

THE
PARISH COUNCILLOR'S GUIDE

TO THE
LOCAL GOVERNMENT ACT, 1894

BY
H. C. RICHARDS

AND
J. P. H. SOPER, B.A., LL.B.

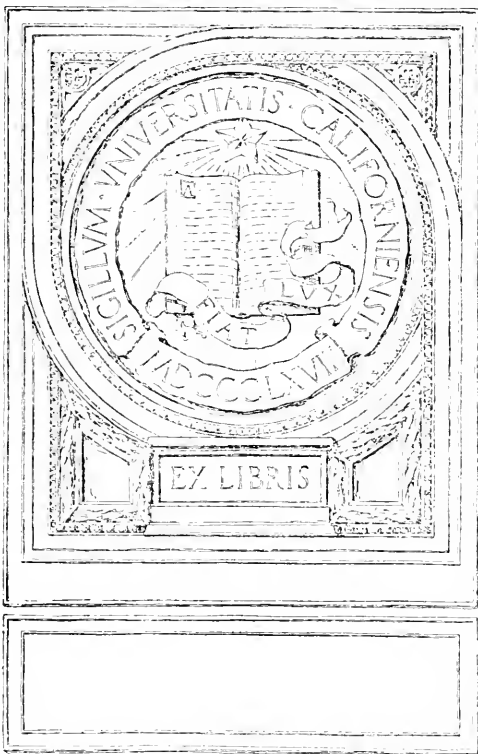
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THE
PARISH COUNCILLOR'S GUIDE

TO THE

Local Government Act, 1894

WITH

INTRODUCTORY CHAPTERS

THE FULL TEXT OF THE ACT WITH EXPLANATORY
NOTES

THE INCORPORATED SECTIONS OF THE PUBLIC
HEALTH ACT, 1875

THE ALLOTMENTS ACTS, 1887 & 1890

AND

CIRCULARS OF THE LOCAL GOVERNMENT BOARD

AND

THE CHARITY COMMISSIONERS

BY

H. C. RICHARDS

OF GRAY'S INN AND THE MIDDLE TEMPLE

COUNSEL TO HER MAJESTY'S POSTMASTER-GENERAL, C.C.C., ETC.

AND

J. P. H. SOPER, B.A., LL.B.

OF LINCOLN'S INN

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PREFACE TO THE THIRD EDITION.



LIBRARY SETS

THE favourable manner in which the former editions of "THE PARISH COUNCILLOR'S GUIDE" were received—more especially by the Clergy and Churchmen—has induced us to carry into effect the idea we had formerly entertained of publishing a larger work on The Local Government Act, 1894.

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The experience we have gained from watching the Act coming into operation has enabled us to supplement our earlier work, which is now reproduced in the form of Introductory Chapters.

HARDING

A Chapter on the Procedure at the Parish Meeting has been added, and also one explaining the effect and the alterations made by the Act on the Government of London. As in the previous work, we have especially directed our attention to the question of Charities, which is of the greatest interest to all Churchmen.

In an Appendix we have included the Incorporated Sections of The Public Health Act, 1875, and The Allotments Acts of

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1887 and 1890, without which it is impossible to fully understand the workings of the Parish Councils Act. The other Statutes to which reference is made in the Act are explained in the notes to the Sections where they are mentioned.

In conclusion, we would thank our numerous friends and correspondents for the kind suggestions they have made on the earlier editions, many of which we have adopted in the preparation of the present volume.

H. C. RICHARDS.

J. P. H. SOPER.

2 MITRE COURT BUILDINGS, TEMPLE,

April, 1895.

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CHAPTER I.

THE PARISH MEETING.

THE Clergy and Churchwardens are of course fully acquainted with the methods of calling and holding a meeting of the Vestry, and they are aware that its powers and proceedings are largely controlled by custom. The Parish Meeting, however, stands on quite another footing: its meetings, powers, and proceedings are entirely regulated by The Local Government Act, 1894, and the Rules in the First Schedule, Part I., and any Orders made under the Act.

The Vestry is not abolished, but many of its powers have been taken away or curtailed. It has now only authority in "the affairs of the church" and in matters relating to ecclesiastical charities. For these purposes the Vestry will continue to meet, and its procedure and elections or polls are not affected in any way by the establishment of Parish Meetings and Parish Councils.

In this chapter we propose to deal with the Parish Meeting, and to summarise generally the provisions scattered through the Act regulating its procedure and powers.

In the first place, every rural parish—that is, every parish in a rural sanitary district—however small its population, must have a Parish Meeting. The functions of the Parish Meeting depend, to a great extent, on the existence of a Parish Council in the parish, for in small parishes which have no Council, and which are not grouped for such a purpose, several of the powers and duties of a Parish Council devolve on the Parish Meeting. The existence of a Parish Council depends upon the population of the parish and the vote of its Parish Meeting, as hereafter explained. The

provisions of the Act on this point (Section 1) may be analysed as follows:—

- (i.) All parishes with a population of 300 and upwards *must* have a Parish Council.
- (ii.) In parishes with a population under 300 there *may* be a Parish Council; but the establishment of it rests with the County Council.
 - (a) If the population is over 100, the County Council *must* make an order to establish a Parish Council if the Parish Meeting so resolve.
 - (b) If under 100, the County Council *may* make such an order if the Parish Meeting consent.
 - (c) The County Council, with the consent of the Parish Meetings, *may* group parishes for a joint Council.

The Grouping of Parishes.

For the purpose of carrying the Act into effect, every County Council is required to take all parishes in its county having populations of less than 300 into consideration as soon as possible, and to make such orders for the establishment of Parish Councils therein, or such schemes for grouping Parishes, as they may deem most suitable for the purpose (Section 36, Sub-section I), but no parish can be grouped without the consent of its Parish Meeting.

When parishes are grouped for the purposes of the Act, there will be separate Parish Meetings in each parish, and they will return representatives to their joint Parish Council, just as if they were wards of a large parish. There may also be an appeal to the Parish Meeting in certain matters affecting only single members of the group. The rights of each parish in its charities must be preserved in applying the provisions of the Act to such charities. The Parish Meeting of any parish may apply to the County Council for a grouping order, or for an order dissolving its group, and the County Council must then take the matter into consideration and make whatever scheme they may think best. Further, the joint Parish Council may also petition for the dissolution of its group (Section 38).

When the population of a parish rises above the defined limits, so

as to qualify it for a Parish Council, the Parish Meeting may call the attention of the County Council to the fact. Power may then be conferred on the Meeting to elect a Council of its own, and arrangements may be made, if necessary, to separate the parish from its group. On the other hand, if the population falls below the requisite number, a Parish Council may, on the petition of the Parish Meeting, be dissolved and the parish grouped with others (Section 39).

The different incidents of the Parish Meeting will now be considered, and in many cases they will be found to differ according as the parishes have Parish Councils or not. In any case the Parish Meeting is the supreme power in the parish.

In small parishes where there is no Parish Council the Chairman of the Parish Meeting and the Overseers of the parish are a body corporate by the name of the Chairman and Overseers of the Parish, and have perpetual succession, and may hold land without licence in mortmain for the purposes of the parish: but where there is a Parish Council in the parish, the Parish Council is a body corporate with similar powers.

Meetings.

The Act requires that an assembly of the Parish Meeting, to be called the Annual Assembly, shall be held on the 25th of March in each year, or within seven days before or after that day. But where the parish is too small to have a Parish Council, the Parish Meeting must assemble at least twice in every year (Section 19, Sub-section 2). Additional Meetings may be called at any time, and in either case in the manner explained hereafter. At the Annual Assembly, after the election of a chairman, the chief business is the election of a Parish Council, if one is required for the parish: if not, the parish officers for the year will be chosen. No Parish Meeting may commence before six o'clock in the evening.

By Whom and How Summoned.

Now that the first Parish Meeting has been called and fulfilled its purpose, in the future the Parish Meeting will be held on such days and at such times and places as the Parish Council, or if there is no Parish Council as the Chairman of the Parish Meeting may fix (Section 15), but with due regard always to the

provisions of the Act as to the Annual Assembly. Special Meetings may be convened in any of the following ways:—

- (a) If there is a Parish Council in the parish—
 - (i.) By the Chairman of the Parish Meeting, or
 - (ii.) By any two Parish Councillors.
- (b) If there is no Parish Council—
 - (i.) By the Chairman of the Parish Meeting, or
 - (ii.) By any six Parochial Electors.

As a rule seven days' notice must be given, signed by the chairman or other conveners, stating the time and place of the meeting, and the business to be transacted thereat; but if such business relates to either

- (i.) The establishment or dissolution of a Parish Council, or
- (ii.) The adoption of any of the Adoptive Acts,

fourteen days' notice is required. The notice must be given, in the same way as notices of Vestry Meetings, by being placed on the notice board of the parish church, or near the doors of all the churches and chapels within the parish and place, and by posting the notice in some conspicuous place or places within the parish, as appears to the persons convening the meeting desirable for giving publicity to the notice (Section 51).

Who may Attend and Vote.

The Act declares who are to be parochial electors, and no person other than a parochial elector may be present or vote at a Parish Meeting, excepting candidates for election to the Parish Council, who may be present but cannot vote. Parochial electors are defined as being the persons registered in such portion of the Local Government or the Parliamentary Register of Electors as relates to the Parish (Section 2, Sub-section 1), including women, lodgers, and ownership voters. Each elector may give one vote, and no more, at the parish Meeting on any question then arising or at a poll consequent thereon. Plural and cumulative voting on parish matters arising at a *Parish Meeting* is thus abolished. But at Vestry and School Board elections, and on questions arising at a *Vestry* meeting, the old system of voting will continue. Women may be on the Local Government Register, and may therefore be parochial electors.

The Chairman.

In certain cases the Act provides for a particular person being chairman of the Parish Meeting, but subject to such provisions the meeting may choose its own chairman (Section 2, Sub-section 4). In parishes which have a Parish Council the chairman of the Council, if he is present and is not a candidate for election at the meeting, is the proper chairman of the meeting (Section 45, Sub-section 2). The Parish Meeting elects only the Parish Councillors, and so it follows that if the chairman is a candidate for the District Council, which is elected solely at a poll, he will not be disqualified from so acting.

The Local Government Board Rules expressly state that if the chairman of the Parish Meeting is nominated for election to the Parish Council he must at once withdraw his candidature or call on the meeting to elect another in his place.

The Parish Council has power to choose a vice-chairman from amongst their own number, who has in the absence of the chairman his powers and authority (Schedule I., Part 2, Rule 11). It may be assumed, therefore, that in the absence of the chairman from a Parish Meeting the vice-chairman of the Council may preside.

But in small parishes where there is no Parish Council the Parish Meeting, at its annual assembly in March, is required to elect a chairman for the year (Section 19, Sub-section 1). If the chairman is absent from or unwilling or unable to take the chair at an assembly of the Parish Meeting, the meeting may appoint another person to do so. In cases of equal voting the chairman has a second or casting vote. If a vacancy occurs in the office of chairman, whether by death, resignation, or otherwise, the Parish Meeting has power to fill such vacancy, and the person so elected will hold office for the remainder of the parochial year (Section 47, Sub-section 4).

Further, the chairman of the Parish Meeting at the Annual Assembly has complete power to decide on all questions as to the validity of a nomination of any candidate, but any questions relating to his qualification for being a candidate can only be decided on an election petition.

Officials.

There are no provisions in the Act for the appointment of any official for the Parish Meeting other than the chairman. The Parish Council may appoint its clerk and treasurer under Section 17, and

the clerk to the Council will be the clerk to the Parish Meeting of the parish. But as to small parishes where there is no Council we have no guide. The rules in Part 3 of Schedule I. require minutes of the meetings to be kept in a book provided for that purpose, and to be signed by the chairman in due form. There is also a rule to the effect that where there is no Council for a rural parish the Parish Meeting may regulate their own proceedings and business, and they have also power to appoint committees to transact the parish business (Section 19). Having these powers, they could probably appoint a clerk and treasurer if required, and it would be better to select such officials as if they were to be the officials of a Parish Council under Section 17. But all notices required to be given to or served on a Parish Meeting may be given to or served on the chairman.

Powers and Duties of the Parish Meeting.

The business of the Parish Meeting will naturally depend on the existence or non-existence of a Parish Council. In the latter case it will of course be the heavier. Generally speaking, the Parish Meeting may discuss and pass resolutions upon any parish business, except the affairs of the church and ecclesiastical charities.

- (a) In the larger parishes which have a Council the chief functions of the Parish Meeting appear to be the election of Parish Councillors and to act as a check on and guide to the Council in certain matters involving extraordinary expenditure. Thus the Parish Meeting is the authority to adopt any of the Adoptive Acts under Section 7, though the Council will be entrusted with the duty of carrying them into effect when adopted; and the Parish Council must not, without the consent of the Parish Meeting, incur any expense or liability which will involve a loan, or the levying of a rate exceeding 3d. in the pound (Section 11). In certain cases the acts of the Parish Council are not valid until they have received the consent of the Parish Meeting: for example, the sale or exchange of parish lands or buildings. The Parish Meeting has also the power to veto the consent of the Parish Council on questions of stopping up and diverting footpaths and roads in the parish (Section 13).
- (b) In smaller parishes, which have no Council, a great part of the powers and duties of the Parish Council may be exercised

and performed by the Parish Meeting. In addition to those above enumerated, therefore—

- (i.) The Parish Meeting must elect a chairman for the year.
- (ii.) It must appoint the overseers and assistant overseers of the parish, and the trustees (under Section 14) of a parochial charity not being an ecclesiastical charity.
- (iii.) It must exercise all the powers, duties, and liabilities of the Vestry, except so far as they relate to the affairs of the church or to ecclesiastical charities.
- (iv.) It has the powers, conferred by the Act on the Parish Council by Section 13, of stopping or diverting a public way or footpath, or declaring a highway unnecessary and not repairable at the public expense, and also, by Section 16, of complaining to the County Council of the default of a District Council.
- (v.) The Parish Meeting may petition the County Council to confer on it any other power of the Parish Council which it may desire to exercise, and the County Council shall then make the necessary order (Section 19, Sub-section 10).
- (vi.) The Parish Meeting may appoint a committee of its own number for the purpose of executing any of the powers given to it by the Act, and which it may consider would be better regulated and managed by means of such committee. This would, for instance, probably be the case in the event of the adoption of any of the Adoptive Acts. When, however, such a committee is appointed, all its transactions must be submitted to the Parish Meeting for its approval (Section 19, Sub-section 3).

At a Parish Meeting held for the election of Councillors questions and explanations may be asked of any person present who is a candidate for election at the Meeting as a Councillor. All candidates are entitled to be present at such meeting, although not parochial electors of that parish, and may speak at the meeting in answer to questions from parochial electors or give explanations.

Poll.

Every question arising at a Parish Meeting must in the first instance be decided by a majority of those present and voting thereon. The chairman announces his decision as to the result of such voting, and his decision is final unless a poll is demanded.

A poll following upon a Parish Meeting may be rendered necessary—

- (i.) In the election of Parish Councillors, where the number of candidates is in excess of the number of seats on the Council: or
- (ii.) On any question arising at a Parish Meeting which has gone to the vote, by an elector demanding a poll thereon.

Any one parochial elector can demand and cause a poll to be taken on any of the following matters:—

- (a) Any application, representation, or complaint to a County Council or District Council (Sections 9, 16, 38, and 39).
- (b) The appointment of a chairman for the year, or of a committee, or the delegation of any powers or duties to a committee, or the approval of the acts of a committee (Section 19).
- (c) The appointment of an overseer, the appointment or revocation of the appointment or the dismissal of an assistant overseer or of a parish officer (Sections 5 and 17).
- (d) The appointment of trustees or beneficiaries of a charity (Section 14).
- (e) The adoption of any of the Adoptive Acts (Section 7).
- (f) The formation or dissolution of a School Board (Sections 52. Sub-section 2).
- (g) The consent or refusal of consent to any act, matter, or thing which cannot by law be done without that consent (Sections 7, 8 (2), and 14 (5)).
- (h) The incurring of any expense or liability (Sections 7 and 11).
- (i) The place and time for the assembly of the Parish Meeting.
- (k) Any other prescribed matter.

Under this power the Local Government Board has prescribed that in the election of Parish Councillors any parochial elector present may demand a poll.

But in all other matters the demand of one parochial elector for a poll is not sufficient. No poll can be taken unless either (i.) the chairman of the meeting assents, or (ii.) it is demanded by the parochial electors present at the meeting, not being less than five in number, or one-third of those present, whichever number is least.

On a poll every parochial elector has one vote, and no more, except on an election of Councillors, and then he cannot give more than one vote to any one candidate.

Divided Parishes and Parish Wards.

In some instances, at the passing of the Act, parishes may be situate partly within and partly without a rural sanitary district. In such cases the two parts, from the date of the operation of the Act, become two parishes for the purposes of the Act, and the part without the rural sanitary district is a rural parish (Section 1). It will have its Parish Meeting, and, if its population is high enough, its Parish Council.

Provisions are also contained in the Act (Section 18) for the division of a large or scattered parish into wards. The County Council is the authority to decide on such matters, and it may be moved thereto either by the Parish Council or by not less than one-tenth of the parochial electors. The County Council must be satisfied either (i.) that the area or population of the parish is so large, or (ii.) different parts of the population so situated, as to make a single Parish Meeting for the election of Parish Councillors impracticable or inconvenient, or (iii.) that it is desirable for any reason that certain parts of the parish should be separately represented. They may then divide the parish into wards, to be called Parish Wards, and fix the number of Councillors for each, and a separate election will thereafter be held for each ward. For that purpose a meeting must be held subject to the same rules and provisions as a Parish Meeting. The persons entitled to attend and vote are the electors registered in respect of qualifications in the ward.

In cases where the consent of the Parish Meeting is required to confirm any act or proposal, if such act or proposal relates exclusively to one part or one ward of a parish, the required consent must be given at a meeting of that part.

Adoptive Acts.

The following are the Adoptive Acts which may be adopted and put into force for any rural parish by the Parish Meeting:—

- (a) The Lighting and Washing Act, 1833.
- (b) The Baths and Washhouses Acts, 1846 to 1882.
- (c) The Burial Acts, 1852 to 1855.
- (d) The Public Improvement Act, 1860.
- (e) The Public Libraries Act, 1892.

A description of these Acts, and of the powers that will be obtained by a parish adopting all or any one of them, will be found in the notes to Section 7.

CHAPTER II.

PROCEDURE AT THE PARISH MEETING AND THE PARISH POLL.

PARLIAMENT may dispute over principles, but the tendency is more and more to leave details to permanent officials. The sets of Rules which were published by the Local Government Board for the conduct of the first elections were, in fact, as important as the text of the Act; for they dealt with the management and conduct of the Parish Meeting, and provided the Forms and Rules for the nomination of Parish and District Councillors.

Although many of the provisions were of a more or less transitory nature, the Rules generally indicate a broad line of procedure, which will in the future regulate the conduct of the Parish Meeting and the election to all other bodies established in the Act.

In 1896, and every year thereafter, parishes will have to re-elect their Parish Councils on or after the day appointed for the annual assembly of the Parish Meeting—viz., seven days before or after the 25th of March; and the Parish Council then elected will come into office for its term on the 15th of April.

Public notice of the meeting must be given at least seven clear days before by posting the same *on* or *near* the principal door of each church and chapel in the parish, and in *some* conspicuous place *within* the parish. Generally speaking, the business to be transacted at the annual assembly of the Parish Meeting will be as follows:

- (a) To elect a chairman of the meeting, if necessary.
- (b) To elect Parish Councillors.

When and where the meeting is to be held it will be for the

Parish Council or the chairman of the Parish Meeting to decide. If the parish possesses a suitable room which can be secured free of charge, the school-room might be avoided; but in the Second Schedule it is expressly set out that the Returning Officer at an election of Parish Councillors may use, *free of charge*, for the purpose of taking the poll or for counting the votes, any room in a school receiving a grant out of moneys provided by Parliament, or any room the expense of maintaining which is payable out of any local rate. As far as the actual poll is concerned, that will be in the hands of the Returning Officer, who will be, it is presumed, an official ready and capable of grasping the details, and of supplying the chairman and the electors with the necessary forms which the Act requires.

The duties of the chairman of the Parish Meeting are very important and should be thoroughly understood, as on him devolves the conduct of the election of Parish Councillors so far as that election takes place at the meeting. The chairman of the Parish Council, if he is present, and not a candidate for election at the meeting, will preside, and in his default the meeting may choose a chairman.

The Chairman's Duties.

The onerous position of chairman requires a great deal of consideration, and no clergyman or layman should consent to occupy the chair unless he has distinctly made up his mind not to be elected a member of the Council by the parochial electors. In the elections of 1894 it was expressly provided that "If the chairman is nominated for election, and he does not forthwith withdraw his candidature, he shall call upon the meeting to elect some other person as chairman," and as soon as such person is elected the original chairman shall vacate the chair. The Returning Officer was, and presumably will be, the Clerk to the Guardians of the Poor Law Union in which the parish is situate. If the office is vacant, or he is unable or unwilling to act, the Guardians may appoint some other person to act as Returning Officer; but the same person shall in all cases be the Returning Officer at the election of Parish and Rural District Councillors to be elected at the same date in any parish.

The Returning Officer is required to provide sufficient nomination papers for the use of the Overseers, and any parochial elector may

obtain such papers from either of those officials—the Overseers or the Returning Officer—free of charge.

The chairman being elected, and having determined not to be a candidate at the meeting, has most important and even difficult questions to decide.

- (a) The chairman must ask at the meeting that papers nominating candidates for Parish Councillors be handed in to him.
- (b) He must number them in the order in which they are received by him, and the first *valid* nomination paper of any candidate received by him will be deemed to be the nomination of that candidate.

Each candidate for election as a Parish Councillor must be nominated in writing. The nomination paper must state the surname and other name or names *in full* of the candidate, and his place of abode, and whether he is qualified as a parochial elector *or by residence*—*i.e.*, someone who, though not on the parochial list of electors, shall have during the whole of the twelve months preceding resided in the parish or within three miles thereof.

No one is entitled to attend and vote at the meeting but a duly qualified parochial elector, whose name will appear on the new register. But a candidate may attend to answer questions. A parochial elector may sign as many nomination papers as there are Parish Councillors to be elected; but only one candidate's name may be on each separate nomination paper. In spite of the vote of the House of Commons against the enfranchisement of the illiterate voter, the Local Government Board have construed the new Act in his favour, and, in place of any signature, it shall be sufficient for the signatory to affix his mark if the same is *witnessed* by *two* parochial electors.

The chairman will be justified in asking for no speeches, but for nomination papers of the candidates. When he considers that all the nomination papers have been handed in, and not less than *fifteen minutes* have elapsed since he took the chair, he must state to the meeting the names of the candidates in the alphabetical order of their surnames, with the descriptions and the names and places of abode of their proposers and seconders.

Before making such statement the chairman shall as regards *each* candidate *decide* whether he has been nominated by a valid nomina-

tion paper. Such statement is final, and cannot be questioned, and no other nomination papers can then be received after the chairman's statement, unless any candidate withdraws his name at the meeting. If by such withdrawals the number is reduced below the number of persons to be elected, the chairman shall, if *desired* by any parochial elector, allow a *reasonable time* during which further nomination papers may be handed in to him. If a candidate is present who wishes to withdraw, he may do so by word of mouth; but the chairman has to write upon the back of the nomination paper, "Candidature withdrawn," and the candidate so present and withdrawing must put his name or initials to the chairman's endorsement. Any other valid withdrawal must be in writing, signed by the candidate. Except as mentioned, no candidature may be withdrawn at the meeting, but it may be, in the event of a poll, by notice delivered not less than six days before to the Returning Officer. Although the chairman's decision is final, and cannot be questioned, on the validity or invalidity of any nomination paper, he is required to put a note on the nomination paper so invalidated giving the grounds of his decision, and he shall sign such note and state the effect of it to the meeting. It appears that no male or female resident over age would be disqualified as a candidate except by *non-residence* within the parish, or within three miles thereof (taken from any point of the parish boundary), within the preceding twelve months.

The chairman's powers, however, do not extend to questions of the qualification or disqualification of a candidate. All such matters must form the subject of an election petition.

Having declared in alphabetical order the names of the candidates whose nomination papers he has accepted, the chairman is required to give an opportunity for putting questions to the candidates who are present at the meeting, and *for receiving explanations from them*. Explanations may mean short or long speeches, according to the will and firmness of the chairman. This process of allowing opportunity for questions to the candidates must be repeated when, owing to other withdrawals, fresh candidates have been nominated.

In the event of not more than the right number of candidates allotted by the County Council to the parish being proposed, or there being only the right number after some have withdrawn, the chairman may declare that such persons are duly elected.

Where the number of candidates exceeds the number of persons to be elected, the chairman is required to put the names to the meeting, *alphabetically*, of all who in his opinion have been duly nominated, and whose candidature has not been withdrawn. He is to take a vote by show of hands for each name, and then, subject to the right of any parochial elector to demand a poll, he is to state to the meeting, not only that certain persons are duly elected, but the number of votes given for each candidate, and those who have obtained the largest number may by him be declared to be duly elected. In cases of equality the chairman will have the right to give a casting vote in favour of one or more of the candidates so bracketed, as may be necessary. The chairman is to inform the Parish Meeting that a poll may be demanded at any time before the close of the meeting, and having made such statement, he is to ask if one be demanded, and to allow *at least ten minutes* to elapse for that purpose before the meeting is closed. A demand for a poll may be withdrawn at any time before the close of the meeting. If a poll is not demanded, or demanded and withdrawn, the declaration by the chairman as to the election shall be final, and cannot be questioned by any proceedings whatever, and by public notice the chairman must, as early as practicable, publish his certificate of the name and place of abode of each of the persons elected.

The chairman is required at the close of the meeting to send in a statement of its result to the Returning Officer. If there has been no contest, he must certify under his hand the name and place of abode of each of the candidates declared by him to be elected; and similarly if there has been a contest, but no poll demanded, or if demanded not held. A special form is prescribed, and must be used in filling up such notification to the Returning Officer. This form must be delivered to the Returning Officer before two o'clock on the day following the Parish Meeting. If a poll has been demanded, then, before two o'clock on such day, the chairman must cause to be delivered to the Returning Officer a statement in writing under his hand of the names of the candidates for whom the poll is to be taken, with the first valid nomination paper of each candidate annexed thereto. With these must also be forwarded the invalid or withdrawn nomination papers.

His duties are not yet fulfilled; for, if a poll is demanded and not withdrawn, he must on the day after the meeting send notice by post or otherwise to each candidate whose name has been put to the meeting

that he has been nominated, and that a poll has been demanded. It may be some satisfaction to know that any expenses properly incurred by the chairman of the Parish Meeting in the execution of this order shall be deemed to be part of the expenses of the Parish Meeting, and shall be defrayed accordingly—*i.e.*, from the poor rate. No chairman ought to preside without having by him a copy of the Local Government Board Rules or some handbook explaining them.

The Poll and its Conduct.

The poll, having been demanded, must be held on some appointed day, and the hours are to be fixed by the County Council, only that the poll must be open between six and eight o'clock in the evening. In the event of any candidate wishing to withdraw after the chairman of the Parish Meeting has sent his name to the Returning Officer, such candidate may, not less than six clear days before the date fixed for the poll, withdraw his candidature by delivering at the office of the Returning Officer a notice in writing signed by him of his withdrawal. If by such notice or notices the number of candidates is reduced to a number not exceeding the number of Parish Councillors to be elected, the Returning Officer shall give public notice in the parish that no poll will be held, and declare the remaining candidates duly elected.

The friends of temperance will be surprised to learn that, as at Parliamentary elections, but contrary to the Municipal Election Act of 1884, nothing in this Act shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to the office of Parish Councillor, on any licensed premises outside the County of London or of an urban sanitary district. But no premises licensed for the sale of intoxicating liquor may be used for a polling place at any of these elections.

The Returning Officer may appoint a deputy as Returning Officer at any and each polling station, and in making such appointments he is directed, as far as practicable, to secure the services of *suitable* persons *resident* in the parish, so as to diminish expenses.

The school will be rendered practically useless for two days; for, although it is provided that the votes shall be counted in the parish as soon as practicable after the close of the poll, the Returning Officer need not proceed with the counting until nine o'clock the next morning.

Each candidate may appoint an agent to attend the counting of the

votes. As to the presence of polling agents at the ballot, any number of candidates, not less than one-third, may in writing appoint one polling agent, who may be paid or act as a volunteer.

With regard to the division of the parish into polling districts, if the parish is so divided for the election of County Councillors, or of Rural District Councillors, such separate district or ward shall also be a polling district for the election of Parish Councillors. The Returning Officer may, if he think fit, divide the parish into polling districts, but each of such districts must consist of an area for which separate lists of parochial electors will be available, and this, of course, would be settled by the Revising Barrister at the preceding Registration.

The polling districts for the election of Parish Councillors and of any Rural District Councillors elected at the same date for the parish will be the same. The number of polling places and stations is to be determined by the Returning Officer. The same stations are to be used for the election of Parish and District Councillors, and, unless the County Council otherwise determine, there may be only one polling station where the electors are not more than 500, and so on for each additional 500 parochial electors, or any less number over and above the last 500.

The notice of the poll is to be given by the Returning Officer five clear days before the day fixed. It must specify the day and hours fixed for the poll,* the number of Parish Councillors to be elected, with the full names, places of abode, and descriptions of all candidates whose names were put to the Parish Meeting, and who have not withdrawn their candidature, with the names of their proposers and seconders. There must be also a description of the polling districts, and the situation and allotment of the polling stations, with a description of the persons entitled to vote thereat, and such notice must also be posted at the several polling stations. Special forms for a double election of Parish and Rural District Councillors are appointed to be used. Presiding officers may be appointed, and the Returning Officer is directed, in order to diminish expenses, to secure as far as practicable the services of suitable persons resident in the parish. Compartments for voting shall be screened from

* The hours of the poll will be fixed by the County Council, but it must remain open between six and eight in the evening.

observation, as in Parliamentary elections. The Rule with regard to polling agents had better be studied as set out:—

“Any number of candidates, being not less than one-third of the whole number of candidates, may in writing appoint one polling agent, who may be paid or unpaid. Any such appointment shall be delivered at the office of the Returning Officer not less than two clear days before the day of the poll. Except as aforesaid, no polling agent, whether paid or unpaid, shall be appointed for the purposes of the election.”

The questions to the electors are practically the same as may be addressed at a Parliamentary election. In the case of an equality of votes the Returning Officer, or his deputy, can only give a casting vote if each or either of them is a parochial elector in the parish in which such poll has been taken.

The declaration of the result of the poll is provided for, and notice is to be affixed to the front of the building where the votes have been counted. Another copy is to be sent by post or otherwise to the chairman of the Parish Meeting, and if a deputy Returning Officer he is to send his declaration to the Returning Officer of the district, and public notice is to be given in the prescribed form. Where the elections of Parish Councillors and of Rural District Councillors are held in the same parish on the same day, one ballot box may be used for the two elections; but if separate ballot boxes are used, no vote for Parish Councillors shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for any Rural District Councillor. This Rule does not seem to apply *vice versá*, but the Returning Officer is directed to provide different coloured papers for the two ballots. Certain provisions of The Municipal Corporations Act, 1882, and of The Municipal Elections Corrupt and Illegal Practices Act, 1884, are adopted, and must be studied seriatim. An election petition complaining of the election on the ground of illegal practice, as defined by the Corrupt Practices Act, may be presented at any time within six weeks after the day of the election, and may be tried at any place within the Poor Law Union within which the parish is situate.

All public notices required by this or other Orders are to be given by posting the same on or near the principal door of each church or chapel in the parish, and in some conspicuous place or places within the parish.

Chairman of the Parish Meeting.

It is now quite clear that anyone who presides at a Parish Meeting, when Parish Councillors are elected, is not thereby disqualified from being elected Chairman of the Parish Council. The Council have powers to choose a Chairman from outside their own number, and may, therefore, choose the Chairman who presided at the Parish Meeting.

CHAPTER III.

THE PARISH COUNCIL AND ITS CONSTITUTION.

WE have already discussed in what parishes, and under what circumstances, a Parish Council may be established. We have seen that all rural parishes having a population of 300 and over *must* have a Parish Council, and that parishes with a smaller limit of population *may* have a Parish Council, or may be grouped together for the purpose of having a Joint Council. It will happen that in some places a rural parish may be co-extensive with a rural sanitary district. It is expressly provided (Section 36, Sub-section 4) that in such cases, until the district is united to some other district, and unless the County Council otherwise direct, a separate election of a Parish Council should not be held. The District Council will have the powers of and be deemed the Parish Council.

Constitution of Parish Council.

