but in recent years the councils have either had to arrange for its disposal or to pay large sums to have it taken away. The more enterprising authorities have erected dust destructors, in which the refuse is burned, and the resultant heat is utilised for various municipal purposes.

The council may make bye-laws as to the removal of offensive or noxious matter through the streets. If they undertake or contract for the removal of house refuse themselves, they may make bye-laws casting upon occupiers any duties which would facilitate that work, and if they do not undertake or contract for the removal, they may make bye-laws imposing the whole duty on the occupiers. They may also compel the provision of a proper ash-pit or dust-bin to every house within their district.[1]

In the administrative county of London, the duty of removing house refuse falls upon the borough councils, and they may also be required

[1] P. H. A., 1875, s. 36; P. H. A., 1890, ss. 11 and 26.

to remove trade refuse upon being paid a reasonable sum (to be settled, in case of dispute, by a Petty Sessional Court) for that purpose. The county council must make bye-laws (which the borough councils are to enforce) as to the provision of dust-bins, the removal and disposal of the refuse, the duties of occupiers of premises in connection with such removal, and with regard to the carriage by road or water of offensive or noxious matters or liquids.[1]

5. NUISANCES.

The council have exceedingly wide powers to restrict or abate certain nuisances of an insanitary nature. It is often hastily assumed that they are in some vague way responsible for the continuance of any and every unpleasant state of things within their district, and many are the sins of omission which are laid to their charge, but of which they are entirely guiltless.

In the words of Blackstone, a nuisance signifies "anything which worketh hurt, inconvenience or damage." There is, however, a great distinction between public nuisances and private nuisances. The first class are those which injuriously affect the public in general, whilst the second class are confined to acts or omissions which merely injure the person or property of a particular individual or restricted class of persons. The distinction is especially important when the method of abating a

[1] P. H. L. A., 1891, ss. 16, 22, 29—36, 39, and 141.

nuisance is considered. A public nuisance may be remedied by the personal action of those who are inconvenienced by it (as, for example, the removal of an obstruction on a public right of way by people who are properly using the way), or by an indictment for misdemeanour at common law, or restrained by injunction at the instance of the Attorney-General, or, of course, proceedings may be taken in some way authorised by statute, as under the Public Health Acts. A private nuisance, on the other hand, can be abated by the act of the person annoyed (as where one resident cuts away branches of his neighbour's tree which overhang his land) or by an injunction or action for damages, or both the latter combined.

The nuisances which the council can deal with are not identical with the class of public nuisances, but are practically limited to those specifically referred to in the various Acts of Parliament from which they derive their powers. Of course, they can also take action to remedy nuisances affecting their corporate property, and they can sometimes assist in maintaining private rights, which happen also to be public rights, as in the case of a right of common injuriously affected by a nuisance.

Section 91 of the Public Health Act, 1875, sets out the following varieties of nuisance, which frequently occur, and which may be dealt with by the council :—

Premises in such a state as to be a nuisance or injurious to health.

A pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain or ash-pit, accumulation or deposit, so foul or in such a state as to be a nuisance or injurious to health.

(In this case, however, no penalty can be imposed if the accumulation or deposit is necessary for carrying on a business or manufacture, and has not been kept longer than is needful, and the best available means have been taken for preventing injury to the public health.)

Any animal kept so as to be a nuisance or injurious to health, or any house so overcrowded as to be dangerous or injurious to the health of the inmates.

Any domestic factory, workshop or workplace in which similar overcrowding takes place, or which is not kept in a cleanly state, or not ventilated so as to render harmless any gases, dust, etc., that would otherwise be a nuisance or injurious to health.

Any fireplace or furnace used in connection with steam engines or factories which does not as far as practicable consume its own smoke, and any chimney (except that of a private dwelling-house) sending forth black smoke in such quantity as to be a nuisance.

It may here be mentioned that the Railway Clauses Act, 1845, s. 114, requires locomotive engines to be constructed so as to consume their

own smoke, and the Regulation of Railways Act, 1868, s. 19, makes it an offence for a railway company or their servants to permit a properly constructed engine to emit smoke. Locomotives used on highways must also be constructed so as to consume their own smoke, and it is an offence for such an engine to send forth smoke.[1]

Many other nuisances besides those particularly mentioned above come within the jurisdiction of the council, either by general or local Acts, and are referred to elsewhere in this book. It should always be borne in mind that even though a particular state of affairs may appear at first sight to be a nuisance, the question whether it is really a "nuisance or injurious to health" is a matter of fact which the council (or the responsible committee) must be prepared clearly to prove if the case should eventually be brought before the magistrates.

The council have large powers of making bye-laws dealing with nuisances arising from snow, filth, dust, ashes and rubbish, with regard to the keeping of animals, the condition of tents, vans, sheds and similar structures used for human habitation, and as to offensive trades. The council of a borough or county may also make bye-laws for the prevention and suppression of nuisances not already punishable in a summary manner.[2]

[1] Highways and Locomotives Act, 1878, s. 30.

[2] P. H. A., 1875, ss. 44 and 113; Housing of Working Classes Act, 1885; M. C. A., 1882, s. 23; L. G. A. 1888, s. 16.

The council must not rely upon aggrieved persons bringing the existence of nuisances to their notice, but it is their duty to cause their district to be properly inspected, in order to ascertain what nuisances exist.[1] For this purpose it is important that they should have a sufficient staff of sanitary inspectors, under the direction of the medical officer or of the inspector of nuisances. One of the results of the increased vigilance devoted to this matter in recent years has been the appointment of several properly qualified women as sanitary inspectors, whose work has been specially successful in promoting cleanliness and health, and decreasing the infantile death rate.

In order that the inspection shall be thorough, the council are given a right of access to private premises where a nuisance is suspected, and if this is refused by the occupier, a magistrate's order can be obtained to effect an entrance.[2]

Upon the existence of a nuisance being ascertained, the council must serve a notice upon the person by whose act, default or sufferance it arises (or, if he cannot be found, upon the owner or occupier of the premises), requiring him to abate it within a reasonable time to be named in the notice. If the nuisance is caused by the defective construction of the premises, or if the premises are unoccupied, the owner is the only person who should be served. The council may themselves

[1] P. H. A., 1875, s. 92.
[2] P. H. A. 1875, ss. 41, 102 and 103.

abate the nuisance if the person causing it cannot be found, and the owner or occupier are not in fault.[1]

It will be easily realised how difficult it is to ascertain the true owner of the classes of property where such nuisances as those referred to are most likely to exist. It is therefore provided that the "owner" for the purposes of the Public Health Acts is the person receiving the rack rent, whether on his own account or as agent, or who would receive it if the premises were let at a rack rent.[2]

Should the notice not be complied with, the council may summon the person upon whom it is served before the local magistrates, who may order the immediate abatement of the nuisance, and impose a penalty not exceeding £5, besides making the defendant in a suitable case pay the costs of the council. If he still persists in his refusal to do the work, he may incur a daily penalty of 10*s.* (or £1, if the magistrates' order of prohibition is wilfully disobeyed), and the council may do the work and recover from him the expenses to which they have been put. Such expenses must not, however, exceed one year's rack rent of the premises. They have an alternative right to recover the amount from the occupier, who may deduct it from the rent due to the owner, subject, of course, to any contract between the parties. An appeal from the decision of the magistrates lies to the next court of quarter sessions.[3]

[1] P. H. A., 1875, s. 94.
[2] P. H. A., 1875, s. 4.
[3] P. H. A., 1875, ss. 95—100, 104 and 269.

In a suitable case, the council may take proceedings in the High Court to obtain an abatement of the nuisance. They may also restrain a nuisance in their own district, although it arises from causes beyond their boundaries.[1]

Anyone aggrieved by a nuisance which the council can deal with, or any owner or occupier in the district, may, if he thinks fit, make direct complaint to the justices, but this course is scarcely ever followed. If the council refuse to move in the matter, the subject should be brought to the notice of the Local Government Board, who may authorise a police officer to take the necessary action. They have also the same powers to compel the council to act with regard to a nuisance, as they have if that body neglect to provide proper sewers, etc.[2]

It is the express duty of the council to see that all drains, water-closets, earth-closets, privies, ash-pits and cesspools in their district are constructed and kept so as not to be a nuisance or injurious to health. If they receive written notice of such a nuisance, they may give their surveyor or inspector of nuisances authority to enter the premises upon twenty-four hours' notice to the occupier (or without notice, in case of emergency), and open the ground in order to ascertain the facts. If no nuisance is discovered, the council must make good the damage done, but if a nuisance does exist they may serve

[1] P. H. A., 1875, ss. 107 and 108.
[2] P. H. A., 1875, ss. 105, 106 and 299.

notice upon the owner or occupier to do the necessary work, and he is liable to a daily penalty of 10*s*. if he disobeys. In that event the council may also do the work themselves, without taking any proceedings before the magistrates, and recover the cost from the owner, or declare it to be private improvement expenses.[1]

They have similar summary powers with regard to nuisances caused by the keeping of swine, or stagnant water in a dwelling-house, or the overflowing of the contents of a water-closet or cesspool, or on receiving notice from their medical officer or two medical practitioners that a house is in a filthy or unwholesome condition, or that whitewashing, cleansing and purifying the premises will tend to prevent or check infectious disease.[2]

The inspector of nuisances may order the removal of accumulations of manure or filth, and if his notice is not complied with the council may dispose of such accumulations, and recover the expenses from the person responsible. They are further empowered to issue public notices requiring the periodical removal of manure and refuse matter from stables and other premises, under pain of penalties for non-compliance.[3]

The definitions of nuisances in the administrative county of London, and the steps to be taken for their abatement, are similar to those above referred

[1] P. H. A., 1875, ss. 40 and 41.
[2] P. H. A., 1875, ss. 46 and 47.
[3] P. H. A., 1875, ss. 49 and 50.

to. The borough councils must make bye-laws for the prevention of nuisances arising from snow, rubbish, filth, etc., in the street, or from offensive matter running out of factories, butchers' shops, etc., as to the keeping of animals in such a manner as to be a nuisance, or injurious or dangerous to health, and similar matters.[1]

They may also make bye-laws for the prevention and suppression of nuisances not already punishable in a summary manner, but those bye-laws must not conflict with similar bye-laws made by the county council.[2]

Large powers of supervision over the borough councils are given to the county council in these subjects.[3] If it is proved to the satisfaction of the latter body that a borough council have neglected to do their duty with respect to the removal of any nuisance, the institution of proceedings, or the enforcement of bye-laws, the county council may act in the matter at the cost of the borough council. If the neglect cannot be remedied in this manner, the county council may complain to the Local Government Board, who may order the duty to be performed, and enforce their order by mandamus or by authorising the county council to take the necessary steps at the cost of the borough council.

These powers of the county council, however, do not apply to the common council of the city. If

[1] P. H. L. A., 1891, ss. 2—24, 48, 95 and 120.
[2] Lon. G. Act, 1899, sch. 2, part 2.
[3] P. H. L. A., 1891, ss. 100 and 101.

this body make default in executing the provisions of the Public Health (London) Act, 1891, complaint may be made direct to the Board, who may then authorise the police to act, or issue their usual order and enforce it by mandamus, or by the appointment of some person to carry it out at the expense of the council.[1]

6. Offensive Trades.

In a municipal borough or urban district it is illegal to establish a noxious or offensive trade, business, or manufacture, such as the boiling of blood, bones, soap, or tripe, unless the consent of the council has first been obtained. If a nuisance is caused by any offensive trade, and is brought to the notice of the council by the medical officer, or by two medical practitioners, or ten inhabitants, they must summon the person responsible before the magistrates, who may impose a penalty of £5 upon him unless they are satisfied that he has already used the best practicable means of preventing or abating the nuisance. The council are not restricted to their own district, if the injurious effects of a nuisance from such a trade in a neighbouring district are felt within their area. They may also make bye-laws with regard to offensive trades, with a view to preventing or diminishing their noxious or injurious effects.[2]

[1] P. H. L. A., 1891, ss. 133—135.
[2] P. H. A., 1875, ss. 112—115.

In the administrative county of London, the establishment anew of the business of a blood, bone, or soap boiler, tallow melter, manure manufacturer, or knacker, is prohibited. The consent of the county council is requisite before the business of a fellmonger, tripe boiler, or slaughterer of cattle or horses, can be started, and, with the sanction of the Local Government Board, the council may add any other similar business to this latter list. Byelaws as to offensive trades are made by the county council and the common council of the city, but proceedings with regard to nuisances from such trades may be taken by the borough councils, under provisions similar to those in force in other urban districts, and referred to above.[1]

The London Building Act, 1894, ss. 118 to 121, also contains provisions specially applicable to the metropolis, as to noxious businesses.

The inspection of alkali works is carried out by the Local Government Board, but if the council of a municipal or metropolitan borough or urban district are of opinion that the Board's staff is not sufficiently large to properly attend to their district, the Board may appoint an additional inspector upon the council agreeing to pay at least one-half of his salary. The council have also power to complain to the Board, if any alkali work is carried on in such a manner as to cause a nuisance, and, upon receipt of such a complaint, the Board must

[1] P. H. L. A., 1891, ss. 19—22; Lon. G. A., 1899, s. 6.

hold an inquiry, and afterwards take any necessary proceedings in the matter.[1]

7. Notification of Infectious Diseases, etc.

The powers of the council of a municipal borough or urban district with regard to the prevention and extinction of infectious disease are chiefly contained in the Public Health Act, 1875; the Infectious Disease (Notification) Acts, 1889 and 1899; and the Infectious Disease (Prevention) Act, 1890. The last-named Act must be adopted by a special resolution of the council before it can be put into force, but, as previously stated, no less than 687 town and urban district councils out of a total number of 1,142 have already adopted it.

In the case of a patient suffering from small-pox diphtheria, cholera, membraneous croup, erysipelas, scarlet or other infectious fever, the medical man attending the case must notify the existence of the disease to the medical officer. If there is no medical man in attendance, the duty falls on the head of the family, or the nearest relative who happens to be present, or the person in charge of the patient, or the occupier of the house in which the disease occurs.[2]

In the case of a common lodging-house, the notification must be made by the keeper.[3]

The council may also, by a special order, which

[1] Alkali Works Act, 1906.
[2] I. D. N. A., 1889, ss. 3—6.
[3] P. H. A., 1875, ss. 84—86.

must be approved by the Local Government Board, extend the Act to cover any other infectious diseases, either for a limited period or permanently.[1] Such orders have from time to time been made in many cases, chiefly with regard to measles, chicken-pox, and whooping cough.

Similar provisions for the notification of infectious diseases in the administrative county of London are contained in the Public Health (London) Act, 1891, and are carried out by the borough councils. A medical officer of such a council, upon receiving a notification, must send a copy of it to the Metropolitan Asylums Board, and, if the patient is a child, or resides with a child, a copy must be sent to the head teacher of the school at which the child attends. The Asylums Board must then forward to the county council any return required by the latter authority as to the notifications. These returns are examined by the county medical officer and he institutes inquiries if he considers the number of notifications in any district is unduly high. Both the county council and the borough councils have power to extend the list of notifiable diseases, with the sanction of the Local Government Board.[2]

8. Provision of Hospitals, Disinfection, etc.

The council of a municipal borough or urban district have full power to provide accommodation

[1] I. D. N. A., 1889, s. 7.
[2] P. H. L. A., 1891, ss. 55—57.

for the sick (not merely for persons suffering from infectious diseases) by building hospitals or arranging for the use of hospitals, or by combining with any other authority for this purpose. The latter method is very frequently adopted, and joint hospital committees are formed by agreement. The council or committee may recover the cost of accommodation and attendance from the patient, if they think fit to make a charge.[1]

With the consent of the Local Government Board, the council may also provide a temporary supply of medicine and medical assistance for the poorer inhabitants of the district.[2]

Provision is also made by the Isolation Hospitals Acts, 1893 and 1901, for the formation of joint hospital districts within an administrative county, other than a county borough. The county council may hold an inquiry, either on the application of one or more town or district councils, or on their own initiative, if their medical officer reports that it is desirable to establish a hospital within a certain district. As a result of that inquiry, they may make an order constituting a portion or the whole of the county into a hospital district, the councils of which must provide and maintain the necessary hospital, through the agency of a joint committee. An appeal against the order of the county council may be made to the Local Government Board within three months.

[1] P. H. A., 1875, ss. 131 and 132.
[2] P. H. A., 1875, s. 133.

The county council determine the constitution of the joint committee, consisting of representatives from the constituent authorities, and also from the county council if they contribute towards the expenses of the hospital. The order settles the proportions in which the expenses are to be defrayed.

No borough containing a population of 10,000 can be included in the order without the consent of the town council, or, if the population is less than 10,000, unless the Local Government Board so direct.

The joint hospital committee is an incorporated body, and may exercise the powers of the Public Health Acts as to the provision and maintenance of hospitals. Their hospitals, however, can only receive patients suffering from the infectious diseases set out on page 65, or any other disease which the county council, by resolution confirmed by the Local Government Board, may decide to add to that list.

The county council may also contribute towards the expenses of any hospital established by a local authority, for the treatment of such infectious diseases, either within or without the county.

There are several cases in which the removal and detention in a proper hospital of a patient suffering from an infectious disease is authorised.

If there is a hospital within a convenient distance, an infected person without proper lodging or accommodation, or living in a room containing

more than one family, or on board ship, may be removed there, by a magistrate's order, upon the certificate of a medical practitioner, and with the consent of the superintending body of the hospital. A similar order may be given by the council if the patient is in a common lodging-house.[1]

A magistrate may also direct the continued detention in a hospital, at the cost of the council, of any person suffering from an infectious disease, if such person would not, on leaving the hospital, be provided with proper lodging and accommodation, in which precautions could be taken to prevent the spread of the disorder.[2]

If a case of infectious disease occurs on a canal boat, the council may remove the patient to a hospital and detain the boat for disinfection.[3]

With a view to preventing the spread of disease, it has been made an offence for an infected person to expose himself, without taking proper precautions, in any street, shop, inn, or public conveyance, or to expose infected articles, or to permit any of these offences to be committed. Before an infected person enters a public conveyance, he must give notice of his disease to the owner or driver, who must, after the journey is finished, disinfect the vehicle, and may insist upon being paid the cost of the disinfection before allowing the sufferer to

[1] P. H. A., 1875, s. 124.
[2] I. D. Prevention Act, 1890, s. 12 (adoptive).
[3] Canal Boats Act, 1877, s. 4.

enter it.[1] The adoptive Prevention Act of 1890 (s. 11) also makes similar provision for the conveyance (except in a hearse) of the body of a person who has died of an infectious disease.

The landlord of a house (including apartments, or a room at an inn) in which there has been infectious disease, must not let it until it has been disinfected to the satisfaction of a medical practitioner, nor in any subsequent letting may he make a false answer to a person who inquires if infectious disease has occurred on the premises within the previous six weeks.[2] Under the Prevention Act of 1890 (ss. 7 and 14), it is an offence for the occupier of a house in which there has been such a disease, to cease to occupy it within a period of six weeks unless he properly disinfects it, or gives the owner notice of the existence of the disease.

Upon the certificate of the medical officer or of a medical practitioner that the cleansing and disinfection of any house or article therein will tend to prevent or to check infectious disease, the council may, after notice to the occupier, carry out the work at his expense, unless he does it himself. Notice to him may be dispensed with, and the disinfection performed at the cost of the council, if the occupier consents, and in the opinion of the council or their medical officer he is unable to do

[1] P. H. A., 1875, ss. 126 and 127.
[2] P. H. A., 1875, ss. 128 and 129.

the necessary work.[1] In towns where the Prevention Act has been adopted, the clerk of the council must, immediately upon receipt of the medical certificate, serve notice to disinfect within twenty-four hours. In that case, however, the council must provide accommodation for those who leave their dwellings to enable disinfection to be carried out.[2]

The council may direct the destruction of infected articles, and give compensation for the same, and they are empowered to provide a disinfecting plant, and to disinfect articles free of charge.[3] Under the Prevention Act (s. 6) either the council or the medical officer may require bedding, clothing, etc., which has been exposed to infection, to be handed over for free disinfection, but they must make compensation for any unnecessary damage that is done. By the same Act (ss. 13 and 15), it is an offence to throw infectious rubbish into ash-pits or dust-bins, unless it has previously been disinfected.

In accordance with the Cleansing of Persons Act, 1897, the council may provide appliances and attendants for the purpose of cleansing persons infested with vermin. The extent to which this Act has been put into force varies greatly. In some localities, such as the metropolitan borough of St. Marylebone, advantage has been taken of it

[1] P. H. A., 1875, s. 120.
[2] I. D. P. A., 1890, ss. 5, 15, and 17.
[3] P. H. A., 1875, ss. 121 and 122.

to afford extensive facilities for free bathing both to adults and children.

In towns where the Prevention Act (s. 4) is in force, if infectious disease is suspected to have arisen from any milk supply or dairy, the medical officer may, by a magistrate's order, inspect the dairy and the cows. In the latter case, he must be accompanied by a veterinary surgeon. Upon receiving the report of the officer, the council, after giving the dairyman an opportunity of making an explanation, may prohibit him from supplying milk within their district. They must give notice of any such decision to the Local Government Board, and to the council within whose district the dairy is situate.

Under the same statute (ss. 8, 9 and 10) the body of a person who has died of an infectious disease must not be retained for a longer period than forty-eight hours in a room used as a dwelling or sleeping place, or as a workshop, unless by permission of the medical officer or a medical practitioner. If this certificate is not obtained, or if there is danger to health, or in any case where immediate burial is necessary, a magistrate may order the body to be removed to a mortuary, and to be buried within a limited time by the persons responsible for that duty, or by the relieving officer, at their expense. The medical officer cr a medical practitioner may also require the body of a person who has died from infectious disease in a hospital to be taken direct to burial, or removed to a mortuary.

Slightly less stringent provisions are in operation, by virtue of s. 142 of the Public Health Act, 1875, in the towns where the Prevention Act has not yet been adopted.

The council are empowered to provide a mortuary, and they must do so, if required by the Local Government Board. They may also arrange for the burial of any body which may be received at that place.

The council may also provide a post-mortem examination chamber, but it must not be at a workhouse or a mortuary.[1]

It should be added that the medical officer of health is bound to send to the county council a copy of every periodical report made by him.[2] If it then appears to the county council that the Public Health Act, 1875, has not been properly enforced, or that any other matter affecting the public health of the district requires to be remedied, they may make a representation to the Local Government Board, who may take action similar to that already referred to with regard to default in providing sewers.

Hospital accommodation in the administrative county of London is provided by the Metropolitan Asylums Board and the borough councils.[3]

The borough councils are charged with duties as to disinfection and the prevention of the spread

[1] P. H. A., 1875, ss. 141 and 143.
[2] L. G. A., 1888, s. 19.
[3] Met. Poor Act, 1867; P. H. L. A., 1891, s. 75—81.

of infectious diseases similar to those of the council of a municipal borough. If they do not put their powers into force, recourse may be had to the county council, as already noticed with regard to nuisances.[1]

They must provide mortuaries, and (if required by the county council) post-mortem chambers, but, with the permission of the latter body, they may combine for both these purposes. It is the duty of the county council to provide coroners' courts, and they may also establish mortuaries for the reception of unidentified dead bodies.[2]

In addition to the powers of local authorities, the Local Government Board may make regulations as to the treatment of cholera, or other epidemic, endemic, or infectious disease. If any part of England is threatened with a formidable infectious disease, the Board may also make regulations for such matters as the interment of the dead, house to house visitation, provision of medical aid and accommodation, cleansing, ventilation, disinfection, etc., and the council must see that such regulations are complied with. The board have power to require any two or more councils to combine for the prevention of epidemic diseases.[3]

[1] P. H. L. A., 1891, ss. 58—74, 100 and 101.
[2] P. H. L. A., 1891, ss. 88—93.
[3] P. H. A., 1875, ss. 130, 134, 140; P. H. A., 1896, s. 1; P. H. L. Act, 1891, ss. 82 and 113.

9. Interment of the Dead.

Provision for the interment of the dead may be made either under the Burial Acts, 1852 to 1906, or under the Cemeteries Clauses Act, 1847, and the Public Health (Interments) Act, 1879.

Under the Burial Acts, which had to be adopted by a special resolution of the vestry of a parish, an elective burial board was constituted, who were empowered to provide a burial ground. The council may, however, by resolution take over the powers of an existing burial board,[1] and the result is that in most towns the council are the burial board, the detail work being referred to a committee.

A cemetery may be provided by the council of a municipal borough or urban district under the Cemeteries Acts, without the Burial Acts being adopted, and although the council may not be the burial board.

The powers of the Burial Acts enable the council to establish a burial ground, either within or outside the borough, and to purchase any existing cemetery. They may make bye-laws for the preservation of the burial ground, and the Local Government Board may make regulations for the protection of the public health and the maintenance of public decency. The council must appoint an officer to register all burials taking place in the ground.

[1] L. G. A., 1894, s. 62.

Under the Cemeteries Clauses Act, 1847, and the Public Health (Interments) Act, 1879, the council may purchase land, within or without their district, by agreement, or compulsorily if they secure a provisional order for this purpose, in order to provide a cemetery for their district, and they may make bye-laws for the control of the ground.

There is now very little difference in practice between a burial ground and a cemetery. Neither institution can be constructed within one hundred yards of a dwelling-house without the written consent of the owner, lessee, and occupier of the house.[1] The council may (subject to the approval of the Local Government Board) fix the fees payable for interments, and also (subject to the approval of the Home Office) the fees which they may receive on behalf of ministers of religion for their services in conducting funerals.

Those incumbents who held their benefices before the passing of the Burial Act, 1900, however, are still entitled to receive from the council the fees which were formerly paid to them in respect of such matters as the erection of monuments or the grant of exclusive rights of burial in a burial ground (as distinct from a cemetery). The right to receive these fees, which, of course, had no relation to actual services rendered, but was based on the receipt of similar fees with regard to the use of

[1] Burial Act, 1906.

churchyards, will terminate with each incumbency, or, at the latest, in 1915.[1]

The council may grant the exclusive right of burial in any portion of the burial ground or cemetery.

They may erect a chapel upon an unconsecrated and unreserved portion of the burial ground or cemetery, but they cannot now provide and maintain such a building for the special use of any denomination, unless the residents belonging to such denomination require them to do so, and furnish the necessary funds.[2] They may have a portion of the ground consecrated, and the Home Secretary may compel them to do so, if satisfied that a reasonable number of the inhabitants desire it, and will pay the expenses of the ceremony. Under no circumstances may the entire ground now be consecrated.

In the administrative county of London, the borough councils are the authorities for providing burial grounds, but they have no powers under the Cemeteries Clauses Act, 1847, or the Public Health (Interments) Act, 1879.

Cremation.

Any council acting as a burial board or maintaining a cemetery may also provide and maintain a crematorium.[3] The site and plans of the building

[1] Burial Act, 1900, s. 3.
[2] Burial Act, 1900.
[3] Cremation Act, 1902.

must be approved by the Local Government Board, and the process of cremation must be carried out in all respects in accordance with regulations made by the Home Secretary, and without creating a nuisance. The fees fixed by the council for cremation must be approved by the Local Government Board. Cremated remains are usually buried in a burial ground or cemetery, and clergymen may, with the consent of their bishop, perform the burial service at a cremation or such an interment, but they are not under any obligation to do so.

10. Unsound and Adulterated Food.

The powers of the council (whether in London or the provinces) as to unsound and adulterated food are wide,[1] and are likely to be extended by Parliament in the near future.

The medical officer or inspector of nuisances may inspect and seize any unsound article sold or exposed for sale and intended for the food of man, and bring it before a magistrate, who may order it to be destroyed and impose a fine or imprisonment upon the owner, or the person in whose possession it has been found, or (in London) upon the person from whom the latter purchased it in an unsound state. He may also order the destruction of the food before seizure, upon proper evidence of its condition, and he may grant a search warrant on

[1] P. H. A., 1875, ss. 116—119; P. H. A., 1890, s. 28; P. H. (London) Act, 1891, s. 47.

being satisfied that there is reason for believing that unsound food is concealed.

If a person is twice convicted within twelve months, in London, of wilfully committing an offence with regard to unsound food, the court may order a notice of the facts to be affixed to his premises for a period not exceeding twenty-one days.

These provisions were at first left for the ordinary sanitary staff to carry out, but the recent discoveries as to the danger of unsound meat have caused special attention to be devoted to that commodity, and several councils have appointed experienced persons to act only as meat inspectors. Such an officer has power, in addition to the medical officer and inspector of nuisances, to enter a butcher's shop or slaughter-house, and seize any part of a carcase which appears to be unfit for food, and to take it before a justice for condemnation.[1]

Any person exposing unwholesome meat or provisions for sale in a market or fair is also liable to a penalty, and a council owning a market may make bye-laws for preventing such sale or exposure.[2]

The sale of adulterated food is dealt with by the Sale of Food and Drugs Acts, 1875, 1879 and 1899, and the Margarine Act, 1887. These Acts apply both to London and provincial towns. "Food" is

[1] Towns Improvement Clauses Act, 1847, s. 131.
[2] Markets and Fairs Clauses Act, 1847, s. 15.

defined as including every article used by man for food or drink, other than a drug or water, and any article which is ordinarily used in the composition of human food, and flavouring matters and condiments. "Drug" includes medicine for internal or external use.[1]

The council of a metropolitan borough or of a borough having a population of 10,000 and a court of quarter sessions or a separate police establishment, must appoint an analyst for the borough, subject to the approval of the Local Government Board. In other urban districts the analyst appointed by the county council acts.[2]

Samples of articles of food or drugs may be purchased by the medical officer, the inspector of nuisances, inspector of weights and measures, or any police constable or private person, for analysis, but upon doing so, the purchaser must notify to the vendor his intention to have the sample analysed, and must then divide it into three parts, one of which is to be given back to the vendor, one sent to the analyst, (who is entitled to charge 10*s.* 6*d.* for the analysis) and one retained.[3]

A sample of butter or margarine, or of milk in the course of delivery to a purchaser, may be taken without notification of the intention to analyse, and, in the case of milk, without division into three

[1] S. F. D. A., 1875, s. 2; ditto, 1899, s. 26.
[2] S. F. D. A., 1875, ss. 10 and 11; L. G. A., 1888, ss. 3, 38, and 39.
[3] S. F. D. A., 1875, ss. 12—15.

parts. A portion of the sample, however, must be sent to the consignor, if his name and address appear on the package. Upon request, or with the consent, of the purchaser or consignee, samples of other foods and drugs may be taken at the place of delivery, without notification or division.[1]

The offences under the Acts are many, and include the adulteration of food so as to render it injurious to health, or of a drug so as to injuriously affect its quality or potency; selling, to the prejudice of a purchaser, a food or drug not of the nature, substance and quality demanded; giving a false warranty; keeping margarine in packets not properly labelled; obstructing or bribing the officers of the council; or refusing to sell for analysis or to allow a sample of milk to be taken.[2]

Proceedings must be instituted within twenty-eight days of the sample being taken, and a copy of the analyst's certificate must be served with each summons. The vendor has a good defence if he proves that he purchased the article with a written guarantee as to its quality, and sold it without alteration. He must, however, give full particulars of the warranty to the purchaser within seven days after the service of the summons.[3]

[1] S. F. D. A., 1879, ss. 3 and 4; Margarine Act, 1887, s. 10; S. F. D. A., 1899, ss. 10 and 14.