The Parish Council will be a body consisting of a given number of Councillors elected by the Parish Meeting. The number of the Council is determined in each case by the County Council of the county in which the parish is situate. Such number will depend on the population and nature of the parish, and cannot be less than five nor more than fifteen (Section 3, Sub-section 1). But power is given to the Parish Council at their annual meeting to elect a properly qualified chairman from outside their own body (Section 3, Sub-section 8). It may be assumed, therefore, that in places where this plan is followed the numbers of the Parish Council may be one over those allotted by the County Council.

The term of office for a Parish Councillor is fixed as one year. But the first Parish Councils, elected in December, 1894, have a

slightly longer lease of life, and will continue in power until April, 1896.

Every Parish Council will be a body corporate by the name of the Parish Council with the addition of the name of the parish. The Council have perpetual succession, and may hold land for the purposes of their powers and duties without licence in mortmain. Any act of the Council may be signified by an instrument executed at a meeting of the Council, and under the hands, or hands and seals, as the case may be, of the presiding chairman and two other members of the Council (Section 3, Sub-section 9).

Qualification for a Parish Councillor.

In order that a person may sit on the Parish Council he must either (1) be a parochial elector, *i.e.* on the register for either Parliamentary or Local Government elections, or (2) have during the whole twelve months preceding the election resided in the parish, or within three miles of it. All persons so qualified may be candidates apart from any question of sex, and if women whether they are married or single. There are, however, certain disqualifications which will prevent election to any of the bodies established by this Act, whether Parish or District Council, or Board of Guardians. They will be found in Section 46, and, briefly speaking, include receipt of parochial relief within twelve months of an election, conviction for crime or bankruptcy, being an infant or alien, being a person holding paid office under any of the authorities to be so elected, or interested in any contracts to which they are parties. The question of qualification will be found fully discussed in Chapter IX. and in the notes to Section 46.

If the number of candidates is in excess of the number of seats on the Parish Council, the Councillors will be elected as explained in the previous chapter.

Annual Meetings.

Each year the new Parish Council is required to hold a meeting on or within seven days of the 15th of April, the date appointed for their coming into office, this meeting being called the annual meeting.

At such annual meeting of the Parish Council the chief business is to elect its chairman and to appoint the overseers and choose its

other officers, such as vice-chairman or treasurer, if it is decided to have such officers for the Council.

Each Parish Councillor must, at the annual meeting in April of every year, or at the first meeting after his election, sign in the presence of some member of the Council a declaration that he accepts the office, and if such declaration is not signed by him his office will be void. If a Councillor is absent from the first meeting, there is a provision that, with the permission of the Council, he may sign at a later meeting. No statutory form is set out in the Schedule, nor in the Rules published by the Local Government Board. In the absence of any such form, a compliance with the statute will be very simple, and the form prescribed by The Municipal Corporations Act, 1882, and adopted in the case of District Councillors and Guardians, can be used, with the necessary alterations as follows:—

I, A.B., of _____, having been elected Parish Councillor for the Parish [or Ward] of _____, do hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof, according to the best of my judgment and ability.

Dated this _____ day of _____ 189 _____.

Signed by the said _____ }
 In the presence of _____ }

Member of the Parish Council of _____

Each Parish Councillor should sign the form of acceptance before proceeding to business, and even before the election of chairman.

Officers of the Parish Council.

Chairman.—At their annual meeting the Parish Council must elect a chairman from either their own body or from other persons duly qualified (*i.e.*, as parochial electors or by residence) to be Councillors of the parish. He will hold office, unless he resigns or ceases to be qualified or becomes disqualified, until his successor is appointed (Section 3, Sub-section 8). At future Parish Meetings he will be the chairman, unless he is a candidate for election at the meeting.

Vice-Chairman.—The Council may also, if they think fit, appoint one of their number to be vice-chairman. In such an event, in the absence or during the inability of the chairman, he will have the powers and authority of the chairman.

Clerk.—The Rules do not provide for the time for electing the clerk; but of course he should be chosen early in the meeting, or there will be no officer to take the minutes. As the election of Parish Councillors and of the overseers is for one year only, the clerk to the Council must be reappointed every year in due course, after the Councillors have signed their declaration accepting office.

By Section 17 the Parish Council may appoint one of their own number as a clerk; but, if so, the member of the Council who accepts the office of clerk must do so without remuneration.

If no member will accept office under these conditions, the assistant overseer will be *ex-officio* clerk, or where there are more than one assistant overseers the Council will select one of them to fill such office, and must consider the duties he so performs in relation to the sum paid him as assistant overseer.

But where there is in a rural parish an existing vestry clerk, appointed under the Vestries Act, 1850, he will become clerk to the Parish Council. Although there is also an assistant overseer in the parish, the vestry clerk must be chosen clerk to the Parish Council in preference to him (Section 81, Sub-section 2).

Where there is no assistant overseer the Parish Council have a discretion of appointment, and they may then appoint a collector of poor rates, or some other fit person, to be their clerk, with such remuneration as they think fit.

Treasurer.—The Parish Council may appoint one of their own number to be treasurer, and he will give such security as the County Council may direct.

Meetings.

By Rule 13 of Part II. of the First Schedule it is provided that the Parish Council shall hold not less than four meetings in each year, the annual meeting in April to count as one of them. Such meetings of the Council are to be open to the public (and to the Press) unless the Council otherwise direct. In addition to the four statutory meetings, the Chairman *may at any time* convene a meeting by giving three *clear days'* notice, specifying the time and place

of meeting, and the business to be transacted. On the occasion of the annual meeting, when the Parish Councillors are elected, the chairman shall give a similar notice to every newly elected Councillor, with those particulars, so that the annual meeting of the Parish Council cannot be held before the fourth day after the 15th of April, and must be within seven days of that date. If the chairman does not convene a meeting when he is desired to do so for any special purpose, or comply with the rule for holding four meetings a year, any two members may present to him a requisition to convene a meeting; and if the chairman refuses or fails to comply with such requisition within seven days, any two members of the Council may convene a meeting by notice signed by two or more Parish Councillors.

The Councillors calling a meeting must comply with Rule 5 of the First Schedule (Part II.), and specify the time and place of the meeting and the business to be transacted.

The statutory notices that are to be given to the chairman and to any and every member of the Parish Council may be posted to or left at the usual place of abode of the chairman or member.

If there is a public room in the parish vested in the Parish Council, meetings of the Parish Council will be held in that room. But if there is no such room, or other room, which can be used free of charge, any schoolroom which receives a grant from the Imperial Exchequer under the Elementary Education Acts may be borrowed, subject to certain conditions (see Section 4 and Chapter V.), free of charge. No meeting of the Parish Council may be held on licensed premises, excepting where no other suitable room is available for such meeting, either free of charge or at a reasonable cost (Section 61).

It will be noticed that there is no restriction placed as to the time for the Parish Council to meet.

Conduct of Business.

Elections.—At the annual meeting of the Parish Council the first business is to appoint a chairman for the year; then to nominate the overseers and other necessary parish officers; and following that to elect any officials they may require for their own Council.

Quorum.—There must be at any and every meeting of the Parish Council, before business can be transacted, at least one-third of the members of the Council present, and the quorum in no case must fall below three.

Voting.—Every question will be decided by a majority of the votes of those present and voting on the question. In case of an equal division of votes the chairman (or vice-chairman in his absence) will have a second or casting vote.

Minutes.—It is the duty of the clerk to keep the minutes of each Council Meeting, in which there is to be a register of every member attending, as well as those voting on each question, and whether they voted for or against the resolution or did not vote.

The proceedings of the Council in meeting or in committee cannot be voided, *e.g.* by any vacancy among the members of the Council or by any defect in the election or qualification of the members voting for the resolutions carried by a majority of the Councillors present.

The general provisions of Part III. of the First Schedule require minutes of all proceedings of every Parish Council and Parish Meeting to be kept in a special minute book. Section 17, Sub-section 9. requires that every County Council shall from time to time inquire into the manner in which the books, writings, and papers under the control of the Parish Council or Parish Meeting are kept, "with a view to the proper preservation thereof." Sub-section 8 of this 17th Section provides that the Parish Council shall secure the safe custody of all other books and documents which are permitted by statute or by the consent of the Parish Council to remain in the care of their present custodians. Wherever there is any dispute between the Parish Council and the incumbent and churchwardens "as to custody or access" the appeal is to be heard and determined by the County Council.

The minutes of the Parish Council meetings will be *prima facie* evidence only of the correctness of the record of the proceedings and of the due qualification and legal calling of the meeting, but the contrary may be proved. The same provision applies with regard to the proceedings of a committee and its power to deal with any matter which by the minutes of the Council Meeting has been referred to such committee.

Other Matters.—All cheques and every order for payment from the Council must be signed by two members. When the Parish Council desire to take legal proceedings or appear in any court they must by resolution authorise their clerk or any officer to do so, and when so authorised the clerk, member, or officer may institute and carry on any legal proceedings on their behalf.

Following the analogy of proceedings by local authorities, it would be advisable always to secure the confirmation of the minutes of the proceedings at the meeting before the case appears in court, to avoid any technical objection that the minutes have not the chairman's signature.

Any instrument under seal must be under the hands and seals of the chairman and two other members of the Parish Council or Parish Meeting, duly authorised, and the Council will be entitled to have an official or engraved seal. The Council may make, vary, and revoke standing orders made by themselves for the regulation of their own business and for that of the business of the Parish Meeting, but they must not be contrary to statute or to the rules, nor unreasonable.

Resignation and Vacancies.

A Parish Councillor may resign his office at any time by giving notice in writing of such resignation to the chairman.

Any casual vacancy, whether by death, resignation, or disqualification, of a Parish Councillor is to be filled forthwith by the Parish Council, and the Councillor so elected remains in office for the unexpired term of the Parish Councillor whose place he fills; but, as the term of office for all is only one year, the rule only carries on the person so elected to the end of the parochial year.

If at the annual election any vacancies are not filled by election, such number of the retiring Councillors as are not re-elected, and are required to fill the vacancies, may, if willing, continue to hold office. The Councillors so continuing must be those who were highest on the poll at the previous election. But if there was no poll, or in cases of equality, the choice must be made by the Parish Meeting, or by the chairman of the Parish Council.

The County Council has powers to remedy defects in the constitution of a Parish Council by ordering a new election and otherwise (see Section 47).

CHAPTER IV.

POWERS AND DUTIES OF THE PARISH COUNCIL.

THE Powers and Duties of Parish Councils are composed, broadly speaking, of two classes of functions—those of previous authorities now transferred to the Parish Councils, and additional powers newly conferred on them.

General Powers Transferred to the Parish Council.

In the first place, by Section 5, the power and duty of appointing overseers must be exercised by the Parish Council at their annual meeting instead of by the Vestry as formerly. Churchwardens are no longer overseers by virtue of their office, although they may be elected overseers in spite of their holding the former office. The Parish Council may, however, appoint an additional number of overseers in the places formerly held by churchwardens. The legal interest in all property formerly held by the overseers, or by the churchwardens and overseers, unless it relates to ecclesiastical charities or “the affairs of the church,” is vested in the Parish Council. All persons are required to join in and execute the transfers necessary for this purpose.

The Parish Council may also appoint or revoke the appointment of an assistant overseer.

Any default in the exercise of these powers, or in making a return thereof to the Board of Guardians, will be remedied by the Guardians appointing the requisite officers (Section 50).

Certain powers and duties of the Vestry and of the churchwardens and overseers are by Section 6 transferred to the Parish Council. They are as follows:—The powers, duties, and liabilities of the Vestry, except the affairs of the church and ecclesiastical charities. They include the duties and obligations of the churchwardens with respect

to maintaining and repairing closed churchyards, whenever the cost of such maintenance and repairs is repayable out of the poor rate. The powers, duties, and liabilities of the overseers with regard to appeals and objections in respect of the valuation list, or appeals in respect of the poor rate or county rate, or the basis of the county rate, are handed over to the Parish Council.

The Council must make provision for the parish books, and they may provide a vestry room, parochial office, parish chest, fire-engine, fire-escape, or matters relating thereto. They must hold and manage parish property, not being ecclesiastical nor appertaining to the affairs of the church.

There are also transferred to the Parish Council the powers hitherto exercisable by the Board of Guardians with regard to the sale, exchange, or letting of any parish property, subject to the approval of the Local Government Board.

The holding or management of village greens, allotments, pasture lands, and recreation grounds, is handed over to the Parish Council.

Statutory Powers Specially Transferred.

Two members of the Parish Council are substituted for the purpose of Section 16 of the Small Holdings Act for allotment managers as provided by that section.

The Parish Council have the same power of making any complaint or representation under the Housing of the Working Classes Act, 1890, as is conferred by 53 & 54 Viet. c. 70, Section 31, which provides, "If in any district any four or more householders living in or near to any street complain, *in writing*, to the medical officer of health of that district that any dwelling-house in or near that street is in a condition so dangerous or injurious to health as to be unfit for human habitation, he [the medical officer] shall forthwith inspect the same and transmit to the local authority the said complaint, together with his opinion thereon." It is therefore clear that the Parish Council may make the representation to the medical officer of the district, without prejudice to the rights of the four householders. The Housing of the Working Classes Act goes on to provide, by the second sub-section, that if, within three months after receiving the complaint and opinion or representation of the medical officer, the local authority (*which will be the District Council*) declines or neglects to take any proceeding, the householders who signed such complaint

(and the Parish Council who made such representation) may petition the Local Government Board for an inquiry. Thereupon the Local Government Board, after causing an inquiry to be held, may order the said local authority to proceed under this part of the Act, and such order shall be binding on the local authority.

The Allotments Act of 1887 (50 & 51 Vict. c 48) conferred certain powers of making a representation with respect to allotments and applying for allotment managers, and the second section provides that, on a representation in writing to the sanitary authority, signed by any six Parliamentary electors or ratepayers resident in some parish in a rural district, it shall be the duty of the sanitary authority (*which will be the District Council*) to take the proceedings specified by the Act. The rights of the six Parliamentary electors (not necessarily ratepayers as well) are preserved, but the Parish Council is given powers to proceed in the same way and make such representation. By Section 6, Sub-section 3, of the Allotments Act, the sanitary authority were from time to time to appoint and remove allotment managers. But in future, after a Parish Council for the parish interested in such allotments has come into existence, it will not be necessary for the sanitary authority to make any such appointment or hold any elections under the Act, as all the powers and duties of the wardens, committee, or managers will be exercised and performed by the Parish Council in its entirety.

Additional Powers.

The Council will possess the power to provide or acquire buildings for offices or meetings and for public purposes, and land for such buildings, for a recreation ground, and for public walks. The Parish Council may exercise such powers of jurisdiction over recreation grounds, village greens, and other public property as are conferred on urban authorities by the Public Health Acts. They may make and enforce by-laws and regulations for the management of such recreation and other public grounds.

The Parish Council may utilise any well, spring, or stream within the parish, and provide facilities for obtaining water within the parish, but without interfering with the right of any corporation or person who possesses such stream, well, or watercourse. But this power does not in any way derogate from any obligation of a District Council with respect to the supply of water.

It is provided also that for sanitary purposes the Council of the parish may deal with any pond, pool, ditch, drain, or place containing drainage, filth, stagnant water, or matter likely to be prejudicial to health; but the Council cannot interfere in exercising these powers with the sewage or drainage works of any local authority.

They may acquire by agreement any right of way within or adjoining the parish, the acquisition of which is beneficial to the parish, and may accept and hold any gift of property (as they are a corporation with rights of succession) for the benefit of the inhabitants of the parish.

The Council may execute any works, whether of maintenance or improvement, consequential to the exercise of any of their powers (set out in Section 8), and may contribute towards the expense of doing the work undertaken by another parish in agreement or combination with them.

All information from the Board of Agriculture with regard to a common or common land shall be served upon the Council of the parish in which the common, or any part of it, is situate. The Council will have power to appear in or institute proceedings relating to any commons situate in their parish.

Subject to certain restrictions (see Section 8 and notes thereto), a Parish Council may let, or, with the consent of the Parish Meeting, sell or exchange any lands or buildings vested in the Council. The Council has further large powers for acquiring land both by purchase and hire for the purpose of allotments. Such powers are fully discussed in Chapter VIII.

Powers under the Adoptive Acts.

The Act enables a Parish Meeting to adopt any of the Adoptive Acts enumerated in Section 7, and in many parishes one or other of these Acts were already in operation at the passing of the Act.

Where any Adoptive Act had been adopted for an area co-extensive with a rural parish, the authority carrying it into execution hands over all its powers and duties to the Parish Council. So also when the Parish Meeting decides to adopt any of the Acts, the Parish Council will be the authority to carry it or them out.

But if any Act has been previously adopted for part only of a parish, the existing authority, or the Parish Meeting of that part, may transfer the powers, duties, and liabilities of the authority to the

Parish Council, but may impose conditions as to the execution of it by a committee (Section 53, Sub-section 1).

Again, where any Act has been put into force in an area comprising more than the whole or parts of one rural parish, the powers and duties are transferred to the Parish Councils of the several parishes, and will be executed by a joint committee appointed by those Councils (Section 53, Sub-section 2).

Relations of Parish Councils and District Councils.

In some cases the Rural District Council may delegate to the Parish Council any of those powers which might formerly be delegated by the Rural Sanitary Authority to a Parochial Committee, and where such District Council appoint a Parochial Committee consisting partly of members of a District Council and partly of *other persons*, those *other persons* must by Section 15 be members of the Parish Council where one exists. Where in the opinion of the Parish Council the Rural District Council, which has become the Sanitary Authority, has failed to provide or maintain sufficient or existing sewers, or the inhabitants have an insufficient or unwholesome supply of water, or any of the provisions of the Public Health Acts have not been complied with, complaint may be made of such default to the County Council. If, *after due inquiry*, which of course must be local, the County Council are satisfied of the justice of the complaint, they may transfer to themselves the powers of the District Council and act accordingly.

In any case where the District Council have determined upon new works of sewerage or for water supply "of any contributory place within the district," notice must be given to each Parish Council (through the clerk) before any contract can be entered into for the execution of such works.

Footpaths and Highways.

Powers are also conferred by Section 13 on the Parish Council to decide as to the stoppage of footpaths and roads in the parish hitherto regulated by the Highway Act, 1835. The consent of the Parish Council and of the District Council is required for stopping or diverting any right of way in a parish or part of a parish, and also for a declaration that a highway in the parish is unnecessary and not repairable at the public expense. The Council must give public

notice of such a resolution. This resolution will not be valid unless (1) it is confirmed by the Parish Council at a meeting not less than two months after the public notice is given, nor (2) if the Parish Meeting decide before such confirmation that the consent ought not to be given. The Parish Council may also undertake the repair and maintenance of all or any of the public footpaths in the parish, not being footpaths at the side of a public road; but this will not relieve any other authority of their duty to keep such paths in repair.

Committees of Parish Councils.

A Parish Council may appoint committees, consisting either wholly or partly of members of the Council, for the exercise of any powers which in their opinion can be properly or more conveniently exercised by a committee. Such committee will not hold office beyond the annual meeting of the Council succeeding their appointment, and all their acts must be submitted to the Council for approval (Section 56, Sub-section 1).

Where certain powers and duties of the Parish Council relate to part only of a parish, or to property in a part of a parish, a Parish Meeting for such part may require the appointment of a committee for exercising such powers. The Parish Council must then appoint a committee, which may consist partly of members of the Council and partly of other persons representing that portion of the parish.

Other Powers.

Other powers of the Parish Council will be found discussed in other chapters of this book. The financial provisions of the Act and the powers of a Parish Council with regard to expenditure of money are dealt with in Chapter X., and the question of charities in Chapter V.

CHAPTER V.

THE AFFAIRS OF THE CHURCH AND ECCLESIASTICAL CHARITIES.—SCHOOLS.

The Affairs of the Church and Ecclesiastical Charities.

“THE Affairs of the Church” is a new phrase, which must ere long receive a judicial decision, as conflicts are sure to arise as to what is and what is not ecclesiastical. The only guide to the meaning of the expression is found in the definition clause (Section 75), which states that it “shall include the distribution of offertories or other collections made in any church.” During the debate in the House of Lords upon the question of the incumbent being allowed to take the chair at the Easter Vestry in Metropolitan parishes, the Earl of Kimberley stated that he was informed that very serious difficulties might arise, because it would be extremely difficult to know when affairs were purely ecclesiastical. It would be hazardous, therefore, to attempt any further definition of “the Affairs of the Church” under this statute: each case which arises must be dealt with on its merits, and, of course, in case of dispute between the Parish Council and the Vestry, a decision of the Courts of Law will have to be obtained.

Business of the Easter Vestry.

The question will arise what those affairs are which will henceforward be the only business transacted at the Easter Vestry. They will naturally include the election of the people’s churchwarden, the nomination of the rector’s or vicar’s churchwarden, and the election of organist, sexton, and vestry clerk. As to this latter office, it is expressly provided in the Act that the Parish Council have no power of appointment. The accounts of the offertories for the year and the churchwardens’ account for expenses will be submitted to the Vestry in its ecclesiastical capacity. In the Metropolis, in all the old mother

parishes, the difficulty will arise as to drawing the line between civil and ecclesiastical affairs; but in the country parishes affected by this Act the Vestry will alone be concerned with the affairs of the church and ecclesiastical charities. In parishes where there is a burial board, the existing sexton remains sexton to the new board, and consequently to the Parish Council. A difficulty will here arise when a new sexton has to be appointed, as the right to appoint a sexton for the parish churchyard will remain with the Vestry as before, whilst the Parish Council, as the burials authority, will have the right to claim the appointment of the sexton for such burial ground as they may control.

ECCLESIASTICAL CHARITIES.

With regard to "Ecclesiastical Charities," Parliament has sanctioned the use of this phrase in Section 5 of the City Parochial Charities Act (46 & 47 Vict. c. 36), where it is enacted that an Ecclesiastical Charity is "a charity the income whereof is either wholly or partly applicable for any spiritual purpose which is now a legal purpose; or,

"For the benefit of any spiritual person as such; or,

"For the erection, maintenance, or repair of any ecclesiastical buildings; or,

"For the maintenance of Divine service therein, whether such purpose has or has not now failed."

This short clause has been acted upon by the Charity Commissioners, and, unfortunately, owing to a draughtsman's error, there was no appeal from their decision.

The discussions in both Houses on the expression "Ecclesiastical Charity" have led to a further extension of its meanings and purposes. They are now authoritatively set out as follows (Section 75):—

(a) "For any spiritual purpose which is a legal purpose."—This would include every benefaction to the church which does not trench upon the law against providing money for the saying of Masses for the souls of deceased persons. Any spiritual purpose would therefore include an endowment for the purpose of any other religious service.

(b) "For the benefit of any spiritual person" [bishop, priest, or deacon] "or ecclesiastical officer as such."—An "eccle-

siastical officer" might be a secretary, chaplain, school-master, or any person in holy orders, for whom special provision has been made in any deed, scheme, or instrument of trust relating to any ecclesiastical charity.

- (c) "For use, if a building, as a church, chapel, mission room, or Sunday-school, or otherwise."—This is a very large term, and seems to imply any religious work of any kind which could be carried on in church, chapel, mission room, or Sunday-school by any particular church or denomination. Probably no contention will arise except as to buildings which are used by the Church of England, as it is hardly likely the Parish Council would lay claim to any building belonging to the Roman Catholic Union or to any of the sects of this country.
- (d) "For the maintenance, repair, or improvement of any such building as aforesaid" [that is, any endowment for any one of these objects], "or for the maintenance of Divine service" within such church, chapel, mission room, or Sunday-school.
- (e) "Otherwise for the benefit of any particular church or denomination, or of any members thereof as such."—This Sub-section is very wide, and so long as it can be shown that the endowment originally was for the benefit of the Church, or there is any specific statement that it was only to be extended amongst Church-people, it will undoubtedly be classed as an ecclesiastical charity.

This, unfortunately, does not apply when the charity is simply left for distribution in the hands of the vicar and churchwardens. Here Parliament has provided that unless some further proof of its exclusive use for the benefit of the Church is to be found, the charity would be a parochial charity. Where there is any endowment of a charity other than that for a building which would fall under any of the previous Sub-sections, and the endowment is only in part for some of these purposes, the Charity Commissioners must on the application of any person interested make a provision for the apportionment and division of that charity, and provide for its management in such a manner as to give effect to the Act in its separation of ecclesiastical and parochial charities.

The last Sub-section of the definition of an ecclesiastical charity, contained in Section 75, applies to parish rooms, and must be set out

in its entirety, as it has been the subject of great dispute, and may hereafter lead to litigation and much discussion:—"The expression [ecclesiastical charity] shall also include any building *which in the opinion of the Charity Commissioners* has been erected or provided within forty years before the passing of this Act [*i.e.*, since 1854] *mainly* by or at the cost of members of any particular church or denomination."

This Section will require most careful consideration, and the clergy and those interested in the preservation of their parish rooms, clubs, or any social agency connected with the parish, and carried on in any building which was supposed to belong to the rector or vicar, or vicar and churchwardens, or vicar and trustees, will have to search the records subsequent to 1854 to prove, not only that it has been used *mainly* by the members of the church, and managed by them, but that it was either erected or provided *mainly* at their cost.

On the other hand, if there is any endowment which has been used for such building or for its maintenance or repair, or it can be shown that under Sub-sections (c) or (e) it has been used as a church, chapel, mission room, or Sunday-school, or otherwise for the benefit of the church or any members thereof, it is probable it might be saved to the church under the earlier definitions of "Ecclesiastical Charity."

PAROCHIAL CHARITIES.

In the Definition Section (Section 75), the expression "Parochial Charity" is defined to mean a charity the benefits of which are or the separate distribution of benefits of which is confined to inhabitants of a single parish, or of a single ancient ecclesiastical parish divided into two or more parishes, or of not more than five neighbouring parishes.

Transfers of Trust Property.

Section 14 (on public property and charities) is one which our readers may remember was the subject of much debate in the House of Commons, and of two amendments and disagreements in the House of Lords and the House of Commons. It is provided that trustees who hold any property for the purpose of a public recreation ground, or for public meetings, or of allotments for the benefit of a rural parish, or indeed for any public purpose, except it be a purpose ecclesiastical, *may*, with the approval of the Charity Com-

missioners, transfer the trust property either to the Parish Council or to persons appointed by that Council as trustees of the Parish Council. The transferees will hold the property on the same trusts and subject to the same conditions as those on which the trustees who transferred the property held it.

Overseers and churchwardens who are *ex-officio* trustees of a parochial charity, either alone or jointly with other persons, may be replaced by the Parish Council with a number of councillors or trustees appointed by the Council, not exceeding the number of such overseer or churchwarden trustees.

Trustees Appointed by the Vestry.

In all cases where the trustees were to be appointed by the inhabitants in vestry assembled, or where the Vestry had the right to nominate the beneficiaries of the charity, the Parish Council will appoint the trustees, and in the case of the persons receiving benefits of the charity they will be nominated by the Parish Council trustees.

No trustee appointed under Section 14 can hold office more than four years, and of those first appointed by the Parish Council half shall go out at the end of two years from the date of their appointment, but shall be eligible for re-election. Whilst a person is trustee of a parochial charity he cannot receive any benefit from it, nor shall his wife or any of his children.

The provisions of Section 14 with reference to the power of appointment of trustees by the Parish Council, except so far as the appointment of elective trustees is transferred from the Vestry to the Parish Council, do not apply to any charity until the expiration of forty years from the date of its foundation. With respect to charities founded before the passing of this Act, where any one of the donors is still living, the provisions are not to apply for forty years (*i.e.* until 1934) unless the surviving donor or donors consent.

Draft Scheme for Charities.

In future the draft of every scheme relating to a parochial charity shall, on or before the publication of the notices required by Section 6 of the Charitable Trusts Act, 1860, be communicated to the Parish Council, or, if there be no Parish Council, to the chairman of the Parish Meeting. The Parish Council, subject to the consent of the

Parish Meeting, may either support or oppose the scheme, and for that purpose has the same rights as any inhabitants of a place directly affected by the scheme.

Accounts of Parochial Charities.

The accounts of all parochial charities are annually to be laid before the Parish Meeting, and the name of every person receiving benefits from dole charities must be published annually by the Parish Council, and where there is no Parish Council by the Parish Meeting. The requirements of the Charitable Trusts Amendment Act, 1855, will apply to the Parish Meeting instead of to the Vestry as stated therein, and the chairman of a Parish Meeting is substituted for the churchwardens of the parish.

Elective Trustees.

The much vexed question of new representative or elective trustees resulted in the addition of a new sub-section altogether, which, whilst restricting greatly the powers of the Parish Council, leaves a great deal to the discretion of the Charity Commissioners.

It is to be observed that it first of all only refers to "such parochial charities" the governing bodies or trustees of which do not include any persons elected by

- (a) The ratepayers, or
- (b) The parochial electors, or
- (c) The inhabitants of the parish, or
- (d) Persons appointed by the Parish Council or the Parish Meeting.

Therefore if the trustees have been elected by the Vestry or on a poll by the ratepayers, or presumably in any form by the inhabitants, the power of the Parish Council, which is only a *permissive* one, will not arise, though if the trustees have been elected by the Vestry, they—the representative trustees—must in future be elected by the Parish Meeting or the Parish Council.

In other events the Parish Council *may* appoint additional members of the governing body "not exceeding the number allowed by the Charity Commissioners in each case." Where the management of any such charity is vested in a sole trustee (which does not mean, presumably, where the trustees have lapsed

into one survivor), the number of such trustees may, with the approval of the Charity Commissioners, be raised from one to three—one to be nominated by such *sole* trustee, and one by the Council of the parish or Parish Meeting. All the powers and authorities of the Charity Commissioners are preserved by this section and the statute generally, and nothing is to affect prejudicially or alter the action of the Commissioners to settle, alter, or vary any schemes for the better administration of any charity—*i.e.*, parochial or ecclesiastical.

Charities in Divided or Grouped Parishes.

It is specially provided that where a parish is divided by the Act the County Council may by order provide for the application to different parts of that parish of the above-mentioned provisions with respect to the appointment of trustees or beneficiaries of a charity. Such order, however, will not have any effect until it has been approved by the Charity Commissioners (Section 36, Sub-section 3).

When parishes are grouped, the grouping order must provide for the application of the provisions of the Act with regard to the trustees and beneficiaries of a charity, so as to preserve the rights of each parish.

SCHOOLS.

Section 66 provides that “nothing in this Act shall affect the trusteeship, management, or control of any elementary school” for education in the principles of any particular church or denomination. So far so good; but the use of a school-room free of charge for a variety of purposes is required by Section 4, and it will be well for the clergy and managers carefully to consider each and every one of the requirements of this Section with which they are bound to comply. First and foremost, in our opinion, no claim can be made for the use of the school where there is a suitable room vested in the Parish Council, or in the Chairman of the Parish Meeting and the Overseers, and which can be used free of charge, or where there is a Board School in the parish. The Parish Council or the School Board would be bound so to lend it for any of the purposes enumerated in Section 4. Where there is no such room existing vested in the Parish Council, or in the Chairman and Overseers, the parochial electors and the Parish Council are entitled to use, free of charge, at all reasonable

times, any suitable room in the school-house of any public elementary school receiving a grant out of moneys provided by Parliament, and this must include the Board school, and also any suitable room which is maintained by any local rate.

What is reasonable or suitable in the case of a school-room is to be decided by the Education Department ; in the case of a room used for the administration of justice, by a Secretary of State ; and in all other cases, by the Local Government Board.

The Purposes for which Schools may be Used.

The following are the purposes for which a school-room of a school receiving a grant out of moneys provided by Parliament may be used:—A Parish Meeting; any meeting of the Parish Council; any Government departmental inquiry for parochial purposes; any inquiry held by a local authority; meetings held to discuss *any question* relating to allotments under the Acts of 1887 and 1890, and this Act; the candidature of any person for a District Council; the candidature of any person for a Parish Council; for any committee or officer appointed either by the Parish Meeting, Parish Council, County Council, or District Council, to administer public funds within or for the purposes of the parish (Section 4).

Any one of these persons or bodies can claim any suitable room in a school-house of any public elementary school—Board as well as voluntary—receiving a Parliamentary grant. One person and one person only is relieved: the school master or mistress is fortunately not interfered with, and no room which forms part of the private dwelling-house shall be so used; nor can there be any interference with the school hours of an elementary day or evening school. Although the room is to be used free of charge, there is a provision that where any expense is incurred by the persons having the control over the room—that is, the school managers (and this provision would surely include the expenses of cleaning and arranging the room)—or where any damage is done to the room or its furniture or to the apparatus for instruction, the expense of such damage is to be a part of the expense of the Parish Meeting or Parish Council or inquiry, as the case may be, at which gathering such injury may have arisen. Where there has been a turbulent parochial meeting for the purpose of the candidature of any person, such expense or damage is to be

reimbursed by the person on whose behalf the meeting was convened. This would be an act of injustice if it applied to Parliamentary candidates, because the disturbance would have been caused and the damage done, not by the person who convened the meeting, but by those who came to oppose his candidature.

The Use of Schools, and the Education Department.

The Education Department, in accordance with the powers conferred on them by Section 4, have issued a Circular dealing with what is reasonable time and notice, and other questions in connection with the use of Schools under that Section.

As to what is Reasonable Time.—The Department point out that there must be no interference with the school hours of an elementary day or evening school. Especial care must therefore be taken to select a time which will cause no inconvenience, or the very least possible, to the persons responsible for the due conduct of the day or evening school. The same care should be taken in cases where classes are conducted at fixed times in the school-room in connection with the Technical Education Committees of County Councils.

The Department state that on all questions they would be largely influenced by the consideration whether in any particular case efforts have been made to avoid unnecessary difficulty and friction. The Parish Council and parochial electors should avoid asking for the use of the room at a time when it is known to be really required for other purposes. On the other hand, the persons having control over the room would be acting well if they made known the times when the room would be required for their own use, and when it would be ordinarily available for the Parish Council or parochial electors.

What is Reasonable Notice.—The Department consider that this question relates to the length of time intervening between the receipt of the notice by the school managers and the date for which the use of the school is required. Except as regards some meetings of the Parish Councils, the notice shall be served in no case less than seven clear days before the date named, and in most cases longer notice, as a rule not less than fourteen clear days, should be given.

As regards some meetings of the Parish Councils a shorter

notice may be sufficient. By the provisions of the Act, notice of a meeting of the Parish Council must be given at least three days beforehand. The Department anticipate that in most cases a class room in the School would be sufficient for meetings of the Parish Council, and as such would require less preparation. Three days' notice must therefore be given if the room is required for a special Parish Council Meeting, but always longer if possible. As regards the four regular statutory meetings required to be held by the Parish Council in each year, the Department consider that they should be fixed, if possible, at the beginning of each year, and notice of them given to the school managers. Anyway, the managers should have at least fourteen days' clear notice of these regular meetings.

Notices will run, in the case of Board schools, from the receipt of the notice by the Chairman or Clerk of the School Board, and in other cases from the service of a notice addressed to the school managers, at the schools in which the room is required.

Use of School-room for Candidature Purposes.

With regard to such use by the parochial electors, the Education Department state that they are advised by the Law Officers of the Crown that the notice to be given to the persons having control over the room should proceed from the parochial electors, and not from the candidate, and that the right to use the room is not a right of the candidate, but a right of the electors or the Council. The Law Officers further consider that the expression "Parochial Electors" means, not any section or majority of such electors, but the body as a whole—that is to say, acting as a parish meeting—and that the only way for the parochial electors to demand the use of the room is by notice given pursuant to a resolution at a parish meeting.

CHAPTER VI.

THE VESTRY.

IN this chapter the term "Vestry" is applied solely to the Vestry in its new capacity, devoid of its old powers of civil administration. But, in the construction of the Act, Section 75 declares that "the expression 'Vestry' in relation to a parish means the inhabitants of the parish, whether in vestry assembled or not, and includes any Select Vestry either by statute or at common law." The Select Vestries only come into this Act under the provisions that apply to the Administrative County of London, and are separately dealt with so far as they are affected.

Ecclesiastical Vestry.

The Easter Vestry of 1894 in all rural parishes which come within the purview of this Act was the last Vestry at which civil business could be undertaken; but the law with regard to the calling of Parish Vestries, so far as relates to the affairs of the church and to ecclesiastical charities, remains as before. Such Vestry shall be holden after public notice, in writing, of the place and hour of holding the same, and of the special purpose thereof, has been given, three days at least before the day appointed. The notice is to be signed by the churchwardens, rector, vicar, or perpetual curate, and to be affixed upon the principal door of the churches or chapels in the parish. The overseer in future, being an officer of the Parish Council, will have no right to affix his name to any such notice. The meeting cannot be held before the Thursday after the Sunday on which the notice is given, and the persons summoning the meeting can determine the hour at which it shall be called. Any parishioner who wishes to bring any business before the Vestry must give notice beforehand to both minister

and churchwardens, and such minister and wardens are bound to put legal and proper notice of it on the agenda for the Vestry, but they need take no heed of any notice asking the Vestry to do something beyond its power. No business can be transacted at the Vestry which is not included in the notice, except such specific acts as are prescribed by Act of Parliament as to the bringing in of charity accounts.

Chairman.

A Vestry Meeting need not be called at the church. It may be called at any convenient place in the parish, and (except in the metropolitan parishes, which are now included in Section 31, where it is provided no person shall be *ex-officio* chairman of these vestries) the minister of the parish, rector, vicar, or perpetual curate, presides as chairman wherever the meeting is held. The chairman, and not the Vestry, has the power of adjourning the meeting for the purpose of taking a poll.

Powers of Voting.

None but persons rated to the relief of the poor of the parish can be present at the meeting or vote, and any person who has neglected or refused to pay the poor rate cannot vote until he has paid the same. Every ratepayer of either sex may vote, whether resident within or without the parish. It is now clear law that the churchwarden must be resident within the ecclesiastical district of which he is nominated and elected churchwarden. The old form of voting still remains for the Ecclesiastical Vestry. 58 Geo. III. c. 69. Section 3, provides that in all such Vestries every inhabitant present who shall by the last rate which has been made for the relief of the poor, and who is assessed or charged in respect of any annual rent profit or value not amounting to £50, shall have one vote and no more; and every inhabitant who has been assessed at a higher value, whether in one or more sums and charges, shall have and be entitled to give one vote for every £25 of annual rent profit or value; but no inhabitant shall be entitled to give more than six votes. The right of a poll is a common-law right, and is implied in all statutes conferring the powers of holding Vestries. The chairman may at once direct a poll in case of plurality of candidates without first taking a show of hands, and the poll should be kept open a

sufficient time to allow all the parishioners who choose to vote to do so. But no poll need be granted, nor will the Court grant a mandamus to the churchwardens for a poll to be taken where the motion is to do an illegal act.

Parish Documents.

The minutes and proceedings of the Vestry are to be fairly and distinctly entered in a book to be provided for that purpose by the churchwardens (overseers of the poor), and shall be signed by the chairman and such other of the persons present as shall think proper to sign the same. It would be well in all future purchases of parish books to see that the vicar and churchwardens alone provide them, in order to prevent any claim by the Parish Council for keeping such minutes with their records (*vide* Section 17, Sub-sections 8 and 9). The inhabitants in vestry assembled had the right to direct where such former vestry books, rates, assessments, accounts, and vouchers, and all certificates, orders of courts and of justices, and other parish books, documents, writings, and public papers of every parish were to be kept. These are now governed by Section 17, Sub-section 8, and they may either remain in their existing custody or be deposited in such custody as the Parish Council may direct. The custody of the registers of baptisms, marriages, and burials, and all other books and documents containing entries wholly or partly relating to the affairs of the church or to ecclesiastical charities remains unaffected by the Act.

Vestry Clerk.

The Vestry have still the right of electing their own vestry clerk. The election of overseers, waywardens, and all other civic officers has now been expressly removed. A Special Vestry must be called, and public notice given of it at least seven days, for the election of a vestry clerk, and in the case of a vacancy within one month of such vacancy occurring. The vestry clerk so elected shall not be removable from office except by a resolution passed at a Vestry called for that special purpose, and, as heretofore, with the consent of the Local Government Board. As 58 George III. provides that in all Vestries every inhabitant present has the right of the plural vote according to his property qualification, this provision will still apply to the election of vestry clerk.

The Easter Vestry in London Parishes.

“The Affairs of the Church” were distinctly excluded from the purview of the Parish Councils Bill in all rural parishes; but, owing to an amendment to Section 89 carried in the House of Commons, the rector of the parish is no longer *ex-officio* Chairman of the Vestry in metropolitan parishes contained in Schedules A and B of The Metropolis Management Act (19 & 20 Vict. c. 120), so that at the Easter Vestry, when churchwardens and sidesmen have to be elected, and at other meetings of these Vestries, when ecclesiastical charities have to be considered, and other “affairs of the church,” the rector will not be able to take the chair in those parishes, except by the vote of the vestrymen in Vestry assembled. The parishes are as follows:—

The Mother Parishes.

St. Marylebone; St. Pancras; St. Mary, Lambeth; St. George, Hanover Square; St. Mary, Islington; St. Leonard, Shoreditch; Paddington; St. Matthew, Bethnal Green; St. Mary, Newington (Surrey); Camberwell; St. James, Westminster; St. James and St. John, Clerkenwell; Chelsea; St. Mary Abbot, Kensington; St. Luke, Middlesex; St. George the Martyr, Southwark; St. George in the East, Bermondsey; St. Martin in the Fields; Hamlet of Mile End New Town; Rotherhithe; St. John, Hampstead; Fulham; Hammer-smith; St. Mary, Battersea (exclusive of Penge); St. Margaret and St. John the Evangelist, Westminster.

The Act can therefore not apply to any of the district parish churches in those areas, or to any other Ecclesiastical Vestry in the City or the Metropolis. No doubt numerous questions will arise on the difficulty, as Lord Kimberley expressed it, of defining in these metropolitan parishes what are and what are not “the affairs of the church.”

CHAPTER VII.

BOARDS OF GUARDIANS AND DISTRICT COUNCILS.

IT WILL be remembered that The Public Health Act, 1875, contained important provisions, dividing up the whole of England into sanitary authorities, urban and rural, and entrusting the administration of its powers to those bodies. At the same time there also existed the Board of Guardians, entrusted with the administration of the Poor Law. At first sight the effect of the Local Government Act of 1894 on these bodies is not clear.

Just as in the past the Sanitary Authorities have existed side by side with the Boards of Guardians, the District Councils will do so in the future. Formerly, in Unions which consisted entirely of rural parishes, the members of the Board of Guardians held separate meetings and sat as the Rural Sanitary Authority for Public Health purposes. Practically, the same thing will happen in the future. The Rural District Councillors will also represent their respective parishes or areas on the Board of Guardians. The meetings will be quite distinct for the two authorities, although they may be composed of the same members. In Unions which contained districts, some with urban and some with rural powers, the Board of Guardians was composed of representatives from all districts for Poor Law purposes. The representatives of the rural districts met separately, as the Rural Sanitary Authority. The same will be the case in the future. Urban Sanitary Authorities will give place to the Urban District Councils. The urban areas will elect representatives on the Board of Guardians, which will be composed of such representatives and of the representatives of the rural areas, the latter of whom will form amongst themselves the Rural District Council.

The provisions of the Act with regard to those bodies will be

found in many cases to be the same, and in dealing with them it may be found necessary to make several references from one to the other.

I.—BOARDS OF GUARDIANS.

The Act affects the Board of Guardians less than the other bodies: it practically leaves their powers and duties intact, but makes a considerable change in the qualifications necessary for the office of Guardian, and in the mode of the election. It is important to note that the provisions of the Act, so far as they relate to guardians, extend to London and to county boroughs.

Constitution.

The Board of Guardians will consist of representatives elected by the different parishes, wards, or other areas contained in the Union, whether such parishes and districts are urban or rural. The numbers of such representatives will be the same as the respective divisions have hitherto returned. But power is given to the County Council to alter the representation, and to fix the number of representatives from time to time, and also for such purposes to group parishes together or divide them into wards (Section 60, Sub-section 1).

Hitherto the Justices of the Peace have been *ex-officio* guardians, and the Local Government Board in certain cases could nominate guardians, notably under The Metropolitan Poor Act, 1867. In future there will be no *ex-officio* or nominated guardians. But it is provided that a Board of Guardians may elect a chairman or vice-chairman, or both, and not more than two other persons from outside their own body, as additional guardians and members of the Board. Such persons must, however, be properly qualified to act as guardians as hereafter described. At the first election after this Act, if any such additional members are to be chosen, they must be taken from the persons who have been *ex-officio* or nominated guardians in the past, should they be willing to serve (Section 20, Sub-section 7).

Qualification.

Important changes have been made by this Act with respect to the election and qualification for the office of Guardian. Previous to this Act there was a small property qualification. This is abolished, and now only the following persons can become Guardians for a Poor Law Union:—(i.) Parochial electors of

some parish within the Union (*i.e.*, persons who are on the Local Government or Parliamentary Register); and (ii.) those who have for the whole twelve months preceding the election resided within the Union; or (iii.) in the case of Guardians for a parish situate wholly or partly within the area of a borough (whether county borough or not), those who are qualified to be elected Councillors for that borough.

Women, whether sole or covert, may be elected Guardians.

Certain disqualifications are imposed by Section 46, which will prevent a person being elected, or compel him to vacate his office. They are discussed in another chapter, and need not be enumerated here. They apply in an equal degree to candidates for Parish and District Councils. The only provision which need be noticed now is contained in Sub-section 6, which declares that absence from meetings for six months consecutively, excepting because of illness or some other valid reason, will cause a Guardian or Councillor to vacate his seat.

Elections.

Previous to this Act Guardians were elected by the ratepayers and owners of property on lists prepared by the overseers. The ratepayers voted according to the rateable value of their property. Each ratepayer or owner of property valued or rated under £50 had one vote; for £50 to £100, two votes; for £100 and less than £150, three votes; for £150 and less than £200, four votes; for £200 and less than £250, five votes; and above £250, six votes. An occupying owner could vote both in respect of his ownership and occupation, and non-resident owners could also vote by proxy. The election was made by means of voting papers, which were delivered to the electors, collected, and returned.

But the old system of voting for Guardians is now abolished. In future they will be elected, on a poll if necessary, by the parochial electors, registered in respect of qualifications for the various parishes, wards, and areas for which they are candidates. Each elector may give one vote, and no more, to each of any number of candidates not exceeding the number to be elected. The election of Guardians will be regulated by the rules published by the Local Government Board. They must, of course, be studied by all who are candidates for the office, or who are likely to be called on to act as returning or presiding officers, or to take any active part in the election. The

provisions that are of general interest relate to the nomination of candidates. They require all candidates to be nominated in writing on forms, to be obtained of the Returning Officer (or of the Overseers in rural districts). The full name, address, and description of the candidate, and his qualification for the office, whether as an elector or by residence, must be given. Each form must be signed by the proposer and seconder, with their addresses and descriptions. The forms are then to be sent in to the Returning Officer, at his duly appointed office, before a fixed time. In due course the Returning Officer publishes a list of candidates, and makes a return of the result, if there is no necessity for a poll. If a poll is required, it is to be conducted according to the rules. In rural districts the same form will, of course, nominate a candidate for both the offices of Guardian and District Councillor, and the poll will take place at the same time and place as the poll for Parish Councillors. In urban districts Guardians and Councillors must be nominated in different forms, even though the same person is a candidate for both offices; but wherever it is practicable the polls will be carried on together. The Clerk to the Guardians, or his duly appointed substitute will be the Returning Officer.

Term of Office.

The term of office for a guardian is three years. As nearly as possible, one-third of every Board must go out of office on the 15th of April in each year, and their places be filled by newly elected Guardians. But this provision may be varied and a system of simultaneous retirement set up in its place. Such will be the case in Unions where, before the passing of the Act, the Guardians all retired together at the end of every third year in pursuance of an order by the Local Government Board; but in those Unions the County Council, on the application of the Board, or of a District Council wholly or partially within the Union, may effect an alteration to the scheme of the Act, and provide for the retirement of members by thirds. *Vice versa*, if the County Council is satisfied that a simultaneous retirement would be more expedient in Unions at first subject to the provisions of the Act, they may, on the application of the Board of Guardians, make the necessary order establishing a simultaneous retirement at the end of every third year (Section 20, Sub-section 6).

For the purpose of regulating the retirement of guardians by thirds, the County Council may direct in which year or years of each triennial period the guardians for each parish, ward, or other area in the Union shall retire (Section 60, Sub-section 2).

Of the first Board of Guardians elected under the Act one third will retire on the 15th of April, 1896; one third on the 15th of April, 1897; and the remainder on the same day in 1898. For the purpose of establishing a rotation, the County Council is to decide in what parishes, wards, and areas the Guardians are to retire at the three dates mentioned (Section 79, Sub-sections 3 and 4). Where the Boards are to retire simultaneously, the first elected bodies will hold office till April, 1898.

Officers.

Chairman and Vice-Chairman.—The Board may elect a chairman from their own body or from outside, but in the latter case the person chosen must be qualified to be a guardian of the Union. Similarly the Board may elect a vice-chairman from their own members or from outside. He will hold office during the term for which the chairman is appointed, and during his absence will exercise his powers and authority (Section 59, Sub-section 2).

Clerk.—The Act makes no alteration in the office of Clerk or its tenure.

Meetings.

The Board of Guardians will hold an annual meeting in every year (presumably in April) and other meetings for the transaction of business at least once a month. The proceedings will be regulated by the Rules of Schedule I. of The Public Health Act, 1875 (Section 59, Sub-section 1). The meetings must not be held on premises licensed for the sale of intoxicating liquor, except in cases where no other room is available, either free of charge or at a reasonable cost.

Powers.

The Board of Guardians will continue to exercise all their old powers in the administration of the Poor Law. The right of appointing assistant overseers, however, has been taken away (Section 81, Sub-section 6), and transferred to the Parish Councils (or Parish Meetings) of the respective parishes within the Union (Section 5, Sub-section 1).

If, however, the Parish Council (or Parish Meeting) fail to appoint to or fill vacancies in the office of overseer, or to make a return of such appointments within the prescribed time, the Board of Guardians may make the appointment or fill the vacancy as the case may be.

II.—RURAL DISTRICT COUNCILS.

For every rural sanitary district there is to be a Rural District Council, supplanting the old sanitary authority, and having besides several additional powers. The Council consists of a Chairman and Councillors, and the Chairman, unless a woman, or personally disqualified, will be a Justice of the Peace for the county in which the district is situate (Section 22).

Constitution.

As we have just stated, the Rural District Council consists of a Chairman and Councillors, the Councillors being elected by the parishes, wards, or other areas comprising the district. Each District Council is to be a body corporate by the name of "The District Council," and will have perpetual succession and a common seal, and may hold land for the purposes of their powers and duties without licence in mortmain.

The number of Councillors will be the same as the number of Guardians for the same parish and area, and the Councillors will be the representatives of the parish or area on the Board of Guardians, and when acting in that capacity will be deemed Guardians of the Poor.

Provision is made that where a parish is divided by the Act into two or more new parishes there shall be one District Councillor for each of such new parishes (Section 79, Sub-section 2). But where on the appointed day a rural sanitary district is situated in more than one county, such part as is situate in each county is to become a separate rural district. If the number of Councillors for any such district be less than five, the Local Government Board may nominate persons duly qualified to act as Councillors to make up the number of five, or else may attach the district to an adjoining district. In such a case the Councillors will act as members of the Council of the district to which they are attached (Section 24, Sub-section 5)..

The County Council has the same powers of altering and from time to time fixing the numbers of a District Council as it has in the case of Guardians (see *ante*, and Section 60).

Similarly there will be no *ex-officio* or nominated members of a Rural District Council.

Qualification and Election of Councillors.

The qualification of a Rural District Councillor will be the same as that for a Guardian—*i.e.*, he or she must be a parochial elector for some parish in the district, or must have resided for the whole of the previous twelve months within the district. All women, whether *sole* or *covert*, are eligible, and the disqualifications of Section 46 equally apply.

The election will be, if necessary, at a poll, when every elector will be entitled to give one vote, and no more, for each of the given number of candidates. The same rules as to nomination and the publication of a list of candidates apply as in the case of Guardians; indeed, by being nominated Rural District Councillor, a person is *ipso facto* nominated for Guardian also.

The rules regulating elections are published by the Local Government Board, and should be studied carefully by all intending candidates.

The Clerk to the Board of Guardians, or his duly appointed substitute, will be the Returning Officer; and nomination papers may be obtained of him or of the Overseers.

Officer.

The provisions relating to the term of office and retirement of Guardians of course are the same for Rural District Councillors, and by vacating one office the Councillor vacates both.

Every Councillor on his election must accept office by making and subscribing before two District Councillors, or the Clerk to the Council, the requisite declaration form, within five days after notice of his election (Section 48, Sub-section 4); and on this matter the provisions of Section 34 of The Municipal Corporations Act, 1882, apply.

Chairman and Vice-Chairman.

As in the case of a Board of Guardians, the Councillors may elect a Chairman from outside their number, but apparently not a

Vice-Chairman. They may, however, appoint a Vice-Chairman from their own body, who in his absence will have the powers and authority of the Chairman (Section 59).

Meetings.

The Rural District Council must hold an annual meeting in April in every year, as soon as possible after the new Councillors come into office. The Council must further meet at least once a month, and at other times if necessary.

The District Council may use for the purpose of their meetings and proceedings the board room and offices of any Board of Guardians for the Union comprising their district at all reasonable hours. Any question as to what hours are reasonable is to be decided by the Local Government Board (Section 59, Sub-section 3).

Like the Board of Guardians, the procedure at a meeting of the Rural District Council will be regulated by the Rules in Schedule I. of The Public Health Act, 1875, so far as they are applicable.

Vacancies.

Vacancies occurring on the Council within six months before the ordinary day of retirement from the office in which the vacancy occurs are not to be filled. In other cases the vacancy will be filled by an election in the usual way (Section 48, Sub-section 4).

Powers and Duties of District Councils.

In the first place the District Council becomes the sanitary authority under the Public Health Acts, and has all the powers vested in such authority under those Acts. In addition to this they become the highway authorities, taking the place of all such existing authorities. It is further the duty of the District Council to protect all public rights of way, and, in protecting the public interests, to prevent any unlawful encroachment on any roadside wastes within their district. A District Council, having first obtained the consent of their County Council, may aid in the protection of rights of common, where, in the opinion of the Council, the extinction of such rights would be prejudicial to the inhabitants of the district. Certain powers which are now in the hands of the

Justices are to be transferred to the District Council, when arising within a county district, that is to say—

- (a) The licensing of gang-masters.
- (b) The granting of pawnbrokers' certificates.
- (c) The licensing of dealers in game.
- (d) The granting of licences for passage brokers and emigrant runners.
- (e) The abolition of fairs, and alteration of days for holding fairs.
- (f) The execution, as the local authority, of the Acts relating to petroleum and infant life protection.

From the appointed day the powers, duties, and liabilities of Quarter Sessions in relation to the licensing of knackers' yards within a county district are transferred to the District Council. All fees payable in respect of the powers, duties, and liabilities so transferred are payable to the District Council. These provisions are to apply also to a county borough as if it were an urban district, and the borough council were a District Council.

It will thus be observed that the old sanitary and highway authorities have ceased to exist, and their duties, powers, and liabilities have descended to the District Council. In addition they have the powers above specified derived from the Justices, and in rural districts the Councillors become the administrators of the Poor Law.

The powers of a District Council may, by notice of a resolution passed under the Act, be transferred to a County Council. Under these circumstances everything done by the County Council is to be done at the expense of the District Council. The County Council, on the other hand, may employ a District Council as their agents in the transaction of any administrative business on matters arising out of or affecting the interests of its own district.

All the above powers and duties will be found set out in Sections 25, 26, and 27 of the Act, and are fully discussed in the notes on those Sections.

III.—URBAN DISTRICT COUNCILS.

Under The Public Health Act, 1875, the Urban District includes Boroughs, Improvement Act Districts, and Local Government Districts, the authorities in each being respectively the mayor, aldermen,

and burgesses, acting by the Council, the Improvement Commissioners, and the Local Board. So far as boroughs and municipalities are concerned, the present Act makes no change. With respect to the other two, the Act provides for the repeal of all statutes already in existence, so far as they deal with the qualification and election of members, and for the election of new bodies in their place under the title of Urban District Councils.

Constitution.

An Urban District Council will consist of a Chairman and Councillors, the latter elected according to the provisions of the Act. The Chairman may be elected by the Councillors, from within or without their own body, and will be a Justice of the Peace for the county by virtue of his office. The number of Councillors will probably be the same as the bodies which they supersede, unless the County Council exercise their powers of altering such number.

There will be no *ex-officio* or nominated Councillors.

Qualification and Election.

The qualification will be the same as in the case of Guardians and Rural Councillors. *i.e.*, the candidate must be a qualified parochial elector, or by twelve months' residence. The candidates will be elected by the parochial electors, on the principle of one man one vote. The election must, if practicable, be carried on at the same time as the election of Guardians for the District; but the Clerk to the Urban Sanitary Authority will be the Returning Officer. The rules as to nomination are the same as in the Rural District Council and Board of Guardians Elections.

General rules relating to the election of Urban District Councillors are published by the Local Government Board.

Office.

The term of office of an Urban District Councillor is three years. One-third of the Council will retire each year, and if the district is divided into wards one-third of the Councillors of each ward will so retire. The County Council may make an order directing a simultaneous retirement at the end of every third year. It cannot, however, exercise this power except on the request of the District Council, passed by two-thirds of the members

voting on the resolution. The day for retiring will be April 15th. For the purpose of establishing a rotation, one-third of the members for the first elected Urban Council will retire in April, 1896, one-third in April, 1897, and the rest in 1898. The members to so retire at the different periods will be determined by their position on the poll, those who were lowest retiring first (Section 79, Sub-section 6).

Every Councillor on his election is required to sign a declaration accepting office.

Meetings.

The meetings are to be held in the same way as those of Rural District Councils, and the Rules of Schedule I. of The Public Health Act, 1875, will apply as far as possible.

Powers and Duties of Urban District Councils.

In addition to their powers and duties under the Public Health Acts exercised by the authorities which Urban District Councils succeed, they have additional powers and duties now conferred by the Act. They have the same powers, duties, and liabilities, also conferred on Rural District Councils, which formerly belonged to Justices out of session and of quarter session in the matters already set out and described in Section 27. They have the same duties of protecting rights of way and preventing encroachments on roadside wastes in their districts as Rural District Councils.

If in any urban district there is existing an authority constituted under any of the Adoptive Acts, the Urban District Council may by resolution take over its powers, duties, property, debts, and liabilities, and the Council will become successors of the authority. The Adoptive Acts cannot be introduced into any urban district without the approval of the Council (Section 62).

The Local Government Board may on the application of an urban district make an order conferring on the Council all or any of the following matters: namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties, or liabilities of overseers, and any powers, duties, or liabilities of a Parish Council, and applying, with the necessary modifications, the provisions of the Act with reference thereto.

CHAPTER VIII.

PARISH LANDS AND ALLOTMENTS.

SOME of the most important sections of The Local Government Act, 1894, and sections which will excite great interest in rural parishes, are those which deal with the acquisition, holding, and management of parish lands. A considerable amount of such parish lands will of course be used for allotments, as the part which can be devoted to parish buildings or recreation grounds must be proportionately small. Allotments are now a comparatively old institution, although they have occupied a prominent place in modern politics, and are the subject of two important Acts of the years 1887 and 1890. Older Acts of Parliament have from time to time provided for the acquisition and holding of land by trustees or by the churchwardens and overseers of a parish for the benefit of the poor of the parish. Such lands have all been affected by one or other of the provisions of The Local Government Act, 1894, and, therefore, before explaining the new powers conferred by the last-mentioned Act, and the variations made thereby in the Allotments Acts of 1887 and 1890, we propose to briefly sketch the past and future of the older institutions.

Parish Lands and Allotments Acquired before 1887.

The first Act to deal with the question was the Statute 59 George III., Cap. 12, which gave the churchwardens and overseers, with the consent of the vestry, power to utilise parish lands, or to hire or lease other land to the extent of twenty acres, for the employment of such persons as they were required by law to set to work, and to pay such of the poor persons so employed as should not be supported by the parish reasonable wages for their work. This Statute also contained a proviso to the effect that, "for the promotion of industry among

the poor," it should be lawful for the churchwardens and overseers, with the consent of the vestry, to let any of the lands to any poor and industrious inhabitant of the parish, to be occupied and cultivated by and for the benefit of such lessee. The Statutes 1 and 2 William IV., Cap. 42 and Cap. 59, increased the quantity of land which might be taken from twenty to fifty acres, and empowered the churchwardens and overseers to inclose, with the consent of the lord of the manor and a majority of the commoners, from any waste or common land lying in or near the parish, and also, with the consent of the Treasury, to inclose from any forest or waste ground belonging to the Crown so situated, any part thereof not exceeding fifty acres. They were then directed to cultivate and improve the land so enclosed for the benefit of the parish and its poor, and might let any part to a poor inhabitant to be occupied and cultivated by him on his own account.

In the following year a Statute (2 and 3 William IV., Cap. 42) was passed relating to the old institution of fuel allotments made for the benefit of the poor. The Statute recited that some of such allotments had become comparatively useless and unproductive, and therefore required the trustees, together with the churchwardens and overseers, to let portions to any cottagers of the parish who might apply for the same. The rent was to be spent by the churchwardens and overseers, on behalf of the vestry, in the purchase of fuel for the winter season for the benefit of the poor.

Next comes the series of Inclosure Acts, beginning with the Act of 1845 (8 & 9 Vict., Cap. 118), which authorised the Inclosure Commissioners to require, as conditions of an inclosure being made under that Act, the appropriation of an allotment for the purposes of exercise and recreation for the inhabitants, and of an allotment for the labouring poor. In the inclosure award the allotments were directed to be made and awarded to the churchwardens and overseers of the parish, and to be held by them as parish lands for the purpose for which they were allotted. The allotment for the labouring poor was further required to be managed and let by allotment wardens for the parish, consisting of the incumbent, one churchwarden, and two other ratepayers.

The next Statute of importance is The Poor Allotments Management Act, 1873 (36 & 37 Vict., Cap. 17). In cases where the wardens, &c., might exceed twenty in number, this Act provided for the appointment of committees by the wardens, trustees, or other

functionaries (and by the vestry with regard to all lands subject to 2 & 3 William IV., Cap. 42). Such committees were to have all the powers of the bodies by which they were selected. This Act further authorised the sale or exchange or the letting of lands acquired for the purposes of the Acts 59 Geo. III., Cap. 12, and 1 & 2 William IV., Caps. 42 and 59, if such lands had become unfit for the purposes for which they were acquired.

The Commons Act, 1876 (39 & 40 Vict., Cap. 56), deals with the fuel allotments awarded previous to the Inclosure Act, 1845, and vested in trustees, and also with the allotments awarded under the Inclosure Acts to the overseers and churchwardens as recreation grounds and field gardens. It forbids the trustees or the churchwardens and overseers to divert the lands from the purposes for which they were set apart, but provides that the Charity Commissioners may, on the application of the trustees, authorise the use of a fuel allotment as a field garden or recreation ground, or its exchange for more suitable land. It was further provided that allotments for recreation grounds should be vested in the churchwardens and overseers for the time being, and no other person. By The Commons Act, 1878 (41 & 40 Vict., Cap. 56), the Inclosure Commissioners were empowered, in a Provisional Order for the regulation of a common, to specify, as a condition, an allotment for the labouring poor.

How such Lands are Affected by the Act.

All lands acquired and held under the above-mentioned Acts are affected by The Local Government Act, 1894. In the first place, the property in such lands is or may be vested in the Parish Council. Section 5, Sub-section 2 (c), provides that from the appointed day the legal interest in all property vested either in the overseers, or in the churchwardens and overseers of a rural parish, other than property connected with the affairs of the church or held for an ecclesiastical charity, shall, if there is a Parish Council, vest in that Council, subject to all trusts and liabilities affecting such property. If there is no Parish Council, the legal interest will vest in the chairman of the Parish Meeting and the overseers, who in smaller parishes are a body corporate for any such purpose (Section 19, Sub-sections 6 and 7). All persons concerned are required to join in and make the necessary transfers. Fuel allotments and allotments vested in

trustees—under the Inclosure Acts or otherwise—are governed by Section 14, which declares that such trustees *may*, with the approval of the Charity Commissioners, transfer the property to the Parish Council, or to persons appointed by the Parish Council, subject to the trusts and conditions on which the trustees hold the said property.

In the second place, the management of allotments, &c., is transferred to the Parish Council by Section 6, Sub-section 1 (*c*). This sub-section enacts that upon a Parish Council of a rural parish coming into office there must be transferred to it the powers, duties, and liabilities of the overseers or of the overseers and churchwardens, with respect to “(iii.) the holding or management of parish property, not being property relating to the affairs of the church or held for an ecclesiastical charity, and the holding or management of village greens, or of allotments, whether for recreation grounds or for gardens, or otherwise for the benefit of the inhabitants or any of them.” Sub-section 4 of the same section continues that “where any Act constitutes any persons wardens for allotments, or authorises or requires the appointment or election of any wardens, committee, or managers for the purpose of allotments, then, after a Parish Council for the parish interested in such allotments comes into office, the powers and duties of the wardens, committee, or managers shall be exercised and performed by the Parish Council.” In smaller parishes, where there is no Parish Council, the Parish Meeting may delegate these powers of management to a committee, under the provisions of Section 19, Sub-section 3.

The Allotments Acts, 1887 and 1890.