[2] S. F. D. Acts, 1875, 1879, and 1899; P. H. A., 1875, ss. 118 and 119; Markets and Fairs Clauses Act, 1847, s. 15; Towns Improvement Clauses Act, 1847, s. 131.

[3] S. F. D. A., 1875, ss. 20—26; S. F. D. A., 1899, ss. 19 and 20.

Should the council neglect their duty in the inspection of food, the Local Government Board and the Board of Agriculture have both power to appoint an officer to execute the provisions of the Acts at the expense of the council.[1]

Manufacturers of and wholesale dealers in margarine, whose premises are situate within a metropolitan borough or a borough having a population of 10,000 and a court of quarter sessions, must register such premises with the town council, and elsewhere with the county council.[2]

Vendors of horse flesh must indicate the nature of their business by a conspicuous notice outside their premises. It is an offence to supply such flesh for human consumption to a person who has asked for other meat. Any horse flesh intended for human food, the nature of which is not properly indicated, may be seized by an officer and brought before the magistrates for condemnation, and the magistrates may grant a search warrant if they have reason to believe that such flesh is concealed and intended for sale as human food.[3]

According to the report of the Local Government Board for 1905—06, the samples analysed under the Food and Drugs Acts during 1905 numbered 86,182, of which nearly a half consisted of milk. The analysts reported against 7,099 of these samples ; and proceedings were taken with respect

[1] S. F. D. A., 1899, s. 3.
[2] Margarine Act, 1887, s. 9 ; S. F. D. A., 1899, s. 7.
[3] Sale of Horse Flesh Act, 1889.

to 3,581, and in 2,672 cases convictions were obtained and fines imposed.

11. HOUSING.

One of the most valuable departments of the work of the council is that of improving the housing of the inhabitants generally, and especially the poorer class of the residents within their district.

In a municipal borough or urban district they have power to make bye-laws with regard to the erection of new buildings, including the method of construction and the materials to be used, air space around the building, drainage, height, etc., but not with respect to the elevation or appearance of the buildings or as to the air space within the rooms. Such bye-laws may also govern the structure of floors, height of rooms and paving of yards, the provision of secondary means of access, etc. No building may be erected on ground which has been filled up with faecal, animal, or vegetable matter, unless such matter has been removed or rendered innocuous. It is also illegal to erect a new building over a sewer, or to construct a vault, arch or cellar under the carriage way of a street without the consent of the council in either case, and a new house must not be erected unless it is drained to the satisfaction of the council, and furnished with a proper closet or privy and an ash-pit.[1]

[1] P. H. A., 1875, ss. 25, 26, 35, and 157; P. H. A., 1890, ss. 23 and 25.

The bye-laws are invariably based upon models issued by the Local Government Board, and they always provide that plans of a new building shall first be submitted to the council for their approval, but the latter must signify their decision thereon within a month. If the building is erected before being approved, or after disapproval, and is not in accordance with the bye-laws, the council may, after notice, have it pulled down, and recover from the owner the cost of the work, in addition to any penalty imposed by the bye-laws, not exceeding £5. Should the work be continued in such a state as to be an offence against the bye-laws, a daily penalty of 40*s*. or less may be recovered for a period not exceeding one year, if imposed by the bye-laws.[1]

Any building converted into a dwelling-house, or re-erected is a "new building" under the Public Health Acts, but this definition is extended in many towns by local acts.[2]

Considerable dissatisfaction has recently been expressed at the stringency of the bye-laws, especially in rural districts. It should be noted that the bye-laws cannot be made to apply to buildings belonging to the Government, or to a railway company, and used for the purposes of the railway.

A building already in existence, which is described in the deposited plans as not being a dwelling-

[1] P. H. A., 1875, ss. 158 and 183.
[2] P. H. A., 1875, s. 159.

house, must not be used for human habitation, except by a caretaker, until the necessary alterations have been carried out, after the plans have been approved by the council.[1]

In the administrative county of London, the erection of new buildings is chiefly under the jurisdiction of the county council, and is regulated by the London Building Acts, 1894 and 1898, and other metropolitan Acts, and by bye-laws which, subject to those Acts, have been made by the county council.

The occupying of a cellar (that is, "passing a night") as a separate dwelling-house is forbidden, both in London and the provinces. If the council secure two convictions in three months in respect of the occupation of the same cellar, the magistrates may direct the cellar to be closed altogether. Cellars must also be provided with proper doors, and kept repaired and sufficiently protected from causing danger to persons using the streets.[2]

The overcrowding of dwelling-houses has been dealt with in the chapter relating to nuisances.

Common lodging-houses require special attention. The council must cause them to be inspected, and must register each house, and the person in charge of it, before it can be used. They must insist upon the walls and ceilings being lime-

[1] P. H. A., 1890, s. 33.

[2] Met. Paving Act, 1817, s. 70; Towns Improvement Clauses Act, 1847, s. 73; Towns Police Clauses Act, 1847, s. 28; M. M. A., 1855, ss. 101 and 102; P. H. A., 1875, ss. 71—75; P.H.A., 1890, s. 35; P. H. (L.) A., 1891, ss. 96—98.

washed in April and October of every year, and they may also make bye-laws enforcing other reasonable requirements to secure the health and decency of the occupants. Should one of the lodgers be attacked by an infectious disease, the keeper must give immediate notice to the medical officer, and also to the relieving officer of the board of guardians. He must also permit the house to be inspected at all times by an officer of the council.[1] On several occasions the law courts have been called upon to decide knotty points as to what constitutes a common lodging-house, but it has been laid down by the law officers of the Crown that the expression means a house in which poor persons are received for short periods and allowed to inhabit a common room.

The London County Council are the authority charged with the duty of licensing and inspecting common lodging-houses within the county. They may make bye-laws and regulations for securing proper order and the separation of the sexes in those houses.[2]

The council of a metropolitan or municipal borough or urban district may make bye-laws as to other houses which are let in lodgings, but which do not come within the description of common lodging-houses.

These bye-laws may regulate the number of

[1] P. H. A. 1875, ss. 76—89.

[2] Com. Lodg. House Acts, 1851 and 1853; L. C. C. (Gen. Pow.) Act, 1902, Part 9.

lodgers, and the cleaning, drainage, etc., of the houses. Under the model bye-laws issued by the Local Government Board, exemption is provided for premises outside the county of London, above a certain rateable value, or where the rent paid by the lodgers exceeds a certain minimum.[1]

The council may also make bye-laws for promoting cleanliness in tents, vans and sheds used for human habitation, for securing the decent lodging of persons engaged in hop picking and fruit picking, and, if the district includes a sea-port, relating to seamen's lodging-houses. These latter bye-laws, however, require the approval of the Board of Trade instead of the Local Government Board.[2]

A canal boat must not be used as a dwelling unless it is registered with the council of a district, prescribed by the Local Government Board, abutting on the canal on which it plies. The Local Government Board have made regulations (dated 20th March, 1878) governing the registration and use of such boats, and every council (including a metropolitan borough council) whose district includes part of a canal must make an annual return to the board, stating the manner in which they have carried out those regulations. They should also appoint an inspector of canal boats.[3]

[1] P. H. A., 1875, s. 90; P. H. (London) Act, 1891, s. 94.
[2] H. W. C. A., 1885, ss. 8, 9, and 10; P. H A., 1875, s. 314; P. H. (Fruit Pickers' Lodgings) Act, 1882; P. H. (L.) A., 1891, s. 95; Merchant Shipping Act, 1894, s. 214.
[3] Canal Boats Acts, 1877 and 1884.

Cases of infectious disease occurring upon a canal boat may be dealt with as described on page 69.

Private enterprise failed many years ago to provide healthy homes for the working classes at reasonable rents, and Parliament had constantly to arm the local authorities with power to improve the housing of the very poor. These attempts at legislation culminated in the Housing of the Working Classes Act, 1890, an Act which, though incomplete in its scope and cumbersome in its machinery, has done much to raise the standard of health and comfort among the poorer classes. It has since been amended by the Acts of 1894, 1900, and 1903. The first part of the Act aims at the clearance of slum areas. If it appears to the medical officer that the houses, courts or alleys in any such area are unfit for human habitation, or that the condition or arrangement of the streets and houses is dangerous or injurious to the health of the inhabitants, he may make a representation to this effect to the council. Upon two justices or twelve ratepayers complaining to him of the unhealthiness of an area, he is bound to inspect it, and report on its condition to the council. Should he neglect his duty in this respect, or report that the area is not unhealthy, any twelve ratepayers may appeal to the Local Government Board, who may inquire into the matter, and themselves make a representation to the council.[1]

[1] H. W. C. A., 1903, s. 4.

If the council are satisfied of the truth of the representation made to them, and of the sufficiency of their resources, they must make a scheme for the demolition of the defective dwellings and the provision of accommodation for the persons displaced. In default of doing so, they must report their grounds for inaction to the Local Government Board, who may inquire into the matter, and order the council to prepare a scheme. This order may be enforced by a mandamus[1] The scheme may provide for its being carried into effect by the owners of the area.

After serving notices on the owners and occupiers, and also giving public notice by advertisement, the council may apply to the Local Government Board for a provisional order to confirm the scheme, but before deciding upon the application, the board will hold a public inquiry. If the order should be granted, it must be confirmed by Act of Parliament, unless it is not proposed to take lands compulsorily, or no objection from an owner of land to be taken compulsorily is received within two months of notice being served upon him. The amount and manner of re-housing which must be provided is in the discretion of the Local Government Board.[2]

It may here be noted that whenever any authority, company or person acquire land under legislative powers, and in so doing displace thirty or more

[1] H. W. C. A., 1903, s. 4.
[2] H. W. C. A., 1903, ss. 3 and 5, and schedule.

persons of the working class, they must provide a re-housing scheme for such persons, to the approval of the Local Government Board, unless the Board decide that a scheme is unnecessary. The Board must take into consideration not only the persons occupying the dwellings proposed to be dealt with, but any others who may have been displaced within the previous five years, in view of the acquisition of the land by the authority or company, etc.[1]

In the execution of the scheme, the council may lay out streets and pull down buildings, but, unless they obtain the approval of the Board, they cannot take any further steps with regard to the area, but must sell or let the land to others to carry the scheme into execution. They may, of course, impose conditions as to the buildings which are to be erected.

For the purposes of providing dwellings for the persons displaced, the council have power to appropriate suitable land in their possession, or to purchase land by agreement.

Should the council themselves erect dwellings for the purposes of re-housing, they are bound to sell those buildings within ten years of completion. If within five years of the clearance of the area, they have not sold or let the land set aside for re-housing, or made arrangements for the erection of workmen's dwellings, the Board may order it to be

[1] H. W. C. A., 1903, ss. 3 and 5, and schedule.

sold, subject to conditions as to the erection of suitable dwellings.

When the scheme is confirmed, the council are empowered to put into force the provisions of the Lands Clauses Act for the compulsory purchase of the property at its fair market value, having regard to its condition. In default of agreement, the purchase price and the compensation payable in respect of lands injuriously affected are settled by an arbitrator appointed by the Local Government Board. No additional allowance need be made for enforced purchase, or with regard to any improvement made after notice of the scheme. As a factor in ascertaining the price, it may also be shown that the value of the property has been enhanced by its being used for illegal purposes, or by overcrowding, or that it is in such a condition as to be a nuisance, or is in bad repair or unfit for human habitation.

Special provision is made with regard to the operation of Part 1 of the Act in the metropolis. The London County Council is the authority empowered to prepare and execute a scheme. They may also appoint medical practitioners to make representations as to unhealthy areas, and otherwise to carry the Acts into effect.[1] The county council cannot deal with any representations which refer to ten houses or less, but in such a case they must direct the medical practitioner to bring the representation before the local borough council, in

[1] H. W. C. A., 1903, s. 2; Order in Council, 27th Feb., 1905.

order that the latter may carry out a re-construction scheme under Part 2 of the Act of 1890. With regard to any improvement scheme framed by the county council, it is necessary that they should provide re-housing accommodation within the area itself, or in the vicinity, for all persons displaced, unless the Local Government Board relax the stringency of this provision upon its being proved to their satisfaction that sufficient accommodation is otherwise provided, or will be provided.

Part 2 of the Act of 1890 confers upon the council special powers for dealing with specific premises which are so dangerous or injurious to health as to be unfit for human habitation. If four householders complain to the medical officer that any particular house is in such a condition, he must inspect it and report to the council, and if the latter refuse for three months to take action, those householders may appeal to the Local Government Board, who may order the council to proceed. The council are also bound to cause their district to be properly inspected, in order to ascertain whether any houses should be dealt with under this part of the Act.

If by any of these means it is found that a house is in a sufficiently bad condition, the council must take proceedings before the magistrates, who may order the owner to close the premises against further habitation. Should the premises then not be placed in a proper state of repair, and still be

dangerous or injurious to health, the council may order them to be demolished, subject to the owner first being given an opportunity to object, or to put the place in repair. If he does not comply with this order, the council may demolish the building and recover the cost from him, or by selling the materials. The owner may, however, appeal to quarter sessions within one month against the order of the council.

In suitable cases, the council may make a scheme for the reconstruction of dwellings or dedication of portions of the site as open spaces, provided that the whole site is too small to be dealt with as an unhealthy area under Part I. Neighbouring lands may be included in the scheme, if necessary to make it efficient, but the usual allowance of 10 per cent. for compulsory purchase must be paid in respect of such lands. The procedure is otherwise similar to that under Part I, with regard to the confirmation of the scheme, compensation to be paid to owners, etc.[1]

Proceedings may also be taken by the council for the demolition of a building which obstructs ventilation, or which, by its peculiar situation, helps to make other buildings unfit for habitation, or dangerous or injurious. They must, however, give the owner an opportunity of objecting, and they must either purchase his land and buildings, or compensate him if he pulls the buildings down

[1] H. W. C. A., 1903, s. 7.

An interesting section of the Act (s. 38 (8)) provides that if the demolition adds to the value of neighbouring buildings, the arbitrator may order that the owners of those buildings shall pay to the council the amount by which such value is increased.

In the metropolis, the borough councils are the authorities who should take action under Part 2 of the Act, but they must report fully to the county council when they receive representations as to buildings, and the latter body must carry out a reconstruction scheme if the borough council neglect to do so, or if the scheme deals with more than ten houses.

Part 3 of the Act contains powers under which the council (including the London County Council or any metropolitan borough council) may build houses for the working classes, although no demolition of other dwellings has been undertaken. This part of the Act must be adopted by a special resolution of the council, and the necessary land (which may be either within or outside the council's district)[1] is usually purchased by agreement, but it is possible to secure compulsory powers by a provisional order of the Local Government Board, as previously referred to. With the consent of the Board, the council may appropriate for the erection of such houses any other land vested in them. They may also purchase or lease houses

[1] H. W. C. A., 1900, s. 1.

already built, and they have power to furnish and supply their houses with all requisite furniture, fittings and conveniences. If the premises are considered too expensive, after being established for seven years, they may, with the permission of the Board, be sold.

A person who receives parochial relief, either by himself or his wife, except in respect of an accident or temporary illness, is disqualified from occupying such a house whilst the relief is being given.

The council may, of course, make bye-laws to regulate the tenancy of the houses provided by them.

In some towns advantage has been taken of this part of the Act, or of special legislation, to build and maintain large common lodging houses.

The Housing Acts make an important addition to the common law with regard to the letting of any workmen's dwelling. It is enacted that upon the letting of a house with an annual rental below £8, or £10 in Manchester or Birmingham, £13 in Liverpool, or £20 in the metropolis, there is an implied condition (which cannot be excluded by any agreement between the parties) that the premises are at the commencement of the tenancy reasonably fit for human habitation.[1] The tenant is thus enabled to obtain damages from his landlord, if he can prove that the house was not in

[1] H. W. C. Acts, 1890, s. 75, and 1903, s. 12.

such a reasonable state when he commenced occupation. As, however, few persons occupying this class of house are aware of the statutory provision for their protection, it has not hitherto been largely taken advantage of.

It should be added that the maximum period allowed for repayment of loans raised for carrying out improvement schemes or the erection of dwellings under the Housing of the Working Classes Acts is 80 years instead of the usual term of 60 years.[1]

12. Factories and Workshops.

The council of a municipal or metropolitan borough or urban district have certain duties with regard to factories and workshops.[2] The principal distinction between a factory and a workshop is that mechanical power is not used in the latter, and a workshop is more under the control of the council than is a factory. Laundries are included in both terms, unless the only persons employed number two or less, or are members of the same family, dwelling on the premises, or inmates of a religious or charitable institution, or a prison reformatory, industrial school or similar place, subject to inspection under some measure other than the Factory Act of 1901.

The council must keep a register of all the

[1] H. W. C. A., 1903, s. 1.
[2] Factory and Workshop Act, 1901.

workshops in their district. To them is entrusted the task of securing reasonable means of escape from factories and workshops in case of fire, and they can compel such means of escape to be provided in the case of a factory or workshop occupied by more than forty persons. They may also make bye-laws dealing with the matter. In the administrative county of London, however, this subject is under the control of the London County Council.

Factories and workshops must be kept free from effluvia arising from drains, and proper drainage must be provided if the work carried on renders the floors wet. Should these provisions not be complied with, the council can deal with the matter as a nuisance, in the case of a workshop or a domestic factory. The latter term covers buildings which would be factories but for their occupation by members of the same family, dwelling on the premises, and using no mechanical power. Other factories fall within the jurisdiction of the Home Office, and are inspected by inspectors on the staff of the Factories Department. If one of those inspectors discovers a sanitary defect which is remediable under the Public Health Acts, and not under the Factory Acts, he must give notice to the council, whose duty it then is to take the necessary action and inform him of what they have done. If the council do not move in the matter, the inspector may do what is necessary at their expense.

As already stated, separate w.c. provision for each sex must be provided in factories and workshops where males and females are employed.[1]

Amongst other offences which may be dealt with by the council as nuisances are: keeping a domestic factory or workshop in an uncleanly state or overcrowded, or not ventilated so as to render harmless, as far as possible, the impurities which are generated by the work carried on; not keeping a workshop ventilated in accordance with the standard prescribed by the Home Secretary; using a fireplace or furnace not constructed so as to consume, as far as practicable, its own smoke, or permitting a chimney to send forth black smoke.[2] By section 3 of the Factory Act, 1901, overcrowding exists (with certain exceptions which may be made by the Home Secretary) when there is less than 250 cubic feet of space to each person, or, during overtime, less than 400 cubic feet.

The council may compel the owner or occupier of a workshop to lime-wash, cleanse or purify it, if the medical officer or inspector of nuisances certifies that such work is necessary for the health of the persons employed.

If work is given out from a factory or workshop, a list of the out-workers and their addresses is to be kept by the occupier of the factory, and a copy of such list sent to the council before

[1] P. H. A., 1875, s. 38; P. H. A., 1890, s. 22; F. and W. A., 1901, s. 9; P. H. L. A., 1891, s. 38.
[2] P. H. A., 1875, s. 91; P. H. L. A., 1891, ss. 2 and 24.

the 1st February and the 1st August in each year.

The Home Secretary has specified certain occupations, in which, if the place where the work is carried on is dangerous to the health of the out-workers, the council may require the occupier of a factory to cease giving work out to any specified address after a month's notice. In any event, such an occupier must not allow wearing apparel to be made up or repaired at any place in which he knows that a person is suffering from fever or small-pox; and if work is carried on in a house where an inmate is suffering from a notifiable disease, the council, or two members on the advice of the medical officer, may forbid work on wearing apparel, or other work included in the Home Secretary's order, to be sent there.

The powers of the officers of the council to enter workshops are similar to those possessed by inspectors of the Home Office with regard to factories. They may, for instance, enter a workshop at any reasonable hour of the day or night, and also enter at any time during the day a place believed to be a workshop.

The medical officer must report annually to the council on the administration of the Factory and Workshop Act, 1901, in workshops in their district.

Bakehouses must be periodically cleansed, and may not be used if they have a closed ash-pit or open drain in them. If the floor of a bakehouse

is more than three feet below the surface of the adjoining street or nearest ground, it may only be used if occupied as a bakehouse before the 17th August, 1901, and even in that case it must be certified by the council to be suitable for the purpose, so far as construction, ventilation and light are concerned. An appeal against the decision of the council may be made to the local magistrates.

13. Dairies, Cowsheds, and Milkshops.

Orders with regard to dairies, cowsheds, and milkshops were made in 1885, 1886, and 1899 by the Privy Council and the Local Government Board. The powers of the former body have now been transferred to the latter authority, so far as this subject is concerned.[1]

In accordance with these orders, the council of a municipal borough or urban district must keep a register of all persons engaged as cow-keepers, dairymen, or purveyors of milk. It is an offence to carry on such a trade without being registered, except in the case of cows or a dairy kept merely for the purpose of making butter or cheese. It is incumbent upon the council to give public notice of the necessity of registration.

The orders contain a number of provisions as to lighting and ventilation of dairies and cowsheds,

[1] Contagious Diseases (Animals) Acts, 1878, s. 34, and 1886, s. 9.

and they make it an offence for an infected person, or anyone who has recently been in contact with such a person, to milk cows or assist in the distribution or storage of milk. The council are given powers to make regulations with regard to the inspection of cattle, as to the lighting, ventilation, drainage, and water supply of dairies and cowsheds, for securing the cleanliness of milkshops and milk vessels, and for taking precautions against infection by persons retailing milk. These regulations are to be sent to the Local Government Board a month before they come into operation, and the Board may revoke any regulation which they consider objectionable.

The orders are enforced in the administrative county of London by the common council in the city, and by the county council in the remainder of the county, but the borough councils must also see that the regulations of the latter body are carried out. The premises of dairymen must be registered by the borough councils. Cow-houses must be licensed by the county council.[1]

14. Port Sanitary Authorities.

For the purpose of regulating the sanitary condition of a customs port, the Local Government Board may constitute any local authority whose district forms the whole or part of the port into a

[1] P. H. L. A., 1891, ss. 20 and 28 ; Lon. G. A., 1899, s. 6.

port sanitary authority, or they may combine two or more authorities for this purpose. The order does not require the confirmation of Parliament, unless any riparian authority who are required to contribute to the expenses of the new body give notice of objection. The constitution and duties of the authority or joint board, as the case may be, the area over which they have jurisdiction, and the method of raising the necessary funds, are usually set out in the order.[1] The city council are the sanitary authority for the port of London.

15. MISCELLANEOUS.

There are many instances in which the councils have undertaken works beyond their strictly legal powers, but with beneficial results to the public health. Over a hundred authorities have published posters setting forth the effects of intemperance (and, in a few cases, improper feeding and juvenile smoking) upon the human system.

Several councils of municipal and metropolitan boroughs have also established depôts from which sterilised milk is supplied at or below cost price to infants of the poorer class, with a view to lessening the excessive mortality amongst those children. To the same end, some councils have initiated a system of voluntary notification of births, in order that a lady health visitor may attend upon the

[1] P. H. A., ss. 287—292; P. H. (Ships) Act, 1885; P. H. (Ports) Act, 1896.

mothers at the earliest possible moment with advice. In 1906, Parliament sanctioned an experiment in this direction, by passing a local Act which makes such notification compulsory in Huddersfield within forty-eight hours of birth, the first person giving the desired information being rewarded by the corporation with a shilling.

CHAPTER III.

HIGHWAYS AND COMMUNICATION.

1. Highways. 2. Streets. 3. Locomotives, etc. 4. Communication and Transit.

1. HIGHWAYS.

SCARCELY less important than sanitation is the duty of maintaining public highways and other means of communication.

In its widest sense, a highway is a thoroughfare over which every subject of the Crown may lawfully pass—indeed, it may, strictly speaking, not even be a thoroughfare, as in the case of a *cul-de-sac.* The right of the public, however, is often confined to an easement or right of passage only. Unless the land itself is vested in the local authority, it remains the property of the former owner, who may maintain an action for trespass against any member of the public acting in excess of his right to use the highway for the purpose of passage. Thus, it was held in the case of *Harrison* v. *Rutland*, where a farmer remained on a public highway running across a grouse moor, in order to interrupt the flight of the birds, that "If a person uses the

soil of the highway for any purposes other than that in respect of which the dedication was made and the easement acquired, he is a trespasser. The easement acquired by the public is a right to pass and repass at their pleasure for the purpose of legitimate travel, and the use of the soil for any other purpose, whether lawful or unlawful, is an infringement of the rights of the owner of the soil, who has, subject to this easement, precisely the same estate in the soil as he had previously to any easement being acquired by the public."

The law with regard to highways in municipal boroughs and urban districts is principally contained in the Highways Acts, 1835, 1839, 1862, 1863, 1864, and 1885; the Highways and Locomotives Act, 1878; the Highways and Bridges Act, 1891; the Locomotives Acts, 1861, 1865, 1896, and 1898; the Local Government Acts, 1888 and 1894; and the Public Health Act, 1875.

It is the duty of every town and urban district council to repair all the highways in their district, except main roads or highways repairable by certain persons under Acts of Parliament or by reason of their tenure of land (*ratione tenurae*), or which have been dedicated to the public since the passing of the Highways Act, 1835, and have not been formally adopted by the council or their predecessors, and are not, therefore, repairable by the inhabitants at large,[1]

[1] P. H. A., 1875, ss. 144 and 149.

although they may be public highways in other respects.

Main roads (which, in the whole of England and Wales, are over 4,000 miles in extent) are repaired at the cost of the county council or the council of a county borough.[1]

To aid the council in performing the duty of repair, extensive powers of collecting and taking materials on commons and private lands have been conferred upon them, but these are of little importance in a town.[2]

It has on several occasions been judicially decided that no civil action can be maintained against the council for damages resulting from the mere non-repair of a highway, unless they are under some special liability in the matter. Under certain circumstances, however, they may be indicted at quarter sessions or assizes for neglecting their duty to repair, or complaint may be made to the Local Government Board, as in the case of sewers. They are, of course, liable in the ordinary way for the results of work improperly or illegally carried out.

The council may erect direction posts indicating the localities to which roads lead, and they are compelled to do so if the justices in petty sessions require it. They may also put up milestones, and fence dangerous places.[3]

[1] L. G. A., 1888, s. 11.

[2] Highways Act, 1835, ss. 51—57; Commons Act, 1876, s. 20.

[3] H. A., 1835, s. 24; Highway Rate Assessment Act, 1882, s. 6.

It is a rule of law that "once a highway, always a highway." The council may, however, divert a highway by securing from two justices a certificate that the new highway to be substituted for the old one is nearer or more commodious, and afterwards obtaining an order of quarter sessions authorising the closing of the old highway. If any person interested in the matter desires to oppose the diversion, he may appeal to a jury at the quarter sessions. Similar proceedings may be taken to stop up an unnecessary highway.[1] A highway may also be closed by authority of an Act of Parliament, or it may cease to exist by such natural causes as an inundation of the sea, etc.

The council have wide powers for the protection of their highways, and may, by summary proceedings, compel the removal of obstructions or encroachments, and require the pruning or lopping of trees and hedges if they obstruct a highway or exclude the sun or wind from the surface. They may also take all necessary steps for draining their highways.[2] Unfenced quarries and mines, and barbed wire fences which are likely to injure persons or animals using a highway, may be dealt with by them, and a magistrate's order obtained directing fences to be provided, or barbed wire to be removed.[3] Such orders may be carried out by

[1] H. A., 1835, ss. 84—93.

[2] H. A., 1835, ss. 26, 65 and 66; H. A., 1864, s. 51; L. G. A., 1894, s. 26.

[3] Quarry Fences Act, 1887; Barbed Wire Act, 1893.

the council if the person to whom they are directed does not obey them. To make an excavation near a highway, which is a nuisance to the public, is an offence indictable at common law.

The Highways Acts, 1835 and 1864, create a number of offences in relation to highways, such as injuring the surface, riding or driving any horse, cattle, or vehicle on the footpath ; discharging guns, pistols, or fireworks; laying materials or suffering offensive matter to flow on a highway ; allowing cattle to stray, using a vehicle without the owner's name and address being painted on the off side of it ; driving on the right-hand side of the road when meeting any person, vehicle, or cattle ; preventing any person from properly using the highway ; or furiously riding or driving so as to endanger the life or limb of any passenger. Other offences which may be committed on unfenced land near the highway, such as sinking shafts, erecting steam engines, or making fires, are perhaps of more importance in a rural than in an urban district.

If the council fail to maintain or repair any of their highways, the county council may make an order limiting the time within which the work is to be done, and if such order is not obeyed, the latter body may appoint some person to carry it out, and direct that the expenses shall be paid out of the funds of the negligent council. Should this authority dispute their liability, the matter must be decided by trial at the assizes.[1] It is needless to

[1] Highways and Locomotives Act, 1878, s. 10.

say that, as the council of a county borough possess practically all the powers of a county council, they are not in this matter subject to any other authority.

Although main roads are, as previously stated, *primâ facie* vested in and maintainable by the county council, the town or urban district council have in many cases elected to repair them, or the county council have required them to do so, and in those instances they carry out the work in return for an annual contribution from the county council, the amount of which is settled by the Local Government Board, in case of dispute.[1]

The responsibility for the condition of those roads rests, of course, primarily upon the county authority, who are empowered to make bye-laws as to their use, the size of the wheels which may be used, the method of descending hills, and other matters.[2] The widening of main roads is often carried out by town or urban district councils, who bear the greater portion of the expense, and are content to receive the balance as a contribution from the county authority.[3]

The county council (including the London County Council) have also power to contribute towards the repair and improvement of any highway or footway in the county.[4] The lighting of

[1] L. G. A., 1888, s. 11.
[2] Highways and Locomotives Act, 1878, s. 26.
[3] Highways and Bridges Act, 1891, s. 3.
[4] L. G. A., 1888, ss. 11 and 41.

main roads is wholly within the jurisdiction of the town or urban district councils.