It is impossible with the space here at our disposal to go fully into the powers and provisions of the Allotments Acts of 1887 and 1890, and the reader is referred to the Acts themselves, which will be found set out in the Appendix to this book. Frequent allusions will be made to them in explaining the powers conferred on the Parish Council by Sections 9 and 10 of the Local Government Act for the acquisition of land. By the Allotments Acts, 1887 and 1890, certain powers are conferred on Parliamentary electors of making representations to the sanitary authority, now the District Council, as to the desirability of acquiring land for allotments, and of applying for the election of allotment managers. Similar powers, but without prejudice to the powers of the individual electors, are conferred on the Parish Council by Sub-section 3 of Section 6 of the new Act. In the

following notes the expression "allotments" includes common pasture, where authorised to be acquired under The Allotments Act, 1887.

Passing on to the powers for the acquisition of land conferred on the Parish Council, we find that they consist of powers of purchase and powers of hiring. The Parish Council may purchase land for any purpose for which they may require it, whether for public buildings, a recreation ground, public works, or allotments. They may hire lands compulsorily only for the purposes of allotments: for other purposes the hiring must be by agreement in the ordinary way.

THE PURCHASE OF LAND AND ALLOTMENTS BY THE PARISH COUNCIL.

In the first place we will deal with the purchase of land by a Parish Council. In the case of a voluntary sale the clauses of the Lands Clauses Acts relating thereto are incorporated in The Local Government Act, 1894 (see Section 9, Sub-section 1). The Council may therefore agree with the owners and all parties having any estate or interest in the lands they require, for the absolute purchase of such lands and of all estates and interests therein for a consideration in money. Persons otherwise under a disability are enabled to sell and convey to a Parish Council on their fulfilling the requirements of the Lands Clauses Acts. The consideration for such sales may take the form of an annual rentcharge, to be determined by a valuation when the vendors are under a disability, and to be charged on the rates.

But, if the Parish Councils are unable to acquire by agreement, and on reasonable terms, land suitable for any purpose for which they are authorised to acquire it, they may represent the case to the County Council, who must inquire into the representation. If upon any such representation or any proceeding for the acquisition of allotments under the Acts of 1887 and 1890, whether instituted by individual electors, the District Council, or by the Parish Council, the County Council are satisfied that suitable land for the purpose required cannot be obtained on reasonable terms by voluntary agreement, and that the circumstances generally justify such a proceeding, they may cause a public inquiry to be held in the parish. Proper notice, as may be prescribed by the Local Government Board, must be given in the parish and to the owners, lessees, and occupiers of the land proposed to be taken. All persons inter-

ested may attend the inquiry, and support or oppose the taking of the land. The County Council, if satisfied, may then make an order putting into operation those provisions of the Lands Clauses Acts which relate to the purchase or taking of land otherwise than by agreement (see Section 9, Sub-sections 2 and 4). In the event of the County Council refusing to make any such order, an appeal lies to the Local Government Board, and the Board, after a further local inquiry, can make an order to the like effect: but any order of the Local Board overruling the decision of a County Council must be laid before Parliament.

Rules relating to the procedure in these cases will probably be framed by the Local Government Board, as some of the provisions of Section 9 on the matter are by no means clear. If, on the petition of the Parish Council, the County Council make the required order, a copy of such order must be served on the prescribed persons and in the prescribed manner. The order must be accompanied by a statement that it will become final and have the effect of an Act of Parliament unless, within a certain time, some person interested present a memorial to the Local Government Board praying for a further inquiry. A copy of the order must also be deposited with the Local Government Board, who will inquire whether the provisions of the section and the prescribed regulations have been complied with. If the Board are satisfied, and no memorial has been presented, or, if presented, such memorial has been withdrawn within the prescribed time, they may without further inquiry confirm the order. But if a memorial has been presented and not withdrawn, the Local Government Board must hold a local inquiry, and may then, either with or without amendment, confirm or disallow the proposed order. Upon any such confirmation or amendment the order becomes final, and has the effect of an Act of Parliament.

For the purposes of local inquiries held by the inspectors or officers of the Local Government Board, Sections 293, 296, and 297 (1) and (2) of the Public Health Act are incorporated in the new Act. They provide for the summoning, holding, and conduct of inquiries by the Local Government Board, and require that public notice shall be given of the purport of proposed orders for at least two weeks previously, by advertisement in some local newspaper. For fuller particulars as to such inquiries, reference should be made to The Public Health Act, 1875, the incorporated sections of which are set out in the Appendix.

After all the requisite formalities have been satisfied, and the order has become binding, it must be carried into effect by either the District or County Council. If the order has been obtained on the initiative of the District Council, that Council will be the proper authority to carry it out, but in other cases the County Council.

Arbitration.

For the actual negotiations and dealings with the owners of the land the procedure is governed by the provisions of the Lands Clauses Acts so far as they relate to compulsory acquisition. The necessary sections, with Sections 77 to 85 of The Railway Clauses Consolidation Act, 1845, which refer to rights in minerals under the land so acquired, are incorporated in the new Act. The Lands Clauses Acts provide that notices must be served on the owners of and persons interested in the lands proposed to be purchased. The notices must demand from all parties particulars of their estate and interest in such lands, and the claims made by such parties in respect thereof. The notices must further give particulars of the land required, and state that the County or District Council, as the case may be, are willing to treat for the purchase of the lands, and the compensation to be made. If the parties fail to treat, or a dispute arises, the question of compensation must be settled by arbitration. But cases of disputed compensation are not to be regulated entirely by the Lands Clauses Acts, but are to be dealt with in the manner provided in Section 3 of The Allotments Act, 1887, and for that purpose the provisions of (a), (b), and (c) of Sub-section 4 of that section are incorporated. They declare that such questions shall be referred to a single arbitrator appointed by the parties, or if the parties fail to agree in the appointment, then, on the application of either of them, by the Local Government Board. The most important modification of the Lands Clauses Acts, however, is the provision, in Sub-section 10 of Section 9 of the new Act, which prohibits the arbitrator from making any additional allowance by reason of the purchase being compulsory. This will differentiate sales for Parish Council purposes from other compulsory sales, where an allowance of ten per cent. is usually made on that account. At meetings for inquiries and arbitration any authorities or parties interested, or their agents, may be heard, and also witnesses; but, except in certain cases, to be prescribed by the Local Government

Board, the official conducting the proceedings is not permitted to have the assistance of counsel or of expert witnesses. The person or persons holding inquiries on behalf of the County Council has or have the same powers as an inspector of the Local Government Board when holding a local inquiry, and the costs of such inquiries are to be regulated by Section 294 of The Public Health Act, 1878. The new Act further incorporates Sub-section 2 of Section 2 of The Allotments Act, 1887, if the land is taken for allotments, and, whether it is so taken or not, Sub-sections 5, 6, 7, and 8 of Section 3 and Section II of that Act, and Section 3 of the Act of 1890. The brief effect of these sections is that the District or County Council can only acquire land for allotments at such price or rent as may be reasonably expected to be recouped out of the profits thereof; that regard must be paid to the nature and situation of the surrounding property; and that the Parish Council will be enabled to sell unsuitable or superfluous lands.

Governances.

Where land is acquired otherwise than for allotments, it will be assured to the Parish Council, and any land purchased by the County Council for allotments will also be assured to the Parish Council. For the management of such allotments the Parish Council have the powers conferred on the sanitary authority by Sections 5 to 8 of The Allotments Act, 1887. Land purchased by the District Council will be assured to that District Council.

Further Powers.

The Parish Council can only acquire by agreement, and not compulsorily, land for the purpose of any supply of water, or of any right of way.

These powers of acquiring land may also be exercised by a county borough, and the same procedure holds, with certain necessary modifications. The order must be both made and confirmed by the Local Government Board, and carried into effect by the Council of the county borough.

THE HIRING OF LAND FOR ALLOTMENTS.

The question of hiring caused a great controversy during the passage of the Act through Parliament, and even necessitated the

addition of a new clause to the Bill as originally drafted. In the first place the Parish Council may hire land by agreement. They may also, after due formalities, hire land compulsorily, but for allotments only.

If the Council is satisfied that allotments are required, and they are unable by agreement to hire suitable land on reasonable terms, they may represent the case to the County Council. The County Council may then, after due inquiry and the same formalities as are required in the case of compulsory purchases, make an order authorising the Parish Council to hire compulsorily, for a period of not less than fourteen years or more than thirty-five years, such land in or near the parish as is specified in the order. It appears from the wording of the Act that the period of the proposed hiring must be set out in the order. The order, as respects confirmation and otherwise, is subject to the same provisions as if it were an order for the "purchase" instead of the hiring of land, and which have been described in the former part of this chapter.

Compensation.

The question of compensation is to be referred to a single arbitrator, as in the case of the purchase of land, and the provisions of Section 3 of The Allotments Act, 1887, again apply to his appointment. He has power to determine any question—

- (a) As to the terms and conditions of hiring; or,
- (b) The amount of compensation for severance; or,
- (c) As to the compensation to be paid to any tenant upon the determination of his tenancy; or,
- (d) As to the apportionment of rent between the land taken by the Parish Council and the land remaining with the tenant; or,
- (e) Any other matter incidental to the hiring of the land or the surrender thereof at the end of the tenancy.

The arbitrator may not, in fixing the rent or other compensation, make any addition on account of the hiring being compulsory. In these cases, when land is required to be hired by the Parish Council, the interests of two parties have to be taken into consideration—that of the landlord and that of the existing tenant. The interest of the landlord may prove a very delicate question, as the land may be so situated that in the course of a few years it might be ripe for building purposes, which would have to be deferred till

the end of the Council's tenancy. The arbitrator in this case is required, in fixing the compensation, to take into consideration all circumstances, and the use to which the land might otherwise be put during the term of hiring. The interest of the tenant may be affected by the severing and taking away of perhaps the best field on his holding, and here again the arbitrator must take the fact into his consideration. He must allow for any depreciation of the value to the tenant of the residue of his holding caused by the withdrawal of the land hired by the Parish Council. The compensation so awarded to a tenant is to be provided for, as far as possible, by taking such compensation into account in fixing the rent to be paid by the Parish Council and the apportioned part to be paid by the tenant for the residue of his holding. The award and report of the arbitrator are required to be deposited and preserved with the parish books and papers, but the owner of the land shall at all reasonable times be at liberty to inspect the same and take copies.

Management.

The general provisions of Sections 5 to 8 of The Allotments Act, 1887, as to the management of allotments, will regulate the management of the land hired under the powers of the Act, with a few modifications. The Parish Council, as the authority entrusted with such management, may let to one person an allotment or allotments exceeding one acre, but if the land is hired compulsorily, not exceeding in the whole four acres of pasture, or one acre of arable and three acres of pasture. These provisions seem strange, and will probably soon require alteration, as it is difficult to see why such a distinction should be drawn between lands hired voluntarily and lands acquired by compulsion. As the section now stands, the Parish Council could let to one person any extent of land, provided they could in the first instance hire such land by agreement. The Council may also permit any stable, out-house, or barn to be erected on the allotment: but the consent, in writing, of the landlord is required before any permanent pasture may be broken up. Further, the Parish Council and its tenants do not require any right to take, sell, or carry away any gravel, sand, or clay from the land so hired. The Parish Council also cannot hire any mines or minerals, nor may they require the hiring of any land owned or occupied as a small holding within the meaning of The Small Holdings Act, 1892.

Determination of Tenancy.

At the determination of the tenancy, a single arbitrator, appointed as before, has power to determine the amount of compensation to be paid by the landlord for improvements, or by the Parish Council for depreciation. He will determine such compensation according to the provisions of The Agricultural Holdings Act, 1883.

Provision is made for the determination of a tenancy of a Parish Council in cases where the landlord requires the land for the purposes of working or getting any mines, minerals, or surface minerals, or of making any road or connection therewith. The landlord must satisfy the County Council of the justice of his demand, and may then give to the Parish Council twelve months' notice of his intention. At the expiration of the notice he may resume possession, and shall pay to the Parish Council and to the allotment holders for the time being such compensation for the loss of the land as may be agreed upon by the landlord and the Council. In default of such agreement the compensation must be settled by a single arbitrator, to be appointed as in other cases under these sections.

CHAPTER IX.

ELECTIONS.

THE Fourth Part of the Local Government Act deals with the supplementary provisions for Parish Meetings and elections of Parish Councils, and for the registration of voters who are entitled as electors to vote for the Parish Council. They are defined by the second section to be the persons registered either on the Local Government Register of Electors or on the Parliamentary Register in each parish, and this qualification includes the lodger and the ownership vote. All disqualifications on married women are removed, and women, married or single, may be registered as electors on the Local Government, but not the Parliamentary, Register; but a husband and wife cannot both be qualified in respect of the same property. Therefore where the property is that of the wife, the wife will be the registered elector. No person whose name is not on the Local Government Register or the Parliamentary Register can attend a Parish Meeting and vote; but, as has been pointed out in the Rules, any person who is a candidate for election to the office of Parish Councillor, and is resident within three miles of the parish, may attend to answer questions and give explanations at the annual assembly of the Parish Meeting. Directions are given that the list and register of electors in every parish and township shall be framed in separate parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling districts at elections for any such wards.

Although each elector can give only one vote, there is nothing to prevent a person being registered, if duly qualified by residence or ownership, in more than one Register of Parochial Electors. But where in that portion of the Parliamentary Register of Electors which

relates to a parish a person is entered to vote in a polling district other than the district comprising the parish, such person shall, nevertheless, be entitled to vote as a parochial elector for that parish. An asterisk will be placed against his name, and, in addition, a number consecutive with other numbers in the list (Section 44, Sub-section 5).

The law with regard to the claiming of votes for Parliamentary or municipal lists applies also to those who claim for the parochial electors' lists. This is an entirely new provision, giving to married women the right of the ownership vote. The Clerk of the County Council or the Town Clerk is entrusted with the printing of the lists returned to him by the revising barrister, and with carrying into effect the new provisions of this statute as to electoral qualifications.

Disqualifications for Parish or District Council.

The disqualifications of Section 46 are numerous, and they extend to the chairman and members of a Parish Council or of a District Council other than a Borough, or of a Board of Guardians. The persons thus disqualified are infants, aliens, and those who within twelve months of the election or after the election have received union or parochial relief, or have within five years before or at any time after the election been convicted on indictment or summarily of any crime and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, such as penal servitude (a free pardon will remove this disqualification).

Any person is ineligible who has been adjudged a bankrupt within five years, or made a composition or arrangement with his creditors. Disqualification also extends to the holder of any paid office under the Council or Board of Guardians, and to any person who is concerned in any bargain or contract entered into with the Council or Board, or who participates in the profits of any such bargain or contract. But this disqualification is not to apply where the person is owner or occupier of lands out of which a contract may be made for the supply of stone, gravel, or other materials for highway purposes, or for the repair of bridges, nor is the proprietor or shareholder in a newspaper disqualified because of the insertion of an advertisement therein relating to the affairs of the Council or Board.

In the case where any Councillor is a shareholder in any joint stock company with which it is proposed to enter into any contract,

such shareholder shall not vote at any meeting of the Board or Council on any question in which such company is interested; but the County Council may relax or remove this prohibition where the shareholder is interested in a gas or water company, or any other similar company for the carrying out of works of a public nature.

The County Council are authorised to remove the disqualification of a person who is interested in any bargain or contract, where, in their opinion, the removal of such disqualification will be beneficial to the parish. In the same way, where any person has been disqualified by bankruptcy, or by making a composition or arrangement with his creditors, the disqualification ceases upon payment of the debts in full, or when the adjudication is annulled, or when the bankrupt obtains his discharge with the certificate that the bankruptcy was caused by misfortune, without misconduct on his part.

Absence from the meetings of the Council or the Board of Guardians for more than six months consecutively, except in case of illness or for some reason approved by the Council, disqualifies the member of the Council from further attendance, and renders his seat vacant. Upon such disqualification arising, the Council is at once to declare the office vacant, and the declaration is to be signed by three members and countersigned by the clerk, and such notification renders the office vacant.

Any person acting when disqualified under any of the provisions of Section 46 will be liable on summary conviction to pay a fine not exceeding £20.

All questions on the qualification of candidates must be raised by an election petition, and cannot in the case of Parish Councillors be decided by the Chairman at the Parish Meeting.

Vacancies.

There is a peculiar provision in Section 47 that if any vacancies at the annual assembly of the Parish Council for the election of the Parish Councillors are not filled up by the election at the Parish Meeting, such retiring councillors as are not re-elected and who are required to fill the vacancies shall continue in office if they so desire. The persons so to continue are to be those who were highest on the poll at the previous election, or, if the numbers were equal or there was no poll, the Parish Meeting, or, in their default, the Chairman of the Parish Council, is to decide which of them is to continue in office. All retiring Councillors or Chairmen are eligible for re-election.

A Parish Councillor may resign his office by a written notice to the Chairman of the Council without fine, and the Chairman of the Parish Council or Parish Meeting in the same way may resign his Chairmanship by notice in writing to the Council or Meeting. Such notice by the rules is served upon the clerk, though in the case of the Chairman of the Parish Meeting where there is no Parish Council he will practically give notice to himself, but he must summon an assembly of the Parish Meeting to receive his resignation. Casual vacancies among Parish Councillors or caused by the resignation of the Chairman will be filled by the Parish Council itself, and where the Chairman of the Parish Meeting resigns, the Parish Meeting must elect his successor. Where a Parish Council is unable to act for want of Councillors the County Council may order a new election, or may by order make such provision for authorising any person (not persons) to act temporarily in the place of the Parish Council and of its Chairman.

Rules for Elections.

The rules relating to the various elections to be held under the provisions of the Act are published by the Local Government Board, and some of them have already been noticed in one or other of the preceding chapters. The more general provisions may be roughly summarised as follows:—

All candidates for any office established or controlled by the Act must be nominated in writing, and on special forms to be obtained from the Returning Officer, or in rural districts from the Overseers. The paper must state the full name, address, and description of the candidate, and his qualification for the office to which he aspires. The forms must be signed by the proposer and seconder, with their addresses. The papers must be handed in to the proper authorities specified by the different sets of rules. No parochial elector may sign more nomination papers than there are vacancies or members, as the case may be, on the body for which the election is being held. A breach of this rule will not nullify the whole of the papers so signed, but all those received last in order in excess of the specified number will be void.

No parochial elector in an election for a union or a district not a borough may subscribe a nomination paper or vote in more than one parish or other area in the union or district. The same provision

holds with regard to nominating candidates and voting in wards, where the parish is so divided.

The polls will be open on the days and during the hours fixed by the County Council; but every poll must be between the hours of six and eight in the evening. Polls for Parish and Rural District Councils must be taken together, and one ballot-box may be used for both elections. Similarly, wherever practicable, polls for Guardians and Urban District Councillors for the same areas must be held at the same time; but in this case different ballot-boxes must be provided, although a vote will not be lost by being placed in the wrong box. When two elections are conducted together, different coloured ballot papers must be used.

Polling Agents.

In elections to District Councils, urban and rural, and to Boards of Guardians, if there are only two candidates, each of them may, in writing, appoint a Polling Agent for each polling station. If there are more than two candidates, any number of them, not being less than one-third of the whole number of candidates, may in writing appoint one Polling Agent for each polling station. This last rule also applies to elections for Parish Councillors. Polling Agents may be paid or unpaid. All notices of such appointments must be delivered at the office of the Returning Officer not less than two clear days before the day of the poll.

In addition to Polling Agents, each candidate may appoint an agent to represent him at the counting of the votes.

General Rules.

It appears that candidates may not be present in the polling room except for the purposes of voting, unless they are acting as their own polling agents subject to the rules relating thereto.

The Ballot Act and the rules under it will govern the polls taken, and the Returning Officer is empowered in these elections, not only to use the schools and public rooms free of charge, but also to hear objections to nomination papers and to count votes in such buildings. The penal provisions of The Municipal Elections (Corrupt Practices) Act, 1884, subject to the exceptions in the rules, are to apply to all such elections; but the provisions of that Act as to the maximum of expenses and the requirements for sending in a declaration and list

of expenses to the Town Clerk or Clerk of the County Council are not to apply.

But it is the opinion of the best authorities that the penal provisions include all the provisions, penal or otherwise, of The Corrupt Practices Act, 1884, except the provisions as to making a return of election expenses (and the maxima) as set out in Section 37 of that Act. The latter provisions are clearly excluded by the application of this section: otherwise the whole Act applies, subject to adaptations, alterations, and exceptions made by the rules of the Local Government Board, and they will hardly stretch their authority to the extent of excluding any provisions of the Act which impose penalties for offences such as those enumerated in the following extract. The provisions generally of the Act may best be summarised by setting out at length the chapter on Municipal Elections from the second edition of "The Candidates' and Agents' Guide in Contested Elections":—

"The Act of 1884, which deals with Municipal Elections, practically re-enacts the provisions as to corrupt and illegal practices, illegal payments, and hiring contained in the Act of 1883, and makes them applicable to municipal elections, which also include the City of London in Common Hall, Aldermanic, Shrievalty, and Common Council contests, and elections for County Councillors and for School Boards. In fact, the only public office to which the provisions do not apply is that of Vestry Clerk. The differences between the Municipal and the Parliamentary Elections Corrupt and Illegal Practices Acts are the limitation of expenses and the disqualification for the purposes of public meetings and committee rooms of political clubs and all places where food or drink is sold. [*In the Local Government Orders of 1894 an express provision, however, declares that it shall not be unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to the office of Parish or Rural District Councillor on any licensed or other premises not situate in an urban sanitary district, or in the administrative County of London.*] And, although there are expressions in the Act in two sections as to the Agent of the Candidate, there is no provision for his payment except as Polling Agent. Corrupt and illegal practices are the same as those enacted in the Statute controlling Parliamentary elections.

* * * * *

"As with Parliamentary elections, every bill, placard, or poster must bear the name of the printer and publisher, and there is the

same statutory enactment against payment for bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction.' Section 16 is the one which marks the difference between the Parliamentary and the Municipal Acts as to the disqualification for committee rooms or meetings on all premises which are licensed for the sale of any intoxicating liquor, or where any refreshments, whether food or drink, are ordinarily sold for consumption on the premises. [*This by the Rules only applies to urban districts and the administrative County of London.*] Political clubs are distinctly excluded by the following words:—'Any premises where any intoxicating liquor is supplied to members of the club, society, or association, or any part of such premises, shall not, for the purpose of promoting or procuring the election of a candidate at a Municipal election, be used either as a committee room or for holding a meeting,' and persons guilty of illegal payment, employment, or hiring are liable to a fine on summary conviction of not less than £100.

“Every claim against any person incurred in respect of election expenses must be sent to the candidate within fourteen days after the day of election, and all claims must be paid within twenty-one days. Where the candidate has an agent, such agent must within twenty-three days make a return to the candidate in writing of all expenses incurred by such agent on account of or in respect of the conduct or management of the election, and within twenty-eight days the candidate himself must transmit to the Returning Officer, or the Clerk of the Council, or the Clerk of the Peace, a return of all expenses incurred by himself or his agents in respect of the conduct or management of the election. No payment can be made in excess of the maximum or after such period without application to the High Court, or to the County Court for the district in which the election was held, the rule of the High Court being that notice must be given to the candidate on the other side and the Returning Officer, and two days' notice of the application, with proof of advertisements in the district in which the election was held. The return and declaration in pursuance of the Act must be kept by the Town Clerk for the next twelve months. The form of declaration by candidates as to expenses is very similar to that which Parliamentary candidates have to swear, and is set out in the Fourth Schedule to the Act; but there is no declaration for the agent, nor is there any provision for his payment, except that already alluded to in Section 13, Sub-section (b).

“In the absence of a Parliamentary candidate from the United Kingdom at the time of an election, there is a provision for him to file his return and make a declaration within fourteen days after his arrival; but there is no similar provision under the Municipal Corrupt Practices Act. A Divisional Court has, however, decided (in the case of Mr. Henry Clarke, who is both a Common Councilman and a County Councillor) that relief may be given by the Court, and the return filed and the declaration made on the candidate's return.

“It may also be pointed out that, in addition to the Corrupt Practices Act not applying to the election of a Vestry Clerk, Section 37 sets out that the provisions which prohibit the payment of *any* sum and the incurring of *any* expense by or on behalf of a candidate at an election on account of or in respect of the management of the election, and those which relate to the times of sending in and paying claims, and to the maximum amount of expenses, or the return or declaration of them, do not apply according to the First Schedule of the Act.”

The above provisions, by the First Schedule to The Municipal Elections Act, 1884, apply to the election of members of Local Boards, Improvement Commissioners, Boards of Guardians elected under the Poor Law Amendment Act, and members of School Boards. They will now also apply to elections for Parish and District Councils and all other contests under The Local Government Act, 1894.

The amending rules provide that an election petition complaining of the election on the ground of an illegal practice may be presented at any time within six weeks after the day of election. If such a petition arises on any Parish or Rural District Council election, it may be tried at any place within the Poor Law Union in which the parish or area is situate.

Although the limits to election expenses imposed by the Municipal Corrupt Practices Act do not apply, Section 48, Sub-section 7, requires the County Council to fix a scale for the returning officers, and if the County Council omit to fix such scale, upon their default the Local Government Board are to do so.

With regard to guardians, district councillors of a county district not a borough, and members of the Local Board of Woolwich and of Vestries under the Metropolis Management Acts and all Acts amending the same, the provisions of this (the Municipal Elections)

Act as to expenses, resignation, re-eligibility of office-holders, and the filling of casual vacancies apply.

The provisions as to resignation do not apply to guardians, and the district councillors of the rural district will be in the same position with respect to resignation as the members of a board of guardians are now. Further, no returning officer is to be authorised or required to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement. The vacancy is not to be filled up by the District Council or Board of Guardians, but at the next ordinary election.

If any difficulty arises respecting the election of any individual councillor or guardian or member of such Local Board or Vestry (Metropolitan), and there is no provision for holding another election, the County Council may order a new election, and give such directions as may be necessary for the purpose of holding it. All ballot boxes, fittings, and compartments provided by any public authority for any election whatever must be lent to the returning officer for any election under this Act, either free of charge or upon such conditions as the County Council may prescribe.

CHAPTER X.

FINANCIAL PROVISIONS.—RATES.—LOANS.

IN this chapter it is proposed to deal with the Financial Provisions of the Local Government Act, and to show the checks that are imposed upon expenditure, and how moneys may be obtained for the purposes required by the various authorities established by the Act. It may happen that some of the matters here dealt with have been touched upon in the other topics of this book, but it is necessary to refer to them again in giving a complete view of the money provisions which will now come into operation.

The Parish Meeting.

The expenses of the Parish Meeting should not be very great. Their extent will depend on the existence of a Parish Council in the parish. If there is a Parish Council, that body is charged with the payment of the expenses of the Parish Meeting. But in its absence the Parish Meeting has powers given to it to raise money by means of a rate to defray the costs of its existence (Section 11, Sub-section 4). The Parish Meeting may decide to adopt any of the Adoptive Acts, and would thereby incur additional expenditure. But in any event the expenses of the Parish Meeting (when added to the expenses under any of the Adoptive Acts) must not exceed sixpence in the pound in any local financial year (Section 19, Sub-section 9). For obtaining payment of such expenses the chairman of the Parish Meeting has the same powers as a Board of Guardians have for the purpose of obtaining contributions to their common fund.

The Parish Council.

The Parish Council has larger powers than the Parish Meeting, and will therefore often incur larger expenses. They are enabled under certain conditions to obtain loans, and therefore may be liable to annual charges by way of interest or repayment of principal on such loans. The powers of the Parish Council appear to be these:—They may incur expenses or liabilities which will

involve a rate not exceeding threepence in the pound in any local financial year. A rate exceeding threepence must be sanctioned by the Parish Meeting. But the sum to be raised in any financial year may not exceed, either with or without the consent of the Parish Meeting, a sum equal to a rate of sixpence in the pound on the rateable value of the parish at the commencement of the year. The expenses of the Adoptive Acts are not included in this estimate, and such expenses are additional to the limit above noticed. As the Adoptive Acts have to be adopted at a Parish Meeting, it follows that any charges incurred under them will be with the knowledge and assent of the Parish Meeting. The rates of the Parish Council will be made as a poor rate in the usual way, and the demand note must state the proportion of the rate levied for the expenses of the Council, and the proportion (if any) levied for the Adoptive Acts. The property, debts, and liabilities of any of the authorities under the Adoptive Acts, whose powers are transferred by Section 7 to the Parish Council, will still continue the property, debts, and liabilities of the area of that authority. The proceeds of the property are to be credited, and the debts, liabilities, and expenses are to be charged, to the rates levied in that area, and, if necessary, apportioned between the parishes where the area includes more than one.

By Rule 14 of Schedule I. (Part 2) every cheque and other order for the payment of money by a Parish Council must be signed by two members of the Council.

Loans to Parish Council.

The Parish Council may not, without the consent of the Parish Meeting, incur expenses or liabilities which will involve a loan, nor may they do so without the approval of the County Council (Section 11, Sub-section 12). But the Parish Council has had conferred upon it certain borrowing powers (Section 12) for any of the following purposes :-

- (a) For purchasing any land or building any buildings which the Council are authorised to purchase or build.
- (b) For any purpose for which the Council are authorised to borrow under any of the Adoptive Acts.
- (c) For any permanent work or other thing which the Council are authorised to execute or do, and the cost of which ought, in the opinion of the County Council and the Local Government Board, to be spread over a term of years.

In such cases they may, with the consent of the County Council and the Local Government Board, borrow money in the same manner and subject to the same conditions as a local authority may borrow for defraying expenses incurred under the Public Health Acts. The money must be obtained on the security of the poor rate and of the whole or part of the revenue of the Parish Council. But, instead of the limit of the loan being the assessable value for two years, as under the Public Health Acts, it must be half the assessable value.

A County Council may lend any money to the Parish Council that they are authorised to borrow, and may further, without the consent of the Local Government Board, and irrespectively of any limit of borrowing, raise the money by loan, under the same conditions as any other loan they are authorised by their powers to obtain.

Urban District Council.

The expenses incurred by an Urban District Council in the execution of the additional powers conferred by the Act are to be defrayed in a borough out of the borough fund or rate. In any other case they will fall on the district fund and general district rate or other fund applicable towards defraying the expenses of the execution of The Public Health Act, 1875 (Section 28).

Rural District Council.

The expenses incurred by this authority are to be defrayed in the same manner as the expenses of a rural sanitary authority incurred under the Public Health Acts. Highway expenses are to be charged as general expenses. The Local Government Board have power in certain cases to direct that special expenses shall be raised as general expenses. A District Council may, under exceptional cases, charge highway expenses on a contributory place. But in cases where in any parish or area there exist special property or funds other than rates for the payment of highway expenses, the District Council must so provide as to give that parish or area the benefit by way of reduction of the rates (Section 29).

Audit.

Generally speaking, the audit of Parish Council and Parish Meeting accounts, and those of their officers and committees, will be yearly. The accounts must be made up to the 31st March in each

year, but in some cases, if a half-yearly audit is required, they must be made up to the 30th September and the 31st March in each year. They are to be audited by a district auditor, and the provisions of the Acts applying to the audit of accounts of urban sanitary authorities will apply. The Local Government Board, however, may make rules modifying those enactments as to the publication of notice of the audit and of the abstract of accounts and the report of the auditor (Section 58).

In the absence of any express provision, it would appear that all accounts relating to expenses incurred by the adoption of any of the Adoptive Acts should be kept distinct from other accounts of the Parish Council, and in the manner required by the Acts themselves. They would then be audited separately by the district auditor. The provision of Section 11, Sub-section 5, which requires the proportion of the rate which is levied for the purposes of the Adoptive Acts to be expressly stated on the demand note for the rate for Parish Council and Parish Meeting expenses, rather favours this view.

Any parochial elector, at all reasonable times and without payment, may examine and take copies and extracts of books and accounts (Section 58, Sub-section 4).

The accounts of Rural District Councils are required to be audited half-yearly, and for that purpose must be made up the 30th September and the 31st March. The same rules apply as in the case of the accounts of Parish Councils, and parochial electors of a parish in the district have similar rights to inspect and take copies of the accounts.

Transfer and Adjustment of Property and Liabilities.

On the transfer of any powers and duties under this Act from one authority to another, all property held by the first authority will pass to and vest in the second, subject to all debts and liabilities affecting the same. All debts and liabilities of the first authority will likewise pass to the second, which will become chargeable with the same. They must be defrayed out of the like property and funds out of which they would have been defrayed if the Act had not been passed (Section 67).

Where any adjustment is required for the purpose of the Act the authorities interested therein may by agreement adjust any property, income, debts, liabilities, and expenses, so far as affected by the Act.

The agreement may provide for the transfer or retention of any property, debts, or liabilities, and with or without conditions. It may provide for the joint use of any property. Either party may agree to make a payment to the other in respect of anything so transferred, and such payment may be annual or by way of a capital sum. In default of agreement, the adjustment must be settled by arbitration (Section 68).

Any sum to be so paid will be payable as part of the general expenses of the authority under the Act, and payment may be made out of such special fund as the authority, with the approval of the Local Government Board, may direct. If a capital sum is to be paid the requisite money may be borrowed according to the provisions of the Act.

Capital money so received by any authority must be treated as capital (Section 68, Sub-section 5).

Expenses of Inquiries.

Expenses incurred by the Local Government Board in respect of inquiries and other proceedings must be borne by such authorities and persons and out of such funds as an order of the Board may direct. The Board may certify the amount of such expenses, which will become a debt to the Crown (Section 72, Sub-section 1).

If the County Council hold any inquiries on the application of a Parish or District Council, or of any inhabitants of a parish, the expenses of such proceedings must be paid by the Council of the Parish or District or by the Parish Meeting as the case may be. Expenses incurred by the County Council on their own initiative under the Act will fall on the County Fund (Section 72, Sub-section 4).

Securities and Discharge of Debts.

Nothing in the Act is to prejudicially affect any securities granted before the passing of the Act, or the credit of any rate or property transferred to the Council. All unsecured debts, liabilities, and obligations incurred by any authority must be discharged, paid, and satisfied by the Council or Parish Meeting. The existing authorities however, were required, as far as practicable, before the appointed day to pay all their current debts and liabilities (Section 86).

Saving for Pending Contracts &c.

If at the time when any powers, duties, liabilities, debts, or property are transferred in pursuance of the Act to a Parish or District Council, or to a Parish Meeting, any action by or proceeding against any authority is pending, it will not be affected, but may be continued and enforced by or against the successors of that authority. In the same way, at the time of such transfer it may happen that there may be contracts, deeds, and agreements subsisting which relate to some of the powers, duties, liabilities, debts, and property so transferred. It is expressly provided that such contracts and agreements shall not be prejudiced by the passing of the Act, but that they are to have full force and effect either for or against the Parish or District Council or the Parish Meeting. They can be enforced as fully and effectually as if the Council or Parish Meeting had been made a party thereto (Section 88).

CHAPTER XI.

LONDON AND THE ACT.

THE Act, after dealing with Guardians and District Councils, proceeds to apply certain of its provisions to the bodies administering local government in the County of London. The bodies so affected consist of (i.) Guardians, (ii.) Sanitary Authorities.

Guardians in London have hitherto been elected on the same principle and with the same qualification as Guardians outside London. The Act provides (Section 30) that the same changes must now be made in the constitution and election of the Boards in London and county boroughs as in those of other districts. These changes have already been noticed, and will be found discussed in the first part of Chapter VI.

Sanitary Authorities of the Metropolis.

The Sanitary Authorities of the Metropolis, however, are more complicated. They were established and regulated by The Metropolis Management Acts, 1855 to 1890, and other Amending Acts. The different parishes were arranged into classes, and the constitution of the Sanitary Authority depended upon the class into which each parish fell. At the time of the passing of the Act the Metropolis was divided as follows:—

1. The City of London, having the Commissioners of Sewers as its authority.
2. Woolwich, with its Local Board of Health.
3. The parishes included in Schedule A of The Metropolis Management Act, 1855, having the Vestry as Sanitary Authority.

4. The districts included in Schedule B, having District Boards elected by the Vestries in the various parishes constituting the districts.
5. Extra-parochial places, mentioned in Schedule C, controlled by the Guardians or Overseers.

The classification of London parishes into schedules will be found in the notes on Section 31. It is hardly necessary to say that the London Vestries were not the old Common Law Vestries, but select bodies, whose members had to be qualified and elected under the provisions of the Metropolis Management Acts.

Changes in the London Vestries.

Qualification.—The qualification for the office of Vestryman is changed. Formerly he had to be an occupier or ratepayer of a qualifying amount in the parish; but now the test is the same as for an Urban District Councillor. He or she (for women will be eligible) must be a parochial elector for the parish or have resided therein during the whole twelve months preceding the election. The disqualifications of Section 46 also apply to this office.

Method of Election.—The old cumulative system of voting is abolished. In future the Vestries will be elected by the parochial electors of the parish. Each elector may give one vote and no more to each of any number of persons not exceeding the number to be elected. The election will be carried on according to the rules issued by the Local Government Board. All polls must begin at 8 a.m. and be kept open till 8 p.m.

Chairman.—There will be no ex-officio Chairman of the Vestries of the parishes in Schedule A. The Chairman is to be chosen at the first meeting after the annual election of members in each year. The person so elected, unless a woman or otherwise disqualified, will become a Justice of the Peace.

The provisions as to the retirement of Urban District Councillors, the filling of vacancies, &c., will apply to the London Vestries just as if they were duly constituted Urban Councils.

The powers and duties of the Vestries are not affected by the Act, which is only intended to regulate their constitution and method of election.

Changes in District Boards.

In parishes in Schedule B the Sanitary Authority is a District Board composed of members elected by the Vestries of the parishes in the district. In such Boards only two changes are made.

Qualification.—The qualification of an Urban District Councillor is required: that is to say, members of District Boards must either be parochial electors of parishes in the district or have resided therein for the whole of the previous twelve months.

Chairman.—There can be no ex-officio Chairman. He must be chosen at the first meeting after the annual election in each year, and will be by virtue of his office a Justice of the Peace.

In other respects the District Boards will be elected in the same manner, and will have the same powers and duties, as before the passing of the Act.

I.—THE ELECTION OF VESTRYMEN AND AUDITORS.

In the application of the provisions of the Parish Councils Act to London no attempt is made to deal with the procedure at the Easter Vestry, where “the Affairs of the Church” and “Ecclesiastical Charities” naturally come up for discussion and decision; yet in all other portions of the kingdom they are specially excluded from the provisions of the Act.

As has been already pointed out, the local government of London is affected by The Local Government Act, 1894, in two matters—the qualification and election of (i.) Guardians, and (ii.) the Sanitary Authorities. The provisions of the Act with respect to the qualification of electors and candidates, and to the conduct of the election for Urban District Councils, are made applicable as if members of the Local Board of Woolwich and of the Vestries controlled by The Metropolis Management Acts, 1855 to 1890, and the auditors elected under those Acts, were Urban District Councillors. The same qualification is also imposed for membership of the District Boards, although the method of electing those bodies is unchanged. Section 31, Sub-section 1, by reference abolishes the occupation and ratepaying qualification for Vestrymen and members of the Local Board of Woolwich, and places the qualification upon the same footing as that for Urban District Councillors, as defined by Section 23.

Returning Officer.

For the election of Vestrymen and Auditors, the Returning Officer is the vestry clerk, and where there are more than one the Vestry will select that officer, or, in the event of a vacancy, or of the inability of the clerk to act, it will make the necessary appointment. The Returning Officer is required to appoint an officer for the purpose of the election. It is imperative for the Returning Officer to appoint Deputies, as where there are several wards he may not count the votes in more than two wards except with the consent of the London County Council.

All appointments of Deputies by the Returning Officer must be in writing, and where there is an election of both Vestrymen and Auditors, the same person must act as Deputy Returning Officer in respect of both offices.

Date and Notice of Election.

It appears that the election of Vestrymen and Auditors will usually take place together, and that for Guardians on some other day. The Act does not make any further change in the election of Vestrymen, and the provisions of the Metropolis Management Acts will continue to apply. Consequently the subsequent elections of Vestrymen will be held annually in the month of May in every year (presumably commencing in May, 1896) as the Vestry appoint (18 & 19 Viet. c. 120, s. 7). Members of the Vestry will retire by thirds (*id.* s. 9).

Notice of the first election for Vestrymen and Auditors, signed by the Returning Officer, must be given within the parish in the form required by the Rules issued by the Local Government Board, fourteen days before the day of the election.

Nomination.

Every candidate must be nominated in writing in the required form. The full name, address, and description of the candidate must be stated, and whether he or she is qualified for election as a parochial elector or by residence in the parish for the preceding twelve months. The papers must be signed by two parochial electors as proposer and seconder, with their addresses. All candidates as Auditors must also sign the nomination paper to show that

they are willing to serve, if elected. Only the name of one candidate may be on any one nomination paper. Any parochial elector may propose or second any number of candidates, provided they are not in excess of the number to be elected. Parochial electors can only sign papers for wards in respect of which they possess a qualification, and in one ward only of the parish. The Returning Officer has similar powers of deciding as to the validity of nominations as in other elections under the Local Government Act, but questions of qualification can only be raised and decided on an election petition. Separate nomination papers, to be obtained free of charge from the Returning Officer, must be provided for candidates as Vestrymen and for the office of Auditor.

Conduct of the Election.

The Returning Officer will deal with nomination papers in the same way as to numbering them and deciding on their validity as is required in the various other elections under the Act. A list of candidates must be published on or near the principal gate or door of the office of the Vestry on the day after the nominations are received. Any candidate may withdraw by notice in writing signed by him not later than twelve noon on the following day. If no poll is necessary the Returning Officer will send the requisite notices of election to candidates, and make his return as in the case of other elections under the Act. If a poll has to be taken, it will remain open from 8 a.m. till 8 p.m., and the polls for Vestrymen and Auditors must be taken together.

Wards and Polling Districts.

Where there are wards in a parish, each ward is to be a polling district, or may be divided into polling districts. Where the parish is undivided into wards, the Returning Officer may divide it into polling districts as he thinks fit, and such divisions will be the same for Vestrymen and Auditors.

No parochial elector may vote in more than one ward or polling district, and he should vote in the district in which his property is situate.

The Returning Officer is to determine the number and situation of the polling places and stations. He must not use any premises licensed for the sale of intoxicating liquors. Unless the County

Council otherwise directs, 700 electors is to be the minimum number for a polling district, and so on for each additional 700 electors, or for any less number over and above the last 700.

The Poll.

Notice of the poll must be given in the required form.

There must be a presiding officer at each polling station, viz., the Returning Officer, or some person duly appointed in writing by him. The compartments at the polling stations and the ballot papers must be arranged as at a Parliamentary election.

As at Parliamentary and municipal elections, a voter may be challenged by any polling agent or by any parochial elector when he applies for a voting paper, but not afterwards. The two usual questions, similar to those which may be asked of electors at Parliamentary elections, may be put, and no ballot paper will be supplied till they have been answered.

The counting of votes will proceed in the ordinary way, but, if postponed to the next morning, it may not commence till after 9 a.m. Where there is an equality of votes, the Returning Officer or his deputy may, "if a parochial elector of the parish," give an additional vote in writing, but otherwise he is not entitled to vote at the election. Where he is not a parochial elector, no provision is made in cases of equality of votes.

Result of the Poll.

The declaration of the result must be made in the required form, and a copy must be forthwith affixed on the front of the building in which the votes have been counted.

An election petition, complaining of the election of a Vestryman or Auditor on the ground of an illegal practice, may be presented at any time within six weeks after the day of election.

II.—LONDON GUARDIANS.

Section 30 of the Act declares that the provisions of the Act respecting Guardians shall apply to the administrative County of London. Special rules are issued by the Local Government Board for the nomination and election of Guardians for Unions situated wholly or in part in the Administrative County of London, and a separate chapter has necessarily to be penned on the Metropolitan provisions.

Qualification.

The only qualification now for the office of Guardian, whether in town or country, is that provided by Section 20. A candidate must be either a parochial elector within some parish in the union—*i.e.*, his or her name must be registered on the Register of Parochial Electors in such parish; or, if not a parochial elector, the candidate must have been a resident during the whole of the twelve months preceding the election in the Union which it is proposed he or she should represent. No person can be disqualified by sex or marriage from being elected or from being a Guardian, and, as in all other elections under this Act, each elector may give one vote and no more for each of any number of persons not exceeding the number of Guardians to be elected.

Returning Officer.

The Returning Officer will be the clerk to the Guardians, or if the clerk is unable or unwilling to act, or the office is vacant, the Guardians will choose some other person to perform the duties of the Returning Officer, the first of which is the appointment by him of an office for the purposes of election, to which all notices can be sent, and from which forms of nomination must be supplied to any parochial elector free of charge. The Returning Officer is allowed to appoint, in writing, one or more fit persons to be his deputy or deputies, such deputy to have all the powers, duties, and liabilities of the Returning Officer. The necessity for the appointment of deputies is emphasised by the fact that the Returning Officer himself may only count the votes in one parish, or in not more than three wards or divided portions, unless he has the consent of the London County Council.

Notice of the election must be given in the prescribed form, and posted on or near each church or chapel and in some conspicuous place or places in each parish where the election is to be held.

Nomination.

Every candidate for the office of Guardian must, by Section 48, be nominated in writing by two parochial electors as proposer and seconder, and no more. Such proposer and seconder must sign

the nomination form, giving their places of abode, and, in the event of their being illiterate, their signatures must be witnessed by two parochial electors, whose places of abode must also be inserted. A parochial elector may not sign more nomination papers than there are Guardians to be elected for the parish or for the united parishes or for the ward, and the proposer and seconder may not sign a nomination paper for any parish or united parishes or for a ward unless he or she is registered as a parochial elector in respect of a qualification therein, nor must he or she sign a nomination paper in more than one parish or group of parishes or ward in the Poor Law Union for which the election is to be held. In the event of a parochial elector signing more nomination papers than the law allows him, all such of the nomination papers signed by him as relate to the first parish or other area for which a nomination paper signed by him is received by the Returning Officer will alone be valid. All nomination papers not properly filled up and signed are to be excluded, and every nomination paper must be sent to the Returning Officer so that it is received at the office appointed before the required time, and on the nomination paper so received the Returning Officer is required to note whether it was received before or after that time. As in the case of the other elections under the Act, the Returning Officer is directed to number each nomination paper in the order in which it is received, and to decide whether it is valid. As soon as his decision is given on its invalidity he must apprise the candidate, by post or otherwise, of his decision. On the following day the Returning Officer must make out a statement giving the names, places of abode and the descriptions of the persons nominated as Guardians, and also a note as regards each candidate as to whether he has been validly nominated or not. Questions of qualification, however, cannot be dealt with by the Returning Officer, but must form the subject of an election petition. A copy of such statement is to be suspended in the board room of the Guardians, and another is to be fixed at or near the external gate or door of the building of which the board room of the Guardians is comprised. Any candidate may withdraw his candidature by delivering or causing to be delivered at the office of the Returning Officer a notice in writing of his withdrawal, signed by him, not later than twelve o'clock on the day following that on which the nomination paper is deposited.

As in other elections under the Act, Section 56 of The Municipal Corporations Act, 1882, is incorporated.

Poll and Polling Districts.

Where the number of valid nominations exceeds the number of the persons to be elected, a poll must be taken. Such poll must remain open between the hours of 8 a.m. and 10 p.m. The Returning Officer may divide the parish into polling districts, each district to consist of an area for which separate lists of parochial electors will be available. Such areas and polling districts shall, as far as practicable, be the same as those for the election of Vestrymen and Auditors. Where the parish is divided into polling districts, each parochial elector is to give his vote in the polling district in which his property is situate, but if it is in more than one polling district he may vote in any one, but in one only, of the polling districts in respect of which his name appears on the list of voters. In determining the number and situation of the polling places and stations the same proviso applies as for all other elections, viz., that no premises licensed for the sale of intoxicating liquors shall be used for a polling place. Where a poll is to be taken, notice in the required form must be given, specifying the days and hours of the poll, the number of Guardians to be elected, name and place of abode and description of each candidate, names of his proposer and seconder, descriptions of the polling districts, the situation and allotment of the polling places, and of the persons entitled to vote. The Returning Officer, or some person appointed by him in writing, will be the presiding officer for each polling station, and the compartments of the polling station are to be the same as, and the ballot papers similar to, those used for the election of Vestrymen and Auditors. No elector may vote in more than one parish in the Union, and the two usual formal questions must be put by the presiding officer to any person applying for a ballot paper on the demand of a polling agent or of any parochial elector. These questions are practically the same as those at a Parliamentary poll held under the Ballot Act.

Polling Agents.

If there are only two candidates, each of them may in writing appoint a polling agent for each polling station, who may be paid or unpaid. If there are more than two candidates, any number of them,

being not less than one-third of the whole number of candidates, may, in writing, appoint one polling agent for each polling station, who may be paid or unpaid. Any such appointment must be delivered at the office of the Returning Officer not less than two clear days before the day of the poll. Except as aforesaid no polling agent, whether paid or unpaid, may be appointed for the purposes of the election.

Counting of Votes and Declaration of Poll.

Where the Returning Officer is only permitted to count the votes in one parish or two wards himself, the Deputy Returning Officer, as well as himself, is required to provide for the safe custody and opening of the ballot boxes, and for the counting and declaration of the poll, such counting to take place as soon as practicable after the close of the poll, or at nine the following morning. Where there is an equality of votes the Returning Officer or his deputy who counts the votes may give an additional vote in writing, if he is a parochial elector of the parish for which the election has been held; but, except where there is such an equality of votes, the Returning Officer and his deputy are not otherwise entitled to vote at the election for Guardians. The declaration of the poll is required to be fixed on the front of the building in which the votes have been counted, and where the Deputy Returning Officer has performed such duty, he is forthwith to send a copy of the declaration to the Returning Officer himself, who will prepare and sign a statement of the result in all the parishes of the Poor Law Union, and declare such persons to be elected. A copy of the statement of the result of the poll is to be suspended in the board room of the Guardians, and public notice is to be given of such statement.

Miscellaneous Provisions.

An election petition can be presented at any time within six weeks after the day of election. Such petition may be tried at any place within the Poor Law Union in which the parish is situated. Returning Officers' expenses are to be defrayed by the Guardians of the Poor Law Union, and charged to the parish in their accounts. Any other sum is to be charged in the case of the Union to the common fund, and one half of the expenses payable in respect of providing polling stations, ballot boxes, compartments, etc., will be

deemed to be a portion of the expenses for the election of Guardians, and the other half for the election of Vestrymen and Auditors. Any public notice required to be given shall be given by posting the same on or near the principal door of each church and chapel in the parishes and in some conspicuous place or places within the parish. The illiterate voter may make his mark where a signature is required, if it is witnessed by two parochial electors. No misnomer or inaccurate description of any person or place in any notice or nomination paper shall invalidate such notice or paper, provided the description of that person or place is such as can be commonly understood.

THE LOCAL GOVERNMENT ACT, 1894.

(56 & 57 VICTORIA, CHAPTER 73.)

ARRANGEMENT OF SECTIONS.

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2. Parish meetings.
3. Constitution of parish council.
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Powers and Duties of Parish Councils and Parish Meetings.

5. Parish council to appoint overseers.
6. Transfer of certain powers of vestry and other authorities to parish council.
7. Transfer of powers under adoptive Acts.
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9. Powers for acquisition of land.
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17. Parish officers and parish documents.
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22. Chairman of council to be justice.
23. Constitution of district councils in urban districts not being boroughs.
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25. Powers of district council with respect to sanitary and highway matters.
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28. Expenses of urban district council.
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34. Supplemental provisions as to control of overseers in urban districts.
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Parish and District Councils.

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THE LOCAL GOVERNMENT ACT, 1894.

(56 & 57 VICTORIA, CHAPTER 73.)



An Act to make further provision for Local Government in
England and Wales. [5th March, 1894.]

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

PART I.

PARISH MEETINGS AND PARISH COUNCILS.

Constitution of Parish Meetings and Parish Councils.

1. (1) There shall be a parish meeting for every rural parish, and there shall be a parish council for every rural parish which has a population of three hundred or upwards: Provided that an order of the county council in pursuance of Part III. of this Act—

Constitution of parish meetings and establishment of parish councils.

- (a) shall, if the parish meeting of a rural parish having a population of one hundred or upwards so resolve, provide for establishing a parish council in the parish, and may, with the consent of the parish meeting of any rural parish having a population of less than one hundred, provide for establishing a parish council in the parish; and
- (b) may provide for grouping a parish with some neighbouring parish or parishes under a common parish council, but with a separate parish meeting

for every parish so grouped, so, however, that no parish shall be grouped without the consent of the parish meeting for that parish.

(2) For the purposes of this Act every parish in a rural sanitary district shall be a rural parish.

(3) Where a parish is at the passing of this Act situate partly within and partly without a rural sanitary district, the part of the parish which is within the district, and the part which is without, shall as from the appointed day, but subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the 39 & 40 Vict. c. 61. Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

Section 1.—On the Parish Meeting and the qualifications of a parish for a Parish Council see Chapter I.

Three hundred or upwards.—In Section 39 provision is made for cases where, by reason of the increase or decrease of the population of a parish, its numbers rise above or fall below the limits here defined.

Grouping.—The powers of the County Council to form or dissolve groups of parishes are set out in Section 38; the machinery may be set in motion by the Parish Meeting (Sub-section 4).

For the definitions of terms in this Section, see Section 75.

A Rural Sanitary District is the area of a poor law union exclusive of an urban district or districts within it. For the distinction between urban and rural sanitary districts, see Sections 6 and 9 of The Public Health Act, 1875, set out in the Appendix.

Parish Meetings may be held in wards or parts of a parish (see Sections 18, 37, and 49).

The Acts here referred to are the Divided Parishes and Poor Law Acts of 1876, 1879, and 1882.

Parish meeting.

2. (1) The parish meeting for a rural parish shall consist of the following persons, in this Act referred to as parochial electors, and no others, namely, the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish.

(2) Each parochial elector may, at any parish meeting, or at any poll consequent thereon, give one vote and no more on any question, or, in the case of an election, for each of

any number of persons not exceeding the number to be elected.

(3) The parish meeting shall assemble at least once in every year, and the proceedings of every parish meeting shall begin not earlier than six o'clock in the evening.

(4) Subject to the provisions of this Act as to any particular person being the chairman of a parish meeting, the meeting may choose their own chairman.

(5) A poll consequent on a parish meeting shall be taken by ballot.

(6) The reasonable expenses of and incidental to the holding of a parish meeting or the taking of a poll consequent thereon shall be defrayed as hereinafter provided.

(7) With respect to parish meetings the provisions in the First Schedule to this Act shall have effect.

Section 2.—On the Parish Meeting generally, see Chapter I., and on the supplemental provisions as to Parish Meetings, Section 45.

The preparation of the Register and the qualifications of Parochial Electors are dealt with in Section 44.

As to the annual assembly of the Parish Meeting, see Rule 1, *infra*.

The choice and qualifications of a Chairman are fully considered in Chapters I. and II.

Polls.—The rules for the taking of polls, and how and when they may be demanded, are dealt with in Rules 5, 6, and 7, *infra*.

The expenses of a poll are to be paid by the Parish Council out of the Poor Rate, if there is a Parish Council. If there is none, the Chairman has certain powers in the matter (see Section 11, Sub-section 4; and Section 48, Sub-section 7).

Section 19 deals with the powers and duties of Parish Meetings in parishes where there is no Parish Council.

For directions as to the place of meeting, see Sections 4 and 61.

RULES APPLICABLE TO PARISH MEETINGS.

(Schedule I. Part I.)

(1) The annual assembly of the Parish Meeting shall be held on the twenty-fifth day of March in each year, or within seven days before or after that day.

(2) Not less than seven clear days before any Parish Meeting, public notice thereof shall be given specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by the Chairman of the Parish Council or other conveners of the meeting.

(3) If the business relates to the establishment or dissolution of a Parish Council, or the grouping of a Parish, or the adoption of any of the Adoptive Acts, not less than fourteen days' notice shall be given.

(4) A Parish Meeting may discuss parish affairs and pass resolutions thereon.

(5) Every question to be decided by a Parish Meeting shall, in the first instance, be decided by the majority of those present and voting on the question, and the Chairman shall announce his decision as to the result, and that decision shall be final, unless a poll is demanded.

(6) A poll may be demanded at any time before the conclusion of a Parish Meeting.

(7) A poll may be demanded by any one parochial elector in the case of a resolution respecting any of the following matters, namely:—

(a) Any application, representation, or complaint to a County Council or District Council (Sections 1, 19, 38, and 39) ;

(b) The appointment of a Chairman for the year or of a committee, or the delegation of any powers or duties to a committee, or the approval of the acts of a committee (Section 19, Sub-sections 1 and 3) ;

(c) The appointment of an Overseer, the appointment or revocation of the appointment or dismissal of an Assistant Overseer or a parish officer (Section 19, Sub-section 5) ;

(d) The appointment of Trustees or beneficiaries of a charity (Section 14, Sub-section 3 ; and Section 19, Sub-section 5) ;

(e) The adoption of any of the Adoptive Acts (Section 7) ;

(f) The formation or dissolution of a School Board (Section 52, Sub-section 2) ;

(g) The consent or refusal of consent to any act, matter, or thing which cannot by law be done without that consent (Sections 1, 13, 14, 38, 39, and 52) ;

(h) The incurring of any expense or liability (Section 11) ;

(i) The place and time for the assembly of the Parish Meeting (Section 45, Sub-section 1) ;

(k) Any other prescribed matter (i.e., *by the Local Government Board, e.g., the election of Parish Councillors*).

but, save as aforesaid, a poll shall not be taken unless either the Chairman of the meeting assents, or the poll is demanded by parochial electors present at the meeting, not being less than five in number or one third of those present, whichever number is least.

(8) In case of an equal division of votes at a Parish Meeting the Chairman shall have a second or casting vote.

(9) Where a Parish Meeting is held for the election of Parish Councillors, opportunity shall be given at the meeting for putting questions to such of the candidates as are present, and receiving explanations from them, and any candidate shall be entitled to attend the meeting and speak thereat, but, unless he is a parochial elector, not to vote.

(10) If the Chairman of the Parish Meeting is absent from or unwilling or unable to take the chair at any assembly of the Parish Meeting, the meeting may appoint a person to take the chair, and that person shall have, for the purpose of that meeting, the powers and authority of the Chairman.

(11) Any notice required to be given to or served on a Parish Meeting may be given to or served on the Chairman of the Parish Meeting.

3. (1) The parish council for a rural parish shall be elected from among the parochial electors of that parish or persons who have during the whole of the twelve months preceding the election resided in the parish, or within three miles thereof, and shall consist of a chairman and councillors, and the number of councillors shall be such as may be fixed from time to time by the county council, not being less than five nor more than fifteen.

Constitution of parish council.

(2) No person shall be disqualified by sex or marriage for being elected or being a member of a parish council.

(3) The term of office of a parish councillor shall be one year.

(4) On the fifteenth day of April in each year (in this Act referred to as the ordinary day of coming into office of councillors) the parish councillors shall go out of office, and their places shall be filled by the newly elected councillors.

(5) The parish councillors shall be elected by the parochial electors of the parish.

(6) The election of parish councillors shall, subject to the provisions of this Act, be conducted according to rules framed under this Act for that purpose by the Local Government Board.

(7) The parish council shall in every year, on or within seven days after the ordinary day of coming into office of councillors, hold an annual meeting.

(8) At the annual meeting, the parish council shall elect, from their own body or from other persons qualified to be councillors of the parish, a chairman, who shall, unless he resigns, or ceases to be qualified, or becomes disqualified, continue in office until his successor is elected.

(9) Every parish council shall be a body corporate by the name of the parish council, with the addition of the name of the parish, or if there is any doubt as to the latter

name, of such name as the county council after consultation with the parish meeting of the parish direct, and shall have perpetual succession, and may hold land for the purposes of their powers and duties without licence in mortmain; and any act of the council may be signified by an instrument executed at a meeting of the council, and under the hands or, if an instrument under seal is required, under the hands and seals of the chairman presiding at the meeting and two other members of the council.

(10) With respect to meetings of parish councils the provisions in the First Schedule to this Act shall have effect.

Section 3.—On the constitution of the Parish Council, see Chapter III.

The Register of Parochial Electors is dealt with in Section 44, and the disqualifications which prevent a person sitting on a Parish Council will be found in Section 46.

The ordinary day of coming into office is April 15th, a day appointed by The Public Health Act, 1875, for the bodies elected under that Act to come into office.

Chairman.—If a Chairman is appointed from outside the Parish Council, the Council will be one in excess of the number fixed by the County Council.

The resignation of Councillors and the filling up of vacancies are provided for in Section 47, Sub-sections 3 and 4.

A short summary of the Rules for the Election of Parish Councillors is given in Chapter II.; and for general provisions regulating elections held under this Act see Section 48.

Annual Meeting.—The chief business is the election of a Chairman and of the Overseers for the parish. At this meeting every Councillor should sign the declaration accepting office required by Rule I, *infra*.

The place of meeting for a Parish Council is regulated by Sections 4 and 61.

RULES APPLICABLE TO PARISH COUNCILS.

(Schedule I. Part II.)

(1) Every Parish Councillor shall, at the first meeting after his election, or if the Council at the first meeting so permit, then at a later meeting fixed by the Council, sign, in the presence of some member of the Council, a declaration that he accepts the office, and if he does not sign such a declaration his office shall be void.

(2) If any casual vacancy arises in the Council, the Council shall forthwith be convened for filling the vacancy.

(3) The first business at the Annual Meeting shall be to elect a Chairman and to appoint the Overseers.

(4) The Chairman may at any time convene a meeting of the Parish Council. If the Chairman refuses to convene a meeting of the Council after a requisition for that purpose signed by two members of the Council has been presented to him, any two members of the Council may forthwith, on that refusal, convene a meeting. If the Chairman (without so refusing) does not within seven days after such presentation, convene a meeting, any two members of the council may, on the expiration of those seven days, convene a meeting.

(5) Three clear days at least before any meeting of a Parish Council notice thereof, specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by or on behalf of the Chairman of the Parish Council or persons convening the meeting, shall be given to every member of the Parish Council, and in case of the Annual Meeting notice specifying the like particulars shall be given to every member of the Parish Council immediately after his election.

(6) Any notice required by law to be given to the Chairman or any other member of the Parish Council may be left at or sent by post to the usual place of abode of such Chairman or member.

(7) No business shall be transacted at any meeting of a Parish Council unless at least one-third of the full number of members are present thereat, subject to this qualification, that in no case shall the quorum be less than three.

(8) The names of the members present at any meeting of the Parish Council, as well as of those voting on each question on which a division is taken, shall be recorded, so as to show whether each vote given was for or against the question.

(9) Every question at a meeting of a Parish Council shall be decided by a majority of votes of the members present and voting on that question.

(10) In case of an equal division of votes the Chairman of the meeting shall have a second or casting vote.

(11) The Parish Council may, if they think fit, appoint one of their number to be Vice-Chairman, and the Vice-Chairman shall, in the absence or during the inability of the Chairman, have the powers and authority of the Chairman.

(12) The proceedings of a Parish Council shall not be invalidated by any vacancy among their members, or by any defect in the election or qualification of any members thereof.

(13) A Parish Council shall hold not less than four meetings in each year, of which one shall be the Annual Meeting, and every such meeting shall be open to the public unless the Council otherwise direct.

(14) Every cheque or other order for payment of money by a Parish Council shall be signed by two members of the Council.

(15) Any notice required to be given to or served on a Parish Council may be given to or served on the clerk to the Parish Council.

(16) The Parish Council may appear before any court or in any legal proceeding by their clerk or by any officer or member authorised generally or in respect of any special proceeding by resolution of the Council, and their clerk or any member or officer shall, if so authorised, be at liberty to institute and carry on any proceeding which the Parish Council are authorised to institute and carry on.

Use of
schoolroom.

4. (1) In any rural parish in which there is no suitable public room vested in the parish council or in the chairman of a parish meeting and the overseers which can be used free of charge for the purposes in this section mentioned, the parochial electors and the parish council shall be entitled to use, free of charge, at all reasonable times, and after reasonable notice, for the purpose of—

- (a) the parish meeting or any meeting of the parish council; or
- (b) any inquiry for parochial purposes by the Local Government Board or any other Government department or local authority; or
- (c) holding meetings convened by the chairman of the parish meeting, or by the parish council, or, if as to allotments, in the manner prescribed by The Allotments Act, 1890, or otherwise as the Local Government Board may by rule prescribe, to discuss any question relating to allotments, under the Allotments Acts, 1887 and 1890, or under this Act; or
- (d) the candidature of any person for the district council or the parish council; or
- (e) any committee or officer appointed, either by the parish meeting or council or by a county or district council, to administer public funds within or for the purposes of the parish

53 & 54 Vict.,
c. 65.

any suitable room in the schoolhouse of any public elementary school receiving a grant out of moneys provided by Parliament, and any suitable room the expense of maintaining which is payable out of any local rate:

Provided that this enactment shall not authorise the use of any room used as part of a private dwelling-house, nor authorise any interference with the school hours of an elementary day or evening school, nor, in the case of a room used for the administration of justice or police, with the hours during which it is used for these purposes.