Occasionally, of course, changes in population lead to alterations in the character and importance of a road, and the county council may in such cases declare any particular highway to be a main road, or apply to the Local Government Board for an order reducing a main road to the status of an ordinary road. If the latter is within a municipal borough, however, the consent of the town council must be obtained to the alteration.[1]

Should any council charged with the repair of a highway consider that such highway has become unnecessary, they may ask a court of summary jurisdiction to declare that it need not be repaired at the public expense. The decision of the magistrates is subject to an appeal to the county council, who may restore to its former position a highway, the repair of which has been discontinued, upon proof that the circumstances under which the justices made their order have changed.[2]

The Highways Act, 1835, applies to the administrative county of London. Both main and local roads are, however, vested in and repairable by the borough councils. The councils have the same immunity from actions for damages resulting from non-repair as are enjoyed in other urban districts. The stopping up or diversion of

[1] H. and L. A., 1878, ss. 15 and 16; H. B. A. 1891, s. 4.

[2] H. and L. Act, 1878, s. 24; L. G. A., 1888, s. 3.

highways is carried out by the method already referred to.[1]

The provisions of the Barbed Wire Act, 1893, are applicable to the county of London, the borough councils being the bodies authorised to carry it into execution.

2. Streets.

Public Streets.

Since the abolition of turnpike roads, practically all highways are streets, but in much of the recent legislation on such matters specially applicable to urban areas, the latter term has been employed. "Street" is defined in sect. 4 of the Public Health Act, 1875 (which applies, of course, to all municipal boroughs and urban districts), as including "any highway and any public bridge (not being a county bridge), and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not."

All public streets, *i.e.*, those maintainable by the inhabitants at large, vest in the council.[2] This vesting, however, is confined to the surface of the streets, which they must keep in good condition. The soil beneath does not necessarily pass to them, but usually remains the property of the persons to

[1] M. M. A., 1855, ss. 96 and 98; Lon. Gov. Act, 1899, ss. 6 and 7.
[2] P. H. A. 1875, s. 149.

whom the adjoining land belongs, and who may work the minerals, providing they do no damage to the surface.[1]

The council have power to purchase land for improving public streets, or, with the sanction of the Local Government Board, for making a new street. They may, by agreement with the owners, adopt and maintain streets or bridges privately constructed, or undertake to repair them. They may also construct a bridge at the expense of a canal, railway or tramway company, or, with the consent of two-thirds of the council, contribute towards the construction or alteration of a private street or bridge.[2]

Compulsory powers for the purchase of land in order to construct new streets or widen existing streets may be obtained by provisional order or Act of Parliament.

In the event of a house or building, or the front of a house or building, in an existing street, being pulled down, the council of a municipal borough or urban district may prescribe the line at which it is to be rebuilt, but they must compensate the owner for any injury suffered by him in consequence of their decision.[3] The land thus rendered vacant remains, of course, the property of the owner of the house, and is not included in the street. The consent of the council must also be obtained before

[1] Highways and Locomotives Act, 1878, s. 27.
[2] P. H. A., 1875, ss. 147, 148 and 154.
[3] P. H. A., 1875, s. 155.

any building in a street may be erected or brought forward beyond the front main wall of the house or building on either side of it.[1]

The council may plant trees and provide refuges and cabmen's shelters in the public streets, and make regulations and charge fees for the use of the shelters. They may also permit statues and monuments to be erected in the streets, and maintain and remove them afterwards.[2]

The council are responsible for the efficient lighting of the streets in their district, and although they may compel owners of land fronting upon private streets to provide proper means of lighting, they rarely do so, but light those streets at the public expense. They may contract for the supply of gas or electricity, if they are not themselves empowered to supply either of those illuminants, and they can, of course, provide lamps and lamp-posts. In the unlikely event of no company or person being authorised to supply gas for public or private purposes within the district, the council may do so.[3]

They are also enabled to provide public clocks in the streets, and they may maintain and light any public clock in their district, although it may not be actually vested in them.[4]

Bye-laws may be made by the council to prevent

[1] Public Health (Buildings in Streets) Act, 1888.
[2] P. H. A., 1890, ss. 39—43.
[3] P. H. A., 1875, s. 161.
[4] P. H. A., 1875, s. 165; P. H. A., 1890, s. 46.

danger or obstruction to streets from telegraph or telephone posts and wires (except when erected by the Postmaster-General or by undertakers under the Electric Lighting Acts), to impose the duty of cleansing the footways and pavements on the occupiers of adjoining premises, and for the prevention of nuisances in streets arising from snow, rubbish, etc.[1]

The Local Government Board have power to confer upon the council the powers of a parish council, under which they may undertake the repair of any public footpath in their district, although they may not be legally liable for such repair.[2]

The council have important powers with regard to the use of the streets. If the district is not within the area of the metropolitan police (which includes the whole of Middlesex and portions of Surrey, Kent, and Essex within fifteen miles of Charing Cross), they may issue orders for regulating the street traffic during public processions, etc., and near churches and places of public worship during divine service on Sundays and other holy days. They may also give directions to the police as to the method of keeping order in the vicinity of places of public resort. Their annual licence is necessary to enable any hackney carriage, omnibus, wagonette, etc., to ply for hire,

[1] P. H. A., 1875, s. 44; P. H. A., 1890, ss. 13—15.
[2] L. G. A., 1894, ss. 13 and 33.

and a similar licence must be obtained by the driver of such a vehicle, or the proprietors, drivers, and conductors of any horse, pony, mule, or ass standing for hire. The council may make bye-laws for regulating the conduct of such persons, and revoke or suspend a licence if the holder is convicted a second time for an offence against the bye-laws or any statute relating to carriages, omnibuses, etc.[1]

The metropolitan police deal with these matters in the metropolitan police district.

The council must name the streets and number the houses within their district, but they can compel the occupiers of the houses to affix the numbers. They are also empowered to remove projections in streets, at the expense of the person offending, to compel occupiers of cellars to provide proper doors if opening on to the street, to enforce the provision of suitable waterspouts to buildings, in order to prevent water falling upon pedestrians or flowing over the footpath, and the provision of hoardings, with lighted and railed platforms for foot passengers, where the construction, repair or demolition of a building obstructs the public footpath.[2]

The council may compel an owner to protect dangerous buildings or holes near a street, and

[1] Towns Police Clauses Act, 1847, ss. 21, 22, 37—52 and 68 ; T. P. C. A., 1889 ; P. H. A., 1875, ss. 171 and 172.

[2] Towns Improvement Clauses Act, 1847, ss. 64—80 ; P. H. A., 1875, s. 160 ; P. H. A., 1890, s. 34.

to light and protect the deposit of building materials or rubbish, or any excavation.[1]

The surveyor of the council may require ruinous and dangerous buildings to be pulled down or repaired. If default is made in compliance with his notice, he may summon the person responsible before the magistrates, who are empowered to order the work to be carried out. Should the order not be obeyed, the council may do the work, and recover the expense by selling the materials, or by proceeding against the owner.[2]

These powers are in addition to those conferred by the Housing of the Working Classes Acts, with regard to dangerous buildings, and referred to on page 92.

The Towns Police Clauses Act, 1847, s. 28, provides a punishment for a number of common offences in the street, with many of which a local authority is often compelled to deal, such as laying rubbish on streets, placing goods on the footway, erecting blinds and other projections so that they are less than eight feet from the ground, etc.

The definition of a "street" within the county of London is very similar to that in other urban districts.[3] All streets vest in the city and borough councils, who are charged with the duty

[1] T. I. C. A., 1847, ss. 81—83.
[2] T. I. C. A., 1847, ss. 75—78.
[3] M. M. A., 1855, s. 250; M. M. A., 1862, s. 112; Lon. Bldng. Act, 1894, s. 5; P. H. L. A., 1891, s. 141.

of repairing, lighting and cleansing them.[1] The London County Council may make, widen or improve any of the streets in the county, and, with their consent, the borough councils may also do so. The county council may, of course, agree with any one or more of the borough councils to share the cost of an improvement which is for the benefit of the whole county as well as of the boroughs in which the street is situate.

For the purpose of altering or improving a public street, the borough councils have power to acquire land or buildings compulsorily, without the necessity of obtaining a provisional order. If their offer to purchase is refused, the amount of compensation to be paid by them is settled by a jury.[2]

In the event of a street being within the area of more than one borough, the county council may order it to be repaired and lighted by the council of one of those boroughs, and adjust the expense.[3]

The county council have power to prevent the erection of buildings beyond the general line of building frontage, outside the city, in the same way as the council of a municipal borough, already referred to.[4]

Vaults and sewers under the public streets

[1] M. M. A., 1855, ss. 90, 96, 98, 130 and 144; M. M. A., 1862, s. 72; P. H. L. A., 1891, s. 29.

[2] Met. Paving Act, 1817, ss. 80—82; M. M. A., 1862, s. 73.

[3] M. M. A., 1855, ss. 140 and 160; M. M. A., 1862, s. 86; Lon. Gov. Act, 1899, s. 6.

[4] Lon. B. Act, 1894, part 3.

cannot be constructed without the consent of the borough council, and must be kept in proper repair. The council can also require the removal of projections into streets, and their licence must be obtained to the erection of hoardings, which must be provided when building works are carried on adjoining any public street, and the footway is thereby rendered inconvenient, or when buildings or walls are taken down within ten feet of a public thoroughfare.[1]

The council may stipulate, as a condition of their licence, that advertisements shall not be exhibited on the hoardings, or they may permit such advertisements on payment of an agreed sum.[2]

The borough councils and metropolitan police have also wide powers of dealing with other encroachments upon, or obstructions in, the streets, including the collection of money for charitable purposes, etc.[3]

The borough councils may make bye-laws for the prevention of nuisances arising from snow, rubbish, etc., and the county council may make bye-laws as to overhead wires.[4]

Before the Postmaster-General can construct a

[1] Met. Paving Act, 1817, ss. 70, 71 and 75; M. M. A., 1855, ss. 101, 102, 119—123; L. C. C. Act, 1890, s. 32; Lon. Bldng. Act, 1894, s. 90.

[2] Advertisement Stations Rating Act, 1889.

[3] Met. Pav. Act, 1817, s. 65; Met. Police Act, 1839, s. 60; L. B. A., 1894, s. 73; Met. Streets Act, 1903.

[4] P. H. L. A., 1891, s. 16; London Overhead Wires Act, 1891.

telegraphic or telephonic line over, along, or across any street, whether in London or the provinces, he must obtain the consent of the council in whose district it is situate.[1] If this consent is refused, or conditions are attached to it which the Postmaster-General considers are unreasonable, he may appeal to the judge of the local county court, or to the stipendiary magistrate, if one has been appointed for the district. A further appeal from either side may be made to the Railway Commissioners. Any of these latter authorities may, of course, attach conditions if they sanction the erection of the line. The work of breaking up the roads may only be undertaken after due notice to the council, who may carry out the excavation and re-instatement at the expense of the Post Office. In many cases, the council endeavour to insist that the wires shall be laid underground, in order to avoid the erection of unsightly poles, but where they recognise that an appeal to a higher authority on this point would be useless, or where such an appeal is unsuccessful, they often agree to carry out the road work at their own expense, if that will induce the Post Office to place the lines underground.

Private Streets.

In all towns which are in course of development, a large part of the work of the council is concerned with the construction of new streets by private

[1] Telegraph Acts, 1878 and 1892.

owners and builders.[1] They have power to make bye-laws to regulate this matter, including requirements as to level, width, and sewerage. These streets are not repairable by the council unless that body have formally adopted them, but they may undertake the work by agreement with the person or company owning them or responsible for their repair. They may also compel the owners of premises abutting on such streets to do the necessary sewering, levelling, paving, metalling, flagging, and channelling, and to provide means of lighting. Notices must be served upon the owners requiring them to carry out the work, but the council must at the same time prepare plans and estimates showing what is needed, and the probable expense involved. The usual practice is for the owners to ignore these notices, whereupon the council must make up the streets, and recover the cost from the owners, according to the extent of their frontage, or declare the expenses incurred to be private improvement expenses due from the owners. The incumbent or minister of any church, chapel, or place appropriated to public religious worship, which is exempt from the payment of poor rate, is not liable for such expenses.

When some or all of these works have been carried out, the council may by resolution declare the street to be a highway repairable by the inhabitants at large, but this resolution has no

[1] P. H. A., 1875, ss. 148—157.

effect if within a month a majority in number or value of the owners object in writing.[1]

These provisions as to making up and adopting private streets have been the subject of much litigation, and the Private Street Works Act, 1892, was passed with a view to improving matters in this respect. This Act is only in force in the 470 districts where the council have adopted it by special resolution. In those cases, the council may resolve to carry out the necessary repairs to the street without previously requiring the owners to do so. The usual plans and preliminary estimate, however, must be prepared. The owners have a month in which to object to any of the proposed works, or to the expense which will be incurred, and any such objection is summarily decided by a reference to the magistrates. The council are empowered, in adjusting the apportionment of the expense upon the frontagers, to have regard to the greater or less degree of benefit derived by the premises from the works, and the amount or value of the work already done by the owners or occupiers, whilst they can also obtain a contribution from the owner of premises to which access is obtained from the new street. Upon the completion of the works, the surveyor of the council must make a final apportionment, showing the amount due in respect of each property. Any owner may, within a month, object to this apportionment, and the matter is

[1] P. H. A., 1890, s. 41.

decided by the magistrates n the same way as an objection to the preliminary estimate or specification.

Under this Act, the council are also empowered to contribute to the expense of repairing a new street, and the trustee, as well as the minister, of a place of public worship, is relieved from payment in respect of that building. The council may adopt the street as a public street, although all the usual works may not have been completed, and although the owners may object—in fact, if the whole of the works mentioned in the Act are carried out, and the majority in value of the owners request the council to take the road over, they must do so.

Railway and canal companies benefit by this Act, as they are not liable to pay in respect of their land fronting to the street if it is used by them solely as a part of their undertaking, unless and until they make an entrance to the street. The cost which would otherwise be paid by the company is divided amongst the other frontage owners. In the case of a place of religious worship, however, the amount involved is defrayed by the council.

The procedure for the recovery of expenses incurred by the council for the repair of private streets and other matters is dealt with on page 30.

Occupiers of property in private streets are, of course, liable to pay full rates, although those streets are not repaired by the council.

In the administrative county of London, the county council have made bye-laws with regard to the construction of new streets, and plans of the work must be approved by them before the streets can be commenced.[1]

The borough councils may enforce the repair of new streets within their area at the expense of the frontage owners, and for that purpose they have powers akin to those of the councils of other boroughs. They can collect the estimated cost before actually commencing the work, but when the repair of a street is completed, they must continue to maintain it at the public expense. Owners of land abutting on private streets may be charged at a lower rate than owners of houses. The councils may also agree to take payment by instalments spread over a period not exceeding twenty years.[2]

A metropolitan borough council may also repair, at the expense of the frontage owners, any carriage road within their district which has been open to public traffic for at least six months, but which it is not deemed advisable to take over as a public street, without in any way prejudicing their right to subsequently put it in the same condition of efficiency as the other roads in the borough, at the cost of the owners. The liability of railway

[1] M. M. A., 1855, s. 105; M. M. A., 1862, ss. 77 and 80; Lon. Bldng. Act, 1894, part 2.

[2] M. M. A., 1855, s. 105; M. M. A., 1862, s. 77; M. M. A., 1862, Amendment Act, 1890.

companies whose land abuts upon such a road is no greater than under the Private Street Works Act, 1892, already referred to.[1]

No portion of the subsoil of a private street may be taken away, so as to alter the level of the street, without the consent of the borough council. An appeal against the refusal of the latter authority in this matter may be made to the county council, whose decision is final.[2]

3. Locomotives, etc.

The duty of a highway authority is merely to keep it in a proper condition for the ordinary amount of traffic which may be expected, and if the road suffers from unusual weight or extraordinary traffic, the council may recover the extra expense occasioned by such weight or traffic from the person by or in consequence of whose order it has occurred. Legal proceedings in the matter must, however, be commenced by the council within twelve months of the damage being committed, or within six months of the completion of the contract or work in connection with which such damage was done.[3]

Damage by extraordinary traffic is usually caused by locomotives, and special provisions (which operate within the metropolis, as well as in other

[1] M. M. A., 1890, s. 3.
[2] M. M. A., 1890, s. 6.
[3] H. and L. Act, 1878, s. 23; Locomotives Act, 1898, s. 12.

towns and districts) have been made by the Legislature with regard to those vehicles.

With the exception of light locomotives, to be dealt with later, their speed is restricted to two miles an hour in a town or village, and four miles an hour in other districts. They must also be constructed so as to consume their own smoke. Detailed regulations have been laid down as to the weight, wheels, tyres, and method of driving such locomotives.[1]

Locomotives used solely by a road authority or for agricultural purposes, or which are not used for haulage, must be registered with the council of the county or county borough in which they are used. All other heavy locomotives must be licensed by such a council, and, if used in any other district, must also be licensed there, or payment of a daily fee must be made. Steam rollers belonging to the council and used in their district are exempt from both registration and licensing.[2]

The council of any county or of a municipal borough with a population of 10,000 may make bye-laws prohibiting or restricting the use of locomotives on certain highways and bridges, and regulating their use generally, but any district council or owner concerned may appeal to the Local Government Board against those bye-laws.[3]

The council, or any other authority having the

[1] Locomotives Act, 1861, s. 4; Locomotives Act, 1865, s. 4; Locomotives Act, 1878, ss. 28 and 30.

[2] Locomotives Act, 1898, ss. 9 and 10.

[3] L. A., 1898, s. 6.

repair of a bridge, may prohibit the passing of a locomotive over it by posting a notice stating that it is insufficient to carry weights beyond the ordinary traffic of the district, and, if the alleged insufficiency is questioned, the matter must be decided by the Local Government Board. In any event, no such locomotive may be allowed to meet a similar vehicle whilst on the bridge. The owner and person in charge of a locomotive are also liable for any damage it does to a river, canal or railway bridge while crossing.[1]

Light locomotives (or motor cars) are specially dealt with by the Locomotives on Highways Act, 1896, and the Motor Car Act, 1903. They must be under five tons in weight unladen, and not be used for the purpose of drawing more than one vehicle (which may bring the total unladen weight up to six and a half tons), and must also be so constructed that no smoke or visible vapour is emitted, except from temporary or accidental cause. The council of any county or county borough may make bye-laws preventing or restricting the use of such vehicles on bridges, if damage to the bridges or danger to the public is anticipated, and the Local Government Board may make regulations with respect to their use on highways, their construction, and the conditions under which they may be used. On the application of the council, the Board may also prohibit or restrict the use of

[1] L. A., 1861, ss. 6 and 7; L. A., 1898, ss. 7 and 8.

the cars in crowded streets or in other places where they may cause danger to the public.[1]

Motor cars must be registered with the council of a county or county borough, upon payment of a fee of 20*s.*, or 5*s.* for a motor cycle. The Local Government Board have issued regulations assigning to each of the registration councils an index mark consisting of some letter or letters of the alphabet, and this mark, with the number of the car in the register of the council, must be affixed to the card, in accordance with such regulations. Drivers of motor cars must also take out an annual licence from the council of the county or county borough in which they reside, at a cost of 5*s.* each. The Motor Car Act, 1903, creates a number of offences with regard to the use of unlicensed cars, failure to affix the plate showing the index mark and number, driving recklessly, or negligently, or dangerously to the public, or at a speed greater than twenty miles an hour, or exceeding any rate of speed prescribed by the Local Government Board on the application of the council of a county or of a municipal borough with a population of 10,000, or the common council of the city of London. These councils must set up sign posts in their districts to denote dangerous corners, cross roads and precipitous places, and give public notice of any regulations made by the Board with regard to their area.

[1] L. A., 1896, ss. 1 and 6; Heavy Motor Car Orders, 1904 and 1907.

The Board have issued a special heavy motor car order as to the construction of cars weighing more than two tons unladen, imposing restrictions as to their speed, varying with weight, up to a maximum of twelve miles per hour.

Cycles.

Cycles are included as carriages within the meaning of the Highways Acts. Any cyclist using a highway must carry a lighted lamp between one hour after sunset and one hour before sunrise, and must signal his approach by sounding a bell or whistle, etc., when overtaking any foot passenger, beast of burden, or vehicle.[1]

Although this provision only applies to cycles, the council of any borough or county may deal with the question of lights being carried by other vehicles after dark, under their power to make bye-laws for "the good rule and government" of their district.[2] A return issued by the Home Office in August, 1906, showed that the councils of all the administrative counties in England and Wales (except Merionethshire) and the councils of 245 out of 325 boroughs had made bye-laws providing that lights should be affixed to vehicles from an hour after sunset until an hour before sunrise. These bye-laws, however, differed considerably in the stringency of their terms.

[1] L. G. A., 1888, s. 85.
[2] M. C. A., 1882, s. 23; L. G. A., 1888, s. 16.

4. Communication and Transit.

Tramways.

Tramways may be constructed by the council or by a company under powers conferred upon them by Act of Parliament, or by a provisional order granted by the Board of Trade and confirmed by Parliament.[1] An application by the council for such an order must be authorised by a resolution passed at a special meeting attended by two-thirds of their members. If a company are the applicants, they must obtain the consent of the council, but the Board of Trade have power to dispense with this consent if the tramways are to be constructed in more than one district, and the sanction is obtained of councils of the districts in which at least two-thirds of the tramways will be laid. It is obvious that the necessity of obtaining the consent of the council gives the latter an opportunity of making conditions advantageous to the residents in the district, such as the reduction of fares for workmen, frequency of running trams, widening of streets, etc.

The Board of Trade usually hold a local inquiry into any application for a provisional order which they receive. The Tramways Act, 1870, lays down details as to the advertising of the scheme, and the notices which have to be given; and the Board have also made rules as to the procedure to be

[1] Tramways Act, 1870.

followed. The provisional order always contains regulations as to the nature of the tramway, the charges which are authorised, etc., but it does not give powers for the compulsory acquisition of land.

The standing orders of both Houses of Parliament provide that before any private Bill authorising tramways can be introduced, the consent of the local authority must be obtained, in the same manner as though the matter were being dealt with by provisional order.

A company constructing a tramway must observe the provisions of the Tramways Acts, 1870, for the protection of the council, with regard to breaking up streets, and they are also liable to repair to the satisfaction of the council the track between each pair of rails, the roadway within eighteen inches of the outside rails, and the roadway between pairs of rails, if there is a distance of not more than four feet between each of them.

If the company cease to work the tramway for three months, except for some reason beyond their control, the Board of Trade may recall their powers and authorise the council to remove the tramway at the expense of the company. Under these circumstances the council may, with the approval of the Board, purchase the undertaking so far as it is within their district, or used for the purposes of the tramways within their district, the price to be the value of the property purchased, exclusive of allowance for profits or compulsory

sale. The council may also purchase the undertaking on the same terms at the expiration of twenty-one years after the granting of the company's powers, or at the end of any subsequent period of seven years, if they resolve to do so at a meeting consisting of two-thirds of their members, summoned after a month's notice. They may acquire the undertaking by agreement, after it has been opened for six months.

The council of a municipal borough or urban district, or of the administrative county of London, may make bye-laws (which may be disallowed by the Board of Trade) with regard to the speed of the trams and other details, and (subject to the approval of the Local Government Board) as to the carriages, drivers and conductors, and they may license the carriages and drivers, if their district is outside the metropolitan police area. The owners of the tramway undertaking may make bye-laws (which may be disallowed by the Board of Trade) with regard to the conduct of passengers and others on the carriages.

The council have no power under a provisional order or the Tramways Act, 1870, to work their tramways, but they must lease them to a company unless they obtain a special Act giving them permission to work the undertaking themselves.

In the county of London, tramways are in the hands of the London County Council and private companies. In constructing new tramways, the former body are obliged to obtain the consent of

the borough councils, who are the road authorities, just as though they were a company.

The return of the Board of Trade for 1905–6 showed that local authorities in England owned 162 tramway undertakings (of which they operated 113 and leased the remainder). Their capital outlay was £30,533,309, and their tramways carried 1,244,220,700 passengers, at an average fare of 1·08d., resulting in a net revenue of £2,060,951, or a return of 6¾ per cent. on the capital of the undertakings worked by the councils.

Companies owned 106 undertakings, and worked 102, including those leased from local authorities, the remainder being apparently not in use. Their capital outlay was £16,785,251, and their tramways carried 559,757,126 passengers, at an average fare of 1·21d., earning a net revenue of £960,304, or a return of 4½ per cent. on the capital of the whole of the undertakings worked by companies.

Light Railways.

The council of any county, municipal borough or urban district may obtain from the Light Railway Commissioners a provisional order, which must be confirmed by the Board of Trade, authorising them to construct a light railway.[1]

A light railway is a tramway worked by steam or electric power upon the public highways, and the commissioners will not, as a rule, grant a provisional order for such transit entirely within a

[1] Light Railways Act, 1896.

borough or an urban district, on the ground that it should be dealt with as a tramway.

The application for an order may be made by the council either alone or jointly with any company. If the commissioners refuse the order, an appeal may be made to the Board of Trade, who may send the matter back to the commissioners. An order granted to a company may authorise the council to advance a limited sum of money towards the expenses of a railway, on condition that they are represented on the directorate. If the council apply for an order, and the railway extends beyond their district, it must be worked jointly with the council of the neighbouring district, or the Board of Trade will limit their expenditure to their own district. Any two or more councils may appoint joint committees with regard to light railways.

Canals, etc.

The council have no general power to construct or acquire a canal. In some few instances, however, councils have obtained special Parliamentary permission to assist in the support or maintenance of a canal which is considered to be necessary for the welfare of the district, a notable example being an investment of some £5,000,000 by the corporation of Manchester in the Manchester Ship Canal.

Under the Railway and Canal Traffic Act, 1888, s. 45, a company owning a derelict canal may obtain from the Board of Trade a warrant releasing

them from their liability to maintain it, and the Board may impose upon them a condition that the canal shall be transferred to the county, town or district council.

The London County Council own and maintain a fleet of passenger steamers on the Thames, under the Thames Steamboat Service Act, 1904. By virtue of special powers, the same authority and several other councils also provide ferry-boats to ply upon rivers within their boundaries.

Omnibuses.

The general law does not enable the council to run omnibuses, either alone or in connection with their tramway undertaking. Some few authorities, however, such as the corporations of Eastbourne and Todmorden, maintain a service of motor omnibuses by authority of local Acts of Parliament or otherwise.

CHAPTER IV.

PROTECTIVE AND REGULATIVE POWERS.

1. Police and Administration of Justice. 2. Protection from Fire. 3. Diseases of Animals. 4. Weights and Measures. 5. Testing of Gas. 6. Employment of Children. 7. Shop Hours and Shop Seats. 8. Care of Lunatics 9. Storage and Sale of Petroleum. 10. Explosives. 11. Slaughter-houses. 12. Game Licenses. 13. Emigration Agents, etc. 14. Pleasure Boats. 15. Race-courses. 16. Pawnbrokers' Certificates. 17. Licensing of Theatres and Music Halls. 18. Analysis of Fertilisers, etc. 19. Midwives. 20. Steam Whistles. 21. Charities. 22. Protection of Wild Birds and Fisheries. 23. Railway Rates.

1. POLICE AND ADMINISTRATION OF JUSTICE.

THE establishment and maintenance of the police force is one of the duties of the town council in most large towns. The area within the county of Middlesex and a radius of fifteen miles from Charing Cross, however, including fifty boroughs and urban districts, is policed by the metropolitan police force, which is under the direct control of the Home Office. The city of London

is served by a force which is organised by the common council of the city.[1]

A few small boroughs with populations below 10,000, each of which formerly possessed a local police force, were merged into the surrounding county for this purpose by the Local Government Act, 1888 (s. 39). Several of the other boroughs have, by arrangement, consolidated their police force with that of the county; and the establishment of a separate force is prohibited in newly constituted boroughs having a population of less than 20,000.[2]

The control of the force is a duty which must be delegated to the watch committee, a special body which the council are compelled to appoint.[3] This committee is an executive authority, as it is not included in the enactment which provides for all acts of committees being submitted to the council for approval. The membership of the committee must not exceed one-third of the whole number of the council, and three members at least must be present before the committee can act.

In boroughs policed by the county police, and in all urban districts which are not boroughs, the police force is under the control of the standing joint committee, composed of an equal number of representatives from the county council and the county justices.

[1] Met. Police Acts, 1829 and 1839.

[2] County Police Acts, 1840, s. 14, and 1856, ss. 5 and 20; M. C. A., 1882, s. 215.

[3] M. C. A., 1882, ss. 190 and 191.

One half of the cost of the pay and clothing of the police is granted by the Government, if the force is certified by the Home Office inspector to be in an efficient state. The grant to non-county boroughs is made in the first instance to the county councils, but the latter must pay it over in due course if the necessary certificate is given.[1]

Nearly all boroughs having any claim to importance have secured a separate commission of the peace, under which justices are appointed to act within the borough. Where such a commission has been granted, the Lord Chancellor may appoint any person to be a borough justice, but the latter cannot act unless he is a resident or occupier of premises in the town or within seven miles thereof.[2] These appointments are often made on the recommendation of the town council, or by the influence of a political association. The justices appoint their clerk, but his salary is fixed by the Home Secretary, and is paid by the council.[3]

In boroughs and urban districts not having separate commissions of the peace, the county justices act. They are appointed by the Lord Chancellor, usually on the recommendation of the Lords Lieutenant of the counties, and need not possess any special property qualification.[4]

Some few boroughs have, on special grounds,

[1] Loc. Gov. Act, 1888, ss. 20—25.
[2] M. C. A., 1882, ss. 156—160.
[3] Crim. Justice Administration Act, 1851 ; Justices' Clerks Act, 1877 ; M. C. A., 1882, s. 159.
[4] M. C. A., 1882, s 154 ; Justices of the Peace Act, 1906.

obtained the appointment of a stipendiary magistrate. Such an official is appointed by the Crown, upon the advice of the Home Secretary, to whom any request by the council for the appointment of a paid magistrate must be made. The person appointed must be a barrister of seven years' standing, and his salary is fixed by the Home Secretary and paid from the borough fund.[1] Stipendiary magistrates act in the metropolitan police courts outside the city of London. They may also be appointed for any urban district having a population of 25,000.[2]

The fines recoverable in a summary manner before the borough justices, and for the application of which no special provision has been made by Parliament, are payable to the treasurer of the county, unless the borough has a separate court of quarter sessions, when they go to the borough treasurer.[3]

The Crown may grant a special court of quarter sessions for a borough. The Recorder, who is appointed by the Lord Chancellor, is judge at the sessions, and receives a salary settled by the Home Office and paid from the borough fund. The clerk of the peace, who is clerk to the court, is appointed by the council. The Recorder has precedence in all places within the borough next after the Mayor.[4]

[1] M. C. A., 1882, s. 161.
[2] Stip. Mag. Act, 1863.
[3] Sum. Juris. Act, 1848, s. 31; M. C. A., 1882, s. 221.
[4] M. C. A., 1882, ss. 162—169.