(2) If, by reason of the use of the room for any of the said purposes, any expense is incurred by the persons having control over the room, or any damage is done to the room or to the building of which the room is part, or its appurtenances, or the furniture of the room or the apparatus for instruction, the expense or damage shall be defrayed as part of the expenses of the parish meeting or parish council or inquiry as the case may be; but when the meeting is called for the purpose of the candidature of any person, such expense or damage shall be reimbursed to the parish meeting or the parish council by the persons by whom or on whose behalf the meeting is convened.

(3) If any question arises under this section as to what is reasonable or suitable, it may be determined, in the case of a schoolhouse by the Education Department, in the case of a room used for the administration of justice or police by a Secretary of State, and in any other case by the Local Government Board.

Section 4.—The use of schoolrooms is discussed in Chapter V. Public houses may not be utilised, except for purposes of candidature for a Rural District or Parish Council, if there is any other suitable room available for meetings either free of charge or at a reasonable cost.

As to what is an elementary school which can be claimed for meetings under the Act, see Section 75 and The Elementary Education Act, 1870, Section 7.

The Allotments Acts, 1887 and 1890. are noticed in Chapter VIII, and in the notes to Sections 9 and 10.

The expenses of Parish Meetings and Parish Councils are provided for by Section 11, Sub-section 4.

Nothing in the Act affects the trusteeship, management, or control of any elementary school (Section 66).

What is reasonable or suitable.—See the remarks issued by the Education Department and noticed at the end of Chapter VI.

Powers and Duties of Parish Councils and Parish Meetings.

5. (1) The power and duty of appointing overseers of the poor, and the power of appointing and revoking the appointment of an assistant overseer, for every rural parish having a parish council, shall be transferred to and vested in the parish council, and that council shall in each year, at their

Parish council to appoint overseers.

annual meeting, appoint the overseers of the parish, and shall as soon as may be fill any casual vacancy occurring in the office of overseer of the parish, and shall in either case forthwith give written notice thereof in the prescribed form to the board of guardians.

(2) As from the appointed day—

- (a) the churchwardens of every rural parish shall cease to be overseers, and an additional number of overseers may be appointed to replace the churchwardens, and
- (b) references in any Act to the churchwardens and overseers shall, as respects any rural parish, except so far as those references relate to the affairs of the church, be construed as references to the overseers, and
- (c) the legal interest in all property vested either in the overseers or in the churchwardens and overseers of a rural parish, other than property connected with the affairs of the church, or held for an ecclesiastical charity, shall, if there is a parish council, vest in that council, subject to all trusts and liabilities affecting the same, and all persons concerned shall make or concur in making such transfers, if any, as are requisite for giving effect to this enactment.

Section 5.—Overseers.—Previous to the passing of this Act, Overseers for parishes were appointed annually by the justices, under the provisions of 43 Eliz. c. 2, Section 1. The persons so appointed were generally the nominees of the Vestry, although the justices were not bound by the choice of the Vestry.

Assistant Overseers for parishes were usually appointed by the Guardians of the Poor Law Union in which the parishes were situate. This power is expressly taken away from the Guardians by Section 81, Sub-section 6. Assistant Overseers held office until they resigned or their appointment was revoked by the Vestry, which is now superseded by the Parish Council in this respect.

The election of Overseers will be at the Annual Meeting in April every year, and will follow the election of a Chairman in the order of business.

In parishes where there is no Parish Council, the power of appointing Overseers, &c., will be exercised by the Parish Meeting at its annual assembly (Section 19, Sub-section 5). In the event of no return of their election being made to the Guardians, the Guardians themselves will appoint the Overseers (see Section 50).

Churchwardens cease to be *Overseers* by virtue of their office as *Churchwardens*; but they may be specially chosen as *Overseers*.

If there is no *Parish Council*, the property described in Sub-section 2 (c) will vest in the *Chairman of the Parish Meeting* and the *Overseers* for the parish (Section 19, Sub-section 7).

On the affairs of the church and ecclesiastical charities, see Chapter V. and Section 75.

Overseers and Churchwardens as Trustees.—In all parochial charities the *Churchwardens* and *Overseers* will be replaced as *Trustees* by persons nominated by the *Parish Council* (Section 14, Sub-section 2).

6. (1) Upon the parish council of a rural parish coming into office, there shall be transferred to that council:—

Transfer of certain powers of vestry and other authorities to parish council.

(a) The powers, duties, and liabilities of the vestry of the parish except—

(i.) so far as relates to the affairs of the church or to ecclesiastical charities; and

(ii.) any power, duty, or liability transferred by this Act from the vestry to any other authority:

(b) The powers, duties, and liabilities of the churchwardens of the parish, except so far as they relate to the affairs of the church or to charities, or are powers and duties of overseers, but inclusive of the obligations of the churchwardens with respect to maintaining and repairing closed churchyards wherever the expenses of such maintenance and repair are repayable out of the poor rate under the *Burial Act, 1855*: Provided that such obligations shall not in the case of any particular parish be deemed to attach, unless or until the churchwardens subsequently to the passing of this Act shall give a certificate, as in the *Burial Act, 1855*, provided, in order to obtain the repayment of such expenses out of the poor rate.

18 & 19 Vict. c. 128.

(c) The powers, duties, and liabilities of the overseers or of the churchwardens and overseers of the parish with respect to—

(i.) appeals or objections by them in respect of the valuation list, or appeals in respect of

the poor rate, or county rate, or the basis of the county rate: and

(ii.) the provision of parish books and of a vestry room or parochial office, parish chest, fire engine, fire escape, or matters relating thereto: and

(iii.) the holding or management of parish property, not being property relating to affairs of the church or held for an ecclesiastical charity, and the holding or management of village greens, or of allotments, whether for recreation grounds or for gardens or otherwise for the benefit of the inhabitants or any of them:

(d) The powers exercisable with the approval of the Local Government Board by the board of guardians for the poor law union comprising the parish in respect of the sale, exchange, or letting of any parish property.

(2) A parish council shall have the same power of making any complaint or representation as to unhealthy dwellings or obstructive buildings as is conferred on inhabitant householders by the Housing of the Working Classes Act, 1890, but without prejudice to the powers of such householders.

53 & 54 Vict.
c. 70.

(3) A parish council shall have the same power of making a representation with respect to allotments, and of applying for the election of allotment managers, as is conferred on parliamentary electors by the Allotments Act, 1887, or the Allotments Act, 1890, but without prejudice to the powers of those electors.

50 & 51 Vict.
c. 43.
53 & 54 Vict.
c. 65.

(4) Where any Act constitutes any persons wardens for allotments, or authorises or requires the appointment or election of any wardens, committee, or managers for the purpose of allotments, then, after a parish council for the parish interested in such allotments comes into office, the powers and duties of the wardens, committee, or managers shall be exercised and performed by the parish council, and it shall not be necessary to make the said appointment or to

hold the said election, and for the purpose of section sixteen of the Small Holdings Act, 1892, two members of the parish council shall be substituted for allotment managers or persons appointed as allotment managers. 55 & 56 Vict.
c. 31.

Section 6.—Powers, duties, &c., of Parish Councils. On this matter generally, see Chapter IV.

Date of transfer.—Parish Councils came into office on December 13th or December 31st, 1894, according as there were not, or were, polls for the election of the Parish Councillors.

Transfer of powers.—All disputed questions arising hereon will be settled by the High Court of Justice, except questions relating to the trustees, &c., of a charity, which are to be decided by the Charity Commissioners, subject to an appeal to the High Court (Section 70).

By The Burial Act, 1855, it is provided that whenever a burial-ground is closed by an Order in Council, the Churchwardens or the Burial Board are required to keep it in decent order. The expenses are to be provided out of the Poor Rate, upon the certificate of the Churchwardens or Burial Board.

The powers and duties of Overseers here referred to are derived under the following Acts:—

- (i.) Appeals and objections in respect to the valuation list under 25 & 26 Vict. c. 103, Sections 18 and 32, by which objections may be taken thereto if the Parish is aggrieved by reason of its treatment in the valuation list in comparison with other parishes in the Union. Such objections could be taken before the Assessment Committee of the Union, with an appeal to Quarter Sessions.
- (ii.) With regard to the Poor Rate, by 6 & 7 Will. IV., c. 96, s. 6, and 17 Geo. II., c. 38, s. 4, the Council will be entitled to reasonable notice of any appeal by an individual against the Poor Rate and the grounds of his objections.
- (iii.) An appeal may be made in the Parish Council to the Council against the basis of the County Rate before it has been confirmed, and after the rate has been confirmed on giving the necessary notice to Quarter Sessions (see 15 & 16 Vict. c. 81, Sub-sections 17 & 22, as amended by 51 & 52 Vict. c. 41).

Parish Books may be provided by 58 Geo. III., c. 69, s. 2; a Vestry Room by 13 & 14 Vict. c. 57, s. 4; a Parochial Office by 24 & 25 Vict. c. 125, s. 1; Fire Engine and Fire Escape, &c., by 30 & 31 Vict. c. 106, s. 29.

On the question of Parish Property, see Section 14; the Acts relating to Village Greens and Allotments are dealt with in Chapter VIII.

By The Housing of the Working Classes Act, 1892, it is provided that

Any four or more householders may make a complaint in writing to the Medical Officer of Health for the district with regard to any dwelling-house or building which is either in such a condition as to be unfit for

human habitation, or is so situated as to be dangerous or injurious to health. The Medical Officer must inspect the premises and forward the complaint to the local authority (*i.e.*, the District Council) with his report. The local authority must then take the necessary proceedings within three months, or in default the householders may petition the Local Government Board for an inquiry (53 & 54 Vict. c. 70. ss. 31 and 38).

The powers of the Council with regard to Allotments are discussed in the Chapter on that subject. See also the Allotments Acts of 1887 and 1890 set out in the Appendix.

By Section 16 of *The Small Holdings Act, 1892*, the County Council may delegate their powers under the Act with respect to the adaptation of land for holdings, and the sale, letting, and management of the holdings to a committee consisting of (i.) the County Councillors of the division in which the holdings are situate, (ii.) two other members of the County Council, and (iii.) two allotment managers or persons appointed after the manner of allotment managers (who will now be superseded by members of the Parish Council).

Transfer of
powers
under
adoptive
Acts.

7. (1) As from the appointed day, in every rural parish the parish meeting shall, exclusively, have the power of adopting any of the following Acts, inclusive of any Acts amending the same (all which Acts are in this Act referred to as "the adoptive Acts"); namely,—

3 & 4 Will. IV.
c. 90.
9 & 10 Vict.
c. 74.
45 & 46 Vict.
c. 30.
15 & 16 Vict.
c. 85.
48 & 49 Vict.
c. 21.
23 & 24 Vict.
c. 30.
55 & 56 Vict.
c. 53.

(a) The Lighting and Watching Act, 1833;

(b) The Baths and Washhouses Acts, 1846 to 1882;

(c) The Burial Acts, 1852 to 1885;

(d) The Public Improvements Act, 1860;

(e) The Public Libraries Act, 1892.

(2) Where under any of the said Acts a particular majority is required for the adoption or abandonment of the Act, or for any matter under such Act, the like majority of the parish meeting, or, if a poll is taken, of the parochial electors, shall be required, and where under any of the said Acts the opinion of the voters is to be ascertained by voting papers, the opinion of the parochial electors shall be ascertained by a poll taken in manner provided by this Act.

(3) Where under any of the said Acts the consent or approval of, or other act on the part of, the vestry of a rural

parish is required in relation to any expense or rate, the parish meeting shall be substituted for the vestry, and for this purpose the expression "vestry" shall include any meeting of ratepayers or voters.

(4) Where there is power to adopt any of the adoptive Acts for a part only of a rural parish, the Act may be adopted by a parish meeting held for that part.

(5) Where the area under any existing authority acting within a rural parish in the execution of any of the adoptive Acts is co-extensive with the parish, all powers, duties, and liabilities of that authority shall, on the parish council coming into office, be transferred to that council.

(6) This Act shall not alter the incidence of charge of any rate levied to defray expenses incurred under any of the adoptive Acts, and any such rate shall be made and charged as heretofore, and any property applicable to the payment of such expenses shall continue to be so applicable.

(7) When any of the adoptive Acts is adopted for the whole or part of a rural parish after the appointed day, and the parish has a parish council, the parish council shall be the authority for the execution of the Act.

(8) For the purposes of this Act the passing of a resolution to provide a burial ground under the Burial Acts, 1852 to 1885, shall be deemed an adoption of those Acts.

Section 7.—Any of the Adoptive Acts must be adopted, if so desired, at a Parish Meeting or at a poll of the Parish Electors. Fourteen days' notice of the meeting at which the adoption is to be proposed, must be given (Schedule L, Part 1, Rule 3). When any Act is so adopted the Parish Council is the authority to carry it into execution, and when any of the Adoptive Acts are in force in a parish, on this Act coming into effect, the Parish Council will or may supersede the existing authorities carrying it into execution. If the area under the existing authority is co-extensive with the parish, the Parish Council will succeed as a matter of course; but if the Act is in force for part only of the parish, the existing authority, or a Parish Meeting for that part, may transfer its responsibility to the Parish Council. In many places at the passing of the Act, some of the Adoptive Acts may be in force in certain areas composed of parts of different parishes. In such cases the authority to carry out the Acts will be a joint committee, consisting of members appointed by each of the Parish Councils of the parishes contributing to the area (Section 53, Sub-section 2). A poll on the question of adopting any of the Adoptive Acts may be demanded by any one parochial elector (Schedule L, Part 1, Rule 7 e).

For supplemental provisions as to the Adoptive Acts see Section 53.

The chief features of the various Adoptive Acts are as follows :—

Lighting and Watching Act, 1833.

The object of this Act is to provide (i.) for the lighting of the streets with oil or gas, (ii.) the supply and maintenance of fire-engines, and (iii.) the protection of the inhabitants and property in the parish.

The Act may be adopted for the whole or part only of a parish.

The requisite majority for the adoption of the Act must be two-thirds of those voting at the Parish Meeting or at a poll consequent thereon.

The Parish Meeting will have power to fix year by year the amount to be raised and spent for the purposes of the Act, if it is adopted.

The Act may be abandoned after three years ; if the proposal for adoption be rejected, it cannot be renewed for at least a year.

Houses and property other than land will be assessed at three times the amount of land in levying rates to defray the expenses of carrying the Act into execution.

Baths and Washhouses Acts, 1846 to 1882.

The object of these Acts is to provide swimming and other baths, bathing places, and also public laundries.

The resolution to adopt the Acts must have a two-thirds majority at the Parish Meeting, and must be signed by the Chairman and sent to the Local Government Board.

The expenses of carrying the Acts into execution must be sanctioned by the Parish Meeting, but income arising from the baths, &c., must be brought into the account.

Two parishes may join for the purpose of carrying the Acts into effect.

Burial Acts, 1852 to 1885.

These Acts enable parishes where the existing places of burial are inadequate, to provide new burial grounds and to regulate their management.

A bare majority is sufficient to adopt the Acts, but a copy of the resolution to do so must be signed by the Chairman of the Meeting and sent to the Home Secretary.

The Parish Meeting will have power to control the expenses incurred by the adoption of these Acts.

Public Improvement Act, 1860.

This Act may only be adopted in parishes with populations over 500.

The Act enables parishes to make public improvements, and for that purpose to purchase or lease or take grants of land for public walks and recreation grounds, and to lay them out and maintain them.

The Act requires a two-thirds majority for its adoption.

The rate for its expenses may not exceed 6d. in the pound, and must receive the sanction of the Parish Meeting. However, before any rate can be imposed or the Act carried into execution, one-half of the cost of the proposed improvements must have been raised by private subscription.

Public Libraries Act, 1892.

Under this Act the following institutions can be provided: Public libraries and museums, art galleries, and schools of science and art.

A bare majority is sufficient to adopt the Act, but it must be obtained at a Parish Meeting or poll in the ordinary way, instead of by voting papers as provided in the Act itself.

The rate for the expenses incurred in the execution of the Act may not exceed 1d. in the pound, but the Meeting may decide to place a smaller limit to such expenses.

All persons assessed to rates in respect of land used for arable, meadow or pasture purposes, or as woodlands, market or nursery gardens, are entitled to an allowance of two-thirds of the sum at which they are assessed in being rated for the purposes of this Act.

8. (1) A parish council shall have the following additional powers, namely, power—

- (a) to provide or acquire buildings for public offices and for meetings and for any purposes connected with parish business or with the powers or duties of the parish council or parish meeting; and Additional powers of parish council.
- (b) to provide or acquire land for such buildings and for a recreation ground and for public walks; and
- (c) to apply to the Board of Agriculture under section nine of the Commons Act, 1876; and 39 & 40 Vict. c. 56.
- (d) to exercise with respect to any recreation ground, village green, open space, or public walk, which is for the time being under their control, or to the expense of which they have contributed, such powers as may be exercised by an urban authority under section one hundred and sixty-four of the Public Health Act, 1875, or section forty-four of the Public Health Acts Amendment Act, 1890, in relation to recreation grounds or public walks, and sections one hundred and eighty-three to one hundred and eighty-six of the Public Health Act, 1875, shall apply accordingly as if the parish council were a local authority within the meaning of those sections; and 38 & 39 Vict. c. 55.
53 & 54 Vict. c. 59.
- (e) to utilise any well, spring, or stream within their parish and provide facilities for obtaining water therefrom, but so as not to interfere with the rights of any corporation or person; and

- (*f*) to deal with any pond, pool, open ditch, drain, or place containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing, covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right or the sewage or drainage works of any local authority : and
- (*g*) to acquire by agreement any right of way, whether within their parish or an adjoining parish, the acquisition of which is beneficial to the inhabitants of the parish or any part thereof : and
- (*h*) to accept and hold any gifts of property, real or personal, for the benefit of the inhabitants of the parish or any part thereof : and
- (*i*) to execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of any of the foregoing powers, or in relation to any parish property, not being property relating to affairs of the church or held for an ecclesiastical charity : and
- (*k*) to contribute towards the expense of doing any of the things above mentioned, or to agree or combine with any other parish council to do or contribute towards the expense of doing any of the things above mentioned.

(2) A parish council may let, or, with the consent of the parish meeting, sell or exchange, any land or buildings vested in the council, but the power of letting for more than a year and the power of sale or exchange shall not be exercised, in the case of property which has been acquired at the expense of any rate, or is at the passing of this Act applied in aid of any rate, or would but for want of income be so applied, without the consent of the Local Government Board, or in any other case without such consent or approval as is required under the Charitable Trusts Acts, 1853 to 1891, for the sale of charity estates, provided that the consent or approval required under those Acts shall not be required for

the letting for allotments of land vested in the parish council.

(3) Nothing in this section shall derogate from any obligation of a district council with respect to the supply of water or the execution of sanitary works.

(4) Notice of any application to the Board of Agriculture in relation to a common shall be served upon the council of every parish in which any part of the common to which the application relates is situate.

Section 8.—The powers of the Parish Council for the acquisition of land are defined in Section 9.

Section 9 of The Commons Act, 1876, directs that the Board of Agriculture shall from time to time give information to persons interested in any common, and applying for information respecting it, as to the means of obtaining the regulation or inclosure of commons under the Inclosure Acts, 1845 to 1868. All such persons can then apply in the manner directed by the Board. The Parish Council may now apply to the Board of Agriculture on such matters, and has the right to be served with notices of applications and to attend the inquiries at which they are investigated.

Control over recreation grounds, &c., is acquired by the Parish Council by Section 6 (1) (c) (iii).

Public Health Act, 1875.—The incorporated Sections are set out in the Appendix, and will apply with the substitution of the Parish Council for the urban authority and the local authority.

Public Health Amendment Act, 1890.—Section 44 empowers the urban authority (and now the Parish Council) to close on such days as they think fit (not exceeding twelve days in the year, nor four consecutive days on one occasion) any park or pleasure ground, or any part thereof, and to grant the use of it for any show or for the other purposes mentioned. On these occasions they may regulate the terms of admission; but no park or pleasure ground may be so closed on a Sunday or public holiday. Further, the authority may provide and let for hire, or license any person to let for hire, pleasure boats on any piece of water in a park or pleasure ground, and may make by-laws regulating the management of the boating on any such lake or piece of water.

Water supply.—The powers here conferred only relate to the utilization of streams, wells, &c., in the parish, and do not admit of the obtaining of a supply from outside, except in combination with another parish under Sub-section (k) of this Section.

Acquisition of Land for purpose of water supply or any right of way.—See Section 9, Sub-section 15. Land cannot be acquired for such purposes otherwise than by agreement.

“*The Affairs of the Church*” and “*Ecclesiastical Charities.*”—See Section 75 and Chapter V., *ante*.

The Charitable Trusts Acts, 1853 to 1891, include 16 & 17 Vict. c. 137; 18 & 19 Vict. c. 124; 23 & 24 Vict. c. 136; 25 & 26 Vict. c. 112; 32 & 33 Vict. c. 110; 50 & 51 Vict. c. 49; 54 & 55 Vict. c. 17, which require the consent of the Charity Commissioners for such sales, exchanges, &c.

Obligation of District Councils.—Their duties will be found summarised in the notes to the Sections dealing with District Councils. The Parish Council is enabled to complain to the County Council of any default by the District Council in the exercise of these powers (see Section 16).

Powers for acquisition of land.

38 & 39 Vict. c. 55.

50 & 51 Vict. c. 48.
53 & 54 Vict. c. 65.

9. (1) For the purpose of the acquisition of land by a parish council the Lands Clauses Acts shall be incorporated with this Act, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, and section one hundred and seventy-eight of the Public Health Act, 1875, shall apply as if the parish council were referred to therein.

(2) If a parish council are unable to acquire by agreement and on reasonable terms suitable land for any purpose for which they are authorised to acquire it, they may represent the case to the county council, and the county council shall inquire into the representation.

(3) If on any such representation, or on any proceeding under the Allotments Acts, 1887 and 1890, a county council are satisfied that suitable land for the said purpose of the parish council or for the purpose of allotments (as the case may be), cannot be acquired on reasonable terms by voluntary agreement, and that the circumstances are such as to justify the county council in proceeding under this section, they shall cause such public inquiry to be made in the parish, and such notice to be given both in the parish and to the owners, lessees, and occupiers of the land proposed to be taken as may be prescribed, and all persons interested shall be permitted to attend at the inquiry, and to support or oppose the taking of the land.

(4) After the completion of the inquiry, and considering all objections made by any persons interested, the county council may make an order for putting in force, as respects the said land or any part thereof, the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(5) If the county council refuse to make any such order,

the parish council, or, if the proceeding is taken on the petition of the district council, then the district council, may petition the Local Government Board, and that Board after local inquiry may, if they think proper, make the order, and this section shall apply as if the order had been made by the county council. Any order made under this subsection overruling the decision of the county council shall be laid before Parliament by the Local Government Board.

(6) A copy of any order made under this section shall be served in the prescribed manner, together with a statement that the order will become final and have the effect of an Act of Parliament, unless within the prescribed period a memorial by some person interested is presented to the Local Government Board praying that the order shall not become law without further inquiry.

(7) The order shall be deposited with the Local Government Board, who shall inquire whether the provisions of this section and the prescribed regulations have been in all respects complied with; and if the Board are satisfied that this has been done, then, after the prescribed period—

- (a) If no memorial has been presented, or if every such memorial has been withdrawn, the Board shall, without further inquiry, confirm the order:
- (b) If a memorial has been presented, the Local Government Board shall proceed to hold a local inquiry, and shall, after such inquiry, either confirm, with or without amendment, or disallow the order:
- (c) Upon any such confirmation the order, and if amended as so amended, shall become final and have the effect of an Act of Parliament, and the confirmation by the Local Government Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made, and is within the powers of this Act.

(8) Sections two hundred and ninety-three to two hundred and ninety-six, and subsections (1) and (2) of section two hundred and ninety-seven of the Public Health Act, 1875, shall apply to a local inquiry held by the Local Government Board for the purposes of this section, as if

those sections and subsections were herein re-enacted, and in terms made applicable to such inquiry.

(9) The order shall be carried into effect, when made on the petition of a district council, by that council, and in any other case by the county council.

(10) Any order made under this section for the purpose of the purchase of land otherwise than by agreement shall incorporate the Lands Clauses Acts and sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, with the necessary adaptations, but any question of disputed compensation shall be dealt with in the manner provided by section three of the Allotments Act, 1887, and provisoes (a), (b), and (c) of subsection (4) of that section are incorporated with this section and shall apply accordingly: Provided that in determining the amount of disputed compensation, the arbitrator shall not make any additional allowance in respect of the purchase being compulsory.

(11) At any inquiry or arbitration held under this section the person or persons holding the inquiry or arbitration shall hear any authorities or parties interested by themselves or their agents, and shall hear witnesses, but shall not, except in such cases as may be prescribed, hear counsel or expert witnesses.

(12) The person or persons holding a public inquiry for the purposes of this section on behalf of a county council shall have the same powers as an inspector or inspectors of the Local Government Board when holding a local inquiry: and section two hundred and ninety-four of the Public Health Act, 1875, shall apply to the costs of inquiries held by the county council for the purpose of this section as if the county council were substituted for the Local Government Board.

(13) Subsection (2) of section two, if the land is taken for allotments, and, whether it is or is not so taken, subsections (5), (6), (7), and (8) of section three of the Allotments Act, 1887, and section eleven of that Act, and section three of the Allotments Act, 1890, are incorporated with this section, and shall, with the prescribed adaptations, apply accordingly.

(14) Where the land is acquired otherwise than for

8 & 9 Vict.
c. 20.

50 & 51 Vict.
c. 48.
53 & 54 Vict.
c. 65.

allotments, it shall be assured to the parish council; and any land purchased by a county council for allotments under the Allotments Acts, 1887 and 1890, and this Act, or any of them, shall be assured to the parish council, and in that case sections five to eight of the Allotments Act, 1887, shall apply as if the parish council were the sanitary authority.

(15) Nothing in this section shall authorise the parish council to acquire otherwise than by agreement any land for the purpose of any supply of water, or of any right of way.

(16) In this section the expression "allotments" includes common pasture where authorised to be acquired under the Allotments Act, 1887.

(17) Where, under the Allotments Act, 1890, the Allotments Act, 1887, applies to the purchase of land by the county council, that Act shall apply as amended by this section, and the parish council shall have the like power of petitioning the county council as is given to six parliamentary electors by section two of the Allotments Act, 1890.

(18) This section shall apply to a county borough with the necessary modifications, and in particular with the modification that the order shall be both made and confirmed by the Local Government Board and shall be carried into effect by the council of the county borough.

(19) The expenses of a county council incurred under this section shall be defrayed in like manner as in the case of a local inquiry by a county council under this Act.

Section 9.—Acquisition of Land by the Parish Council. On this matter reference should be made to Chapter VIII., *ante*, where the effect of the incorporated Sections of the Lands Clauses Acts is explained.

The Public Health Act, 1875 (incorporated Sections), and *The Allotments Acts, 1887 and 1890*, will be found set out in full in the Appendix.

Prescribed, i.e., by the Local Government Board (see Section 75, Sub-section 2).

The Railway Clauses Consolidation Act, 1845 (Sub-sections 77—85), will regulate the rights of the Parish Council with respect to mines, minerals, &c., under land purchased by them, and with the following effect:—

The Parish Council will not be entitled to any such minerals unless they are expressly purchased by them, and included in the conveyance to the Council.

Any mines lying under the land so purchased, or within the prescribed distance of it, or if no distance is prescribed within forty yards, may not be worked by their owner, lessee, or occupier without notice to the Parish Council.

If the working of the mines is likely to injure the land held by the Parish Council, they may purchase them, or make compensation for them. Any question of compensation, if disputed, must be settled by an arbitrator appointed under the provisions of the Act.

If the Council do not, within thirty days after receipt of the notice, express an intention to treat for the compensation of the owner, he may proceed to work the mines in the proper and usual manner of the district. He must make good to the Council any damage or injury to their property caused by improper working, and remove any obstruction. If he fail to do so, the Council may do the necessary work and recover the costs of it from the owner, or they may do so in the first instance without waiting for the owner.

But the owners of mines which lie on two sides of the Council's property may make mining communications from one to the other, and may cut airways, headways, gateways, and water levels of prescribed dimensions under the land belonging to the Council. No such works may be constructed so as to interfere with or injure the property of the Council.

The Council will have to compensate the owner, &c., for losses incurred by him from such restricted working of the mines, and for minerals not purchased by the Council which cannot be worked without injuring their property. Questions of compensation must, if necessary, be settled by an arbitrator. The Council must further compensate the owner, &c., of any lands lying over the mine (if not the owner of the mine) for any airways or other works on his property rendered necessary by the restricted working of the mine.

The Council may, on giving twenty-four hours' notice, enter and inspect the working of any such mines, to ascertain whether their property is likely to be injured thereby. Owners are required to permit such inspection under penalties for refusal.

If it appears that the mines are being improperly worked so as to damage the property of the Council, they may give notice to the owner, &c., requiring him to take steps to ensure its safety; and in his default they are empowered to construct the necessary works themselves and recover the cost from the owner.

Expenses of Inquiries by the Local Government Board and the County Council.
—See Section 72.

Hiring of
land for
allotments.

10. (1) The parish council shall have power to hire land for allotments, and if they are satisfied that allotments are required, and are unable to hire by agreement on reasonable terms suitable land for allotments, they shall represent the case to the county council, and the county council may make an order authorising the parish council to hire compulsorily for allotments, for a period not less than fourteen years nor more than thirty-five years, such land in or near the parish as is specified in the order, and the order shall, as respects confirmation and otherwise, be subject to the like provisions as if it were an order of the county council made under the

last preceding section of this Act, and that section shall apply as if it were herein re-enacted with the substitution of "hiring" for "purchase" and with the other necessary modifications.

(2) A single arbitrator, who shall be appointed in accordance with the provisions of section three of the Allotments Act, 1887, and to whom the provisions of that section shall apply, shall have power to determine any question—

- (a) as to the terms and conditions of the hiring; or
- (b) as to the amount of compensation for severance; or
- (c) as to the compensation to any tenant upon the determination of his tenancy; or
- (d) as to the apportionment of the rent between the land taken by the parish council and the land not taken from the tenant; or
- (e) as to any other matter incidental to the hiring of the land by the council, or the surrender thereof at the end of their tenancy;

but the arbitrator in fixing the rent shall not make any addition in respect of compulsory hiring.

(3) The arbitrator, in fixing rent or other compensation, shall take into consideration all the circumstances connected with the land, and the use to which it might otherwise be put by the owner during the term of hiring, and any depreciation of the value to the tenant of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council.

(4) Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council shall as far as possible be provided for by taking such compensation into account in fixing, as the case may require, the rent to be paid by the parish council for the land hired by them, and the apportioned rent, if any, to be paid by the tenant for that portion of the holding which is not hired by the parish council.

(5) The award of the arbitrator or a copy thereof, together with a report signed by him as to the condition of

the land taken by the parish council, shall be deposited and preserved with the public books, writings, and papers of the parish, and the owner for the time being of the land shall at all reasonable times be at liberty to inspect the same and to take copies thereof.

(6) Save as hereinafter mentioned, sections five to eight of the Allotments Act, 1887, shall apply to any allotment hired by a parish council in like manner as if that council were the sanitary authority and also the allotment managers:

Provided that the parish council—

- (a) may let to one person an allotment or allotments exceeding one acre, but, if the land is hired compulsorily, not exceeding in the whole four acres of pasture or one acre of arable and three acres of pasture; and
- (b) may permit to be erected on the allotment any stable, cowhouse, or barn; and
- (c) shall not break up, or permit to be broken up, any permanent pasture, without the assent in writing of the landlord.

(7) On the determination of any tenancy created by compulsory hiring a single arbitrator, who shall be appointed in accordance with the provisions of section three of the Allotments Act, 1887, shall have power to determine as to the amount due by the landlord for compensation for improvements, or by the parish council for depreciation, but such compensation shall be assessed in accordance with the provisions of the Agricultural Holdings (England) Act, 1883.

^{16 & 17 Vict.}
c. 61.

(8) The order for compulsory hiring may apply, with the prescribed adaptations, such of the provisions of the Lands Clauses Acts (including those relating to the acquisition of land otherwise than by agreement) as appear to the county council or Local Government Board sufficient for carrying into effect the order, and for the protection of the persons interested in the land and of the parish council.

(9) Nothing in this section shall authorise the compulsory hiring of any mines or minerals, or confer any right

to take, sell, or carry away any gravel, sand, or clay, or authorise the hiring of any land which is already owned or occupied as a small holding within the meaning of the Small Holdings Act, 1892.

55 & 56 Vic.
c. 31.

(10) If the land hired under this section shall at any time during the tenancy thereof by the parish council be shown to the satisfaction of the county council to be required by the landlord for the purpose of working and getting the mines, minerals, or surface minerals thereunder, or for any road or work to be used in connexion with such working or getting, it shall be lawful for the landlord of such land to resume possession thereof upon giving to the parish council twelve calendar months previous notice in writing of his intention so to do, and upon such resumption the landlord shall pay to the parish council and to the allotment holders of the land for the time being such sum by way of compensation for the loss of such land for the purposes of allotments as may be agreed upon by the landlord and the parish council, or in default of such agreement as may be awarded by a single arbitrator to be appointed in accordance with the provisions of section three of the Allotments Act, 1887, and the provisions of that section shall apply to such arbitrator.

The word "landlord" in this subsection means the person for the time being entitled to receive the rent of the land hired by the parish council.

(11) The Local Government Board shall annually lay before Parliament a report of any proceedings under this and the preceding section.

Section 10.—For a general account of the hiring of land by the Parish Council see Chapter VIII.

Note that land already owned or occupied as a small holding cannot be hired by the Parish Council (see Sub-section 9).

In or near the parish.—It will be noticed that land hired by the Parish Council under this Section need not necessarily be within the parish.

The Allotments Acts, 1887 and 1890, will be found set out in the Appendix.

The public books, writings, and papers of the parish. The custody of these documents is provided for by Section 17, Sub-section 7.

The Agricultural Holdings Act, 1883, provides that any tenant, who has made any improvement comprised in the First Schedule to the Act, shall be entitled on quitting his holding at the determination of the tenancy to obtain from the landlord as compensation, such sum as fairly represents the value of the improvement to an incoming tenant (Section 1).

(i.) In respect of the following improvements no compensation will be allowed unless the consent of the landlord or his agent is given in writing before the improvement is executed. Such consent may be made conditional, or the compensation may be agreed on at the commencement of the work. This class of improvements consists of:—

- (a) The erection or enlargement of buildings ;
 - (b) Formation of silos ;
 - (c) Laying down permanent pasture ;
 - (d) Making and planting osier beds ;
 - (e) Making of water meadow or works of irrigation ;
 - (f) Making of gardens ;
 - (g) Making or improving of roads or bridges ;
 - (h) Making or improving of watercourses, ponds, wells, or reservoirs, or of works for the application of water power, or for the supply of water for agricultural or domestic purposes ;
 - (i) Making of fences ;
 - (j) Planting of hops ;
 - (k) Planting of orchards or fruit bushes ;
 - (l) Reclaiming of waste land ;
 - (m) Warping of land ;
 - (n) Embankment and sluices against floods.
- (ii.) In respect of the following improvement, *i.e.*—
- (o) Drainage.

The tenant must, not more than three nor less than two months before the commencement of the work, give notice of his intention to the landlord or his agent. The parties may then agree on the costs and the compensation, or the landlord may undertake the improvement himself. He is then entitled to charge the tenant a sum not exceeding five per cent. on the outlay, or such annual sums spread over twenty-five years as will repay the outlay, with interest at three per cent. These payments will be recoverable as rent.

(iii.) The following improvements require no notice to nor consent by the landlord:—

- (p) Boning of land with undissolved bones ;
- (q) Chalking of land ;
- (r) Clay-burning ;
- (s) Claying of land ;
- (t) Liming of land ;
- (u) Marling of land ;
- (v) Application to land of purchased artificial or other purchased manure ;
- (w) Consumption on the holding by cattle, &c., of cake or other feeding stuff not produced in the holding

In ascertaining the amount of the compensation payable to a tenant in respect of any improvement, there must be taken into account in reduction thereof:—

- (a) Any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement ; and
- (b) In the case of compensation for manures the value of the manure that would have been produced by the consumption on the holding of any hay, straw, roots, or green crops sold off or removed from the holding within the last two years of the tenancy, or other less time for which the tenancy has endured, except as far as a proper return of manure to the holding has been made in respect of such produce so sold off or removed therefrom ; and
- (c) Any sums due to the landlord in respect of rent, or in respect of any waste committed or permitted by the tenant, or in respect of any breach of covenant or other agreement connected with the contract of tenancy committed by the tenant, also any taxes, rates, and title rent charge due or becoming due in respect of the holding to which the tenant is liable as between him and the landlord.

There must be taken into account in augmentation of the tenant's compensation:—

- (d) Any sum due to the tenant for compensation in respect of a breach of covenant or other agreement connected with a contract of tenancy and committed by the landlord.

But it is provided that nothing in the Section above set out can enable a landlord to obtain under the Act compensation in respect of waste by the tenant, committed or permitted in relation to a matter of husbandry more than four years before the determination of the tenancy (*ibid.*, Section 6).

A tenant claiming compensation must, two months at least before the determination of the tenancy, give notice in writing to the landlord of his intention to make such a claim (*ibid.*, Section 7). In case the parties are unable to agree as to such compensation, the matter must be settled by arbitration.

Prescribed, i.e., by the Local Government Board (Section 75, Sub-section 2).

A *Small Holding* within the meaning of The Small Holdings Act, 1892, means land acquired by the County Council for the purposes of that Act, and which exceeds one acre, and either does not exceed fifty acres or, if exceeding fifty acres, is of an annual value for the purposes of the Income Tax not exceeding Fifty Pounds.

11. (1) A parish council shall not, without the consent of a parish meeting, incur expenses or liabilities which will involve a rate exceeding threepence in the pound for any local financial year, or which will involve a loan.

Restrictions on expenditure.

(2) A parish council shall not, without the approval of

the county council, incur any expense or liability which will involve a loan.

(3) The sum raised in any local financial year by a parish council for their expenses (other than expenses under the adoptive Acts) shall not exceed a sum equal to a rate of sixpence in the pound on the rateable value of the parish at the commencement of the year, and for the purpose of this enactment the expression "expenses" includes any annual charge, whether of principal or interest, in respect of any loan.

(4) Subject to the provisions of this Act, the expenses of a parish council and of a parish meeting, including the expenses of any poll, shall be paid out of the poor rate; and where there is a parish council that council shall pay the said expenses of the parish meeting of the parish; and the parish council, and where there is no parish council the chairman of the parish meeting, shall, for the purpose of obtaining payment of such expenses, have the same powers as a board of guardians have for the purpose of obtaining contributions to their common fund.

(5) The demand note for any rate levied for defraying the expenses of a parish council or a parish meeting, together with other expenses, shall state in the prescribed form the proportion of the rate levied for the expenses of the council or meeting, and the proportion (if any) levied for the purpose of any of the adoptive Acts.

Section 11.—On the question of the expenses of the Parish Meeting and of the Parish Council, audits, and the financial provisions of the Act generally, see Chapter X.

The expenses of the Parish Meeting in parishes too small to have a Parish Council may not exceed (when added to the expenses of the Adoptive Acts) a rate of 6d. in the pound (Section 19, Sub-section 9).

Loan.—See next Section.

The Financial Year lasts for twelve months from every 31st March, when accounts have to be prepared for audit (see Section 58, Sub-section 1).

Shall not exceed a sum equal to a rate of 6d.—This limit does not include

- (i.) Expenses incurred by the Adoptive Acts (see Section 7): in some of these Acts a limit is placed on expenditure which will still bind the Parish Council, *e.g.*, in The Public Libraries Act, 1892.
- (ii.) Expenses incurred by the Parish Council (or Parish Meeting) in maintaining its own highways in pursuance of an Order of the County Council (Section 82, Sub-section 2).

- (iii.) Rates levied to pay instalments of debts incurred before the passing of the Act, and which had not then been fully discharged, but were transferred to the Parish Council (or Parish Meeting). See Section 86.

It seems right that these accounts should be kept distinct from the ordinary expenses of the Parish Council (or Parish Meeting). It is clear that the demand note of the rate must state the proportion required for these special expenses.

The Common Fund of a Board of Guardians was established by 4 & 5 Will. IV. c. 76. All the parishes in the Union are required to contribute to it in such proportions as may be fixed, and the overseers are required to pay to the Guardians from time to time the necessary contributions. Estimates are prepared half-yearly by the Clerk of the Guardians, and orders made on the overseers of each parish in the Union for their contributions. Hence it appears that the Parish Council will obtain the moneys, required by them from the overseers, upon orders made from time to time, as the money is required. Payment may be enforced in the manner provided by the Statutes, 2 & 3 Vict. c. 84; 7 & 8 Vict. c. 101; 12 & 13 Vict. c. 103; and 14 & 15 Vict. c. 105. Under the provisions of these Statutes, upon a written application from the Parish Council or chairman of the Parish Meeting, any two or more Justices for the District may summon the defaulting overseers to show cause at a Special Sessions why such contribution has not been paid. If the Justices think fit they may, by warrant, cause the amount of the contribution in arrear, with the costs, to be levied and recovered from the overseers in the same manner as poor rates are levied and recovered.

12. (1) A parish council for any of the following purposes, that is to say--

Borrowing
by parish
council.

- (a) for purchasing any land, or building any buildings, which the council are authorised to purchase or build; and
- (b) for any purpose for which the council are authorised to borrow under any of the adoptive Acts; and
- (c) for any permanent work or other thing which the council are authorised to execute or do, and the cost of which ought, in the opinion of the county council and the Local Government Board, to be spread over a term of years;

may, with the consent of the county council and the Local Government Board, borrow money in like manner and subject to the like conditions as a local authority may borrow for defraying expenses incurred in the execution of the Public Health Acts, and sections two hundred and thirty-three, two hundred and thirty-four, and two hundred

38 & 39 Vict.
c. 53.

and thirty-six to two hundred and thirty-nine of the Public Health Act, 1875, shall apply accordingly, except that the money shall be borrowed on the security of the poor rate and of the whole or part of the revenues of the parish council, and except that as respects the limit of the sum to be borrowed, one half of the assessable value shall be substituted for the assessable value for two years.

(2) A county council may lend to a parish council any money which the parish council are authorised to borrow, and may, if necessary, without the sanction of the Local Government Board, and irrespectively of any limit of borrowing, raise the money by loan, subject to the like conditions and in the like manner as any other loan for the execution of their duties, and subject to any further conditions which the Local Government Board may by general or special order impose.

(3) A parish council shall not borrow for the purposes of any of the adoptive Acts otherwise than in accordance with this Act, but the charge for the purpose of any of the adoptive Acts shall ultimately be on the rate applicable to the purposes of that Act.

Section 12.—Purchasing land or building buildings which the Council are authorised to purchase or build.—The powers of the Parish Council in these matters are defined in Sections 6 and 8.

Adoptive Acts.—See Section 7. Under the Baths and Washhouses Acts, the Burial Acts, and the Public Libraries Act, a Parish Council will be enabled to borrow money for the purpose of carrying those Acts into execution.

With the consent of the County Council and the Local Government Board—and also of the Parish Meeting (see Section 11, Sub-section 1.)

The Public Health Act, 1875.—The incorporated Sections will be found set out in the Appendix.

The Rate applicable to the purposes of that (i.e., Adoptive) Act.—The proportion of the rates levied for the purposes of the Adoptive Acts is to be distinctly stated on the demand note. In the case of some of the Adoptive Acts (*e.g.*, the Watching and Lighting Act, and the Public Improvement Act) a larger rate is levied on houses and buildings than on land. It seems, therefore, that the repayment of money borrowed for the purposes of any of these Acts will be charged on the proportion of the rate levied for such purposes, and not on the poor rate.

Footpaths
and roads.

13. (1) The consent of the parish council and of the district council shall be required for the stopping, in whole

or in part, or diversion, of a public right of way within a rural parish, and the consent of the parish council shall be required for a declaration that a highway in a rural parish is unnecessary for public use and not repairable at the public expense, and the parish council shall give public notice of a resolution to give any such consent, and the resolution shall not operate—

(a) unless it is confirmed by the parish council at a meeting held not less than two months after the public notice is given; nor

(b) if a parish meeting held before the confirmation resolve that the consent ought not to be given.

(2) A parish council may, subject to the provisions of this Act with respect to restrictions on expenditure, undertake the repair and maintenance of all or any of the public footpaths within their parish, not being footpaths at the side of a public road, but this power shall not nor shall the exercise thereof relieve any other authority or person from any liability with respect to such repair or maintenance.

Section 13.—District Council.—The powers and duties of the District Council with regard to rights of way, &c., are contained in Section 26, Sub-sections 1 and 4.

Stopping up Highways.—The procedure in these matters was regulated by The Highway Act, 1835 (5 & 6 Will. IV. c. 50. ss. 84 to 92). Proceedings were to be instituted by the Vestry acting on their own initiative, or on that of "any other party" bringing the matter to the notice of the Vestry. If the meeting considered it expedient that a highway should be stopped or diverted, the Chairman was required to give notice to the surveyor to apply to two Justices to view it. If upon such view, the Justices decided that such a diversion or stopping up was desirable, certain notices of such decision were required to be given, and the Justices thereupon granted their certificate, which was enrolled at Quarter Sessions, when any appeals on the matter might be heard.

The effect of this Act upon the former practice appears to be that the Parish Council must pass the resolution, formerly passed by the Vestry. The resolution is subject to the veto of the Parish Meeting. If the resolution is confirmed, application must be made to the District Council, who may give or refuse their consent. If they agree, they must apply to the Justices, and proceedings will continue in the usual way.

Declaration that a Highway is unnecessary.—This matter is dealt with in The Highway Act, 1864 (27 & 28 Vict. c. 101, s. 21), and The Highways Amendment Act, 1878 (41 & 42 Vict. c. 77, s. 24). The highway authority might petition the

Petty Sessions of the district that two Justices should view the highway in question. If the report of the Justices were favourable to the application, a Court was required to be held for hearing objections, and after such a hearing, the Court might make the necessary order, from which an appeal to Quarter Sessions would lie.

It now appears that such application must be made by the District Council (which has become the highway authority), after having previously obtained the consent of the Parish Council, which is also subject to review by the Parish Meeting.

Public notice.—See Section 51.

Restrictions on Expenditure.—See Section 11.

Liability to repair.—See Section 25. Individuals may be liable for the repair of footpaths *ratione tenuræ* or by Statute. But neither they nor the District Council will be absolved from their duties by this permissive power of the Parish Council.

Public
property
and
charities.

14. (1) Where trustees hold any property for the purposes of a public recreation ground or of public meetings, or of allotments, whether under Inclosure Acts or otherwise, for the benefit of the inhabitants of a rural parish, or any of them, or for any public purpose connected with a rural parish, except for an ecclesiastical charity, they may, with the approval of the Charity Commissioners, transfer the property to the parish council of the parish, or to persons appointed by that council, and the parish council, if they accept the transfer, or their appointees, shall hold the property on the trusts and subject to the conditions on which the trustees held the same.

(2) Where overseers of a rural parish as such are, either alone or jointly with any other persons, trustees of any parochial charity, such number of the councillors of the parish or other persons, not exceeding the number of the overseer trustees, as the council may appoint, shall be trustees in their place, and, when the charity is not an ecclesiastical charity, this enactment shall apply as if the churchwardens as such were specified therein as well as the overseers.

(3) Where the governing body of a parochial charity other than an ecclesiastical charity does not include any persons elected by the ratepayers or parochial electors or inhabitants of the parish, or appointed by the parish council or parish meeting, the parish council may appoint additional

members of that governing body not exceeding the number allowed by the Charity Commissioners in each case; and if the management of any such charity is vested in a sole trustee, the number of trustees may, with the approval of the Charity Commissioners, be increased to three, one of whom may be nominated by such sole trustee and one by the parish council or parish meeting. Nothing in this subsection shall prejudicially affect the power or authority of the Charity Commissioners, under any of the Acts relating to charities, to settle or alter schemes for the better administration of any charity.

(4) Where the vestry of a rural parish are entitled, under the trusts of a charity other than an ecclesiastical charity, to appoint any trustees or beneficiaries of the charity, the appointment shall be made by the parish council of the parish, or in the case of beneficiaries, by persons appointed by the parish council.

(5) The draft of every scheme relating to a charity, not being an ecclesiastical charity, which affects a rural parish, shall, on or before the publication of the notice of the proposal to make an order for such scheme in accordance with section six of the Charitable Trusts Act, 1860, be communicated to the council of the parish, and where there is no parish council to the chairman of the parish meeting, and, in the case of a council, the council may, subject to the provisions of this Act with respect to restrictions on expenditure, and to the consent of the parish meeting, either support or oppose the scheme, and shall for that purpose have the same right as any inhabitants of a place directly affected by the scheme.

23 & 24 Vict.
c. 136.

(6) The accounts of all parochial charities, not being ecclesiastical charities, shall annually be laid before the parish meeting of any parish affected thereby, and the Charitable Trusts Amendment Act, 1855, shall apply with the substitution in section forty-four of the parish meeting for the vestry, and of the chairman of the parish meeting for the churchwardens, and the names of the beneficiaries of dole charities shall be published annually in such form as the parish council, or where there is no parish council the parish meeting, think fit.

18 & 19 Vict.
c. 121.

(7) The term of office of a trustee appointed under this section shall be four years, but of the trustees first appointed as aforesaid one half, as nearly as may be, to be determined by lot, shall go out of office at the end of two years from the date of their appointment, but shall be eligible for re-appointment.

(8) The provisions of this section with respect to the appointment of trustees, except so far as the appointment is transferred from the vestry, shall not apply to any charity until the expiration of forty years from the date of the foundation thereof, or, in the case of a charity founded before the passing of this Act by a donor or by several donors any one of whom is living at the passing of this Act, until the expiration of forty years from the passing of this Act, unless with the consent of the surviving donor or donors.

(9) Whilst a person is trustee of a parochial charity he shall not, nor shall his wife or any of his children, receive any benefit from the charity.

Section 14.—On the question of charities generally, see Chapter V., where the definitions (see Section 75) of ecclesiastical and parochial charities are fully discussed.

The Transfer of Parish Property.—See also Sections 5 and 6.

Allotments whether under the Inclosure Acts or otherwise.—This matter is dealt with in Chapter VIII. The chief statutes dealing with this subject are—

59 George III. c. 12.

1 & 2 William IV. c. 42.

1 & 2 William IV. c. 59.

2 & 3 William IV. c. 42.

The Inclosure Act, 1845 (8 & 9 Viet. c. 118).

The Poor Allotments Management Act, 1873 (36 & 37 Viet. c. 17).

The Commons Act, 1876 (39 & 40 Viet. c. 56).

The Commons Act, 1878 (41 & 42 Viet. c. 56).

Transfer—i.e., by deed.

Overseers and Churchwardens.—These powers are supplemental to the provisions of Sections 5 and 6, which are apparently more applicable to parish property, other than charity trust property. Sub-section 2 refers chiefly to charities of which the churchwardens or overseers are trustees by virtue of their office. Nothing here will prevent the appointment of persons, who happen to be churchwardens and overseers, individually to be trustees.

Sole Trustee.—The provisions of Sub-section 3 do not apply to charities of which, by death and omission to fill vacancies, there is only one surviving trustee. The trust property must have been vested in a single trustee by the deed creating the charity, to come within the scope of the Sub-section.

Beneficiaries.—It will be noticed that they need not necessarily be appointed by the Parish Council (under Sub-section 4), but may be selected by either the Council or trustees, or persons nominated by the Council for the purpose.

The Charitable Trusts Act, 1860.—Section 6 enacts that: "No order appointing or removing a trustee, or establishing a scheme for the administration of any charity, shall be made by the Charity Commissioners before the expiration of one calendar month after public notice of the proposal to make such order shall have been given, in such way as they may consider most expedient and effectual for ensuring the publicity thereof in each parish or district in which the charity, if of a local character, shall be applicable, or among all persons interested therein; and no order removing a trustee or school master or mistress, or other officer of a charity who shall have any known place of residence in Great Britain or Ireland, and who shall not be consenting to be discharged, shall be made before the expiration of one calendar month after notice of the proposal to make such order shall have also been delivered to him or her, or sent by the post, or otherwise, to such his or her place of residence, and until after sufficient hearing of the matter before the said Board, or some member thereof, or one of the assistant commissioners. And every notice hereby required shall contain (so far as conveniently may be) sufficient particulars of the objects of the proposed order, and shall prescribe a reasonable time within which any objection thereto, or suggestions thereon, may be made or transmitted to the Board; and the said Board shall receive and consider all such objections and suggestions, and may withhold, suspend, or modify their proposed order, as they shall thereupon, or in the result of further inquiry or otherwise, think expedient."

Restrictions on Expenditure.—See Section II.

Right of Inhabitants to oppose Schemes, &c.—This matter is regulated by Section 8 of The Charitable Trusts Act, 1860, whereby any two inhabitants of any parish, or district in which the same shall be specially applicable, may within three months next after the definitive publication of any order of the Charity Commissioners appointing or removing a trustee or trustees, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate, or establishing a scheme for the administration of a charity, present a petition to the Chancery Division of the High Court of Justice in a summary manner appealing against such order, and praying for such relief as the case may require. Apparently this right of appeal is limited to the cases of charities in which the gross income exceeds £50 a-year.

See also Section 70 of this Act, which deals with the procedure for determining questions as to the transfer of powers in which the opinion of the High Court may be taken. In questions affecting the trustees or beneficiaries of a charity, the decision of the Charity Commissioners must be obtained; but such decision is subject to an appeal brought within three months of the decision to the High Court.

Questions arising on mixed charities—*i.e.*, which partake of the nature of both ecclesiastical and parochial charities—are referred to the Charity Commissioners for them to provide a scheme of apportionment and management (Section 75). The inhabitants and other parties and persons interested have the same rights of appeal, &c., as have been noticed with regard to other charities.

The Charitable Trusts Act, 1855.—Section 44 (as now amended) enacts that the trustees or administrators of every charity shall, on or before the 25th March, 1856, prepare and make out and transmit to the Board (of Charity Commissioners) an account of the endowments then belonging to the charity, showing in the case of realty not in hand the manner in which the same is let and occupied, and in the case of personalty the existing investments and employment thereof, and in what names such investments are made. And such trustees or administrators shall also, on or before the 25th March next after the acquisition of any endowment not included in the foregoing account, prepare, and make out in like manner, and transmit to the Board (of Charity Commissioners) a similar account of such last-mentioned endowment; and in case of any alienation, or charge, or transfer of any real or personal estate of the charity, shall, on or before the 25th March then next following, transmit to the Board an account of such alienation, charge, or transfer, and such trustees or administrators shall also, on or before the 25th March in every year, or such other day as may be fixed by the Board, or as may have been already fixed for rendering the accounts thereof required by the principal Act, prepare and make out the following accounts in relation thereto, that is to say—

- (1) An account of the gross income arising from the endowment, or which ought to have arisen therefrom, during the year ending on the 31st December then last, and on such other day as may have been appointed for this purpose by the Board.
- (2) An account of all balances in hand at the commencement of the year and of all moneys received during the same year on account of the charity.
- (3) An account for the same period of all payments.
- (4) An account of all moneys owing to or from the charity, so far as conveniently may be: which accounts shall be certified under the hand of one or more of the said trustees or administrators, and shall be audited by the auditor of the charity, if any; and the said trustees or administrators shall, within fourteen days after the day appointed for making out such accounts, deliver or transmit a copy thereof to the Commissioners at their office in London, and in the case of parochial charities shall deliver another copy thereof to the *chairman or chairmen of the Parish Meeting or Meetings* of the parish or parishes with which the objects of such charities are identified, who shall present the same at the next general assembly of the *Parish Meetings* of such parishes, and insert a copy thereof in the Minutes of the *Parish Meeting*; and every such copy shall be open to the inspection of all persons at reasonable hours, subject to such regulations as to the said Board may seem fit; and any person may require a copy of every such account, or of any

part thereof, on paying therefor at the rate of 2d. per every seventy-two words or figures.

Accounts of trustees must be made in the form required by the Charity Commissioners.

Term of Office.—The provisions of Sub-section 7 make it quite clear that appointments to the office of a trustee of a charity are quite independent of the trustee being a Parish Councillor, whose term of office is one year only. In fact, trustees of a parochial charity need have no special qualification either as parochial electors or otherwise.

15. A rural district council may delegate to a parish council any power which may be delegated to a parochial committee under the Public Health Acts, and thereupon those Acts shall apply as if the parish council were a parochial committee, and where such district council appoint a parochial committee consisting partly of members of the district council and partly of other persons, those other persons shall, where there is a parish council, be or be selected from the members of the parish council.

Delegated powers of parish councils.

Section 15.—Section 202 of The Public Health Act, 1875, confers the powers of delegating powers to a parochial committee here referred to. The Section will be found set out in the Appendix.

16. (1) Where a parish council resolve that a rural district council ought to have provided the parish with sufficient sewers, or to have maintained existing sewers, or to have provided the parish with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or to have enforced with regard to the parish any provisions of the Public Health Acts which it is their duty to enforce, and have failed so to do, or that they have failed to maintain and repair any highway in a good and substantial manner, the parish council may complain to the county council, and the county council, if satisfied after due inquiry that the district council have so failed as respects the subject matter of the complaint, may resolve that the duties and powers of the district council for the purpose of the matter complained of shall be transferred

Complaint by parish council of default of district council.

to the county council, and they shall be transferred accordingly.

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c. 55.

(2) Upon any complaint under this section the county council may, instead of resolving that the duties and powers of the rural district council be transferred to them, make such an order as is mentioned in section two hundred and ninety-nine of the Public Health Act, 1875, and may appoint a person to perform the duty mentioned in the order, and upon such appointment sections two hundred and ninety-nine to three hundred and two of the Public Health Act, 1875, shall apply with the substitution of the county council for the Local Government Board.

(3) Where a rural district council have determined to adopt plans for the sewerage or water supply of any contributory place within the district, they shall give notice thereof to the parish council of any parish for which the works are to be provided before any contract is entered into by them for the execution of the works.

Section 16.—The powers conferred on the Parish Council by Sub-section 1, with the exception of complaints as to highways, are similar to those conferred on a private individual of making complaint to the Local Government Board by Section 299 of The Public Health Act, 1875. It appears that in the case of a default by the District Council in the matters here mentioned, two remedies are open: (i.) a complaint by the Parish Council (or Parish Meeting) to the County Council under this Section; and (ii.) a complaint by a private individual to the Local Government Board, under Section 299 of The Public Health Act, 1875.

Sewers.—See The Public Health Act, 1875, Section 16.

Water.—See The Public Health Act, 1875, Sections 51 to 65, and The Public Health (Water) Act, 1878.

Reasonable Cost.—What cost is reasonable is a question to be determined by the Local Government Board on the application of the local authority (see The Public Health [Water] Act, 1878).

Public Health Acts.—The duties of the local authorities are defined chiefly in The Public Health Act, 1875, to which reference must be made. The Sections bearing on the point are Sections 35 to 46 and 91 to 120. See also The Public Health Act, 1890.

Highways, i.e., highways in the district which are not maintained by the County Council as main roads.—The District Council becomes the highway authority by Section 25, and has the same powers as are conferred on urban sanitary authorities by Sections 144 to 148 of The Public Health Act, 1875 (see Appendix).

Transferred to the County Council.—Provisions as to notice of such transfer being given, and as to the expenses incurred by the County Council in acting on the default of the District Council, will be found in Section 63.

The Public Health Act, 1875, Section 299 and Sections 299 to 302.—These Sections are set out in the Appendix.

Contributory Place.—See Section 229 of The Public Health Act, 1875. It includes a parish, part of a parish where the residue is included in an urban district or a special drainage district, and a special drainage district.

Notice.—Presumably for the purpose of allowing a Parish Council to make representations on the plans.

17. (1) A parish council may appoint one of their number to act as clerk of the council without remuneration. Parish officers and parish documents.

(2) If no member of the parish council is appointed so to act, and there is an assistant overseer, he, or such one of the assistant overseers, if more than one, as may be appointed by the council, shall be the clerk of the parish council, and the performance of his duties as such shall be taken into account in determining his salary.

(3) If there is no assistant overseer, the parish council may appoint a collector of poor rates, or some other fit person, to be their clerk, with such remuneration as they may think fit.

(4) A parish council shall not appoint to the office of vestry clerk.

(5) When a parish council act as a parochial committee by delegation from the district council they shall have the services of the clerk of the district council, unless the district council otherwise direct.

(6) The parish council may appoint one of their own number or some other person to act as treasurer without remuneration, and the treasurer shall give such security as may be required by regulations of the county council.

(7) All documents required by statute or by standing orders of Parliament to be deposited with the parish clerk of a rural parish shall, after the election of a parish council, be deposited with the clerk, or, if there is none, with the chairman, of the parish council, and the enactments with respect to the inspection of, and taking copies of, and extracts from, any such documents shall apply as if the

clerk, or chairman, as the case may be, were mentioned therein.

(8) The custody of the registers of baptisms, marriages, and burials, and of all other books and documents containing entries wholly or partly relating to the affairs of the Church or to ecclesiastical charities, except documents directed by law to be kept with the public books, writings, and papers of the parish, shall remain as provided by the existing law unaffected by this Act. All other public books, writings, and papers of the parish, and all documents directed by law to be kept therewith, shall either remain in their existing custody, or be deposited in such custody as the parish council may direct. The incumbent and churchwardens on the one part, and the parish council on the other, shall have reasonable access to all such books, documents, writings, and papers, as are referred to in this subsection, and any difference as to custody or access shall be determined by the county council.

(9) Every county council shall from time to time inquire into the manner in which the public books, writings, papers, and documents under the control of the parish council or parish meeting are kept with a view to the proper preservation thereof, and shall make such orders as they think necessary for such preservation, and those orders shall be complied with by the parish council or parish meeting.

Section 17.—As to officials holding office at the time of the passing of the Act see Section 81.

Clerk to the Council.—Where there is an existing Vestry Clerk appointed under The Vestries Act, 1850, he is to become Clerk to the Parish Council in preference to any other person (Section 81, Sub-section 2).

Assistant Overseer.—Where there is an existing Vestry Clerk he is to be preferred to the Assistant Overseer as Clerk to the Council (see Section 81, Sub-section 2). The power of appointing an Assistant Overseer is expressly transferred to the Parish Council by Section 5, Sub-section 1. The right of fixing his salary will also be exercised by the Council by virtue of its position as successor to the Vestry.

Collector of Poor Rates.—An officer usually appointed by the Board of Guardians, but who may be nominated by a Parish Council.

Delegation.—Section 15 deals with the Parish Council acting as a Parochial Committee by delegation from the District Council.

Deposit of Plans required by Statute.—Inspection.—See 1 Vict. c. 83; 8 & 9 Vict. c. 20; also Section 7 of The Vestries Act, 1850 (13 & 14 Vict. c. 57).

Custody.—In divided parishes, see Section 36, Sub-section 3; and in grouped parishes, see Section 38, Sub-section 3.

The Registers of Baptisms and Burials are required to be kept in the custody of the rector or vicar of the parish (52 Geo. III. c. 146, s. 5), as also that of marriages performed according to the rites of the Established Church (6 & 7 Will. IV. c. 86). The Vestry Act of 1818 (58 Geo. III. c. 69) required the churchwardens and overseers to provide minute books for the Vestry proceedings (*ib.*, s. 2), and enabled the Vestry to declare in whose custody the public papers, &c., excepting the registers of marriages, baptisms, and burials, should be kept (*ib.*, s. 6).

Reasonable Access.—The parochial electors, as well as the incumbents and churchwardens, have access to papers, &c., in the custody of the Parish Council (see Section 58, Sub-section 4).

Under the Control of the Parish Council or Parish Meeting.—It will be noticed that the powers of the County Council are limited to papers, documents, &c., in the custody of these bodies only.

18. (1) A county council may, on application by the parish council, or not less than one tenth of the parochial electors of a parish, and on being satisfied that the area or population of the parish is so large, or different parts of the population so situated, as to make a single parish meeting for the election of councillors impracticable or inconvenient, or that it is desirable for any reason that certain parts of the parish should be separately represented on the council, order that the parish be divided for the purpose of electing parish councillors into wards, to be called parish wards, with such boundaries and such number of councillors for each ward as may be provided by the order. Parish wards.

(2) In the division of a parish into wards regard shall be had to the population according to the last published census for the time being, and to the evidence of any considerable change of population since that census, and to area, and to the distribution and pursuits of the population, and to all the circumstances of the case.

(3) Any such order may be revoked or varied by the county council on application by either the council or not less than one tenth of the parochial electors of the parish, but while in force shall have effect as if enacted by this Act.

(4) In a parish divided into parish wards there shall be a separate election of parish councillors for each ward.

Section 18.—This Section only provides for the division of a parish into wards for facilitating the election of Parish Councillors. On such a division of a parish there will, of course, be a Parish Meeting in each ward to elect representatives on the Parish Council.

There may also be meetings in wards or parts of a parish under the following conditions:—

- (i.) If it is desirous to adopt any of the Adoptive Acts for part of a parish, the consent of the Parish Meeting for such part must be obtained (Section 7, Sub-section 4).
- (ii.) If the County Council is satisfied that any part of a parish has a defined boundary, and has any property or rights distinct from the rest of the parish, the County Council may order that the consent of a Parish Meeting held for that part shall be required for any such act or class of acts of the Parish Council affecting such property or rights as is specified in the order (Section 37).
- (iii.) Where a Parish Council has any powers and duties which are to be exercised in a part only of the parish, or in relation to a recreation ground, building, or property held for the benefit of part of a parish, and that part has a defined boundary, a Parish Meeting for that part may require the Parish Council to appoint a committee on which that part is specially represented to exercise such powers and duties (Section 56, Sub-section 2).