The town council of a county borough are liable to pay the expenses attending the prosecution of any felony committed in the borough, or other offence of which the expenses of prosecution are payable as in the case of a felony. In other towns these expenses are paid out of the county fund.[1]

The quarter sessions of the administrative county of London are presided over by a chairman or deputy chairman, who are appointed by the Home Department, and whose salaries are paid by the county council. The latter body are responsible for the expenses of prosecution in cases of felony and similar offences committed within the county.[2]

The council of a quarter sessions borough, with a population of 10,000, which is either a county borough or received its grant of quarter sessions prior to 1888, must appoint a fit person (who cannot be a member of the council) to be coroner. In other districts, including the county of London, inquests are held by the coroners appointed by the county council.[3]

2. Protection from Fire.

The council of a municipal borough or urban district may establish a fire brigade, and provide fire

[1] M. C. A., 1882, s. 169; L. G. A., 1888, s. 35 (5).

[2] L. G. A., 1888, s. 42; London (Quarter Sessions) Act, 1896.

[3] M. C. A., 1882, s. 171; L. G. A., 1888, ss. 5, 34 and 38.

engines and all the necessary appliances for extinguishing fires. The brigade may attend fires outside the district, but in this event the owners of the premises where fires occur must pay the reasonable expenses of the brigade. No charge can be made for attending fires within the district of the council.[1]

In boroughs where a separate local police force is maintained, the constables may be employed as members of the fire brigade.[2]

It is the duty of the council to secure an adequate provision of water for the purpose of extinguishing fires, and also to cause proper fire plugs to be fitted on the water system for use at fires. Water companies governed by the Waterworks Clauses Acts are bound to fix such plugs, and to supply the necessary water at the expense of the council.[3]

The council may enter into an agreement with any neighbouring parish council for the use of the fire engines in such a parish.[4]

It is an offence to set a chimney on fire, or negligently permit it to catch alight, or to give a false alarm of fire.[5]

The council's bye-laws as to new buildings may be made, amongst other purposes, with a view to

[1] Towns Police Clauses Act, 1847, ss. 32 and 33.

[2] Police Act, 1893.

[3] P. H. A., 1875, s. 66; Waterworks Clauses Act, 1847, ss. 37—43.

[4] Parish Fire Engines Act, 1898.

[5] Towns Police Clauses Act, 1847, ss. 30 and 31; False Alarms of Fire Act, 1895.

the prevention of fires, and bye-laws may also be made to secure reasonable means of escape in case of fire at factories and workshops.[1]

The metropolitan fire brigade is under the control of the London County Council.[2]

3. Diseases of Animals.

The council of a municipal borough having a population of over 10,000 is entrusted with the task of dealing with contagious diseases of animals, and with enforcing the orders made by the Board of Agriculture to prevent the introduction of destructive insects.

In other towns the matter is in the hands of the county councils, and the common council act for the city, and the county council for the remainder of the administrative county of London.[3]

The council must elect an executive committee, the membership of which may include any rated occupier in the district, and this committee must appoint a veterinary inspector, who has full powers of entry upon premises where animals are kept, in order to carry out his duties. The diseases which may be dealt with are cattle plague, pleuro-pneumonia, foot and mouth disease, sheep-pox, sheep-scab, and swine fever, and any other disease which

[1] P. H. A., 1875, s. 157; Factory and Workshop Act, 1901, s. 14.

[2] Met. Fire Brigade Act, 1865.

[3] Destructive Insects Act, 1877; Diseases of Animals Acts, 1894, 1896 and 1903.

the Board of Agriculture and Fisheries may add to this list. Immediately such a disease occurs, the owner of the animal affected must separate it from healthy animals, and inform the police. The veterinary inspector, or an inspector of the Board, may declare the premises containing the animal to be an infected place, and if the disease spreads the Board may schedule a wider district as an infected area, from or into which animals may not be moved without compliance with conditions laid down by the Acts, or by orders of the Board. The Board may cause infected or suspected animals to be slaughtered, upon payment of a limited amount of compensation, and may also issue orders requiring or authorising the councils to have such animals slaughtered on payment of compensation out of the local rates. Other orders which the Board have power to issue relate to the temporary prohibition and regulation and cleansing of markets, the disinfection of infected places or areas, the muzzling of dogs, seizure of stray dogs,[1] and the issue of authority to the councils to make regulations for any of the purposes of the Acts. The chief orders already made by the Board are the Cattle Plague, the Pleuro-pneumonia, Foot and Mouth Disease, and Sheep-pox Orders of 1895; the Sheep-scab Orders of 1905, 1906, and 1907; the Swine Fever Orders of 1894, 1901–2–3–4, and 1906; the Glanders Order of 1894; the Rabies Order of

[1] Dogs Act, 1906.

1897; the Anthrax Order of 1899; the Epizootic Lymphangitis Order of 1905; and the Dogs Order of 1906. Copies of these orders may be obtained from the Board of Agriculture, Whitehall, S.W.

The council may establish a place for the reception, sale, and slaughter, etc., of foreign cattle, and charge tolls for the use of the accommodation thus provided.

Two or more councils may combine for the formation of a joint committee to administer the Acts. If any council fail to carry out their duties with regard to the diseases of animals, the Board of Agriculture may appoint a person to do the work at their expense. It should be added that the Board, through their district inspectors, exercise keen supervision over local authorities in order to prevent or diminish the amount of infectious disease amongst animals, and it is claimed that, in spite of the number and variety of the orders they have issued (which must be bewildering to the agriculturists chiefly concerned), their efforts have been rewarded with marked success.

4. Weights and Measures.

The local authorities entrusted with the work of putting into execution the law relating to weights and measures are primarily the town council in a municipal borough with a population of 10,000, the common council in the city of London, and elsewhere (including London) the county council.

Unless the borough has a court of quarter sessions, however, the council must pass a formal resolution undertaking to act in the matter; otherwise the county council will be the authority in their district.[1]

The authority under the Act must provide local standards of weights and measures (which must be verified at least once every five years in the case of weights, and every ten years in the case of measures), and appoint a proper number of inspectors.[2] The chief duties of these officials are to verify and stamp weights and measures brought to them for that purpose (for which work the council may charge fees[3]), and to inspect the district, seize false weights and measures, and prosecute the persons using them.

The council may make bye-laws and regulations, which require the approval of the Board of Trade, with regard to the comparison of weights and measures with the local standards, etc., and as to the duties of the inspectors.[4]

The sale of coal by retail is specially dealt with by Part 2 of the Act of 1889, under which the council have power to make bye-laws (also to be approved by the Board of Trade) for regulating the sale in quantities not exceeding two hundred-weight, and with regard to weighing instruments to

[1] Weights and Measures Act, 1878, s. 50, sch. 4; L. G. A., 1888, s. 39.
[2] W. and M. A., 1878, ss. 40—49.
[3] W. and M. A., 1904, s. 9.
[4] W. and M. A., 1878, s. 53; W. and M. A., 1889, ss. 1 and 9.

be carried in vehicles containing coal for sale or in course of delivery to a purchaser.

The financial adjustment between counties and non-county boroughs whose councils carry out the Acts is provided for by the Weights and Measures Act, 1893.

The exercise of the powers of the council is carried on under the general supervision of the Board of Trade, who hold examinations for the purpose of granting certificates of proficiency to persons desirous of becoming inspectors of weights and measures.[1]

The testing and stamping of gas meters is carried out by the councils of counties, and of municipal boroughs where the Sale of Gas Act, 1859, has been adopted, but in boroughs where the supply of gas is in the hands of the council, the matter is dealt with by the justices.[2] Boroughs with a population of 10,000 form part of the county for this purpose.

5. Testing of Gas.

Gas companies deriving their powers under private Acts incorporating the Gas Works Clauses Act, 1871 (as is the case with most companies in provincial towns), must provide and maintain proper premises and apparatus for testing the illuminating power of their gas, and for detecting

[1] W. and M. A., 1889, ss. 10 and 11; W. and M. A., 1904, ss. 5, 7 and 8.
[2] L. G. A., 1888, ss. 3, 34 and 39; W. and M. A., 1889, s. 15.

the presence of sulphuretted hydrogen, which is forbidden. The illuminating power is usually regulated by the private Act, but, if not, it must be in accordance with the detailed standard contained in the Clauses Act. Where the latter measure is not in force, provisions of a similar nature, with regard to the examination of gas, are included in local Acts, or special measures such as the London Gas Act, 1860.

6. Employment of Children.

The council of a borough containing a population of over 10,000, or of an urban district containing a population of over 20,000, and elsewhere the county council, may make bye-laws (subject to confirmation by the Home Secretary) to prohibit, restrict, or regulate the employment of children under fourteen years of age, and street trading by children under sixteen years of age, under the Employment of Children Act, 1903, and the Prevention of Cruelty to Children Act, 1904. It is their duty also to enforce many of the provisions of the former Act.

In the administrative county of London the county council are the authority for this matter, except in the city, where it comes within the control of the common council.

7. Shop Hours and Shop Seats.

The Shop Hours Act, 1904, enables orders with regard to the closing of shops to be issued by the council of every municipal or metropolitan

borough, and of every urban district with a population of 20,000, and in other towns by the county council. The term "shop" includes every place where retail trade is carried on, with certain exceptions, such as a post-office, chemist's shop or dispensary, refreshment house, tobacco dealer's, newsagent's, etc. Before issuing an order, the council must publish notice of their intention, consider any objections that may be received, and then be satisfied that it is expedient, and that the occupiers of at least two-thirds of the shops affected approve the order. When the order is made, it must be confirmed by the Home Secretary, after which it has the force of an Act of Parliament, unless an address to the Crown is presented against it by either House of Parliament. The Home Secretary may make regulations as to the method of obtaining an order, and also hold a local inquiry as to any proposed order.

The order may fix the hour at which all shops or shops of a particular class are to be closed, either throughout the district or in any part of it. Such hour is not to be earlier than seven, except upon one day in the week, when it may be as early as 1 p.m.

The Act does not appear to have been very successful in securing the compulsory earlier closing of shops. In May, 1907, the Home Secretary stated that 112 closing orders had been made, affecting 9,000 shops, and perhaps 15,000 persons out of a possible total of 800,000 persons, and that in

districts where the Act was more seriously wanted than anywhere else (such as the metropolis) it had been practically inoperative.

The Shop Hours Acts, 1892 and 1895, limit the time during which a person under eighteen years of age may be employed in or about a shop (with certain defined exceptions) to seventy-four hours per week, including meal times, and make it compulsory for a notice to this effect to be exhibited in every shop employing such a person. These latter Acts are carried into effect by the town and county councils, but if an order under the Act of 1904 is in force in any metropolitan borough, or urban district which is not a borough, the county council can delegate their powers under the Acts of 1892 and 1895 to the council of such borough or district.

Shop Seats.

The council of any county or of any municipal borough may appoint an inspector to enforce the provisions of the Seats for Shop Assistants Act, 1899, which requires one seat to be provided for every three female assistants employed at a retail shop.

8. Care of Lunatics.

The council of every county and county borough, and of some twenty-eight small but ancient boroughs specified in the fourth schedule of the Lunacy Act, 1890 as amended by the Lunacy Act, 1891, are

charged with the duty of providing asylum accommodation for pauper lunatics within their districts.[1] For this purpose they are given power to purchase land and to build or enlarge asylums, and to purchase houses licensed for the reception of lunatics. Any two or more authorities may, with the sanction of the Home Secretary, unite for the purpose of jointly carrying out their duty in this matter. Some of the non-county boroughs, referred to above, have since become merged into their counties for lunacy purposes.

The council must appoint a visiting committee, consisting of not less than seven members, two of whom must visit the asylum and see each of the patients at least once every two months. The committee must make an annual report to the council, and the task of providing asylum accommodation may be delegated to them.

The Commissioners in Lunacy, who are appointed by the Lord Chancellor, exercise considerable control over the acts of the visiting committee and the council. Their approval is required, through the Home Secretary, to the plans of new asylums, contracts for the reception of lunatics from other localities, and many other matters, while they may also compel any defaulting authority to enforce the provisions of the Lunacy Act.

Non-pauper patients may be received into the asylums upon terms to be arranged, if there is room for them.

[1] Lunacy Act, 1890.

The visiting committee must fix a weekly sum, not exceeding 14*s.* per head (payable by the guardians), as the cost of maintenance, and of all other expenses, of each inmate of the asylum, but the council themselves may increase this sum. The deficiency, if any, is defrayed by the council from the borough rate, to be referred to later.

Pauper lunatics may be detained in the workhouse in suitable cases, upon the certificate of the medical officer of the workhouse and a justice's order, but the Lunacy Commissioners may remove such lunatics to an asylum.

The Lunacy Act, 1890, contains a number of detailed provisions which must be observed in the conduct and management of asylums.

The last published report of the Lunacy Commissioners, for the year 1906, showed that there were then no less than 121,979 lunatics, of whom 89,342, or 73·2 per cent. were in the eighty-nine county and borough asylums, while 17,742 were in workhouses and in the asylums of the Metropolitan Asylums Board, and the remainder were in registered hospitals, state asylums and licensed houses. The average weekly cost per head in the county and borough asylums was 14*s.* 4*d.*, of which 4*s.* was in respect of the sinking fund and interest on £18,981,039, the cost of land and buildings. The expenditure upon maintenance of lunatics was chiefly defrayed by £1,592,232 taken from the rates, £289,163 received from

patients or their relatives, and £745,802 from Parliamentary grants and payments from the Exchequer Contribution Account.

9. Storage and Sale of Petroleum.

The annual license of the council of a municipal borough or urban district is necessary to the storage of more than three gallons of petroleum, but a person who is refused a license has a right of appeal to the Home Secretary.[1] The licensee may hawk petroleum in quantities of twenty gallons or less, under the conditions laid down in the Petroleum Acts, providing that he also has a hawker's license.

The Home Secretary has made regulations under the Locomotives on Highways Act, 1896, permitting the owner of a motor car to store sixty gallons of petroleum for the purposes of those vehicles, but if the storage is within twenty feet of a building, or of inflammable material, notice must be given to the council in January of each year.

Most councils employ petroleum inspectors to ensure that the Acts are not infringed. An inspector may obtain a search warrant from the magistrates if he believes petroleum to be wrongfully kept in any particular place, but there is unfortunately no provision compelling wholesale dealers in petroleum to notify the council or

[1] Petroleum Acts, 1871, 1879 and 1881.

inspector of any deliveries they make in the district.

The licensing authorities for the administrative county of London are the common council for the city, and the county council for the remainder of the county.

10. Explosives.

The local authorities under the Explosives Act, 1875, are the councils of counties and county boroughs, and the common council of the city of London.[1] They may issue annual licenses for the manufacture of fireworks, and their assent is required to the establishment of an explosive factory or magazine, which must be licensed by the Home Office, but an appeal against the decision of the council in this matter may be made to that department.

It is also the duty of the council to license stores for explosives and to register the names and addresses of shopkeepers and others who keep explosives on their premises. With the consent of the Home Office, they may themselves establish a magazine for the storage of explosives, if this course of action will conduce to the safety of the public.

The council should appoint inspectors to prevent the manufacture or storage of explosives on unlicensed premises, but the powers of those inspectors do not include entry on factories and

[1] L. G. A., 1888, ss. 3 and 7.

magazines licensed by the Home Secretary. In all cases, the regulations made by Orders in Council and by the Home Office must be complied with.

11. Slaughter Houses.

A private slaughter house or knacker's yard which existed prior to 1848 need only be registered with the council. Any other slaughter house or knacker's yard must be annually licensed by them, and all such places must be carried on in accordance with the bye-laws on the subject made by the council.[1]

In the county of London these matters are dealt with by the common council in the city, and elsewhere by the county council, but the inspectors of the borough councils have a right of entry to slaughter houses in order to enforce the observance of the statutory provisions and the bye-laws.[2]

12. Game Licenses.

A person who deals in game (including hares, pheasants, etc.) must obtain the license of the council before he can purchase the necessary excise license. The former license expires in July each year, and must therefore be renewed annually.[3]

[1] Towns Improvement Clauses Act, 1847, ss. 125—128; P. H. A., 1890, s. 29—31

[2] P. H. (London) Act, 1891, s. 20.

[3] Game Act, 1831; Local Gov. Act, 1894, ss. 27 and 32.

Game licenses are granted by the magistrates within the adminstrative county of London.

13. Emigration Agents, Etc.

Emigration agents, known as passenger brokers and emigrant runners, must be licensed annually by the council of the borough or district in which they have their place of business, or by the justices in the administrative county of London.[1]

Gang-masters of agricultural gangs must be licensed by the council every six months.[1]

14. Pleasure Boats.

The council of a municipal borough or urban district may license proprietors of pleasure boats and vessels, and persons in charge of the latter, and may make bye-laws on the subject, including stipulations as to the number of persons to be carried, the rates of hire, and the qualification of boatmen, etc.[2]

Traffic on the Thames is regulated by the Thames Conservancy.[3]

15. Racecourses.

It is unlawful to hold a horse race within ten miles of Charing Cross without a license from

[1] Merchant Shipping Act, 1894, ss. 341—348; Agricultural Gangs Act, 1867; L. G. A., 1894, s. 27.
[2] P. H. A., 1875, s. 172.
[3] Th. Con. Act, 1894.

the council of the county or county borough in which the course is situated.[1]

16. Pawnbrokers' Certificates.

Pawnbrokers' certificates are issued annually by the council of a municipal borough or urban district, and (except in the case of a pawnbroker established in 1872, or his executors, assigns or successors), the necessary excise license can only be obtained from the Inland Revenue authorities on production of the council's certificate.[2] The Pawnbrokers' Act of 1872 contains a form of the certificate, and lays down the procedure which the applicant must follow. The council can only refuse an application if he does not produce satisfactory evidence of good character, or if his shop or any adjacent place owned or occupied by him is frequented by thieves or bad characters, or if the formal steps as to the notice are not complied with. An appeal against the refusal can be made to the quarter sessions.

Pawnbrokers' certificates are issued by the magistrates within the county of London, outside the city.

17. Licensing of Theatres and Music Halls.

Before any premises can be used for the public performance of stage plays, it is necessary that

[1] Racecourse Licensing Act, 1879; L. G. A., 1888, s. 3 (5).
[2] Pawnbrokers' Act, 1872; Loc. Gov. Act, 1894, ss. 27 and 32.

they should be licensed, unless they are carried on under the authority of letters patent from the Crown. Licenses for the performance of stage plays are issued annually by the councils of counties and county boroughs (or the bodies to whom they delegate this duty[1]), except in certain districts in London, and in places where the King resides, when the matter is within the jurisdiction of the Lord Chamberlain.

Music and dancing licenses are granted by the magistrates in towns where sect. 51 of the Public Health Act, 1890, has been adopted, but when the premises are within twenty miles of the cities of London and Westminster, or in Middlesex, the councils of the counties or county boroughs issue them.[2]

18. Analysis of Fertilisers, etc.

Under the Fertilisers and Feeding Stuffs Act, 1906, a county council must, and the council of a county borough may, appoint an official agricultural analyst, and one or more official samplers, to take and analyse samples of fertilisers and feeding stuffs. For the purpose of making these appointments, which are subject to the approval of the Board of Agriculture, two or more councils may combine. The Act also gives authority for a council to contribute towards the expenses incurred by any

[1] Theatres Act, 1843; L. G. A., 1888, ss. 3 and 7.

[2] Disorderly Houses Act, 1751; Music Licenses (Middlesex) Act, 1894.

agricultural body or association in causing samples to be taken.

19. MIDWIVES.

The councils of counties and county boroughs are local supervising authorities under the Midwives Act, 1902, but county councils may delegate their powers and duties under the Act to the council of any municipal or metropolitan borough or urban district.

A woman may not use the title of midwife unless she holds a certificate from the Central Midwives Board. After April 1st, 1910, no woman will be permitted habitually and for gain to attend other women in childbirth, otherwise than under the directions of a qualified medical practitioner, unless she is certified and has given written notice to the local supervising authority of her intention to practise. The Authority exercise control over the conduct of all midwives, whom they may suspend from practice if necessary to prevent the spread of infection. A copy of the roll of midwives is kept by each Authority.

20. STEAM WHISTLES.

The sanction of the council of a municipal or metropolitan borough or urban district must be obtained to the use of steam whistles or steam trumpets used to summon or dismiss workmen. If the sanction is given, the Local Government

Board may revoke it on the representation of any person prejudicially affected.[1]

21. Charities.

The Local Government Board may issue an order conferring upon the council of a borough or urban district the powers of a parish council, enabling them to administer non-ecclesiastical charities.[2] In most large towns, however, the local charities are managed by charity trustees, in accordance with a scheme approved by the Charity Commissioners. The council are usually entitled to a limited number of representatives upon any such board of trustees.

The council of a county or county borough are expressly authorised to pay or contribute towards the cost of inquiries by the Charity Commissioners into the public charities of their districts.[3]

22. Protection of Wild Birds and Fisheries.

The Wild Birds Protection Act of 1880 prohibits the taking of the birds described in the schedule to the Act, during certain seasons of the year. The council of a county or county borough may apply to the Home Secretary to extend the list of

[1] Steam Whistles Act, 1872.
[2] L. G. A., 1894, ss. 8, 14, 33, and 75.
[3] Charity Inquiries Act, 1892.

birds so protected, and to issue an order prohibiting the taking or destroying of specified eggs of wild birds. If such an order is issued, it is the duty of the council to give public notice of it.[1]

Upon the application of the councils of a county or of a borough with a population of 20,000, whose area includes part of the sea coast, the Board of Agriculture may make an order creating a sea fishery district, under the control of a committee consisting of members of the council or councils concerned, and others representing the persons interested in the fishery. Such an order must be confirmed by Parliament. The committee have power, amongst other matters, to make bye-laws regulating the sea or shell fishing within their district, and to stock a fishery for shell-fish.[2]

Upon a similar application from a county council the Board may create a fishery district to include the rivers mentioned in their order. Fishing in those rivers will then be under the control of a board of conservators, made up of nominees of the council and representatives of others interested in the fishery, as proprietors, occupiers, or licensees. The powers of the Board will include the issue of licenses to fish, and the making of bye-laws regulating the period during which fishing may be carried on.[3]

[1] Wild Birds Protection Acts, 1880, 1881, 1894, 1896, 1902 and 1904.

[2] Sea Fisheries Acts, 1888, 1891 and 1894.

[3] Salmon and Freshwater Fisheries Acts, 1865, 1873, 1876, 1878, 1884, 1886 and 1892; Board of Agriculture Act, 1903.

23. Railway Rates.

Under the Railway and Canal Traffic Act, 1888, the council of a county, borough, or urban district may lodge an official complaint with the Board of Trade as to unfair or unreasonable charges made by a railway company within their district, and the Board may then endeavour amicably to settle the matter between the parties, and, in any event, must report upon the subject to Parliament.

CHAPTER V.

EXTRA-MUNICIPAL POWERS AND SERVICES.

1. Water Supply. 2. Gas Works. 3. Electricity Supply. 4. Telephones. 5. Public Baths and Wash-houses. 6. Public Pleasure Grounds. 7. Commons. 8. Allotments. 9. Small Holdings. 10. Public Libraries. 11. Museums and Gymnasiums. 12. Markets and Fairs. 13. Slaughter-houses and Knackers' Yards. 14. Unemployed Workmen. 15. Assistance in Purchasing Small Dwellings. 16. Provision of Military Lands. 17. Inebriates' Reformatories and Retreats. 18. Ancient Monuments. 19. Advertising.

1. WATER SUPPLY.

THE supply of pure water is naturally a subject within the jurisdiction of the council of a municipal borough or urban district. They are bound to require every house in their district to be furnished with a proper water supply if it can be provided at a reasonable cost. If the existence of a house without such a supply is discovered, they must serve notice on the owner to lay on the supply, and if that notice is not complied with, they may themselves do the work and recover the expense from him, or the local water company may supply him with water and recover their usual charges.[1] The

[1] P. H. A., 1875, s. 62; P. H. (Water) Act, 1878, ss. 3 and 11.

Local Government Board have the same powers of compelling the council to perform their duty in this matter as they have with regard to the provision of sewers.[1]

If a company have already obtained power to supply the district with water, the council may take on lease any existing waterworks, or (with the sanction of the Local Government Board) purchase such works or any rights of the company. They may also purchase any water mills, dams, weirs, etc., which would interfere with the supply, or they may buy water in bulk. Compulsory powers for the purchase of land for the purposes of a water undertaking may be obtained by means of a provisional order or a local Act.[2]

If the company fail to give a proper and sufficient supply for all reasonable purposes, the council may, after proper notice, supply water without obtaining any special powers.[3]

A council supplying water usually recoup themselves by charging water rates for the domestic supply, and rents agreed upon with the consumer, or charged by meter, for water used for special purposes, such as dairies, breweries, or gardens.[4] In practice a profit is often made, which is either employed in extending the undertaking, or reducing the water rates, or in relief of the general

[1] P. H. A., 1875, s. 299.
[2] P. H. A., 1875, ss. 51, 63 and 175.
[3] P. H. A., 1875, s. 52.
[4] P. H. A., 1875, ss. 56—60.

district rate. Unless, however, the council possess special powers under local Acts or otherwise, they cannot, for the purpose of making a profit, legally charge higher rates than are actually necessary.

The council have the same power to lay water mains within and without their district as they have in the case of sewers, and they may also, with the sanction of the Local Government Board, supply water to another local authority. They are not bound to provide water for public baths or for manufacturing purposes, even in their own district, but they may, if they choose, supply such baths free of charge.[1]

Stringent provisions are contained in various Acts of Parliament against polluting the water supply, and the council have special powers (which may also be exercised by the county council) to protect streams and watercourses. All public pumps and wells used for a gratuitous supply of water automatically vest in the council (and in a borough council in the county of London), and they may take proceedings before the magistrates to secure the closing of any polluted well or tank. They may also provide and maintain public fountains.[2]

The water supply to the county of London and

[1] P. H. A., 1875, ss. 54, 61, and 65.

[2] P. H. A., 1875, ss. 17, 64, 68—70; Rivers Pollution Acts, 1876 and 1893; Waterworks Clauses Act, 1847, ss. 61—67; Waterworks Clauses Act, 1863, ss. 16 and 17; P. H. A., 1890, s. 47; P. H. L. A., 1891, ss. 48—54.

the outlying districts, which were formerly supplied by the various metropolitan water companies, is now provided by the Metropolitan Water Board, a body consisting of forty members, fourteen of whom are appointed by the London County Council, two by the Common Council of the City, two by the City Council of Westminster, one by each of the remaining metropolitan borough councils, and the remainder by the local authorities of the districts outside the county of London, but included within the metropolitan water area.[1]

No government department issues a periodical return as to water undertakings, but it appears that, outside London, the supply in over half the towns is in the hands of the council, or a joint committee of two or more councils. The amount of capital sunk in such undertakings exceeds £55,000,000, and the annual average surplus of gross income over expenditure is about £2,000,000.

The debt of the Metropolitan Water Board, which consists chiefly of the compensation paid to the defunct companies, and the debenture stock of those bodies which was taken over upon their undertakings being transferred to the board, is £47,415,652. Some idea of the magnitude of the board's work may be gathered when it is mentioned that during the year 1905–6 they gave an average daily supply of 218,007,041 gallons, or 32⅓ gallons per head to an estimated population of 6,747,196.

[1] Metropolis Water Act, 1902, s. 1.

2. Gas Works.

We have already seen that the council may contract for the supply of an illuminant for the purpose of lighting their streets, and if no company or person is authorised to supply gas for private or public purposes within the district, the council may do so. In this event, however, they require special legislative powers to enable them to break up the streets for the purpose of laying pipes, etc.

The council may also purchase by agreement the undertaking of any gas company. They may acquire powers to supply gas within their district, and to lay their mains in the public streets, by a provisional order obtained from the Local Government Board under the Gas and Water Facilities Acts, 1870 and 1873 (which do not apply to the metropolis), and confirmed by Parliament. They may also obtain compulsory powers to establish or acquire a gas undertaking, by means of a local Act of Parliament.[1]

The supply of gas in the administrative county of London is in the hands of companies.

The return of the Board of Trade with regard to statutory gas undertakings for 1905–6 showed that 221 local authorities in England and Wales carried on such undertakings. They supplied gas at an average charge of 2*s.* 4½*d.* per thousand feet, and made a net revenue of £2,120,529, this being

[1] P. H. A., 1875, ss. 161 and 162.

a return of $6\frac{3}{4}$ per cent. upon a capital outlay of £31,225,432.

The undertakings owned by companies numbered 467. The average cost of their gas was 2*s.* $8\frac{1}{2}$*d.* per thousand feet, and their net revenue was £4,085,433, or a return of 5 per cent. upon a capital outlay of £83,095,335.

3. Electricity Supply.

The council of a municipal or metropolitan borough or urban district may obtain authority to supply electricity for the purposes of lighting or electric power in their district by provisional order granted by the Board of Trade, and confirmed by Parliament, under the Electric Lighting Acts, 1882 and 1888, or by a special Act of Parliament, or by licence from the Board of Trade for a limited term of years. If they have obtained the necessary powers, they may contract with a private company for the execution and maintenance of the works, but any transfer of their legal rights or liabilities must receive the consent of the Board of Trade.

The Board of Trade cannot grant a provisional order to a company except with the consent of the council, unless that consent is refused and the Board are of opinion, on special grounds, that it should be dispensed with. The consent of a council is also necessary to a licence for the supply of electricity being given to a private company or

person. In cases where the supply of electricity is in private hands, by the operation of any provisional order or Act of Parliament, the council may purchase it at the end of forty-two years, at the fair market value of the undertaking, without any addition for compulsory purchase, prospective profits or goodwill, unless a shorter period or a different price is specified in the order or Act. In the event of a dispute as to the market value, the matter is to be determined by arbitration.

It should be added that the grant of a provisional order or a licence to either the council or a company does not confer a monopoly upon them.

In the administrative county of London electricity is supplied by sixteen borough councils and thirteen companies.[1]

No recent return has been issued by the Board of Trade showing the comparative results of the supply of electricity by local authorities and companies. It appears, however, that nearly 500 local authorities have obtained powers of supply, and 200 of them carry on electric lighting works. In the remaining cases the powers are either in abeyance or arrangements have been made for electricity to be supplied by companies.

4. Telephones.

The Postmaster-General may grant to the council of any borough or urban district a licence

[1] Lon. Elec. Lighting Areas Act, 1904.

to provide a system of public telephones for a limited period, and within an area defined in the licence, which may extend beyond the boundaries of the borough or district.[1] The licence of any existing telephone company serving the same area must also be extended for the whole of the period specified in the council's licence if the company undertake not to favour or give preference to any person in the area, and to maintain their charges between certain minimum and maximum rates prescribed by the Postmaster-General.

The metropolitan telephone area, which extends for a considerable distance beyond the boundaries of the county of London, is served by the systems of the General Post Office and the National Telephone Company.

The extension of municipal telephones has been curtailed by the decision of the Post Office to acquire the undertaking of the National Telephone Company in 1911, and their opposition to the granting or extension of licences to municipalities beyond that period. With two exceptions, the councils who originally embarked upon a telephone undertaking have since sold their plant to the Post Office or to the National Telephone Company.

5. Public Baths and Wash-houses.

Before the council can undertake the provision of public baths and wash-houses, it is necessary

[1] Telegraph Act, 1899.

that they should adopt the Baths and Wash-houses Acts, 1846, 1847, 1878, 1882, 1896, and 1899. They have then full power to erect such buildings, or to provide open-air bathing places and drying grounds, and all necessary furniture and appliances. They may also purchase or lease existing baths, either within or near their district.[1] The swimming baths may be closed for a period of not more than five months in the year, beginning at November, and used as gymnasiums or recreation rooms, or for the purposes of music and dancing, if licensed, subject to the condition that no money may be taken at the doors. If any baths which have been provided by the council and maintained for a period of seven years are found to be unnecessary, or too expensive, they may be sold, with the approval of the Local Government Board.[2]

The council have, of course, power to make bye-laws for the regulation of the baths, and to fix charges for their use, within the maximum amount allowed by the Acts of 1847 and 1878.[3]

In the administrative county of London, all the borough councils have adopted the Public Baths Acts.

If any part of the sea-shore or strand of a river within a municipal borough or urban district is

[1] Baths, etc., Acts, 1846, ss. 1, 25 and 27; 1878, s. 3; 1882, s. 2.

[2] Baths Acts, 1846, s. 32; 1878, s. 5; 1896, s. 2; 1899, s. 2.

[3] Baths Act, 1878, s. 6.

used as a bathing place, the council may make bye-laws as to the method of bathing therefrom.[1]

6. Public Pleasure Grounds.

The council of a county or of a municipal borough or urban district have extensive powers of providing pleasure and recreation grounds.[2] They may purchase or lease any land, within or without their district, suitable for this purpose, make bye-laws for regulating the use of the grounds, and contribute towards the support of any other lands used by the public as pleasure grounds. They may also provide or arrange for the provision of boats to be let on hire for use on any lake in a pleasure ground under their jurisdiction. They may close any of their grounds on special days, not exceeding twelve in any one year, or on four consecutive days, and grant the use of such grounds gratuitously or for payment to a public institution, or for a public purpose. No ground, however, is to be closed on a Sunday or on a public holiday.[3]

In the administrative county of London, pleasure grounds are provided by the county council and the city and borough councils, under the Open Spaces Act, 1906, the Metropolitan Management Acts, and various Acts obtained by the county council.

Trustees of open spaces and squares may transfer

[1] Towns Police Clauses Act, 1847, s. 69.
[2] P. H. A., 1875, s. 164; Open Spaces Act, 1906.
[3] P. H. A., 1890, ss. 44 and 45.

them to the council of a borough, district, or county, permanently or for a term of years, with a view to their enjoyment by the public, upon complying with certain conditions as to the consent of the persons for whose benefit they were originally provided. The freeholder of a closed churchyard or disused burial ground is also given similar powers, but if such a ground is consecrated the license or faculty of the bishop of the diocese is necessary.[1]

If an enclosed garden or ornamental ground in a borough has been irrevocably set apart for the use of the inhabitants, and it is neglected, the council may take charge of it.[2] The common council are the authority in this matter for the city, and the London County Council for the remainder of the administrative county of London.

Bands of Music.

There is no general legislative power enabling a council to maintain or subsidise a band of music out of the rates, but many councils have obtained private Acts of Parliament which permit them to do so, and in other cases arrangements are made by which bands play in the recreation grounds either gratuitously, or in return for permission to sell programmes, or to make a charge for the use of chairs which they provide. The latter practice is not, perhaps, legally correct.

[1] Open Spaces Act, 1906.
[2] Town Gardens Act, 1863.

7. Commons.

Commons may now be regulated or enclosed by provisional order made by the Board of Agriculture and confirmed by Act of Parliament. At the public inquiry which the Board hold before making the order, the council of any borough or urban district with a population of 5,000, within six miles of the common, may be represented. Such a council may also acquire a common or common rights, and contribute towards works to be carried out in connection with the regulation of a common for the benefit of the town.[1]

The council may aid persons in maintaining rights of common where the extinction of such rights would be prejudicial to the public, but the consent of the county council must be obtained, except in the case of a county borough.[2]

The council may also make schemes for the regulation of commons within their district, subject to the consent of the Board of Agriculture, and to no objection being received from the owner of the soil of the common, or from the owners of one-third in value of the interests in the common.[3]

The commons within the metropolitan police district are regulated by schemes made under the Metropolitan Commons Acts, 1866, 1869, 1878, and 1898.

[1] Enclosure Act, 1845; Commons Act, 1876.
[2] L. G. A., 1894, s. 26.
[3] Commons Act, 1899.

8. ALLOTMENTS.

The council of a municipal borough or urban district have power to provide agricultural allotments for the use of the inhabitants of their town. If they receive a written representation from six resident Parliamentary electors or ratepayers, stating that allotments are required, they must inquire into the matter, and, if they find that the representation is correct, and allotments cannot be provided by voluntary arrangement, they must purchase or hire an adequate area of land, either within or outside their boundaries, and let it in allotments to persons belonging to the labouring population. They must be careful to secure the land at such a price that the whole of the expenses (other than making public roads) may be recouped out of the rents.[1]

Should it be necessary to acquire land compulsorily, the council may petition the county council (and, on their refusal, the Local Government Board) for an order authorising the purchase of specified land, under the Lands Clauses Consolidation Acts, but no park or garden, or land of a railway or canal company required for the purposes of their undertaking, may be taken, and the convenience of the landowner whose property is dealt with must be studied. Both the county council and the Board may hold local enquiries into the matter. The provisional order need only

[1] Allotments Act, 1887, s. 2.

be confirmed by the Board, but it must be laid before Parliament if the decision of the county council has been over-ruled. In a county borough the order can only be granted by the Board.[1]

If the council of an urban district which is not a borough do not act on the representations of the six persons above referred to, the latter may petition the county council, who may then assume the powers of the district council in the matter, although they may afterwards delegate the management of the allotments to the latter body, and also re-transfer their powers when they think fit.[2]

The town or district council may also obtain from the county council a provisional order, to be confirmed by the Local Government Board, giving power to hire land compulsorily, for the purpose of allotments, for a period of fourteen to thirty-five years.[3]

Every county council must appoint an allotments committee, not exceeding one-fourth of their whole number, to whom all petitions with regard to allotments must be referred in the first instance. The county councillor representing the division from which a petition is sent is, for that special matter, an additional member of the committee.[4]

Land which has been purchased for allotments and is not required for that purpose may, with the

[1] A. A., 1887, s. 3; L. G. A., 1894, s. 9.
[2] A. A., 1890, ss. 2 and 4.
[3] L. G. A., 1894, ss. 10 and 33.
[4] Allotments Act, 1890, s. 3.

sanction of the county council, be sold, let or exchanged.[1]

The area of each allotment must not exceed one acre, and sub-letting and the erection of buildings (other than the necessary sheds or fowl-houses, etc.) are prohibited. The council may make regulations for governing the allotments, subject to confirmation by the Local Government Board, and they may appoint and remove allotment managers. The rent of each allotment must be such as to ensure the council against loss, and must therefore cover payment of interest (but not sinking fund) in respect of any loan that may be raised.[2] Upon giving up an allotment, the holder is entitled to compensation from the council, notwithstanding any agreement to the contrary, for fruit trees and bushes, and drains and structural improvements planted or made with the written consent of the council, and also for crops (including fruit) growing in the ordinary course of cultivation, and labour expended upon, and manure applied, since the taking of the last crop, in anticipation of a future crop.[3]

The Allotments Acts do not apply to the administrative county of London, except the metropolitan borough of Woolwich. Any metropolitan borough council may, however, secure from the Local Government Board an order

[1] A. A., 1887, s. 11.
[2] A. A., ss. 6 and 7.
[3] Allotments Compensation Act, 1887.

investing them with power to obtain a provisional order for hiring land compulsorily for the purposes of allotments.[1]

9. Small Holdings.

The council of a county or of a county borough may also provide small holdings, which are defined as meaning plots of land between one acre and fifty acres in extent, or over fifty acres if the annual value of such a plot does not exceed £50.[2] The council of a county must, and the council of a county borough may, appoint a small holdings committee. Any county elector may petition the council to put their powers into force, and his request is thereupon referred to the committee for report, but the councillors representing the electoral divisions or wards from which the petition is sent, and any alderman residing therein, must be added to the committee for this purpose.

Upon the recommendation of the committee, the council may, by agreement, purchase suitable land for the purpose of selling it in small holdings to persons desirous of buying and personally cultivating those plots. The council may also carry out any works or erect any buildings necessary to make the land available for this purpose. One fifth of the purchase money at least must be paid down by the purchasers, but the council may agree

[1] L. G. A., 1894, ss. 10 and 33.
[2] Small Holdings Act, 1892.

to allow one-fourth to remain on perpetual rent charge, and to accept the balance by instalments spread over a term of not more than fifty years.

The council may also take on lease land suitable for small holdings, and in this case, or where a prospective tenant is unable to purchase, they may let it in plots instead of selling it. A single holding which is let, however, must not be larger than fifteen acres, unless its annual value does not exceed £15.

Land must not be acquired by the council except at such price as will, in their opinion, enable all expenses to be recouped out of the purchase money or rent, which they must fix at such a reasonable amount as will guard against loss. In no case may the charge on the rates in carrying out the Act exceed the amount produced by a penny rate.

The Small Holdings Act, 1892, contains a number of conditions under which the holdings must be occupied and cultivated. The county council may delegate, with or without restrictions, their powers as to the sale, letting or management of the holdings to a committee consisting of members of the county council and members of the council of a non-county borough or persons appointed by the council of an urban district, in which the land is situate.

10. Public Libraries.

The various statutes with regard to public libraries were codified by the Public Libraries Act,

1892, which may now be adopted by the council of a municipal or metropolitan borough or urban district without taking a poll of the voters, as was formerly necessary.[1] The rate to be raised for library purposes must not exceed 1d. in the pound,[2] except in the city of London and in thirty towns where this limit has been raised or removed by local Acts. Having adopted the Act, the council may erect all necessary buildings, and supply books, newspapers, maps, etc. They may also establish public museums, science and art schools, or art galleries, either in connection with a library or otherwise. The use of the libraries is, of course, free to inhabitants of the district, but charges may be made to persons residing elsewhere. The museums provided under the Act must be open free of charge,

The Libraries (Offences) Act, 1898, deals with a number of offences in relation to libraries. The council may also make bye-laws, to be confirmed by the Local Government Board, for securing the proper use of the library, museum, etc. The management of the institutions may be entrusted to a committee, who need not all be members of the council. Two or more councils may combine in the provision of a joint library for their districts.

The Libraries Acts have been put into operation in no less than 375 provincial towns, and twenty-five metropolitan boroughs.

[1] P. L. Acts, 1893 and 1901.
[2] P. L. A., 1892, s. 2.

11. MUSEUMS AND GYMNASIUMS.

Museums and gymnasiums may be provided by any council who have adopted the Museums and Gymnasiums Act, 1891. A museum which is provided under the powers of this Act must be open free of charge for at least three days in each week, and a gymnasium must be open free of charge for at least two hours a day during five days in the week. The council may regulate the admission at other times as they please, and may close a gymnasium and grant its use for the purposes of lectures, exhibitions, etc., for not more than twenty-four days in the year, nor more than six consecutive days.

The expenses are not to exceed the amount produced by a halfpenny rate for the museums, and a similar amount for the gymnasiums. The council may sell the institutions, with the consent of the Local Government Board, if they are found to be unnecessary, or too expensive, after seven years' trial. They may, of course, make bye-laws for governing the use of the museums and gymnasiums.

The report of the Local Government Board for 1905-6 stated that the Museums and Gymnasiums Act had been adopted by forty-four councils, while twenty-seven other councils had adopted the portion relating to museums only, and four councils

had limited their adoption to the provision of gymnasiums.

The Act does not extend to London.

12. Markets and Fairs.

The council of a municipal borough or urban district have power to provide a market for the use of the residents in their district, but, in doing so, they must not interfere with the market rights of others, and, in any event, their action must be sanctioned by a majority of two-thirds of their number in a municipal borough, and by the owners and ratepayers, as set out in schedule 3 of the Public Health Act, 1875, in an urban district which is not a borough.[1]

The tolls and bye-laws framed by the council must be approved by the Local Government Board. The council may also buy a market or market rights from any trading company. Any market which they establish or purchase is subject to the Markets and Fairs Acts, 1847, 1887 and 1891.

Reference to markets is also made in the chapters dealing with the inspection of food supply and diseases of animals.

Two hundred and ninety-seven markets are at present owned by local authorities, but many of them are comparatively unimportant, especially in the smaller towns.

The principal metropolitan markets are owned

[1] P. H. A., 1875, ss. 166 and 168.

by the Common Council of the City of London, but others belong to private persons or companies, and in three cases a market is the property of a borough council.

The council have no general power to hold a fair, but they may make representations to the Home Secretary with a view to the abolition of any fair, with the consent of the owner, or as to altering the days upon which certain fairs are held.[1]

13. Slaughter-houses and Knackers' Yards.

The council of a municipal borough or urban district have power to provide slaughter-houses and knackers' yards, but if they do so, they must also make bye-laws with regard to the management of such institutions and the charges to be made for their use.[2] The number of councils at present carrying on slaughter-houses is sixty-nine.

14. Unemployed Workmen.

A new departure in municipal work was authorised by the Unemployed Workmen Act, 1905. For many winters various local authorities had endeavoured, by hastening their ordinary works or undertaking larger works than would otherwise have been the case, to provide for those

[1] Fairs Acts, 1871 and 1873; Loc. Gov. Act, 1894, s. 27.
[2] P. H. A., 1875, s. 169.

who honestly sought employment, but were unable to obtain it, owing to bad weather or depression in trade. The Act referred to was a somewhat partial and hurried recognition of the fact that the ordinary poor law was insufficient to meet the problem of unemployment. It enabled the Local Government Board to establish distress committees in every borough or urban district with a population of 50,000, and in other boroughs and urban districts with a population of 10,000, if the council requested the Board to make such an order.

These committees must consist, in proportions determined by the order of the Board, of members of the council and of the local poor law guardians, and of persons experienced in the relief of distress. One member at least must be a woman. Their duty is to make themselves acquainted with the conditions of labour within their area by establishing, taking over or assisting labour exchanges or employment registers. If they are satisfied of the *bonâ fides* of any applicant for work, and consider his case is more suitable for treatment under the Act than under the poor law, they may endeavour to obtain employment for him. They may aid in emigrating or removing such an applicant and his dependents to a more suitable district, and they may also provide or contribute towards the provision of temporary work.

Their funds are furnished by voluntary contributions, by grants from the Government (through the Local Government Board) and from the rates.

The latter, however, must only be expended in paying the establishment expenses (including the costs of a labour exchange), the cost of emigration or removal of suitable persons, and the cost of acquiring land with the sanction of the Local Government Board. The total amount that can be received from the rates must not exceed the produce of a halfpenny rate, or, with the sanction of the Board, a penny rate. Assistance under the Act does not disenfranchise the recipient, as would similar assistance from poor law sources. The Local Government Board have issued detailed regulations as to the method of work which should be adopted by committees, the qualifications which must be possessed by persons relieved, etc.

In the metropolis a distress committee has been constituted for each borough, but their powers are restricted to collecting information and inquiring into any cases referred to them from the London Unemployed Body. The latter are a committee established for the whole of the administrative county of London, composed of members selected by the London County Council and the various borough distress committees, or nominated by the Local Government Board, and suitable persons who may be co-opted to membership, but the nominated and co-opted members may not exceed one-fourth of the whole number. The central body have power to provide temporary employment, to establish and take over labour exchanges, etc., and aid emigration and removal in suitable cases.

The Local Government Board may, on the application of the council of a borough or urban district near London, extend the Act to that district as though it were a metropolitan borough.

In cases where no distress committee are appointed, the council of a county or county borough must form a special committee (who have power to co-opt additional members to the extent of one-fourth of the whole number), in order to collect information as to the conditions of labour in their district, by means of labour exchanges, employment registers or otherwise.

The Act expires on the 11th August, 1908, unless it is then renewed by Parliament.

Apart from the above Act, metropolitan borough councils were authorised to establish labour bureaux by the Labour Bureaux Act, 1902.

15. Assistance in Purchasing Small Dwellings.

Under the Small Dwellings Acquisition Act, 1899, the council of a county, or of a municipal or metropolitan borough, or of an urban district, may assist residents to become the owners of the houses they occupy. Except in the case of a county or county borough, however, it is necessary that the council should first pass a formal resolution undertaking to act in the matter, and, if the population is less than 10,000, the consent of the county council is required. If this consent is refused, an

appeal may be made to the Local Government Board.

No house of a higher value than £400 can be dealt with, but otherwise the council may advance to the intending purchaser any sum not exceeding four-fifths of the value. In no case, however, may the advance be more than £300 in respect of a fee simple, or a leasehold with an unexpired term of ninety-nine years to run, or £240 in other cases.

The loan must bear interest not greater than 10*s.* per cent. above the rate at which the council can borrow money from the Public Works Loan Commissioners, and must be repaid within thirty years. The borrower must reside in the house, and must not be the owner of a similar house. He must insure the premises against fire, and keep them in good sanitary condition and repair. The Act contains provisions as to transferring the ownership of the house by leave of the council, and with regard to the council taking possession or selling the house if the repayment is not properly made.

When the total expenses under the Act exceed the product of a halfpenny rate, or twice that amount in a county or county borough, no further advance can be made by the council for five years.

Comparatively few councils have taken action under the Act. The Report of the Local Government Board for the year 1905–6 showed that sanction for 114 loans for the purchase of small dwellings, amounting to £82,679, had been granted to twenty-three urban and rural local authorities.

16. Provision of Military Lands.

The council of a county or of a municipal borough may, at the request of one or more volunteer corps, purchase or hire land (for a period of at least twenty-one years) on behalf of the corps for military purposes, and may either hold the land themselves or lease it to the corps for a term not exceeding ninety-nine years. They may also contribute towards the expenses incurred by any similar council in purchasing or hiring such land. The hiring of the land by the council must be by agreement, but compulsory powers of purchase, under the Lands Clauses Consolidation Act, 1847, may be acquired by a provisional order issued by the Secretary of State for War.[1]

17. Inebriates' Reformatories and Retreats.

The council of a county or of a municipal borough may provide, or contribute towards the provision of, an inebriates' reformatory which is certified by the Home Secretary. They may also contribute towards the establishment of a retreat under the Inebriates Acts, 1879 and 1888, and in any case their licence is necessary to the establishment of such a retreat.[2]

18. Ancient Monuments.

A county council have power to purchase any

[1] Military Lands Acts, 1892, 1900 and 1903.
[2] Inebriates' Act, 1898.

ancient monument in their own or an adjoining county, or, at the request of the owner of such a monument, to maintain and preserve it, or aid in doing so.[1]

19. Advertising.

The councils of several towns which are residential centres or holiday resorts find it of advantage to advertise the attractions of the locality. In order to expend money from the rates upon this branch of municipal enterprise, however, they must obtain special Parliamentary powers. Where this is too costly, arrangements are sometimes made for the issue of local guide books by private firms, who publish and distribute copies free of charge in return for the receipts they derive from advertisements in such books. Local traders also occasionally form a committee to defray, at their own cost, the expense of advertising and of increasing the attractions of their town.

[1] Ancient Monuments Protection Acts, 1882 and 1900.

CHAPTER VI.

FINANCIAL.

1. Rates. 2. Government Payments, etc. 3. Loans. 4. Accounts and Audit.

THE expenses of the council are defrayed from various sources, which may be broadly divided into three classes :—

1. Rates levied upon owners or occupiers of property within the district.

2. Contributions from Government, county council, police court fines, etc.

3. Income from public property and public undertakings, such as water, gas, and electric lighting works, tramways, markets, etc.

1. RATES.

The rates usually levied in a municipal borough or urban district are the poor rate, made by the overseers, and the general district rate, made by the council. In some towns, however, special provisions exist with regard to the incidence of rating, as a result of local Acts of Parliament.

Poor Rate.

In spite of its name, over half the produce of the

poor rate is expended on other public matters than the relief of the poor.

In a borough certain expenses, such as the salary of the mayor, the costs of municipal elections, education, public libraries, etc., are payable out of the borough fund. This fund consists of the rents and profits of corporate land, interest on securities, fees paid for burgess rolls, fines on resignation, and other similar receipts. If it is more than sufficient for the purposes to which it is applicable, the surplus may be used by the council for the public benefit of the inhabitants and the improvement of the borough.[1] In cases where it is insufficient (as it almost invariably is), the town council may make a borough rate by estimating the amount they require to make up the deficiency, dividing it amongst the various parishes in the borough according to their assessable value, and serving upon the overseers of each parish a precept, requiring them to pay their proportions of the whole amount out of the poor rate, or, if the parish is not wholly within the borough, either out of the poor rate or to collect it as a separate rate. If the overseers consider that their parish is aggrieved by a borough rate, they may appeal to quarter sessions.[2]

The contributions of the district to the board of guardians are collected by means of similar precepts served upon the overseers. The county council

[1] M. C. A., 1882, ss. 139—143, schedule 5.
[2] M. C. A., 1882, ss. 144—149.

also serve a precept upon the board of guardians for the amount of their expenditure, and the board include such amount in their demands upon the overseers.[1]

The overseers, who must be "substantial householders," and are usually two in number, were formerly appointed by the local magistrates from a list of names submitted to them by the vestry,[2] but the Local Government Board have power to transfer the appointment to the council.[3] The same remark applies to the assistant overseer, who is the paid official of the overseers.[4]

It is the duty of the overseers to prepare the annual valuation list upon which the poor rate is levied.[5] This should consist of a list of the premises and land in the district, with a note of the gross estimated rental of each property (that is, the rent at which it might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes and tithe rent charge), and the rateable value, which is the gross value, with a deduction for the probable annual average cost of repairs, insurance and other expenses necessary to properly maintain the premises.[6] The rateable value of agricultural land must be shown separately from that of other hereditaments.

[1] County Rates Act, 1852, s. 26.
[2] Poor Relief Act, 1601.
[3] Loc. Gov. Act., 1894, s. 33.
[4] Poor Relief Act, 1819.
[5] Union Assessment Act, 1862.
[6] Parochial Assessment Act, 1836, s. 1.

This valuation list is kept by the overseers for public inspection during fourteen days, and is then submitted to the assessment committee for approval or alteration. The committee, consisting of from six to twelve members, are appointed by the board of guardians, or, where a poor law union is co-extensive with a borough, by the guardians and the town council in equal proportions. An objection to the valuation of the overseers may be made to this committee by any dissatisfied ratepayer, and a further appeal lies to the justices in special sessions, and then to the quarter sessions, with an ultimate appeal upon a point of law to the High Court. The overseers may also appeal to quarter sessions against the list as altered by the assessment committee, or against the valuation list of any other parish in the same union, as the lists are the basis upon which are settled the proportions due from each parish towards the common fund of the union. The committee may correct the list on their own initiative, and, with the consent of the guardians, employ an expert valuer to advise them.[1]

As the borough rate is collected as part of the poor rate, it is thus usually based on the valuation of the overseers, but if the council think this is not a fair criterion of value, they may have an independent valuation made.[2]

After the assessment committee have settled the

[1] P. A. A , 1836; Union Assessment Acts, 1862 and 1864.
[2] M. C. A., 1882, s. 144.

list, it is re-deposited with the overseers for public inspection, in order that any objections to the alterations may be made and considered before the committee finally approve the list.

The overseers may at any time make a supplemental valuation list, and they must do so if the assessment committee order it. The county council may also cause a special list to be prepared for the purposes of the county rate, which, as already remarked, is collected by means of a precept served by the county council upon the various boards of guardians within their area.

When the valuation list is finally settled by the assessment committee, and the overseers are aware of the amounts of the various demands made upon them, it is their duty to formally make the poor rate for the parish, and to collect the same. The rate is usually made half-yearly, to meet the precepts and expenses for which the overseers are responsible during the ensuing six months. An appeal against the rate may be made to quarter sessions if a preliminary objection has been made to the assessment committee.

Before the rate becomes enforceable, it must receive the consent of two justices of the peace, and on the following Sunday it must be published by posting notices on or near the doors of the churches and chapels in the parish.[1]

The poor rate is not levied equally upon all

[1] Poor Relief Act, 1601; Poor Law Act, 1844, s. 63; Parish Notices Act, 1837.

classes of property. Agricultural land (excluding parks, gardens, pleasure grounds and racecourses) is only liable to the extent of one half the rate in the pound which is payable by other premises. To make up the deficiency which would thus be created in the funds of the authorities depending upon the poor rate, a sum equal to one-half the amount contributed by agricultural land in 1895-6 is granted annually by the Government to those public bodies.[1]

The ordinary rateable value of each parish, less half the value of such agricultural land, is the assessable value upon which, as we have seen, the borough rate is apportioned upon the parishes within each borough.

The owner of a tithe rent charge attached to a benefice must pay poor rate, but only at half the usual rate in the pound. The remaining moiety is payable by the commissioners of inland revenue.[2]

The person usually liable to pay poor rate is the occupier, for such period as he occupies the premises. Unoccupied premises are exempt from rating, but they must be included in the rate when it is made, in order that any incoming tenant may be called upon for his proportion of the rates due.[3]

The overseers may agree to accept payment by instalments, and in any event, an occupier for a term of three months or less cannot be compelled

[1] Ag. Rates Act, 1896.
[2] Tithe Rent Charge Rates Acts, 1899.
[3] Poor Rate Assessment and Collection Acts, 1869 and 1882.

to pay in one sum a greater amount of poor rate than would be due for one quarter of the year, and he may deduct the amount of the rate from the rent due to his landlord.

The owner of premises of which the rateable value does not exceed £20 if situated in the administrative county of London, £13 in Liverpool, £10 in Manchester or Birmingham, or £8 elsewhere, may, by agreement with the overseers, undertake to pay the rates on such property whether it is occupied or empty, in consideration of a commission which must not exceed 25 per cent. of the rates payable by him. The parish vestry (or the council, if the powers of the vestry have been transferred to them under sect. 34 of the Local Government Act, 1894) may also order that the owners of all such premises (providing the latter include dwelling-houses) shall be rated, instead of the occupiers, but in such a case they must allow a deduction of 15 per cent. off the rates, and the owner may also elect to pay whether his property is empty or let, in consideration of which he will be entitled to a further deduction, to be fixed by the overseers, but not exceeding 15 per cent.[1]

Places of religious worship, voluntary (or non-provided) schools, and premises occupied and used by literary, scientific and artistic societies, premises occupied by the Crown, and recreation grounds which must be maintained for ever for the use of

[1] Poor Rate Assessment and Collection Act, 1869, ss. 3 and 4.

the public, are exempt from rating to the poor rate.[1] The Government usually make a contribution in aid of local rates in respect of Crown property.

Sporting rights are rateable by the Rating Act, 1874, and advertising hoardings by the Advertising Stations (Rating) Act, 1889.

A burial ground used for the purposes of the Burials Act must not be assessed to any local rate at a higher value than when first acquired.[2]

If the poor rate is not made payable by instalments, it becomes due immediately it is published on the church and chapel doors, but, of course, a demand must be served upon the occupier before proceedings can be taken for its recovery. Payment may be enforced by a justice's warrant, empowering the overseers to distrain and sell the goods of the defaulting ratepayer, or, if he does not possess sufficient goods, application may be made to commit him to prison for a term not exceeding three months.[3] If the owner of small tenements who has been rated, or has agreed to pay, does not do so, similar proceedings may be taken against him, or the money may be recovered from the occupier so far as any rent is due from him to the owner, but he may deduct the amount from such rent.[4]

[1] Poor Rate Exemption Act, 1833; Voluntary School Act, 1897; Scientific Societies Act, 1843.

[2] Burial Act, 1855.

[3] Distress for Rates Act, 1849.

[4] P. R. A. and C. A., 1869, s. 12.

General District Rate.

The only rate which is directly levied by all town and urban councils is the general district rate.

The council must form a district fund, into which they must pay all monies received by them under the Public Health Acts, *e.g.*, from the sale of surplus lands, penalties for offences, and profits (if any) from the sale of house refuse, etc.[1] From this fund are to be made payments for expenses incurred under the Public Health Acts, and also under the Acts relating to baths and wash-houses, cemeteries, allotments, housing of the working classes, etc.

The general district rate is levied to defray any expenses which the district fund is unable to meet. The rate is usually made annually or half-yearly, and may be made to provide for future requirements of the council, or retrospectively, but in the latter case only to meet expenses which have been incurred within the previous six months. It may be remarked in passing that, so far as possible, it is a principle of municipal legislation that the ratepayers for the time being are merely to be called upon to meet the current expenditure, from which it is obviously intended that they should benefit.

Proper notice of intention to make the rate must, of course, be given by the council, and the

[1] P H. A., 1875, ss. 207—209.

rate must be published in the same manner as the poor rate.

The general district rate is primarily leviable upon the occupiers of property within the district, for the term of their occupation. For the sake of uniformity, the poor rate valuation list is adopted, and the occupier is assessed upon the rateable value as ascertained by that list.

Before making a general district rate, the council must cause an estimate to be prepared and kept open for public inspection, showing the sums required, the rateable value of the property to be rated, and the amount of the rate in the pound.[1]

The council may lay down the dates at which the rate shall commence and be payable, and they have also authority to reduce or remit payment from a poverty-stricken ratepayer.[2]

Any person who deems himself aggrieved by the rate may appeal against it to quarter sessions.[3]

The council have not the same powers for the recovery of the general district rate that the overseers have with regard to the poor rate. They may summon a defaulter before the magistrates, and obtain from the court an order for payment. If this is not complied with, the court may issue a distress warrant, but the defendant cannot be imprisoned.[4] These proceedings must

[1] P. H. A., 1875, ss. 210—222.
[2] P. H. A., 1875, ss. 222 and 225.
[3] P. H. A., 1875, s. 269.
[4] P. H. A., 1875, s. 256.

be commenced within six months from the date of the demand of the rate.

The provisions of the Agricultural Rates and Tithe Rent Charge Rates Acts, before referred to, do not apply to the general district rate. Nevertheless, certain classes of property are especially favoured. Thus, an owner of tithes or tithe rent charge, or an occupier of meadows, woodlands, market gardens or nursery grounds, or land covered with water, or used as a railway, is only to be assessed at one quarter of the net annual value of such property.[1] The classes of property exempt from payment of general district rate are similar to those exempt from payment of poor rate.

The council may rate the owner instead of the occupier if the rateable value of premises does not exceed £10 per annum, or if the premises are let to monthly or weekly tenants or in separate apartments, or the rents are payable or collected for any shorter period than quarterly. In such a case the council must allow the landlord a discount of not less than one-fifth nor more than one-third from the net annual value. They may also require him to pay rates whether his property is occupied or unoccupied, and in that event they must increase the discount allowed him to a total of one-half.

If the council have declared any sums due to

[1] P. H. A., 1875, s. 211.

them to be private improvement expenses (such as the cost of repairing private roads), they are entitled to recover payment by levying a rate upon the occupier of the premises concerned, but it must be sufficient to discharge the expenses, with interest not exceeding 5 per cent., within a period of thirty years or less. Should the premises become unoccupied whilst the rate is in force, it is payable by the owner. Either the owner or occupier, however, may redeem it in full by paying the balance due to the council. When such a rate is levied on an occupier who holds at a full rack rent, he is entitled (in the absence of any agreement to the contrary) to deduct from his rent three-quarters of the amount of the rate, and any under-lessee who holds for an unexpired term of less than twenty years may also deduct a similar proportion from the rent due to his superior landlord.[1]

Water rates have been dealt with on page 162.

In the distribution of the property of a bankrupt, or the assets of a company which is being wound up, taxes and local rates for the previous twelve months must be paid in priority to ordinary debts.[2]

London.

In the county of London the general rate, levied by the borough councils, is substituted for the general district rate and the poor rate,

[1] P. H. A., 1875, ss. 213—215.
[2] Preferential Payments in Bankruptcy Acts, 1888 and 1897.

and is assessed, made, published, levied and collected in a similar manner to the poor rate in other urban districts. The area for which the rate is made is the parish, and the total amount of rates required from the borough is apportioned by the council amongst the various parishes according to their rateable value. There is thus usually a slight difference in the rate levied in the various parishes in the same borough.

The expenses of the county council (for both county and education purposes), the boards of guardians, and the metropolitan police are paid to those authorities by the borough council, in response to precepts served upon them. The council act as the overseers, and they also appoint the assessment committee in cases where the borough includes the whole of one or more poor law unions. In other unions the guardians appoint this committee, as elsewhere.[1]

The valuation list is made by the overseers on principles similar to those in operation in other parts of the country. It is revised every fifth year, but in other years a supplementary valuation list must be prepared, containing particulars as to new and improved properties, and a provisional list may also be drawn up at any time, when necessary.[2]

After the list has been amended or approved by the assessment committee, particulars of it

[1] London Government Act, 1899, ss. 10—13.
[2] Valuation (Metropolis) Act, 1869.

are sent to the surveyor of taxes, the various overseers in the county, the county council, the common council of the city, the metropolitan police, and the Metropolitan Asylums Board, all of whom are interested in the matter, as they assist in contributing, or share in receiving, revenue derived from the rating of the county as a whole. Appeals against any item in the list may be made to the justices in special sessions or to quarter sessions, but appeals against the total valuation of a parish may only be made to the latter court.[1]

The provisions of the Agricultural Rates Act, 1896, the Tithe Rent Charges Act, 1899, and the Preferential Payments in Bankruptcy Acts, 1888 and 1897, already referred to, apply to the county of London. The properties which are relieved from payment of poor rate are also exempt from rating in the county.

The general rate is usually made payable half-yearly, and may be recovered in the same manner as the poor rate, that is, by proceedings before the justices, and distraint or imprisonment.

Under the London (Equalisation of Rates) Act, 1894, a half-yearly rate of 3d. in the pound is included in the general rate, and the proceeds are paid to the county council and distributed by them amongst the various city and borough councils in proportion to their population, thus benefiting the poorer and populous districts at the expense of their more wealthy neighbours.

[1] L. G. A., 1888, s. 42.

2. Government Payments, Etc.

Contributions made by the Government to the funds of the council consist principally of grants under the Agricultural Rates Act, 1896, and Tithe Rent Charge Rates Act, 1899, already dealt with, grants towards the cost of education, which will be referred to later on, grants in lieu of rates on Government property, and grants from the local taxation account. This account is a fund consisting of the proceeds of local taxation licences for the sale of alcoholic liquors, tobacco, game, etc., or with regard to dogs, guns, carriages, etc., or licences to act as pawnbrokers or auctioneers, a large portion of the proceeds of the estate duty derived from personal property, and taxes on beer and spirits.[1] The council of each county or county borough are entitled to the fees paid for licences taken out within their area, and the other monies are shared by those authorities in the same proportions as the various Parliamentary grants which they received in the year 1887-1888. From the sums so received, however, the county councils have to make to the councils of non-county boroughs and urban districts within their area various payments for repair of main roads, police, salaries of medical officers and inspectors of nuisances, etc., and to the boards of guardians in respect of the maintenance of lunatics, salaries

[1] Loc. Gov. Act, 1888, ss. 20—27; Local Taxation (Customs and Excise) Act, 1890.

of the registrars of births and deaths and other officers, and the cost of vaccination.

The grants made to local authorities from the local taxation account during the financial year 1905-6 amounted to £8,333,370, or about 7 per cent. of the total local revenue, and equivalent to a rate of 10⅜d. in the pound. The imperial budget for 1907–8, however, contained a proposal for abolishing these grants, and substituting for them the payment of a fixed annual sum.

In the county of London, the county council make contributions to the borough councils towards the cost of street improvements, and one-half of the salaries of the medical officers of health and sanitary inspectors, and to the boards of guardians towards the maintenance of lunatics, etc., but in the whole of the metropolitan police area the maintenance of police is in the hands of the Home Office.

The receipts of the councils from such municipal undertakings as water works, gas works, electric lighting works, tramways, etc., have previously been referred to.

3. Loans.

For the purpose of carrying out works of a permanent character, the council of a municipal borough or urban district are empowered to borrow money upon the security of their funds or of the rates (or, in the case of a municipal borough, of their corporate land), with the sanction of the

Local Government Board. The total amount of such loans, if borrowed for the purposes of carrying out the Public Health Acts, must not exceed the assessable value of the district for two years, and, when the town's debt exceeds one year's value, the Local Government Board must hold a local inquiry before granting their sanction to an additional loan for those purposes.[1]

The various Acts authorising the council to carry out works invariably confer borrowing powers, and usually, but not always, apply the provisions of the Public Health Act, 1875, with regard to those loans.

The limit of time during which repayment must be made is fixed by the Board, who have regard to the estimated life of the works, but they must restrict the period to sixty years. An exception exists in the case of expenditure under the Housing of the Working Classes Act, 1890, for which eighty years is the maximum period allowed for repayment of loans.[2]

The council may repay any loans by equal annual instalments of principal, or of principal and interest, or they may make periodical payments to a sinking fund, and invest the accumulated proceeds in authorised securities, so as to pay off the whole of the outstanding loan at the end of the period sanctioned.[3] They are bound to keep

[1] P. H. A., 1875, ss. 233—244; M. C. A., 1882, ss. 106, 111 and 119.

[2] Housing of Working Classes Act, 1903.

[3] P. H. A., 1875, s. 234.

a register of mortgages, which must be open to public inspection.

The power to invest the accumulated sinking fund in other securities has led to many councils raising loans by borrowing such sinking funds from other authorities. They may also exercise their borrowing powers by the issue of terminable annuities, debentures, or (if specially empowered) debenture stock.[1]

The Public Works Loan Commissioners, who are entrusted annually by Parliament with large sums of money, are also authorised to lend to local authorities, on the security of the rates, at a rate of interest which is fixed by the Treasury from time to time.[2]

Joint boards, port sanitary authorities, and similar bodies have power to borrow in the same way as a council under the Public Health Act.[3]

If the council are fortunate enough to own any land or other property for the purposes of sewage disposal, they may mortgage it in order to raise a loan for expenses under the Public Health Acts, and in this case no sanction of the Local Government Board is necessary. This power has occasionally proved very valuable to authorities who are anxious to carry out works for which the sanction of the Board is not desired, or cannot be obtained. An additional advantage is that the

[1] Local Loans Acts, 1875 and 1885.
[2] Pub. Works Loans Acts, 1875 to 1906.
[3] P. H. A., 1875, s. 244.

loans so raised, if they do not exceed three-fourths of the purchase-money of the lands, are not included in the amount to which the council are confined under the Public Health Acts.[1]

The council may, with the sanction of the Local Government Board, exercise their powers of borrowing by the creation of stock, subject to regulations issued by the Board.[2] Most of the councils of the larger towns have also secured Parliamentary powers to issue stock on various terms, and, in the same manner, have obtained special borrowing powers for specific purposes.

The power of the metropolitan borough councils to borrow differs considerably from that of the councils of municipal boroughs. The sanction of the county council is necessary in most cases, but loans for the provision of burial grounds, public baths, libraries, sanitary conveniences, and certain other objects under the Public Health (London) Act, 1891 (s. 105), must receive the consent of the Local Government Board. In each case, the sanctioning authority fixes the period of repayment, the maximum limit being the eighty years under the Housing Acts before referred to.[3] If the county council refuse their consent to a loan, or do not give it within six months of receiving the application, or attach unsatisfactory conditions to

[1] P. H. A., 1875, s. 235.
[2] P. H. A., 1890, Part 5.
[3] M. M. A., 1855, s. 183; M. M. A., 1862, ss. 72 and 100; Treasury Powers Act, 1906.

their consent, an appeal may be made by the borough council to the Local Government Board, whose decision is final.[1] The actual loans are largely raised from the county council, who are authorised by various metropolitan Acts to lend to the borough councils. The latter bodies have no power to issue stock.

The borrowing powers of the county council (which may be carried out by the issue of stock) are exercised under sanction of the Local Government Board. The statutory securities for repayment are the county fund and the county rate, and the net debt (except for special purposes, such as education, small holdings, and advances to parish councils) is limited to one-tenth of the rateable value of the county. Any loans beyond this amount can only be authorised by a provisional order of the Local Government Board, confirmed by Parliament.[2] The maximum period for repayment is thirty years, except in cases where Parliament has specially granted a longer period. The London County Council have special borrowing powers under various metropolitan Acts.

4. Accounts and Audit.

The accounts of the council of a municipal borough are made up half-yearly, while those of an ordinary urban district council are made up

[1] Lon. G. A., 1899, s. 4.
[2] L. G. A., 1888, ss. 69 and 70.

annually, but in both cases the financial year terminates on the 31st March.[1]

Special accounts must be kept upon various matters, such as loans from the Public Works Loan Commissioners, or as to income and expenditure under the Acts relating to burial grounds, allotments, baths and wash-houses, libraries, workmen's dwellings, etc.

In a municipal borough, two auditors are elected by the burgesses, and one is appointed by the mayor. The latter must be a member of the council.[2] The Public Health Act, 1875 (s. 246), provides that these auditors shall audit the accounts of the town council acting as an urban authority (*i.e.*, as a district council) in exactly the same manner as those of a town council acting as a municipal authority, and shall be paid not less than £2 2*s.* per day for their work on this task.[2] They have no power of surcharge, their restriction on illegal expenditure being limited to the publicity they can cast on the matter by reports made to the council or to the public.

An illegal payment may, however, be restrained by the order for payment being removed upon a writ of certiorari into the High Court, where it may be wholly or partially disallowed or confirmed.[3]

It has also been judicially held that the Attorney-General may, at the relation of an interested party,

[1] M. C. A., 1882, ss. 26—28; P. H. A., 1875, s. 245; L. G. A., 1894, s. 58.

[2] M. C. A., 1882, s. 25.

[3] M. C. A., 1882, s. 141; P. H. A., 1875, s. 246.

obtain an injunction to restrain an illegal payment by the council.[1]

Several town councils have engaged professional accountants as auditors, to examine and report upon their accounts, some councils even going so far as to secure special Parliamentary powers to enable them to do so.

After the audit, the abstract of the treasurers' accounts is to be printed, and to be open to the inspection of all ratepayers, who are also entitled to receive copies on payment of a "reasonable price." The town clerk must annually make a return of the receipts and expenditure to the Local Government Board.[2]

Members of the council may, of course, inspect the original accounts, and make copies of extracts from them.[2]

In all ordinary urban districts, in some half-dozen boroughs which have been dealt with by local Acts, and in all boroughs so far as income and expenditure on education are concerned, the accounts are audited by the district auditors of the Local Government Board. Fourteen days' public notice of the audit is to be given by the council, and for seven days the rate-books and a copy of the accounts and vouchers must be kept open for public inspection. Any ratepayer has a right to be present at the audit, and to object to the accounts. The auditor must disallow every illegal

[1] *Tynemouth* v. *Att.-Gen.*, 1899, A. C., 293.
[2] M. C. A., 1882, ss. 27, 28 and 233.

item in the accounts, and every deficiency incurred by negligence or misconduct, and surcharge the same upon the person responsible, but he must give his reason for taking that step. Persons aggrieved by his decision (including any ratepayer) may appeal to the Local Government Board, who have power to allow the appeal on equitable grounds, although the expenditure may not be legally authorised. Application may also be made to the King's Bench Division of the High Court for a writ of certiorari to remove the disallowance or allowance into court, and have it quashed.[1]

Under the Local Authorities Expenses Act, 1887 (s. 3), the Board may, prior to an audit, sanction expenditure by a council (including the council of a county or of a metropolitan borough, to be alluded to later) which would otherwise be illegal. The district auditor has then no power to disallow such items, or to make a surcharge in the matter. The Board have intimated that they do not regard the Act as enabling them to supply the want of legislation, or to give prospective sanction to recurring expenses.

When the audit is concluded, the auditor must report to the clerk of the council, who must publish an abstract of the accounts in a local newspaper.[1]

Each metropolitan borough council must appoint a finance committee. They cannot make any order for payment except in pursuance of a resolution

[1] P. H. A., 1875, ss. 247, 249 and 250.

passed on the recommendation of this committee, and no costs, debt, or liability exceeding £50 may be incurred unless an estimate has been submitted by the committee. The notice of a council meeting at which it is proposed to pass a resolution authorising any payment, except of an ordinary periodical nature, or to incur any costs, debt, or liability exceeding £50, must give full particulars of such payment or costs, etc. The payment of money in accordance with a precept from another authority is not included in these provisions.[1]

It will be seen that the powers of other committees to make payments, under any authority delegated to them by the borough council, is thus considerably restricted.

An order of a borough council for payment of any money may be removed into the High Court by a writ of certiorari, and wholly or partially disallowed or confirmed.[1]

The financial year of the metropolitan borough councils terminates on the 31st March. Special accounts must be kept by them of receipts and expenditure with regard to baths, libraries, burial grounds, electricity supply, etc., and, of course, the accounts must show the amount debited and credited to each parish. The accounts are audited by a district auditor of the Local Government Board in the same manner as the accounts of an urban district council, previously referred to.[2] An abstract

[1] L. G. A., 1899, ss. 8 and 9.
[2] L. G. A., 1899, s. 14.

of the accounts is usually included in the annual report of the council, copies of which may be obtained by the public at a price not exceeding twopence per copy.[1]

The common council of the city possess special powers, obtained by prescription, charter, or Act of Parliament, which enable them to borrow without obtaining the sanction of any higher authority, unless they proceed under the ordinary statutory powers possessed by other councils. They are large owners of land and markets, and the rents thus obtained form a considerable portion of their revenue. Their accounts are not subject to any statutory audit.

The financial year for county council accounts also ends on the 31st March. The provisions with regard to an annual return to the Local Government Board, and inspection of accounts by ratepayers in a municipal borough, apply to the accounts of a county council, but the audit is carried out in the same manner as in an urban district.[2]

A similar enactment to that in force within the metropolitan boroughs, precluding orders for payment being made except upon the recommendation of the finance committee, or liabilities exceeding £50 being incurred except upon their estimate, applies to county councils, but not to the councils of county boroughs. Orders for payment passed by the county council may also be removed into

[1] M. M. A., 1855, s. 198.
[2] L. G. A., 1888, ss. 71—74.

the High Court by certiorari, and wholly or partly disallowed or confirmed.[1]

The last published summary of the Local Taxation Returns, covering the year 1903–4, contains interesting particulars as to the financial position and transactions of local authorities. The rateable value of England and Wales was £202,835,295, the value of the urban areas being as follows:—Administrative county of London, £42,182,490; county boroughs, £49,905,135; other boroughs, £21,330,241; and urban districts, £35,966,796.

The income and expenditure (excluding loans) of all the local authorities was as follows:—

	Income.	Expenditure.
	£	£
County councils	18,426,394	18,605,076
Councils of municipal boroughs	47,847,006	47,167,253
Urban district councils ..	9,770,078	9,598,757
Rural district councils ..	4,088,441	4,043,190
Poor law authorities	16,082,359	15,819,135
Miscellaneous	17,373,257	15,250,292
Total -	£113,587,535	£110,483,703

Of the revenue, 51·7 per cent. came from rates, 15·2 per cent. was paid from grants out of imperial funds, and 24·1 per cent. was received from reproductive undertakings. The largest items in the expenditure were:—Interest and repayment of loans, 22 per cent.; education, 13·9 per cent.; highways, 10·2 per cent.; and poor relief, 10·1 per cent.

[1] L. G. A., 1888, s. 80.

The average rate in the pound was 6*s.* 9*d.* in the administrative county of London, 7*s.* in the county boroughs, and 6*s.* 2*d.* in the ordinary boroughs and urban districts.

During the year under notice loans were raised by local authorities to the amount of £31,279,470; and the outstanding indebtedness at the close of the year was £393,882,146, made up as follows:—

	£
County councils	48,558,632
Councils of municipal boroughs ..	227,023,715
Urban district councils	32,325,061
Rural district councils . ..	4,597,057
Poor law authorities	15,092,222
Miscellaneous bodies	66,285,459

One-third of the whole debt had been borrowed for the purpose of undertakings of a more or less reproductive character.

CHAPTER VII.

EDUCATION.

1. Education Authority and Committee. 2. Elementary Education. 3. Secondary Education. 4. London. 5. Default of Authority. 6. Finance. 7. Provision of Meals for School Children.

1. Education Authority and Committee.

The Education Act, 1902, reorganised the provision of education by constituting certain councils as local education authorities. The council of a borough with a population of over 10,000, or of an urban district with a population of over 20,000, and in other places the county council, are the authorities charged with providing elementary education. The council of a non-county borough or an urban district may, however, by agreement approved by the Board of Education, relinquish any of their educational powers to the county council. The members of a county council representing areas for which separate education authorities are established, cannot vote on questions relating to elementary education which are brought before that council.[1]

The councils of counties and county boroughs

[1] E. A., 1902, ss. 1, 20 and 23.

are the education authorities whose duty it is to provide higher or secondary education.[1]

The education authorities have each established an education committee, or committees, in accordance with schemes approved by the Board of Education.[2] These schemes provide for the appointment on the committee (by the nomination of other bodies where desirable) of persons of experience in education, or acquainted with the needs of the various kinds of schools, and also for the inclusion of women. The majority of the committee must be members of the authority, except when appointed by a county council. A person who is disqualified from being a member of the council, by reason of holding office under them or having an interest in a contract or employment with them, cannot be appointed upon the committee, but the holder of any office in a school or college aided or maintained by the council is specially exempt from this restriction. A joint education committee may be formed by a combination of counties, boroughs, or urban districts. The scheme may be revoked or altered by an amending scheme.[3]

All matters relating to the exercise by the council of their powers as to education, except the power of raising a rate or borrowing money, are to stand referred in the first instance to the committee,

[1] E. A., 1902, s. 1.
[2] E. A., 1902, s. 17.
[3] E. A., 1902, ss. 21 and 23.

and before exercising any such powers the council must receive and consider their report, unless the matter is urgent. The council may also delegate to the committee, with or without restrictions or conditions, any of their educational powers, except that of raising a rate or contracting a loan.[1]

2. Elementary Education.

It is the duty of the authority to maintain and keep efficient all public elementary schools which are necessary in their area, and to provide sufficient public school accommodation for children over five years of age, without payment of fees. The Board of Education may require the authority to provide any necessary additional accommodation.[2] An elementary school is a school at which elementary education is the principal part of the education given, but it does not include an evening school carried on under the regulations of the Board of Education, nor any school in which the fees from each scholar amount to *9d.* per week.[3]

It must not be a condition of admission to such a school that any pupil shall attend or abstain from attending Sunday school or any place of religious worship, or any instruction in religious subjects, or attend school on a day exclusively set apart for

[1] E. A., 1902, s. 17.
[2] E. A., 1870, ss. 18 and 19; E. A., 1902, ss. 5, 7 and 16, sch. 3.
[3] E. A., 1870, s. 3; E. A., 1902, s. 22.

religious observance by the body to which his parent belongs. Religious instruction may only be given at the beginning or end, or at both the beginning and end, of a meeting of the school.[1] The general instruction given must be in accordance with the regulations of the Board of Education (as contained in the Board's annual code), and imparted by teachers duly qualified, as required by those regulations.[2] The time-table of the various lessons must be approved by the Board, and exhibited in every schoolroom. The school is to be open at all times to inspection by H.M. Inspectors of Schools (who, however, are not to inquire into the instruction given in religious subjects), and it must be conducted in accordance with the conditions which are required to be fulfilled by an elementary school, in order to obtain an annual Parliamentary grant. The children receiving instruction should not be more than sixteen years of age at the close of the school year, unless the authority, with the consent of the Board of Education, extend that limit on account of the lack of suitable higher education within a reasonable distance of the school.[3]

Schools erected by the authority, or transferred to them by other bodies or by their predecessors, the school boards, are known as provided schools;

[1] E. A., 1870, s. 7.
[2] Code of Board of Education; Regulations for Preliminary Education of Elementary School Teachers, 1907.
[3] E. A., 1902, s. 22.

and other elementary schools, erected by private persons or associations, but maintained at the expense of the authority, are termed non-provided schools.

The authority have power to purchase or lease land for the erection of new schools, and they may obtain power to acquire land compulsorily under a provisional order granted by the Board of Education and confirmed by Parliament.[1] Two or more authorities may combine to provide schools common to their districts, if the Board of Education sanction such an arrangement.[2]

If the authority or any private person or association intend to erect a new school, public notice must be given, and the authority and the managers of any existing school (where they are not themselves providing the new school) or any ten ratepayers, may appeal within three months to the Board of Education, on the ground that the proposed school is not required, or that a provided school, or a non-provided school, as the case may be, would be better suited to the wants of the district. Any school built in contravention of the Board's decision is deemed to be unnecessary, and cannot be maintained by the authority.[3]

The transfer or re-transfer of an existing school to or from the authority is to be treated as the provision of a new school, and the same remark

[1] E. A., 1870, ss. 19 and 20; E. A., 1873, s. 15.
[2] E. A., 1870, s. 52.
[3] E. A., 1902, ss. 8 and 9.

applies to an enlargement, if, in the opinion of the Board, it amounts to the provision of a new school. The Board may also decide any question as to whether an existing school is necessary or not, if the average daily attendance is less than thirty.

The detailed management of schools provided by the county council in small urban areas is entrusted to a number of managers, not exceeding six, four of whom may be appointed by the council or their education committee, and two by the "minor local authority," who are either the town council or the urban district council. Where the education authority are the council of a borough or urban district, the appointment of managers is a matter which is left to their discretion.[1]

No religious catechism or religious formulary distinctive of any particular denomination may be taught in a provided school.[2]

With the sanction of the Board of Education, a provided school may be discontinued, or a non-provided school may be transferred to the authority or re-transferred by them. The transfer must receive any assent rendered necessary by the deeds declaring the trusts of the school, and must also be approved by two-thirds of the subscribers who are present and vote at a meeting summoned for that purpose.[3]

The local education authority are, as previously

[1] E. A., 1902, s. 6.
[2] E. E. A., 1870, s. 14.
[3] E. A., 1902, ss. 18 and 23.

stated, bound to maintain all non-provided elementary schools which are conducted in accordance with the Education Acts and the regulations of the Board. For each of these schools a body of managers must be established, consisting of not more than four foundation managers, appointed under the provisions of the trust deed of the school, and not more than two non-foundation managers, appointed by the authority, except where the county council are the latter body, when that council and the minor local authority each appoint one non-foundation manager. If the trust deed is inapplicable to these provisions, or if there is no trust deed, the Board of Education may make an order for the purpose of meeting the case. The authority may increase the total number of managers beyond six if they consider it necessary, but the statutory proportion of each class of managers must be maintained. They may also group a number of schools under one body of managers, but in the case of non-provided schools the consent of the managers must be obtained.[1]

The managers of a non-provided school have control of the educational work of the school, but they must carry out the instructions of the authority as to education of a secular nature, including directions with regard to the number and qualifications of the teachers, and their dismissal on educational grounds. The consent of the authority is necessary

[1] E. A., 1902, ss. 6, 11 and 12.

to the appointment of teachers, and to their dismissal, except on grounds connected with the giving of religious instruction. The authority also have power to inspect the school. The managers must provide the school house, make such alterations and improvements as may be required by the authority, and keep the building in repair, but the authority must make good any damage caused by fair wear and tear.

The religious instruction given in such schools should be in accordance with the terms of the trust deeds under which they are established.[1]

The authority are entitled to use, upon educational purposes, any room in a non-provided school, free of charge, for three days a week, but not in school hours, nor if the authority have suitable accommodation in provided schools.[1] This power has been very useful to authorities who maintain evening schools.

Any difference of opinion arising between the authority and the managers, with regard to the maintenance of a non-provided school, is settled by the Board of Education.[1]

Provision is made by the Elementary School Teachers Superannuation Act, 1898, by which elementary school teachers, certificated by the Education Department, may receive superannuation at the age of sixty-five to the annual amount of 10*s.* for each year of recorded service, in addition to

[1] E. A., 1902, s. 7.

payments of deferred annuity from a fund created by the compulsory deduction from their salaries of £3 per annum in the case of a male teacher and £2 in the case of a woman, or such higher rate as the Treasury may determine. Participation in the superannuation fund is not compulsory so far as teachers who were certificated before the 1st April, 1899, are concerned. In other cases, the teacher's certificate expires upon his attaining the age of sixty-five, unless the Board allow it to continue for a further limited period on account of his special fitness. Provision is made by sect. 2 of the Act for payment of a disablement allowance by the Treasury to certified teachers of ten years' standing who are permanently incapacitated, owing to infirmity of mind or body, and who otherwise comply with the conditions laid down in the Act.

It is the duty of the authority to enforce the legislative provisions as to school attendance contained in the Education Acts, 1870, 1876, 1880, 1893 and 1900. They must, with the sanction of the Board of Education, make bye-laws requiring the parents of children between the ages of five and either thirteen or fourteen to cause those children to attend school, unless there is some reasonable excuse, such as sickness, or the receipt by the child of instruction in some other manner, or residence more than three miles from the nearest school. Provision must be made for the exemption of children over twelve years of age, upon reaching a specified standard of education. The bye-laws may

also contain a clause under which children of the age of eleven years may be employed in agriculture if they attend school 250 times a year up to the age of thirteen, or under which a child of twelve may claim partial exemption upon making 300 attendances in not more than two schools during each of five preceding years.

In order to secure the observance of the bye laws and of the general law as to school attendance, the committee usually appoint a school attendance sub-committee, who have power to prosecute offenders, and who control the school attendance officers.

If a parent habitually and without reasonable cause neglects to provide instruction for his child, or a child is found habitually wandering, or not under proper control, or in the company of rogues, vagabonds, etc., the authority may, after warning the parent, take proceedings against him before the magistrates. The latter may then make an order requiring the child to attend a specified school, and if this order is not complied with, they may fine the parent, or, upon being satisfied that he has used all reasonable efforts to obey the order, send the child to an industrial school. They may also fix the amount of the parent's contribution to the child's maintenance, not exceeding 5*s*. per week.[1]

Any elementary education authority may, with the consent of the Home Secretary, provide and

[1] E. A., 1876, ss. 11 and 12.

maintain an industrial school certified by him, or contribute towards the cost of such an institution. Ordinary industrial schools are chiefly established to deal with children who have been convicted of certain offences, or have been found destitute, begging or wandering, or in the company of thieves, etc. The education authority have therefore been given power to provide truant schools in accordance with the sanction and regulations of the Home Secretary. These buildings are industrial schools specially adapted for the reception of children who have failed to comply with attendance orders made by the magistrates.[1]

The authority must make provision for the education of non-pauper blind and deaf children, the period of whose compulsory attendance at school commences at five and seven years of age respectively, and ends at sixteen years. For this purpose the authority may provide schools themselves, or make arrangements, with the approval of the Board of Education, for boarding out such children at suitable schools provided by other authorities or societies, and certified by the Board. The parents of blind and deaf children are liable to contribute towards any expenses incurred, the exact sum being settled by the magistrates, in default of agreement.[2]

Provision of a similar nature may be made by

[1] Industrial Schools Act, 1866; E. A., 1870, ss. 27 and 28; E. A., 1876, ss. 13, 15, 16 and 17.
[2] El. Ed. (Blind and Deaf Children) Act, 1893.

the authority for the education of children who are physically or mentally defective, or epileptic, and are between seven and sixteen years of age.[1] They may furnish guides or conveyances for children who would otherwise be unable to attend school by reason of physical defects, and also provide vehicles and pay travelling expenses of teachers and children when circumstances require.[2]

The question of the physical fitness of children to receive elementary instruction afforded at the public expense has been considered by many education authorities, who have appointed medical officers to examine the children.[3] The special attention which has thus been devoted to school hygiene, the sight, hearing, teeth, and cleanliness of the children, and the prevention of the spread of infectious disease, has been productive of very beneficial results, and Bills have from time to time been introduced into the House of Commons to confer wider powers in this respect.

3. Secondary Education.

The provision of secondary education is entrusted to the councils of counties and county boroughs. It is the duty of these bodies to supply, or aid in the supply of, education other than elementary, and to promote the general co-ordination of all

[1] El. Ed. (Defective and Epileptic Children) Act, 1899.
[2] Ditto, s. 3; E. A., 1902, s. 23.
[3] E. E. A., 1870, s. 35.

forms of education.[1] The powers granted to them are very wide, including the maintenance of schools and colleges, the training of teachers at colleges or pupil teachers' centres, the provision of evening schools, and classes in technical subjects, science and art, and of educational lectures, extending, in fact, to the supply of any education except that given in a public elementary school. The authority may provide scholarships for students ordinarily resident within their area, at schools, colleges or hostels, within or without such area, and pay or assist in paying their fees, and they may make provision for secondary education outside their boundaries when they think it expedient to do so in the interests of their area. They have also the same powers to provide vehicles or to pay travelling expenses of teachers or scholars as an elementary education authority.[2]

The county council may, by arrangement with the council of any borough or urban district, hand over to the latter body the management of schools or colleges established for the provision of secondary education.[3]

No pupil may be excluded from, or placed in an inferior position in, a school or college provided by the council, on account of religious belief; and no catechism or distinctive religious formulary may be taught there, except in special cases, and

[1] Education Act, 1902, s. 2.
[2] E. A., 1902, ss. 22 and 23.
[3] E. A., 1902, s. 20.

even then not at the expense of the council. In granting permission for a religious service to be held, unfair preference is not to be shown to any religious denomination, and scholars are not to be required to attend, or to abstain from attending, any gathering called for religious observance or instruction. The authority are also precluded from requiring any particular form of religious instruction to be taught or practised in a school or college aided by them.[1]

The Board of Education may take power to inspect secondary schools as a condition attaching to the receipt of the monetary grant which is distributed by them, and they have power to inspect certain endowed schools, under the Charitable Trusts Acts. They may also inspect any secondary school desiring to be inspected, and the authority may pay the whole or part of the expenses incurred.[2]

4. London.

The Education Act of 1902 is applied to the administrative county of London by the Education (London) Act of 1903. The county council are the local education authority for both elementary and secondary education, but in other respects there are some important details as to which special provision is made for the metropolis.

The number of managers, and the method of

[1] E. A., 1902, s. 4.

[2] Board of Education Act, 1899, ss. 2 and 3; Regulations of the Board of Education as to Secondary Schools and Further Education, 1907.

grouping provided schools, are determined by the council of the metropolitan borough in which the schools are situate, after consultation with the authority, and with the approval of the Board of Education. Two-thirds of the managers of those schools are appointed by the borough council and the remainder by the authority, but in each case regard must be had to the inclusion of women, in the proportion of not less than one-third of the whole body of managers. In the case of non-provided schools, one of the non-foundation managers is appointed by the borough council and the other by the authority.

The site of any proposed provided school must be determined upon by the authority, after consultation with the borough council in whose district it is situated. The Board of Education are also precluded from issuing a provisional order authorising the compulsory purchase of land as the site for a school, unless the proposal has received the consent of the borough council, or the Board are satisfied that such consent should be dispensed with.

5. Default of Authority.

If an education authority fail to perform their duty, the Board of Education may make an order requiring them to act in the matter in which they are negligent. This order may be enforced by mandamus, obtained from the High Court of Justice.[1]

[1] E. A., 1902, s. 16.

In addition to other remedies, if the authority do not fulfil any of their duties with regard to an elementary school, the Board may recognise as managers of such a school any persons acting as managers, and they may, by order, render valid any act done by those managers which would otherwise be invalid by reason of the default of the authority. They may also pay to those managers the amount of any expenses properly incurred by them for which provision ought to have been made by the defaulting authority. The amount in question then becomes a debt due from the authority to the Crown, and may be deducted from Parliamentary grants payable to the former.[1]

6. Finance.

The expenses of the authority are defrayed by Parliamentary grants, school fees, income from endowments, and receipts from the rates. The following is a list of the grants, which are paid by the Board of Education from money annually voted by Parliament for the purposes of elementary education[2] :—

Aid grant consisting of 4*s.* per scholar, and an additional sum of 1½*d.* per scholar, based upon the relationship between the number of children and the rateable value of the district.

[1] Education (Local Authorities Default) Act, 1904.
[2] E. E. A., 1870, ss. 96—99; E. A., 1902, s. 10; Code of Board of Education.

Fee grant of 10*s.* per child, paid in respect of schools in which fees are abolished or are in accordance with the Elementary Education Act, 1891.

Attendance grant of 17*s.* for each unit of average attendance in the infants' departments, and 22*s.* for each such unit in other departments.

Special subject grants for courses of instruction given in cookery, laundry work, combined domestic subjects, gardening and handicrafts.

Grants to schools under the Education (Blind and Deaf Children) Act, 1893, and the Education (Defective and Epileptic Children) Act, 1899.

The imperial budgets of 1906 and 1907 also provided for grants to unusually necessitous districts, equal to three-quarters of the amount by which their elementary education rate exceeded 1*s.* 6*d.* in the pound.

By special permission of the Board of Education the authority may establish higher elementary schools for the instruction of children between twelve and sixteen, and, in this event, they may receive from the Board a special grant of 30*s.* for each unit of average attendance in the first year, 45*s.* for the second year, and 60*s.* for the third year of the course.

The authority may charge fees for instruction given in provided schools, or permit them to be charged by the managers of non-provided schools, but all fees must be approved by the Board of Education. The authority and the managers

may agree as to the division of the fees, but if they do not do so the Board will determine the matter.[1]

The authority are entitled to the income of any endowment of a school which is applicable to purposes for which provision has to be made by them. If only part of the income of an endowment is in question, the authority and the managers must agree as to the proportion which should be paid to the former, or the matter will be determined by the Board of Education.[2]

In a municipal borough the amount devoted to elementary education from the rates comes from the income of the borough rate, which is levied as described on page 189, and in an urban district it is taken from the proceeds of the poor rate, as a result of a precept served by the council upon the overseers. In small towns, where the county council are the authority, it is raised from the county rate.[3]

The council of a county or county borough must apply, towards the expenses of secondary education, the whole of the sum received by them from the Government under the Local Taxation (Customs and Excise) Act, 1890, as the residue of the proceeds of certain duties on spirits and beer, or any grant made by the Government in substitution for that sum. They need not, however,

[1] E. A., 1870, s. 17; E. A., 1902, ss. 7 and 14.
[2] E. A., 1902, s. 13.
[3] E. A., 1902, s. 18.

expend this amount in the specific year in which it is received.[1]

Grants are made by the Government through the Board of Education for secondary education and are issued by the Board to the authorities in accordance with regulations which the former have made as to the various forms of instruction included in secondary education.

The authority may also expend on secondary education the produce of a rate of 2*d.* in the pound, but they must not exceed this sum except with the consent of the Local Government Board.

In the county of London, however, there is no limit to the amount of this rate.

The council of any non-county borough or urban district, although not the authority for the provision of secondary education, may levy a rate of a penny in the pound or less for the purpose of assisting in the supply of such education.[2]

The education authorities have the same power to borrow for expenditure upon works of a more or less permanent nature as they have for county or municipal purposes, previously referred to.[3]

The accounts of the local education authority, so far as they relate to receipts and expenditure in connection with education, are annually audited by the Local Government Board in the same

[1] E. A., 1902, s. 2.
[2] E. A., 1902, ss. 2 and 3.
[3] E. A., 1902, s. 19.

manner as the accounts of a county or urban district council.[1]

7. Provision of Meals for School Children.

An elementary education authority may aid in the provision of meals for the children attending their schools, by co-operating with a voluntary school canteen committee, and supplying them with the necessary land, buildings, furniture, apparatus, officers or servants, for the purposes of carrying out their work.[2] The parents of the children supplied with the meals must be charged an amount to be determined by the authority, who must take steps to recover it, except in cases where they are satisfied that the parents are unable to pay by reason of circumstances other than their own default. The authority may, however, formally resolve that any of the children attending one or more of their elementary schools are unable, owing to lack of food, to take full advantage of the education provided, and that private funds are not available or are insufficient to defray the cost of the meals supplied. The Board of Education may then authorise them to spend money on the provision of food for the children, but the total amount so expended must not exceed the produce of a halfpenny rate in the area of the authority, or, in the case of a county other than London, in the

[1] E. A., 1902, s. 18.
[2] Education (Provision of Meals) Act, 1906.

parish served by the school mentioned in the resolution of the authority.

The parent of a child thus receiving food at the public expense is not disfranchised on that account.

The importance of the educational functions of local authorities may be measured from the figures issued in the Statistical Abstract of the Board of Education for the year 1906. There are in England and Wales 338 local education authorities, having control of 6,800 provided schools, with accommodation for 3,445,881 children, and 13,652 non-provided schools, with accommodation for 3,542,186 children. The average number of children in attendance was 5,249,485. There are also 32 higher elementary schools providing accommodation for 10,529 children, and 260 schools capable of receiving 16,763 blind, deaf and defective children. The total staff for the administration of elementary education included 78,584 certificated teachers, 42,291 uncertificated teachers, 19,109 supplementary teachers, and 24,808 pupil teachers and probationers.

Secondary schools recognised by the Board numbered 689, and during the year the greatest number of scholars taking an approved course of education was 81,370, but there were in addition many pupils in forms below or above those taking such a course. There were also 23 technical institutes with 2,509 pupils, 231 schools of art with

45,562 students, 21 schools in which technical classes recognised by the Board were carried on with 788 pupils, 97 day art classes with 2,576 students, and 5,706 evening schools with 718,562 pupils, whilst 30,674 pupil teachers were also receiving instruction at centres and in classes.

CHAPTER VIII.

POOR LAW.

1. Poor Law Unions and Boards of Guardians. 2. Relief of the Poor. 3. Pauper Lunatics. 4. Registration of Births, etc. 5. Vaccination. 6. Infant Life Protection. 7. Financial Contracts, etc. 8. The County of London.

1. Poor Law Unions and Boards of Guardians.

A poor law union is usually formed by grouping a number of parishes together for the purpose of carrying out the Acts of Parliament for the relief of the poor and other analogous matters. The unions were constituted by the Poor Law Act of 1834, and in consequence of the varied principles upon which their areas were then settled, and the industrial and social changes which have since occurred, they show much diversity in the matter of population, rateable value and character. There are at present 646 unions, but about a score of them each consist of a single parish.

The authority charged with the administration of the poor law are the board of guardians. The Local Government Act, 1894, completely altered the qualifications for membership of this

body, sweeping away its somewhat exclusive character, and abolishing *ex-officio* members and plural voting. The guardians are now elected by the parochial electors of the parishes within the union, and any of those electors, or any person who has been resident in the union for twelve months, is eligible for election.[1] Clergymen and women may thus become members. Most boards of guardians include one or more of the latter, whose work has been uniformly successful in the departments of poor law work, such as the administration of the workhouse and the care of the children, for which they are specially qualified. In the case of a parish wholly or partly within a borough, anyone who may be elected a councillor is qualified for the position of guardian.

In addition to the usual disqualifications of bankrupts, minors, aliens, officers of the guardians, and persons interested in contracts with the guardians, or receiving a salary or emoluments from the poor rate, any person who has received poor relief within twelve months before the election, or has, within the previous five years, been convicted of a crime and received a sentence of hard labour, is incapable of being elected.[2]

In rural districts the guardians are elected primarily as rural district councillors, but they also sit as members of the board of guardians for the

[1] Local Government Act, 1894, s. 20.
[2] L. G. A., 1894, s. 46; Poor Law Act, 1842, s. 14.

parishes which they represent on the district council.[1]

The number of guardians to be elected by each parish, or ward within a parish, is fixed by the council of the county or county borough in which the union is situate, or, if it is partly in two or more administrative counties, by a joint committee appointed by the councils of those counties.[2]

The guardians are elected for three years, and one-third of the whole body retire on the 15th April in each year, unless the county council, at the request of the board, make an order under which all the members vacate office every third year.[3] The clerk of the board acts as returning officer. The election must be held on the first Monday in April, or, if that is Easter Monday, on the last Monday in March, but for special reasons the county council may order it to be held on a day between the preceding Saturday and the following Wednesday. In an urban district which is not a borough the election of guardians and urban district councillors must be held simultaneously. The successful candidates must formally accept office within one month of receiving notice of their election.[4]

The resignation of a guardian must be sent to the Local Government Board, who can only accept

[1] L. G. A., 1894, s. 24.
[2] L. G. A., 1894, s. 60.
[3] L. G. A., 1894, s. 20.
[4] Guardians Election Order, 1898.

it if a reasonable cause is shown to exist.[1] Absence from the meetings of the guardians for more than six consecutive months, however, vacates the seat of the absentee member, unless the absence is the result of illness, or active military service, or is excused by the guardians.[2]

The regulations governing the meetings of the board of guardians, as to standing orders, quorum, etc., are similar to those in force with reference to the meetings of urban district councils.[3] At the annual meeting, which must be held as soon as convenient after the 15th April in each year, the board must elect a chairman, and (if thought fit) a vice-chairman, who need not be elected members. The board may also co-opt as members not more than two other persons who are qualified to act as guardians.[4] They cannot be compelled to admit the public to their meetings.

The control of the Local Government Board is much more stringent and direct with regard to the poor law than it is in other branches of local government.[5] Many of the decisions of the guardians must be approved by the Board before they become effective. The latter authority have also power to issue general and special orders binding upon the guardians, and they supplement

[1] P. L. A., 1842, s. 11.
[2] L. G. A., 1894, s. 46; Members of Local Authorities Relief Act, 1900.
[3] L. G. A., 1894, s. 59.
[4] L. G. A., 1894, s. 20.
[5] P. L. Acts, 1834, 1842, 1844, 1848 and 1868.

those orders by frequent circular letters of explanation and advice. Their inspectors have a right to be present at the meetings of the guardians, and to visit all poor law institutions, in order to see that the Acts of Parliament and orders relating to the poor law are complied with. The Board may also at any time hold an inquiry into the administrative work of the guardians.

The duties of the officers of the guardians, such as the clerk, treasurer, medical officers, master, matron and chaplain of the workhouse, and relieving officers, have been prescribed by orders of the Local Government Board.[1] The engagement of those officers, and any alterations in their salaries, are subject to the approval of that department, and, although the guardians may suspend such an officer (other than the clerk, treasurer or chaplain) for reasonable cause, he can only be dismissed with the consent or by order of the Local Government Board. The guardians may, however, themselves dismiss collectors, porters, nurses, and other subordinate officers.[2]

All poor law officers are entitled to superannuation upon becoming incapable of discharging their duties by reason of infirmity of mind or body, or old age, or upon attaining the age of sixty, if they have completed forty years' service, or in any event, upon reaching the age of sixty-five. The

[1] General Consolidated Orders, 1847, 1866 and 1879; Medical Officers' Orders, 1857, 1859, 1868 and 1869.

[2] Subordinate Officers' Order, 1899.

amount of superannuation is regulated by the salary and length of service of the officer concerned, and is partly provided by deductions of two per cent. from the salaries of officials appointed after 1896.[1]

The guardians may appoint committees for the more convenient transaction of their business. They must, at least, appoint a finance committee, assessment committee, and a visiting committee to inspect the various institutions under their control. By permission of the Local Government Board, they may appoint relief committees to deal with applications for relief.

The Local Government Board may dissolve or unite unions.[2] They may also, with the consent of the guardians concerned, combine two or more unions for any purposes connected with the poor law, and create a joint committee, the constitution and duties of which are laid down in the order of the Board.[3]

2. Relief of the Poor.

The principal function of the guardians is, of course, to administer relief to the destitute. In theory, any person who really needs such relief has a right to receive it in the workhouse, temporarily from the guardians of the union in which he happens to be, and permanently from the guardians

[1] Poor Law Officers' Superannuation Act, 1896.
[2] P. L. Acts, 1834, s. 32; 1844, s. 36; 1868, s. 4, and 1904.
[3] P. L. A., 1879, s. 8.

of the union in which he has resided for the previous year,[1] or acquired a settlement by (for example) three years' residence. A wife takes her husband's settlement, and a child has the same settlement as the father, or, if illegitimate, as the mother.

Although the guardians or their officials may lay themselves open to criminal proceedings by refusing assistance, it does not appear that the right of the injured person to relief is one which he could enforce by a civil action for damages. On the other hand, the guardians may by statute recover the cost of twelve months' relief given by them, if the pauper should afterwards acquire property, and it has been judicially decided that upon the principles of simple justice they are not limited to twelve months' relief in this respect. They may recover contributions towards the cost of relief from the parents, grandparents, children or husband of a pauper, and also from the wife of a pauper if she has private means. In granting out-relief, they may declare it to be in the nature of a loan, and recover the cost from the pauper if he is afterwards in a position to repay it.[2]

An able-bodied person wilfully refusing to maintain himself and his family by work may be

[1] Union Chargeability Act, 1865.

[2] Relief of Poor Act, 1601; P. L. A., 1834, ss. 56—59; P. L. A., 1848, ss. 8 and 10; P. L. A., 1849, s. 16; P. L. A., 1868, ss. 33 and 36; Divided Parishes Act, 1876, ss. 19 and 23; Married Women's Property Act, 1882, ss. 20 and 21.

punished by the magistrates as an idle and disorderly person if his wife or family receive relief from the guardians.[1]

In the event of an illegitimate child under sixteen receiving relief, the guardians may enforce against the putative father any order of the magistrates compelling him to contribute towards the support of the child, or they may take independent proceedings against him to establish the paternity of the child and secure such an order.[2]

Admission to the workhouse is usually granted to destitute persons by an order of the board of guardians, but provisional admission, pending a meeting of the board, may be permitted by a relieving officer or an overseer. The master or matron of the workhouse is also required to admit every applicant who appears to need relief through sudden or urgent necessity. Upon entering the house the pauper must be medically examined and cleansed.[3] The control of the workhouse is in the hands of the master and matron, but must be carried out in accordance with the directions of the guardians and the orders of the Local Government Board, which have been issued from time to time, and limit the diet, etc., to be given to the inmates.

Separate accommodation must be provided for paupers of each sex, except in the case of married

[1] Vagrants Act, 1824, ss. 3 and 4.
[2] P. L. A., 1844, s. 7; Bastardy Law Acts, 1872 and 1873.
[3] Gen. Con. Order, 1847.

couples over sixty years of age, for whom special rooms may be set apart. Married couples, either of whom is infirm, sick or disabled, or over sixty years of age, may also be permitted by the guardians to live together in the workhouse.[1]

Each sex in the workhouse must be further subdivided into infirm, able-bodied, children between seven and fifteen years of age, and infants under the age of seven. The guardians may also extend their classification by paying regard to the moral character, behaviour or previous habits of the inmates, or to such other grounds as they deem expedient.[2] Indeed, the Local Government Board have urged upon them the advisability of exercising their powers in this direction, and have empowered them to emphasise the classification by granting a few petty privileges to deserving inmates.[3]

The guardians may permit the inmates of the workhouse to be temporarily absent from that institution for special reasons, such as to seek employment or to visit friends.

A pauper may discharge himself from the workhouse upon giving reasonable notice, but the guardians have power to fix the length of this notice from 24 to 168 hours, according to the number of occasions upon which the pauper has previously entered and left the building.[4]

[1] P. L. A., 1847, s. 23: Divided Parishes Act, 1876, s. 10.
[2] G. C. O., 1847.
[3] Allowance of Tobacco, etc., Order, 1892; Ditto Tea, 1893.
[4] Pauper Inmates Discharge Act, 1871, s. 4; P. L. A., 1899, s. 4.

The master of the workhouse may punish disorderly inmates by restricting their diet or by placing them in confinement for twelve hours; and the guardians may inflict twenty-four hours' confinement, and a limited diet, upon refractory paupers. Any further punishment can only be imposed by a magistrate, upon a charge being made in the usual manner at the police court, under the Vagrancy Act, 1824, or otherwise.[1]

Aged inmates of the workhouse are often employed on some light and useful occupation, such as mat-making or wool-work, in which they are instructed by members of the local branches of an organisation known as the Brabazon Society. The able-bodied are kept occupied in suitable tasks of hard, and not over-dignified, labour.

Provision is made by the Poor Law Act, 1868, for the religious worship or instruction of the inmates in their own creeds.

The sick poor are maintained in infirmaries or hospitals, which, from the scope of their operations, are highly important features in the administration of the poor law, both in urban and rural districts.

The visiting committee of the guardians must visit and inspect the workhouse at least once every week. The guardians may also appoint special visiting committees, consisting of ladies, who need not be members of the board, to visit their institutions in which female paupers or children are main-

[1] Gen. Con. Order, 1847.

tained. Any guardian may visit the workhouse infirmary or school of his board at any time.[1]

The methods of dealing with the children under the care of the guardians are many and various.[2] The Local Government Board have power to form and dissolve combinations of unions for the purpose of educating such children. They are sometimes maintained in large barrack-like schools, or in a group of smaller houses, centering around the educational buildings, and forming a petty village. A third method is to erect scattered homes, consisting of houses provided by the guardians in various parts of their district, each house containing about a dozen children, who are under the care of a matron, and are educated at the ordinary public elementary schools. Children may also, of course, be maintained at the workhouse, and sent to the latter schools. A more distinct method is to board them out with cottagers.

Considerable difference of opinion exists between experts as to which course offers the most advantages. The barrack schools are not now in favour, owing to their depressing effect on the children and their obvious disadvantages from a sanitary point of view. Grouped schools are open to the same objections, but to a lesser degree, and are

[1] Visitation of Workhouses Order, 1893.

[2] P. L. A., 1844, ss. 40 and 51; P. L. A., 1848; P. L. A., 1850, ss. 3 and 4; P. L. A., 1866, s. 14; P. L. A., 1868, ss. 10—23; Met. Poor Act, 1867, ss. 47 and 49; Met. Poor Act, 1869, ss. 1 and 11; Elem. Ed. A., 1900, s. 2; Instruction of Children Order, 1897; P. L. A., 1903.

very costly. It is claimed that boarding-out is a success, especially where keen supervision is exercised by the local committees appointed by the guardians, and that scattered homes, although naturally expensive, combine both efficient training and the elimination of undesirable pauper influences and associations. Boarding-out is governed by the Local Government Board's Order of 1889, if it takes place within the union, and by their order of 1905, if beyond the boundaries of the union. Only children who are orphans or deserted by their parents, or over whom the guardians have acquired parental rights, may be dealt with. Committees (each of which must include one woman member) must be appointed to find suitable homes and to keep the children under inspection. The maximum fee which may be paid in respect of each child is 4*s*. per week (or 5*s*., if boarded beyond the limits of the union), in addition to the cost of medical attendance and an allowance of 10*s*. per quarter for clothing.

Pauper children under the control of the guardians, or whose parents consent, may also be sent to schools provided by members of various religious denominations and philanthropic societies, and certified by the Local Government Board as suitable for that purpose. Deaf and dumb or blind children may be sent for maintenance to schools properly adapted for their reception.[1]

[1] P. L. (Certified Schools) A., 1862; P. L. A., 1868, s. 42.

It is the duty of the guardians to see that the children under their care are given a proper start in life, and this is often done by providing them with situations or apprenticing them to a trade or to the mercantile marine. It is also the practice of many boards of guardians to emigrate children, on arriving at a suitable age, to Canada and other places where it is considered they have a reasonable prospect of a useful career.[1]

In most cases regard must be paid to the wishes of the parents in dealing with the children, but the guardians may, by resolution, assume all the rights and powers of parents with respect to children maintained by them, and under the age of eighteen years, who are orphans or have been deserted by their parents, or in cases where the guardians are of opinion that on account of the mental deficiency, vicious habits or mode of living, the parents are unfit to exercise control, or where parents are undergoing penal servitude or are detained under the Inebriates' Acts, or have been sentenced to imprisonment for an offence against their children. An illegitimate child, whose mother is dead, is treated as an orphan for this purpose. A similar resolution may be passed with regard to children whose parents are bedridden or permanently disabled inmates of the workhouse, and give their

[1] P. L. A., 1844, s. 12; P. L A., 1850, s. 4; P. L. A., 1876, s. 28; Merchant Shipping Act, 1894, ss. 105—108; G. C. O., 1847; Apprenticeship Order, 1898.

consent. The decision of the guardians may be annulled by the local magistrates.[1]

Children under the care of the guardians may be adopted by private persons, but an adopted child must be visited by a competent person appointed by the guardians at least twice a year for three years, and the guardians may at any time revoke the adoption.[2]

The guardians may direct proceedings to be taken for assault, neglect or exposure of children, and they must provide a place for the temporary reception of children against whom such offences are committed.[3]

Another duty of the guardians in the nature of indoor-relief is to provide food and shelter for vagrants, or, as they are described by sect. 3 of the Pauper Inmates Discharge Act, 1871, "destitute wayfarers and wanderers."[4] Casual wards are established for this purpose. The character of these institutions is somewhat varied. Some wards are constructed on the cellular system, in which the occupants are separated from each other at sleep and at work, whilst in others there is no isolation at work except so far as the sexes are concerned. Admission is granted by the superintendent of the

[1] P. L. Acts, 1889 and 1899.

[2] P. L. A., 1899.

[3] Prevention of Cruelty to Children Act, 1904, ss. 5 and 21.

[4] Pauper Inmates Discharge Act, 1871; Casual Poor Act, 1882; Metropolitan Houseless Poor Acts, 1864 and 1865; Casual Paupers Orders, 1882, 1892 and 1897; ditto (Metropolis), 1887.

casual ward, the master of the workhouse, a relieving officer or his assistant, or an overseer. The Local Government Board have issued a general order laying down the dietary to be given, and the work, such as stone breaking or oakum picking for the men, and domestic work or oakum picking for the women, to be performed by the vagrants.

An inmate of the ward who breaks any of the regulations, gives a false name, or refuses to perform his task, may be punished by the magistrates. Unless the guardians give special directions, vagrants must remain in the casual ward for two nights, and anyone who has been admitted to a ward of the same union more than once in a month may be detained in the ward or the workhouse until the fourth day after admission. The metropolis forms one union for this purpose.

Out-door relief, consisting of the grant of money, goods or medical relief, may be granted by the guardians to a limited extent.[1] The Out-door Relief Prohibitory Order of 1844 forbids the grant of such relief to the able bodied of either sex, except in cases of sudden or urgent necessity, sickness or accident, or bodily or mental infirmity affecting the applicant or his family, and, under certain circumstances, widows, deserted wives, and wives of soldiers and sailors, and persons in prison. The Out-door Relief Regulation Order of 1852, which applies to London and most of the large towns in

[1] P. L. A., 1834, s. 52.

the provinces, and various out-door labour test orders, permit such relief to be granted to unemployed able-bodied men, in return for the performance of a task prescribed by the guardians, usually stone breaking. Half of the relief, however, must be given in goods of absolute necessity, and the guardians must report full particulars of the matter to the Local Government Board. In many unions relief of this nature is given on a somewhat large scale during periods when lack of employment is widespread, owing to depression in trade or severe weather.

The guardians may, at their discretion, grant out-relief to a member of a friendly society, although he is in receipt of money from the society, and, in any event, they are not to take into consideration any sum received from the society, as sick pay, unless it exceeds 5*s*. per week.[1]

Burial expenses, premiums for apprenticeship, and cost of emigration may be granted as out-door relief. In no case may any relief be given for payment of rent, redemption of pawned articles, purchase of tools, travelling expenses, in aid of wages, or in order to establish an adult in a trade or business.

If the guardians find it necessary to depart from the regulations of the Local Government Board in the matter of out-door relief, they must inform

[1] Out-door Relief Acts, 1894 and 1904.

the Board within twenty-one days, and afterwards comply with the directions of that department.

Out-door relief is given by the relieving officers in cases of urgency. Other applications must be dealt with by the guardians, or by the relief committees appointed for the purpose. It may, of course, be granted as a loan.

The granting of outdoor relief is, of course, entirely within the discretion of the guardians. Some boards restrict it to the smallest limits, on principle, whilst others consider that in suitable circumstances, especially in the case of the aged poor, it is both more economical and of greater benefit to the recipient to give a certain amount of out-door relief than to insist upon such persons entering the workhouse.

The guardians may buy or lease fifty acres of land, and provide the unemployed poor with work on such land, but this power is rarely exercised.[1]

Subject to the approval of the Local Government Board, and to compliance with their regulations, the guardians may afford relief by providing for the emigration of destitute persons.

Under the Relief to School Children Order of 1895 provision is made for the guardians supplying food to underfed children. If it is ascertained that a child under the age of sixteen years attends

[1] P. L. A., 1819, ss. 12 and 13; Poor Allotments Act, 1831; P. L. A., 1831; Allotment of Crown Land Act, 1831; Poor Allotment Act, 1873; Allotments Act, 1887.

an elementary school without being properly fed, the managers of the school, or a teacher empowered by the managers, or an officer appointed for that purpose by the local education authority, may apply to the guardians to supply the child with food. The relief given by the guardians to the child may be made by way of loan, and the cost recovered from the father in the county court, providing the guardians have, before supplying the food, given the father an opportunity of doing so. If the guardians are of opinion that the father habitually neglects to provide adequate food, the relief can only be given as a loan. In that case he may be prosecuted under the Vagrancy Act, 1824, or the Prevention of Cruelty to Children Act, 1904. The guardians cannot continue to give relief under one application for a longer period than one month, but the application may, of course, be renewed.

The receipt of poor law relief by a voter, either in respect of himself, his wife, or children under the age of sixteen, other than relief of a medical nature, disqualifies the recipient, under various statutes, from voting at Parliamentary, municipal, or other local government elections during the following year.[1]

Medical relief is granted more freely than other forms of out-door relief. Each board of guardians must appoint one or more district medical officers,[2]

[1] Medical Relief Disqualification Removal Act, 1885.
[2] Medical Officers Orders of 1857, 1871 and 1880.

whose duty it is to give medical advice and treatment to poor persons who have obtained the necessary orders from the relieving officers, or, in case of emergency, from the overseers or justices.[1] The guardians may also employ, directly or by arrangement with a semi-private district nursing association, nurses to attend upon the sick poor at their own homes in cases of necessity.[2]

In this connection it may be mentioned that the guardians may, with the sanction of the Local Government Board, subscribe to the funds of nursing associations, hospital committees, emigration societies, or similar bodies whose work is calculated to render useful aid in the administration of the relief of the poor.[3]

3. Pauper Lunatics.

The guardians are responsible for the maintenance of pauper lunatics, but not for the provision of asylum accommodation. The relieving officers usually secure the admission of such a lunatic, upon a medical certificate and an order of the justices after examination, to one of the lunatic asylums already referred to. Many harmless incurable lunatics, however, are maintained in the workhouse.[4]

4. Registration of Births, etc.

The registration of births, deaths, and marriages

[1] P. L. A., 1834, s. 54.
[2] District Nurses Order, 1892.
[3] P. L. A., 1851, s. 4; P. L. A., 1879, s. 10.
[4] Lunacy Act, 1890.

in the union is carried out under the control of the superintendent registrar, who is appointed by the guardians, but can be dismissed by the Registrar-General. The union is divided into sub-registration districts, to each of which the guardians appoint a registrar. The boundaries of these districts may be varied by the Registrar-General, with the approval of the Local Government Board. The superintendent registrar performs marriages at his office, the ceremony being of an entirely non-religious character.[1]

5. VACCINATION.

It is the duty of the board of guardians to aid in enforcing the vaccination of every healthy infant in their district, except in cases where parents have obtained a certificate of exemption within four months of the birth of the child. Such a certificate may be given by two justices or a stipendiary magistrate, if satisfied that the parent applying for it has a conscientious belief that vaccination would be prejudicial to the health of the child.[2] The guardians must appoint and pay one or more duly qualified medical men as public vaccinators for their district, who are to vaccinate free of charge any unvaccinated person presented for this purpose. A vaccination officer must also be engaged to keep the necessary registers, to bring to the notice

[1] Registration of Births, etc., Acts, 1836, 1837, 1856, 1858 1874 and 1901 ; Union Chargeability Act, 1865, s. 1.
[2] Vaccination Acts, 1867, 1871, 1874 and 1898.

of parents the necessity of having their children vaccinated, and to prosecute those who do not comply with the law.[1]

6. Infant Life Protection.

Outside the administrative county of London the guardians are the authority charged with enforcing the provisions of the Infant Life Protection Act, 1897. Any person receiving more than one child under the age of five years for nursing or maintenance for a longer period than forty-eight hours, in return for reward, must give full particulars to the guardians, who may fix the maximum number of children to be received in the same house. A person adopting a child under the age of two years, in consideration of the payment of a smaller sum than £20, must give similar notice. In both cases notice must also be given to the coroner within forty-eight hours of such an infant dying. The guardians should appoint inspectors (either men or women) to see that the Act is complied with, and if those inspectors find that an infant, in respect of whom a notice should be given, is kept by an unfit person, or in an unfit or overcrowded house, the guardians may direct the removal of the infant to the workhouse.

In the county of London the Common Council of the City are the authority under the Act for the city, and the London County Council for the remainder of the county.

[1] Vaccination Orders, 1898, 1905 and 1907.

7. Financial, Contracts, etc.

The expenses of the guardians are paid out of the common fund of the union,[1] formed by contributions from the poor rates, levied by the overseers, as described on page 192. They also receive, through the county councils, grants from the Government in aid of the salaries of officers medical expenses, maintenance of pauper lunatics etc.

The guardians have power to borrow for purposes requiring capital expenditure, such as the erection of a workhouse, schools, etc. All loans must receive the sanction of the Local Government Board, who require to be strictly satisfied as to the proper nature of the works, and who fix the period of repayment, not exceeding sixty years.[2] The total debt of the guardians must not be greater than one-fourth of the annual rateable value of the various parishes comprised in the union, but this limit may be extended to one-half of that rateable value, by a provisional order granted by the Local Government Board and confirmed by Parliament. The managers appointed by the guardians of unions included in united school or asylum districts may also borrow to the extent of one-sixteenth of the total rateable value of the combined district.[3]

Unless they obtain the consent of the Local

[1] Union Assessment Act, 1834, s. 28; Union Chargeability Act, 1865.
[2] Union Loans Act, 1869; P. L. A., 1879.
[3] P. L. A., 1889.

Government Board, the guardians cannot enter into any contract for the supply of articles, the cost of which is estimated to exceed £10 per month, or £50 in one transaction, except upon receipt of sealed tenders forwarded in response to an advertisement inserted in a local newspaper. The opening and selection of tenders must be carried out by the board, and not by a committee.[1]

All debts due from boards of guardians must be paid within three months of the close of the financial half-year in which they were incurred, or in such further period (not exceeding twelve months from the date when the debts became due) as the Local Government Board may allow.[2]

The accounts of the guardians must be kept in accordance with orders issued by the Local Government Board, and they are subject to the same audit and surcharge by that Board as are the accounts of urban district councils, previously referred to, except that poor law accounts are audited half-yearly instead of annually. Seven days prior to each audit the accounts must be deposited in the union offices, where any ratepayer may inspect them.[3]

The Local Government Board also have power to hold an extraordinary audit of poor law accounts upon giving three days' notice, where defalcations are suspected.[4]

[1] Gen. Con. Order, 1847; Contracts Order, 1877.
[2] P. L. (Payment of Debts) Act, 1859.
[3] P. L. A., 1844; P. C. (Audit) A., 1848; Accounts Order, 1867.
[4] P. L. A., 1866, s. 6.

Poor law officers are personally responsible for the proper expenditure of money entrusted to them, and they are prohibited from carrying out an illegal order, although given by the guardians.

The number of paupers relieved varies greatly at different seasons of the year. The last published report of the Local Government Board, for the year 1905-6, showed that on the 1st January, 1906, relief was given to 927,520 persons, consisting of 262,214 inmates of workhouses, infirmaries, schools etc.; 16,823 vagrants; 562,662 persons in receipt of out-door relief; and 85,821 pauper lunatics.

The total expenditure upon the relief of the poor and matters wholly connected therewith during the financial year ending Lady Day, 1905, other than that defrayed from loans, was £13,851,981. After deducting receipts from relatives, sale of farm produce, etc., and Government grants received from the county councils or directly from Government departments, the net amount borne by the local rates was £10,478,966.

9. The County of London.

For poor law purposes the administrative county of London is divided into fifteen parishes and sixteen union districts, each controlled by a board of guardians. The members of those boards are elected for three years, in accordance with an order issued by the London County Council, under sect. 20 of the Local Government Act, 1894. In

other respects, the provisions already noticed with regard to the election and constitution of the boards are operative in London.

A metropolitan common poor fund has been established, to which the various parishes and districts contribute according to their rateable value, and from which is wholly or partly defrayed the cost of the maintenance of pauper lunatics, fever and small-pox patients, inmates of the workhouse and pauper schools, medical relief, and the salaries of officers.[1]

The Local Government Board may order the guardians of any metropolitan parish or union to provide medical dispensaries for the better regulation of medical relief.[2]

The Metropolitan Asylums Board,[3] consisting of seventy-three managers, fifty-five of whom are elected by the various metropolitan boards of guardians in varying proportions, and eighteen of whom are nominated by the Local Government Board, are charged with the duty of providing accommodation and care for the infectious sick, the harmless insane, and certain pauper children suffering from disease, infirmity, or mental defect. The establishment and administration expenses of the Board are borne by the various districts

[1] Met. Poor Act, 1867, ss. 61—72; Met. Poor Act, 1870; P. L. A. 1889; P. H. (L.) A., 1891.

[2] M. P. A., 1867, ss. 38—46; M. P. A. 1869, ss. 13 and 14; Dispensary Order, 1871.

[3] M. P. Acts, 1867, 1869, and 1871, and subsequent Orders of Local Government Board.

according to their rateable value, and the maintenance of inmates of the hospitals, asylums, and schools is paid out of the metropolitan common poor fund.

Subject to the regulations of the Local Government Board, the Asylums Board may also admit to their hospitals, non-pauper patients suffering from fever, small-pox, and diphtheria. The cost must be paid to the Asylums Board by the guardians of the union from which the patients are taken, who may reimburse themselves from the metropolitan common poor fund.[1]

Two sick asylum districts, the Poplar and Stepney, and the Central London, have also been formed, by orders of the Local Government Board, for the reception and relief of paupers from the parishes included in such districts who require to be treated in a hospital or infirmary, but are not suffering from infectious disease.

[1] Poor Law Act, 1889; Public Health (London) Act, 1891, ss. 79—81.

APPENDIX.

Legislation of Session 1907.

Whilst this volume was in the Press, the Royal Assent was given to the following Acts of Parliament affecting local government, passed during Session 1907:—

C. 33. The Qualification of Women (County and Borough Councils) Act provides that a woman shall not be disqualified by sex or marriage for being elected a councillor or alderman of a county or borough council; but it is expressly enacted that no woman who is elected chairman of a county council or mayor of a borough shall by virtue of such office be a justice of the peace. *See* pp. 6 and 37.

C. 53. The Public Health Acts Amendment Act, which is the most important addition made to the statute book during 1907, so far as local government is concerned, contains a number of provisions which have from time to time been inserted in local Acts.

The Act comes into operation on the 1st January, 1908, and does not affect the County of London.

Part I is introductory. Parts II, III, IV, V, VI and X, or any section included in them, may be put into

force, upon the application of the town or district council, by the Local Government Board; and Parts VII, VIII and IX, or any of their sections, may be put into force under similar circumstances by order of the Home Secretary.

In towns where PART II is operative, the council may declare that their approval of the plans of new streets and buildings shall be of no effect unless the work is commenced within three years of the deposit of the plans, or, if the plans have been deposited before the Act comes into operation, within three years of the latter event. Upon plans of a proposed new street being deposited, the council may, with the object of securing better communication with any other street, or obtaining an opening at either end of the new street, or complying with any enactment or bye-law, vary the intended position, direction or termination, or level of the street, and issue an order fixing the points at which it shall be deemed to begin or end. This modest instalment of "town planning" power is not, however, exerciseable if it will entail the purchase of additional land by the owners of the street, or the exercise of works elsewhere than on their own land. The council must also compensate any person injuriously affected by their order. *See* pp. 84, 112 and 120.

If repairs are urgently required to private streets, to obviate or remove danger to any passenger or vehicle, the council may require the owners to execute such repairs, and, upon their default, may do the work themselves and recover the cost from the owners in proportion to the frontage of their premises. A majority in number or rateable value of the owners may, however, call upon the council to repair the street under the powers of the Public Health Act, 1875 (sect. 150), or the Private Street Works Act, 1892, and, when such repair has been completed, the council must adopt the street as a public highway. *See* pp. 119-122.

The council may alter the name of a street, with the consent of two-thirds in number and value of the ratepayers in the street. *See* p. 115.

They may also require the corner of any building intended to be erected at the corner of two streets to be rounded off, making compensation, of course, for any loss sustained in consequence of their decision. *See* p. 84.

The definition of a "new building" is extended to include the re-erection of a building of which the outer wall has been demolished to within ten feet of the surface of the ground, the conversion or re-conversion of a building into a dwelling house, additions to an existing building by raising the roof, altering a wall or making a projection, or the covering up of an open space between walls or buildings. It is also made necessary to submit the plans of temporary buildings to the council, and to obtain their consent to the work. The decision of the council must be given within a month, and their approval may include conditions as to sanitary arrangements, protection from fire, and the period during which the building shall be allowed to stand. Bye-laws may be made with respect to the height of chimneys and of buildings, and the structure of chimney shafts for steam engines, factories, etc.; and the council may require the yards of dwelling houses to be paved or provided with effectual means of drainage. *See* pp. 83 and 84.

The consent of the council is required to deposits or excavations being made in a public street; and the owner of a building, wall, pond, etc., which is dangerous to persons using a street or public footpath, may be called upon to repair or enclose such place. The council may also obtain from the Local Government Board power to compel the proper fencing of open or insufficiently fenced land, adjoining a street, which is a scource of danger to passengers, or is used for immoral or indecent purposes. The use of a hoarding or similar structure in or adjoining a street is forbidden,

unless it is securely fixed to the satisfaction of the council. *See* pp. 115 and 116.

Part III of the Act is devoted to sanitary provisions.

Water cisterns used for domestic purposes, which are likely to contaminate the water or to cause risk to health, insufficient or defective gutters, stack pipes, etc. or deposits of material causing damp in a building, are made nuisances within the meaning of the Public Health Act, 1875. *See* pp. 55-57.

A pipe used for carrying rain water from a roof must not be used for the passage of soil or drainage from a privy or water closet. *See* p. 50.

The council are given several additional powers for securing proper sanitary conveniences, where a sufficient water supply and a sewer are available. Within a month after the deposit of plans of a new building, they may require such building to be provided with proper and sufficient water closets or slop closets (*i.e.* :—closets used in connection with a water carriage system, but flushed by slops, waste liquids or rain water). They have similar powers with regard to existing buildings, and may do the necessary work themselves, if their requirements are not complied with, and recover the cost from the owners; but if existing closet accommodation only needs alteration they must bear half the cost out of the rates, and pay the whole of it if the previous convenience was a "pail closet." The council cannot take advantage of the Act to turn a slop closet into a proper water closet, without the special sanction of the Local Government Board. A person aggrieved by the decision of the council may appeal to the local magistrates. *See* pp. 49 and 50.

The council may require the owners of any inn, beer-house, eating house, place of public entertainment, etc., to provide and maintain sufficient urinals, and they may insist on the removal of any urinal or other sanitary convenience opening on to a street if, by its situation or construction, it is a nuisance or

offensive to public decency. Full power is given them to provide lavatories and sanitary conveniences in the public streets, and to let them for any period. *See* p. 52.

The council may authorise the testing (except by water pressure) of suspected drains, provided that the consent of the owner or occupier is given, or an order empowering them to act is issued by the local magistrates. If defects are discovered, the council may, of course, order the owner to do the necessary work, failing which they may themselves do what is needed and recover the cost from him. They may also compel the filling up of any cesspool, ashpit or well which is objectionable for sanitary reasons, and they may require all buildings to be furnished with sinks or drains to carry off refuse water. *See* p. 51.

The duty of removing trade refuse (other than sludge) upon payment of a reasonable sum, is cast upon the council upon receiving a request to that effect from an owner or occupier. Any difference of opinion as to the meaning of "trade refuse" must be decided by the local magistrates. *See* pp. 52 and 53.

The council may provide and maintain an ambulance service, for use in case of accidents, or other sudden or urgent disability.

The council may, with the consent of the Local Government Board, declare any trade to be an "offensive trade," and therefore subject to the restrictions mentioned on p. 63.

Part IV. deals with infectious diseases. It is made an offence for a person who knows that he is suffering from such a disease to engage in any occupation, unless he can do so without risk of spreading the infection. If a person in the district is suffering from infectious disease which is suspected to be due to milk supplied within the district, the council may require the vendor of the milk to furnish a list of the sources of his supply. A dairyman must also notify to the

medical officer of the district in which he sells milk any case of infectious disease occurring amongst the persons engaged at his dairy. Infected clothing must not be sent to a laundry, unless sent for disinfection, with proper precautions, and notice is given to the laundry keeper of its condition. The council may, at their own expense, cleanse or destroy any filthy article upon receiving a certificate from their medical officer that this proceeding is necessary. Children suffering from infectious disease who have been excluded from school by the medical officer must not return until that officer certifies that there will be no risk of communicating the disease; and the principal of a school in which there is an infected scholar may be required to furnish a list of the names and addresses of the children attending the school, other than boarders. Books may not be borrowed from or returned to a library by an infected person. The council may provide temporary accommodation for persons who leave their houses to enable disinfection to be carried out, although the Infectious Diseases (Prevention) Act, 1890, has not been adopted. If such accommodation is provided they may, upon the order of two magistrates, remove any person thereto, free of charge, from infected premises. The conveyance of infected persons in public vehicles is prohibited, but if it occurs, the medical officer must be informed, and the vehicle must be disinfected by the council, free of charge, if the offence was committed unwittingly. The compulsory removal of infected persons to hospital by magistrates' order, referred to on p. 68, is extended to all sufferers from dangerous infectious disease living in premises where they cannot be effectually isolated. Power is conferred upon the council to cleanse and disinfect any house or to disinfect or destroy any article, where the medical officer certifies that this course will tend to prevent or check dangerous infectious disease, the occupier of the house being given twenty-four hours within which to do the work

himself. The council must make compensation for unnecessary damage committed, or for articles destroyed.

They may provide nurses for attendance on patients suffering from infectious disease, who cannot be removed to hospital owing to want of accommodation, danger of infection, or to the patients' health, and they may make reasonable charges for the services of such nurses. It is made unlawful to hold a wake over the body of a person who has died of infectious disease. *See* pp. 66-73.

PART V. is concerned with common lodging houses. The council are invested with discretion to refuse to register a common lodging-house keeper, unless they are satisfied with his character and fitness for his position; and registration of new keepers must be renewed at least annually. Deputy keepers are also to be registered. Every common lodging house must have a sufficient number of suitable sanitary conveniences, including—in houses where both sexes are received—separate accommodation for each sex. *See* pp. 85 and 86.

PART VI. (Recreation Grounds) enables the council, subject to any rules which may be prescribed by the Local Government Board, to:—

1. Enclose part of a public park for the purposes of skating, and charge for admission to one quarter of the whole area of ice.

2. Fix portions of the ground to be used for specified games.

3. Provide apparatus for games, and charge for its use, or let the right to provide it.

4. Provide or contribute towards the expense of a band of music to perform in the park (the cost not to exceed the produce of a penny rate, or such lower rate as may be fixed by the Local Government Board) and also charge for admission to not more than one acre of land enclosed for the convenience of persons listening to music.

5. Charge for the use of seats in the park.

6. Provide reading rooms and pavilions, and charge for admission, but in the former case on not more than twelve days in a year, nor on more than four consecutive days.

7. Let pavilions and similar buildings for the purpose of entertainments.

8. Provide and maintain refreshment rooms, or let them for three years or less. *See* pp. 170 and 171.

PART VII. is mainly concerned with police matters. Subject to the approval of the Home Secretary, the council may regulate riding and driving at street crossings or restrict heavy vehicles to particular portions of the streets. They may also prescribe the streets in which leading or driving of cattle may be permitted between 9 a.m. and 9 p.m., subject to passage being allowed between railway stations and markets, etc., and to slaughter houses and the premises of cattle owners. *See* pp. 114–116.

The councils of coast towns may make bye-laws as to the erection of booths, tents, swings, roundabouts, the hawking of articles, playing of games, riding or driving, on the sea shore. Similar bye-laws may be made by any council as to the use of esplanades and promenades.

The council may license porters and public messengers for a term not exceeding one year. Persons keeping female domestic servants' registries or carrying on the business of marine store dealers or dealers in old metal, must register their names and addresses with the council, and permit a duly authorised officer of the council to inspect their premises.

PART VIII. (Fire Brigade) gives power to a police constable, member of the fire brigade, or officer of the council to break into any building reasonably supposed to be on fire, and enables the officer in charge of the police at a fire to stop or regulate the street traffic. The chief officer of the council's fire brigade is given full control of the operation of extinguishing the fire; and local authorities are authorised to arrange for the

common use of firemen, fire engines, etc. *See* pp. 139 and 140.

PART IX. prohibits the erection of sky signs, but existing signs may, subject to certain stringent conditions, and with the consent of the council, be retained for three years.

PART X. (Miscellaneous) enables the council to provide bathing sheds and life-saving appliances, and to make bye-laws with regard to public bathing and the provision of life-saving apparatus. *See* p. 169.

Further powers of licensing pleasure boats are given to the council (in addition to those referred to on p. 154), subject to an appeal to the local magistrates against the refusal to issue such a licence. The letting of unlicensed boats for hire is prohibited.

The last section of the Act enables land which is not required by the council for purposes for which it was acquired, to be used for other purposes approved by the Local Government Board, subject to certain restrictions, which prevent such land being appropriated for a well, burial ground, dust destructor, electricity station, sewage farm, or hospital, unless the Board specially authorise this proceeding, after holding a local inquiry. *See* pp. 24 and 25.

C. 21. THE BUTTER AND MARGARINE ACT provides that butter factories (*i.e.*, premises on which butter is blended, re-worked, or subjected to any other treatment) and premises where milk blended butter is made or dealt with wholesale, if situate in a metropolitan borough, or a borough having a population of 10,000 and a court of quarter sessions or a separate police establishment, must be registered with the borough council, or, if situate elsewhere, with the county council. Properly authorised officers of the Board of Agriculture and Local Government Board may inspect all such factories, etc., and any officer empowered to obtain samples under the Foods and Drugs Acts may be given similar powers by the local authority with

regard to taking samples from those premises. The Act contains restrictions as to the adulteration of butter, margarine and milk blended butter, and enables the Local Government Board to prohibit the use of preservatives in those preparations, and empowers the Board of Agriculture to regulate the sale of milk blended butter. It comes into operation on the 1st January, 1908. *See* pp. 80 and 81.

C. 39. THE FACTORY AND WORKSHOP ACT repeals that portion of the Act of 1901 (referred to on p. 96) which excluded from the operation of the latter measure laundries in which not more than two non-resident persons were employed. Special provisions are also enacted by which the Acts apply to institutions carried on for charitable or reformatory purposes, with certain modifications. The new statute comes into operation on the 1st January, 1908.

C. 40. THE NOTIFICATION OF BIRTHS ACT is a permissive measure, and may be adopted, with the approval of the Local Government Board, by the council of any borough or urban or rural district, or by any county council, or it may be put into force by the Board in districts where it has not been adopted. In the county of London the authorities having power to adopt the Act are the city council and the borough councils.

The Act provides that in the case of every birth it shall be the duty of the father of the child, if residing in the house, and of any person in attendance on the mother, to give notice of the birth to the medical officer of health, within thirty-six hours. For this purpose the council must supply stamped postcards to medical practitioners and midwives residing or practising in their district. In the County of London, the medical officer of every borough in which the Act is in force must forward to the county council a weekly return of the notifications he receives. *See* p. 102.

C. 27. THE ADVERTISEMENTS REGULATION ACT enables the council of every municipal borough, or of an urban district with a population of over 10,000, and elsewhere the county council, to make bye-laws for the regulation and control of advertising hoardings, when they exceed twelve feet in height, and for regulating, restricting, or preventing the exhibition of advertisements if they injuriously affect the amenities of a public park or pleasure promenade or disfigure the natural beauty of a landscape. The bye-laws must be confirmed by the Home Secretary, and must provide for the exemption of existing hoardings and advertisements for at least five years.

Bye-laws for the City of London may be made by the common council, but in the metropolitan boroughs the London County Council are the authority under the Act, although it is the duty of the borough councils to enforce all bye-laws with regard to the regulation of hoadings, as distinct from advertisements. *See* pp. 115, 118 and 195.

C. 45. THE LIGHTS ON VEHICLES ACT compels a lamp to be provided to every vehicle in use on the highways or streets between one hour after sunset and one hour before sunrise; but the Act does not apply to cycles or locomotives (which are dealt with by special legislation already referred to) or hand-driven vehicles.

It comes into force on the 1st January, 1908, and after that date all bye-laws made by local authorities with regard to lights upon the vehicles dealt with by the Act cease to have effect.

Any county council may issue orders exempting from the operation of the Act vehicles used for harvesting in their district, and, with the approval of the Home Secretary, the council of any borough (or, in London, the county council and the city council) may make an order exempting vehicles containing specified inflammable goods. *See* p. 128.

C. 15. The Salmon and Freshwater Fisheries Act provides that on the application, *inter alia*, of a county council or of a Board of Conservators (referred to on p. 159) the Board of Agriculture and Fisheries may, after holding a local inquiry, make a provisional order (which must be confirmed by Parliament) for the general regulation of fisheries specified therein. The order may create and incorporate a Board of Conservators, and confer upon them various powers, including the compulsory acquisition of land under the Lands Clauses Acts. *See* p. 159.

C. 54. The Small Holdings and Allotments Act considerably amends the Small Holdings Act, 1892, referred to on p. 176.

The Board of Agriculture are to appoint Small Holdings Commissioners, whose duty it will be to ascertain, by conference with councils of counties or county boroughs or otherwise, the demand which exists for small holdings and the extent to which it is reasonably practicable to satisfy it. It is the duty of every borough or district council to furnish information to the Commissioners, and they may also make representations to them upon the matter. Any information which the Commissioners receive as to the demand for allotments must be passed on to the council of the district concerned.

Upon receiving the report of the Commissioners, the Board may forward it to the council of the county or county borough to be dealt with, whose duty it then is to prepare a scheme or schemes for the provision of small holdings to give effect to such report. If they decline to undertake the duty, or fail to prepare a scheme within six months, or such other extended time as may be allowed by the Board, the latter authority may direct the Commissioners to prepare a scheme. The council may draft a scheme without waiting for the report of the Commissioners.

A scheme may specify the localities in which land is

to be acquired, and the nature of the holdings to be formed. It must be duly published, and comes into force upon being made by the Board of Agriculture, who must first consider any objections that are offered to it. The county council are entrusted with the task of carrying out the scheme, but if they neglect this duty their powers as to small holdings are transferred to the Commissioners, who exercise them at the expense of the council.

The county council may acquire land by agreement or compulsorily for the purpose of letting it to persons to cultivate as small holdings, the maximum period for which the purchase money may be borrowed being eighty years. Compulsory powers of purchase or hiring under the Lands Clauses Acts come into operation by an order made by the council and confirmed by the Board of Agriculture. The arbitrator is to be appointed by the Board, and no additional allowance is to be made on account of the transaction being compulsory. The hiring may be for any term from fourteen to thirty-five years, and the lease may be renewed by the council, the rent being then fixed by a valuer appointed by the Board. The land which may thus be dealt with is considerably restricted. Holdings of fifty acres or less, and land used for parks, gardens, pleasure grounds, or home farm purposes, or required for amenity or convenience of a dwelling house, or which is the property of public authorities or used for a public undertaking, are excluded, and the Board must have regard to the extent of land held or occupied by any owner or tenant and to the convenience of the owner or tenant of the land dealt with.

The powers of the county council as to the acquisition, adaptation and management of the holdings may be delegated to the council of any borough or urban district in the county, who may undertake to bear any loss incurred in connection with small holdings.

The powers of the Local Government Board with

respect to allotments (except those relating to finance) are transferred to the Board of Agriculture. Five acres is substituted for one acre as the limit of an allotment which may be held by one person, and even this area may be exceeded, with the consent of the county council. Any council adapting land for allotments may erect not more than one dwelling house with an allotment of one acre.

Land may be acquired compulsorily for the purposes of allotments in the same manner as for small holdings. The appeal of six ratepayers to the county council, on the neglect of an urban district council to provide allotments, is abolished, and it is made the duty of the county council to ascertain the demand for allotments in such districts (not being boroughs) and the extent to which it is reasonably practicable to satisfy that demand. If the county council fail to fulfil their obligations with regard to allotments, the Board may transfer the council's powers as to allotments to the Small Holdings Commissioners. In the county of London allotments may be provided by the county council.

A county council may promote the formation of, or assist co-operative societies formed for the provision or profitable working of small holdings and allotments, and, subject to the consent and regulation of the Local Government Board, make grants or advances or guarantee advances, to such societies. Small holdings or allotments may be let to these bodies if the division of profits amongst the members is prohibited or restricted.

Every county council must establish a small holdings and allotments committee (which may contain a minority of non-council members), to whom questions affecting those subjects must stand referred in the first instance (except in cases of urgency), and to whom the powers of the council may be delegated. The raising of rates or borrowing of money is expressly reserved to the county council. The committee may

in turn delegate their powers to sub-committees, which may include members of borough and district councils. *See* pp. 173–177.

C. 43. THE EDUCATION (ADMINISTRATIVE PROVISIONS) ACT gives to local education authorities the same power for the purchase of land, either compulsorily or by agreement, for the purposes of secondary education, as they have for elementary education. With the consent of the Board of Education, they may use for the former purpose land acquired for the latter purpose, or *vice versa;* and, with the consent of the Local Government Board, they may use as an education authority, land which they have obtained in any other capacity. *See* p. 219.

The maximum period for which a county council may borrow for educational purposes is extended from 30 to 60 years. *See* p. 233.

Local education authorities are also given power to provide vacation schools, play centres or other means of recreation for children during the holidays of the elementary schools, or at other suitable times.

The duty is cast upon them of arranging for the medical inspection of children upon their admission to public elementary schools, and on such other occasions as the Board of Education may direct; and they may, in their discretion, with the approval of the Board of Education, attend to the health and physical condition of such children by other methods. For the purposes of such medical aid, they may encourage and assist the establishment or continuance of voluntary agencies. This section comes into effect on the 1st January, 1908. *See* p. 226.

Distance is no longer an excuse for non-attendance at school, where the local education authority supply a suitable means of conveyance. *See* pp. 223 and 226.

C. 14. THE RELEASED PERSONS (POOR LAW RELIEF) ACT enables a person about to be released from prison,

reformatory, industrial school or inebriates' reformatory, who requires immediate poor law relief by reason of infirmity of body or mind, to be removed to the workhouse of the Poor Law Union in which he is settled or to which he is chargeable, by order of a justice of the peace. *See* p. 244.

C. 31. THE VACCINATION ACT provides that a parent who makes a statutory declaration that he conscientiously believes vaccination would be prejudicial to the health of his child shall be exempt from penalties for the non-vaccination of such child. The declaration must be made within four months of the birth of the child referred to, and must be forwarded to the vaccination officer of the district within seven days. The Act comes into force on the 1st January, 1908, after which the method of obtaining exemption by virtue of a magistrate's certificate is abolished. *See* p. 256.

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