As to holding of Parish Meetings for part of a parish and the persons who have a right to attend them see Section 49.

Provisions
as to small
parishes.

19. In a rural parish not having a separate parish council, the following provisions shall, as from the appointed day, but subject to provisions made by a grouping order, if the parish is grouped with some other parish or parishes, have effect:—

- (1) At the annual assembly the parish meeting shall choose a chairman for the year:
- (2) The parish meeting shall assemble not less than twice in each year:
- (3) The parish meeting may appoint a committee of their own number for any purposes which, in the opinion of the parish meeting, would be better regulated and managed by means of such a committee, and all the acts of the committee shall be submitted to the parish meeting for their approval:

- (4) All powers, duties, and liabilities of the vestry shall, except so far as they relate to the affairs of the church or to ecclesiastical charities, or are transferred by this Act to any other authority, be transferred to the parish meeting;
- (5) The power and the duty of appointing the overseers, and of notifying the appointment, and the power of appointing and revoking the appointment of an assistant overseer, shall be transferred to and vest in the parish meeting, and the power given by this Act to a parish council of appointing trustees of a charity in the place of overseers or churchwardens, shall vest in the parish meeting;
- (6) The chairman of the parish meeting and the overseers of the parish shall be a body corporate by the name of the chairman and overseers of the parish, and shall have perpetual succession, and may hold land for the purposes of the parish without licence in mortmain; but shall in all respects act in manner directed by the parish meeting, and any act of such body corporate shall be executed under the hands, or if an instrument under seal is required under the hands and seals, of the said chairman and overseers;
- (7) The legal interest in all property which under this Act would, if there were a parish council, be vested on the appointed day in the parish council shall vest in the said body corporate of the chairman and overseers of the parish, subject to all trusts and liabilities affecting the same, and all persons concerned shall make or concur in making such transfers (if any) as are requisite to give effect to this enactment;
- (8) The provisions of this Act with respect to the stopping or diversion of a public right of way, or the declaring of a highway to be unnecessary and not repairable at the public expense, and with respect to a complaint to a county council of a

default by a district council, shall apply, with the substitution of the parish meeting for the parish council;

- (9) A rate levied for defraying the expenses of the parish meeting (when added to expenses under any of the adoptive Acts) shall not exceed sixpence in the pound in any local financial year;
- (10) On the application of the parish meeting the county council may confer on that meeting any of the powers conferred on a parish council by this Act;
- (11) Any act of the parish meeting may be signified by an instrument executed at the meeting under the hands, or, if an instrument under seal is required under the hands and seals, of the chairman presiding at the meeting and two other parochial electors present at the meeting.

Section 19.—On the qualifications necessary for a parish to have a Parish Council see Chapter I., where all the provisions of the Act relating to the question are collected and discussed. See also Section 1 (as to limits of population), Section 38 (as to grouping parishes), and Section 39 (as to the rise and fall of the population of a parish above or below the required limits).

The conduct of the Parish Meeting will be regulated by the provisions of Section 2 and the rules in Part I. of Schedule I., so far as they are applicable to small parishes.

Annual Assembly.—This must be held on the 25th March in each year, or within seven days before or after.

Chairman of the Parish Meeting.—See notes on Chairman in Chapter I. He will hold office till a successor is appointed at the next annual assembly, when he is eligible for re-election. As to retirement from the office of Chairman and filling vacancies therein see Section 47, Sub-sections 3 and 4.

Assembly of the Parish Meeting.—Beyond the two statutory meetings, special meetings may at any time be convened by the Chairman, or by any six parochial electors (Section 45, Sub-section 3).

Transfer of Powers, Duties, &c., of Vestry.—This transfer is the same as that made to the Parish Council by Section 6, Sub-section 1 (see notes thereon).

Appointment of Overseers and Assistant Overseer.—These powers are conferred on the Parish Council by Section 5, Sub-section 1, the appointment of an Assistant Overseer being expressly transferred from the Guardians by Section 81, Sub-section 6. As to the notification of appointments which must be made by the Parish Meeting at its annual assembly, see Section 50.

Appointment of Trustees of a Charity.—The only one of the powers of appointing trustees conferred on a Parish Council, which is exercisable by the Parish Meeting, is that of appointing trustees in the place of churchwardens and overseers (Section 14, Sub-section 2). But the rest of the powers conferred by Section 14 may be given to the Parish Meeting by an order of the County Council made under Sub-section 10 of this Section.

Chairman and Overseers, a Body Corporate.—Compare Section 3, Sub-section 9. Their only powers are the holding of land for the purposes of the parish and the execution of instruments in which they are directed by the Parish Meeting (Sub-section 11 of this Section).

Vesting of legal interest in Property in Chairman and Overseers.—This is property, not being that of an ecclesiastical charity, which was formerly vested in the Overseers or in the Churchwardens and Overseers of a parish (see Section 5, Sub-section 2 c).

Stopping up and diversion of a right of way are dealt with in Section 13.

Complaint of default by District Council.—See Section 16.

Adoptive Acts.—See Section 7. In the case of some of these Acts a limit is placed on the expenditure required for carrying them into execution—*eg.*, The Public Libraries Act.

Powers conferred on Parish Council by this Act.—See Sections 5, 6, 8, and 14, and Chapter IV.

PART II.

GUARDIANS AND DISTRICT COUNCILS.

Election
and qualifi-
cation of
guardians.

20. As from the appointed day the following provisions shall apply to boards of guardians:—

- (1) There shall be no ex-officio or nominated guardians :
- (2) A person shall not be qualified to be elected or to be a guardian for a poor law union unless he is a parochial elector of some parish within the union, or has during the whole of the twelve months preceding the election resided in the union, or in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is qualified to be elected a councillor for that borough, and no person shall be disqualified by sex or marriage for being elected or being a guardian. So much of any enactment, whether in a public general or local and personal Act, as relates to the qualification of a guardian shall be repealed :
- (3) The parochial electors of a parish shall be the electors of the guardians for the parish, and, if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :
- (4) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :
- (5) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board :
- (6) The term of office of a guardian shall be three years, and one third, as nearly as may be, of every board

of guardians shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected guardians. Provided as follows :—

- (a) Where the county council on the application of the board of guardians of any union in their county consider that it would be expedient to provide for the simultaneous retirement of the whole of the board of guardians for the union, they may direct that the members of the board of guardians for that union shall retire together on the fifteenth day of April in every third year, and such order shall have full effect, and where a union is in more than one county, an order may be made by a joint committee of the councils of those counties :
 - (b) Where at the passing of this Act the whole of the guardians of any union, in pursuance of an order of the Local Government Board, retire together at the end of every third year, they shall continue so to retire, unless the county council, or a joint committee of the county councils, on the application of the board of guardians or of any district council of a district wholly or partially within the union, otherwise direct :
- (7) A board of guardians may elect a chairman or vice-chairman, or both, and not more than two other persons, from outside their own body, but from persons qualified to be guardians of the union, and any person so elected shall be an additional guardian and member of the board. Provided that on the first election, if a sufficient number of persons who have been ex-officio or nominated guardians of the union, and have actually served as such, are willing to serve, the additional members shall be elected from among those persons.

Section 20.—The provisions of this Section apply also to the election and qualification of Guardians in London and county boroughs.

For the supplemental provisions as to Guardians see Section 60; and the question generally is discussed in Chapter VII.

Ex-officio Guardians. Until the passing of this Act Justices of the Peace residing in any parish, and acting for the county or division in which it was situate, were entitled to act as *ex-officio* Guardians for the Poor Law Union in which such parish was comprised (4 & 5 Will. IV. c. 76, s. 38; and 7 & 8 Vict. c. 101, s. 24).

Nominated Guardians.—The Local Government Board might nominate such persons as they thought fit, possessing certain qualifications, to be members of a Board of Guardians in the Metropolis (30 & 31 Vict. c. 6, s. 79).

Election. The annual election of Guardians is required to take place within forty days after the 25th March in each year (7 & 8 Vict. c. 101, s. 17). At the first elections held under this Act, the elections of Guardians took place simultaneously with those of Parish Councillors in rural districts, and of District Councillors in urban districts, a practice that will probably be continued at subsequent elections. On elections generally under this Act see Chapter IX.

Qualified as a Councillor of a Borough.—These qualifications and disqualifications are defined in Sections 11 and 12 of The Municipal Corporations Act, 1882.

Repeal of existing Qualification as Guardian.—The qualification existing at the time of the passing of the Act was a rateable value of £5.

For Disqualifications generally see Section 46.

One vote and no more.—Formerly only ratepayers and owners could vote in the election of Guardians. They had a given number of votes up to six, in proportion to the value of the property from which they derived their qualification, and were entitled to vote both as owners and ratepayers.

Rules framed under this Act by the Local Government Board.—See Section 48 for the provisions guiding the Board.

Retirement of Guardians.—When Guardians retire by thirds, the fixing of the rotation of retirement is provided for by Section 60, Sub-section 2; and in the case of the first Boards elected under the Act, by Section 79.

Vice-Chairman.—See also Section 59, Sub-section 2.

Names of
county
districts
and district
councils.

21. As from the appointed day,—

- (1) Urban sanitary authorities shall be called urban district councils, and their districts shall be called urban districts; but nothing in this section shall alter the style or title of the corporation or council of a borough;
- (2) For every rural sanitary district there shall be a rural district council whose district shall be called a rural district:

(3) In this and every other Act of Parliament, unless the context otherwise requires, the expression "district council" shall include the council of every urban district, whether a borough or not, and of every rural district, and the expression "county district" shall include every urban and rural district whether a borough or not.

Section 21. Urban Districts.—See Section 6 of The Public Health Act, 1875, set out in the Appendix.

Urban sanitary districts and authorities are of three kinds: (i.) Municipal boroughs having the Borough Council as the sanitary authority; (ii.) Improvement Act districts having the Improvement Commissioners; and (iii.) Local Government districts having the Local Board.

Rural Districts.—See Section 9 of The Public Health Act, 1875.

For the constitution of Rural District Councils see Section 24.

22. The chairman of a district council unless a woman or personally disqualified by any Act shall be by virtue of his office justice of the peace for the county in which the district is situate, but before acting as such justice he shall, if he has not already done so, take the oaths required by law to be taken by a justice of the peace other than the oath respecting the qualification by estate.

Chairman
of council
to be
justice.

Section 22.—The provisions of this Section are applied by Section 31, Sub-section 2, to the Chairmen of Vestries and District Boards in London and of the Local Board of Woolwich.

In Boroughs the Chairman of the Council is the Mayor, who is a Justice of the Peace for the Borough during his term of office, by virtue of the provisions of The Municipal Corporations Act, 1882.

Chairmen of District Councils hold office for a year, and are elected at the annual meeting in each year, when they are re-eligible (see Schedule 1, of The Public Health Act, 1875, incorporated by Section 59, Sub-section 1, and set out in the Appendix.)

The Oaths required to be taken by Justices of the Peace are the oath of allegiance and the judicial oath (Promissory Oaths Act, 1862). They are usually taken at Quarter Sessions, but may be sworn in open Court before one or more of the Judges of the High Court.

23. As from the appointed day, where an urban district is not a borough—

(1) There shall be no ex-officio or nominated members of the urban sanitary authority:

Constitution
of
district
councils in
urban
districts
not being
boroughs.

- (2) A person shall not be qualified to be elected or to be a councillor unless he is a parochial elector of some parish within the district, or has during the whole of the twelve months preceding the election resided in the district, and no person shall be disqualified by sex or marriage for being elected or being a councillor. So much of any enactment whether in a public general or local and personal Act as relates to the qualification of a member of an urban sanitary authority shall be repealed :
- (3) The parochial electors of the parishes in the district shall be the electors of the councillors of the district, and, if the district is divided into wards, the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :
- (4) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :
- (5) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board :
- (6) The term of office of a councillor shall be three years, and one-third, as nearly as may be, of the council, and if the district is divided into wards one-third, as nearly as may be, of the councillors for each ward shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected councillors. Provided that a county council may on request made by a resolution of an urban district council, passed by two-thirds of the members voting on the resolution, direct that the members of such council shall retire together on the fifteenth day of April in every third year, and such order shall have full effect.

Section 23.—On Urban District Councils generally see Chapter VII.

The provisions of this Section as to the qualification and mode of conducting the election of Urban District Councillors, apply to the election of members of the Local Board of Woolwich, and of the Vestries in London, elected under The Metropolis Management Act (Section 33, Sub-section 1).

Urban District.—This Section applies to former Improvement Act and Local Government districts, and to urban districts to be so constituted in the future.

Ex-officio or Nominated Members.—There were formerly a few selected members of Local Boards under The Public Health Act, 1875. The only possible *ex-officio* member of an Urban District Council now is the Chairman, who may be elected from outside the Council under the provisions of Section 59, Sub-section 1.

Qualification. Formerly a small property qualification was required by The Public Health Act, 1875, for membership of a Local Board. The disqualifications enumerated in Section 46 apply to the office of Urban District Councillor.

Divided into Wards—i.e., under the powers conferred by the rules of the Local Government Board. As to the preparation, &c., of the register see Section 44.

One Vote and no more.—In order to vote in the election of Urban Councillors, the voters formerly had to be qualified as property owners or ratepayers in the district, and they were entitled to a certain number of votes in proportion to the value of their property. Cumulative voting is now abolished.

Rules framed by the Local Government Board.—On elections generally under this Act see Chapter IX. The principles guiding the Local Government Board in framing the rules are contained in Section 48.

Retirement. Those who were lowest on the poll at the first election are to retire first, and so a rotation will be established (see Section 79, Sub-section 6).

Election. Newly-elected members of Local Boards are required by The Public Health Act, 1875, to come into office on the 15th April each year. The election must be held before the 15th April, in time to enable this requirement to be observed.

24. (1) The district council of every rural district shall consist of a chairman and councillors, and the councillors shall be elected by the parishes or other areas for the election of guardians in the district. Rural district councils.

(2) The number of councillors for each parish or other area in a rural district shall be the same as the number of guardians for that parish or area.

(3) The district councillors for any parish or other area in a rural district shall be the representatives of that parish or area on the board of guardians, and when acting in that capacity shall be deemed to be guardians of the poor, and guardians as such shall not be elected for that parish or area.

(4) The provisions of this Act with respect to the qualification, election, and term of office and retirement of

guardians, and to the qualification of the chairman of the board of guardians, shall apply to district councillors and to the chairman of the district council of a rural district, and any person qualified to be a guardian for a union comprising the district shall be qualified to be a district councillor for the district.

(5) Where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall, save as otherwise provided by or in pursuance of this or any other Act, be as from the appointed day a rural district :

35 & 39 Viet.
c. 55.

Provided that where the number of councillors of any such district will be less than five, the provisions, so far as unrepealed, of section nine of the Public Health Act, 1875, with respect to the nomination of persons to make up the members of a rural authority to five, shall apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day, and, if they so direct, the councillors of the district shall be entitled, so far as regards those affairs, to sit and act as members of that district council, but a separate account shall be kept of receipts and expenses in respect of the district, and the same shall be credited or charged separately to the district.

(6) The said provisions of section nine of the Public Health Act, 1875, shall apply to the district council of a rural district to which they apply at the passing of this Act.

(7) Every district council for a rural district shall be a body corporate by the name of the district council, with the addition of the name of the district, or if there is any doubt as to the latter name, of such name as the county council direct, and shall have perpetual succession and a common seal, and may hold land for the purposes of their powers and duties without licence in mortmain.

Section 24.—On Rural District Councils generally see Chapter VII.

The Chairman may be elected from members of the Council, or from outside that body (see Section 59, Sub-section 2). If elected from outside he must be qualified as a District Councillor for the district—*i.e.*, as a parochial elector or by

residence. Compare Section 20, Sub-section 7, on the Chairman of the Board of Guardians. The Chairman of a District Council will be a Justice of the Peace by virtue of his office (Section 22).

Areas for the Election of Guardians are parishes or wards or districts constituted under the powers of this Act.

Representatives on the Board of Guardians.—The Board of Guardians will consist of members, returned both for the urban and rural parts of the Union. Urban districts elect special Guardians, but in rural districts the same persons are Guardians and District Councillors.

The Qualification of Guardians is dealt with in Section 20, Sub-section 2 (the disqualifications of Section 16 apply equally in this case); *the election* of Guardians in Section 20, Sub-sections 3, 4, 5; and *the retirement* of Guardians in Section 20, Sub-section 6, as explained by Section 60, Sub-section 2, and Section 79.

Section 9 of The Public Health Act, 1875, will be found in the Appendix. The provisions which here apply are as follows: "Where the number of elective Guardians . . . is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number from the owners and occupiers of property situated within the rural district of a sufficient value to qualify them as elective Guardians of the union, and the persons so nominated shall be entitled to act and vote as members of the rural authority, but not further or otherwise."

This is one of the class of cases referred to the County Council for consideration by Section 36, Sub-section 1.

Name of District Council.— See also Section 55.

25. (1) As from the appointed day, there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of the rural sanitary authority in the district, and of any highway authority in the district, and highway boards shall cease to exist, and rural district councils shall be the successors of the rural sanitary authority and highway authority, and shall also have as respects highways all the powers, duties, and liabilities of an urban sanitary authority under sections one hundred and forty-four to one hundred and forty-eight of the Public Health Act, 1875, and those sections shall apply in the case of a rural district and of the council thereof in like manner as in the case of an urban district and an urban authority. Provided that the council of any county may by order postpone within their county or any part thereof the operation of this section, so far as it relates to highways, for a term not exceeding three years from the appointed day or such

Powers of district council with respect to sanitary and highway matters.

38 & 39 Vict. c. 55.

further period as the Local Government Board may on the application of such council allow.

(2) Where a highway repairable *ratione tenuræ* appears on the report of a competent surveyor not to be in proper repair, and the person liable to repair the same fails when requested so to do by the district council to place it in proper repair, the district council may place the highway in proper repair, and recover from the person liable to repair the highway the necessary expenses of so doing.

51 & 52 Vict.
c. 41.

(3) Where a highway authority receives any contribution from the county council towards the cost of any highway under section eleven, sub-section (10), of the Local Government Act, 1888, such contribution may be made, subject to any such conditions for the proper maintenance and repair of such highways, as may be agreed on between the county council and the highway authority.

(4) Where the council of a rural district become the highway authority for that district, any excluded part of a parish under section two hundred and sixteen of the Public Health Act, 1875, which is situate in that district, shall cease to be part of any urban district for the purpose of highways, but until the council become the highway authority such excluded part of a parish shall continue subject to the said section.

(5) Rural district councils shall also have such powers, duties, and liabilities of urban sanitary authorities under the Public Health Acts or any other Act, and such provisions of any of those Acts relating to urban districts shall apply to rural districts, as the Local Government Board by general order direct.

(6) The power to make such general orders shall be in addition to and not in substitution for the powers conferred on the Board by section two hundred and seventy-six of the Public Health Act, 1875, or by any enactment applying that section: and every order made by the Local Government Board under this section shall be forthwith laid before Parliament.

(7) The powers conferred on the Local Government Board by the said section two hundred and seventy-six, or by any enactment applying that section, may be exercised

on the application of a county council, or with respect to any parish or part of a parish on the application of the parish council of that parish.

Section 25.—Transfer of Powers.—All transfers made under this Section will be subject to the conditions imposed by Section 67.

Powers, duties, and liabilities of the Rural Sanitary Authority.—They arise chiefly under The Public Health Act, 1875, and the Acts amending it. The chief Public Health Acts are those of the years 1875, 1878, 1879, 1883, 1885, 1888, 1889, and 1890. Other Statutes conferring duties on rural sanitary authorities are the Infectious Diseases Acts and The Housing of the Working Classes Act, 1890.

Highways.—At the passing of this Act, the highways in rural districts might be under the control of one of three authorities:

- (i.) In a parish which was itself a highway district, under the control of a surveyor appointed each year by the Vestry, under The Highway Act, 1835.
- (ii.) In highway districts which were a group of parishes joined for highway purposes under The Highway Acts, 1862 and 1864, under the control of a highway board, consisting of members elected by the Vestries of the component parts of the districts, and called waywardens.
- (iii.) In highway districts coincident with rural sanitary districts, under the control of the rural sanitary authority, acting as the highway board, by virtue of The Highway Act, 1878.

The District Council now supersedes all these authorities and has more ample powers. If the operation of this Section is postponed by the County Council, provision is required to be made for the re-election of the existing authorities in the meanwhile (Section 84, Sub-section 4).

The Public Health Act, 1875. Sections 144 to 148 will be found set out in the Appendix.

Highway repairable ratione tenure.—This liability arises through the nature of the tenure of certain lands by individuals or corporations. The costs incurred by the District Council under this Sub-section will be recoverable by action.

The Local Government Act, 1888, Section 11, Sub-section 10. provides that "The County Council may, if they think fit, contribute to the cost of the maintenance, repair, enlargement, and improvement of any highway or public footpath in the county, although the same is not a main road."

The Public Health Act, 1875. Section 216 will be found set out in the Appendix.

Conferring of Urban Powers. Section 276 of The Public Health Act, 1875, could only be acted on by the Local Government Board on the application of the rural authority requiring the powers; but under this Section the Local Government Board can act on the application of a County Council or of a Parish Council, but all proposed general orders must be laid before Parliament. For Section 276 of The Public Health Act, 1875, see Appendix.

Duties and powers of district council as to rights of way, rights of common, and roadside wastes.

26. (1) It shall be the duty of every district council to protect all public rights of way, and to prevent as far as possible the stopping or obstruction of any such right of way, whether within their district or in an adjoining district in the county or counties in which the district is situate, where the stoppage or obstruction thereof would in their opinion be prejudicial to the interests of their district, and to prevent any unlawful encroachment on any roadside waste within their district.

(2) A district council may with the consent of the county council for the county within which any common land is situate aid persons in maintaining rights of common where, in the opinion of the council, the extinction of such rights would be prejudicial to the inhabitants of the district; and may with the like consent exercise in relation to any common within their district all such powers as may, under section eight of the Commons Act, 1876, be exercised by an urban sanitary authority in relation to any common referred to in that section: and notice of any application to the Board of Agriculture in relation to any common within their district shall be served upon the district council.

39 & 40 Viet.
c. 56.

(3) A district council may, for the purpose of carrying into effect this section, institute or defend any legal proceedings, and generally take such steps as they deem expedient.

(4) Where a parish council have represented to the district council that any public right of way within the district or an adjoining district in the county or counties in which the district is situate has been unlawfully stopped or obstructed, or that an unlawful encroachment has taken place on any roadside waste within the district, it shall be the duty of the district council, unless satisfied that the allegations of such representation are incorrect, to take proper proceedings accordingly: and if the district council refuse or fail to take any proceedings in consequence of such representation, the parish council may petition the county council for the county within which the way or waste is situate, and if that council so resolve the powers and duties of the district council under this section shall be transferred to the county council.

(5) Any proceedings or steps taken by a district council or county council in relation to any alleged right of way

shall not be deemed to be unauthorised by reason only of such right of way not being found to exist.

(6) Nothing in this section shall affect the powers of the county council in relation to roadside wastes.

(7) Nothing in this section shall prejudice any powers exercisable by an urban sanitary authority at the passing of this Act, and the council of every county borough shall have the additional powers conferred on a district council by this section.

Section 26.—The duties of the District Councils, it will be noticed, extend to protecting rights of way in adjoining districts as well as in their own.

On this matter see the Memorandum of the Local Government Board set out in the Appendix.

The Commons Act, 1876, Section 8, relates to suburban commons, and provides that "Notice of any application under that Act in relation to a common which is situate either wholly or partly in any town or towns, or within six miles of any town or towns, shall be served as soon as may be on the urban sanitary authority or authorities having jurisdiction over such town or towns, and it shall be lawful for the urban sanitary authority of any such town to appear at inquiries held by the Commissioners of the Board of Agriculture, and make representations in reference to applications for regulating or inclosing such commons.

"Any such urban authority may, with the sanction of the Inclosure Commissioners, enter into an undertaking to contribute out of their funds for or towards the maintenance of recreation grounds, or paths or roads, or doing any other matter or thing for the benefit of their town in relation to such common.

"They may also enter into an undertaking to pay compensation in respect to the rights of commoners for the purpose of securing greater privileges for the benefit of their town.

"An urban sanitary authority may acquire by gift and hold without licence in mortmain, on trust for the benefit of their town, any such suburban common and any right in such a common.

"They may also purchase and hold as aforesaid, with a view to prevent the extinction of the rights of common, any saleable rights in common, or any tenement of a commoner having annexed thereto rights of common.

"They may also, with the consent of persons representing at least one-third in value such interests in a suburban common as aforesaid, as are proposed to be affected by a Provisional Order made under the Act, make an application to the Board of Agriculture for the regulation of such common with a view to the benefit of their town and the improvement of the common.

"They may also, if the Board of Agriculture deem it advisable, having regard to the benefit of the neighbourhood as well as private interests, be invested with such powers of management and other powers as may be expedient.

"The expenses incurred by an urban sanitary authority in pursuance of this

section may be defrayed out of any rate applicable to the payment of expenses incurred by such authority in the execution of the Public Health Act, 1875, and not otherwise provided for.

“A town under Section 8 of the Commons Act includes any municipal borough, or Improvement Act district, or Local Government district, having a population of not less than 5,000 inhabitants.”

The Section also contains directions for measuring the required distance, and declares that “where part only of a common is situate within the aforesaid distance from a town, such part shall be deemed for the purpose of the section to be a common, separate and distinct from the part situated without and beyond such a distance.”

Representation by Parish Council. See Section 13, Sub-section 1.

Transfer to County Council.—As to the effect of such transfer and the expenses incurred by the County Council thereunder see Section 63.

The powers of the County Council as to roadside wastes are dealt with in Section 11 of The Local Government Act, 1888. That Section hands over the main roads in a county to the County Council, and imposes on them the duty of keeping them in proper maintenance and repair. It further gives them the same powers as a highway board for maintaining the rights of the public in roadside wastes—*i.e.*, the wastes bordering the roads under their jurisdiction.

Transfer of
certain
powers of
justices to
district
councils.

27. (1) As from the appointed day the powers, duties, and liabilities of justices out of session in relation to any of the matters following, that is to say,—

- (a) the licensing of gang masters;
- (b) the grant of pawnbrokers' certificates;
- (c) the licensing of dealers in game;
- (d) the grant of licences for passage brokers and emigrant runners;
- (e) the abolition of fairs and alteration of days for holding fairs;
- (f) the execution as the local authority of the Acts relating to petroleum and infant life protection;

when arising within a county district, shall be transferred to the district council of the district.

(2) As from the appointed day, the powers, duties, and liabilities of quarter sessions in relation to the licensing of knackers' yards within a county district shall be transferred to the district council of the district.

(3) All fees payable in respect of the powers, duties, and liabilities transferred by this section shall be payable to the district council.

Section 27. —(a) Licensing of Gang Masters.—By The Agricultural Gangs Act, 1867 (30 & 31 Vict. c. 130, s. 5), no person may act as a gang master unless he has first obtained a licence to do so, under a penalty of twenty shillings for each day on which he has so acted without a licence. A gang master is thus defined: "Any person, whether male or female, who hires children, young persons, or women, with a view to their being employed in agricultural labour on lands not in his own occupation." Such licences were required to be granted by two or more Justices in Petty Sessions, with a right of appeal to Quarter Sessions.

(b) Grant of Pawnbrokers' Certificates.—The Pawnbrokers' Act, 1872 (35 & 36 Vict. c. 93, s. 37), requires every pawnbroker to obtain yearly an excise licence for every shop kept by him. Before the licence could be granted, he was formerly required to obtain a certificate from a magistrate, if in the Metropolis, or, in other places, from the Justices in Petty Sessions. Persons intending to apply for certificates are required to give certain notices specified in Section 42 of the Act. Thereupon certificates can only be refused upon one of the following grounds: (1) That the applicant has failed to produce satisfactory evidence of character; (2) that the shop in which he intends to carry on business, or any adjacent house or place occupied or owned by him, is frequented by thieves or persons of bad character; (3) that he has not complied with the requirements of Section 42.

There is an appeal to Quarter Sessions from a refusal to grant a certificate.

(c) The Licensing of Dealers in Game.—By The Game Act, 1831 (1 & 2 Will. IV. c. 32), authority is given to the Justices in special sessions (the power now being transferred to the District Council) to grant licences to people to deal in game. Certain persons—*e.g.*, licensed victuallers—are excluded from holding such licences. In addition to this licence a further one must be obtained from the Inland Revenue authorities under 23 & 24 Vict. c. 90, s. 14.

(d) The Grant of Licences for Passage Brokers and Emigrant Runners.—This matter is regulated by The Passengers' Act, 1855 (18 & 19 Vict. c. 119, ss. 3, 66 to 70, 75 to 81).

Passage Brokers are persons who sell or let, or agree to sell or let, or are in anywise concerned in the sale or letting of passages in any ship, whether a passenger ship or otherwise, proceeding from the United Kingdom to any place out of Europe, and not being in the Mediterranean Sea. They are required to find sureties, and to obtain a licence, formerly from the Justices at Petty Sessions holden for the district or place in which they carried on business.

Emigrant Runner is expressed to signify "every person, other than a licensed passage broker or his *bonâ fide* salaried clerk, who, within any port or place of shipping, or within five miles of the outer boundaries thereof, for hire or reward, or the expectation thereof, shall directly or indirectly conduct, solicit, influence, or recommend any intending emigrant to or on behalf of any passage broker,

owner, charterer, or master of a ship, lodging-house, or tavern or shopkeeper, money changer, or other dealer or chapman, for any purpose connected with the preparations or arrangements for a passage, or shall give or pretend to give to such intending emigrant any information or assistance in any way relating to emigration." Licences to act as such were formerly granted by the Justices in Petty Sessions, and the holders thereof were required to obtain badges from the nearest emigration officer.

(e) *Abolition of Fairs and alteration of days for holding Fairs.*—In these cases the Justices were empowered to make a representation to the Home Secretary that it was advisable that certain fairs in their petty sessional division should be abolished (34 & 35 Vict. c. 12), or that their dates should be altered (36 & 37 Vict. c. 37). The Home Secretary may thereupon, with the consent of the owner in the former case, make the required order. Notices of the representation and also of the Home Secretary's decision have to be published in local papers, &c. The District Council is now the authority to make the representation in these matters.

(f) *Execution of the Acts relating to Petroleum and Infant Life Protection.*—The Petroleum Acts are 34 & 35 Vict. c. 105, and 42 & 43 Vict. c. 47, relating to storage of petroleum and substances of a like nature, and 44 & 45 Vict. c. 67 relating to the hawking of petroleum. These Acts require a licence to store and hawk petroleum, and provide for the means of keeping the substance in a safe condition. The authorities entrusted with the execution of the Acts were the Urban Sanitary Authorities in urban districts and the Justices in Petty Sessions in rural districts.

The Infant Life Protection Act, 1872 (35 & 36 Vict. c. 38), was passed for the protection of infants, entrusted to persons to be nursed or maintained, for hire or reward. The Act required the local authority—formerly the Urban Sanitary Authority or Justices in Petty Sessions—to keep a register of all such persons, authorised to receive children for nursing or maintenance. All people so registered are also required to keep and produce for inspection, when necessary, a register of all children entrusted to their charge.

Knackers' Yards.—These are regulated by 26 Geo. III. c. 71, as amended by 7 & 8 Vict. c. 87. No person may keep any house or place for the purpose of killing horses or cattle, other than for butcher's meat, without obtaining a licence from Quarter Sessions. A certificate of fitness, signed by the minister and churchwardens or overseers, or by the minister and two householders of the parish, has first to be obtained by the applicant.

Expenses
of urban
district
council.

28. The expenses incurred by the council of an urban district in the execution of the additional powers conferred on the council by this Act, shall, subject to the provisions of this Act, be defrayed in a borough out of the borough fund or rate, and in any other case out of the district fund and

general district rate or other fund applicable towards defraying the expenses of the execution of the Public Health Act, 1875. 38 & 39 Vict. c. 55.

Section 28.—The expenses of an Urban Sanitary Authority are provided for by Sections 207 to 212 of The Public Health Act, 1875, which are set out in the Appendix.

29. The expenses incurred by the council of a rural district shall, subject to the provisions of this Act, be defrayed in manner directed by the Public Health Act, 1875, with respect to expenses incurred in the execution of that Act by a rural sanitary authority, and the provisions of the Public Health Acts with respect to those expenses shall apply accordingly. Expenses of rural district council.

Provided as follows:—

- (a) Any highway expenses shall be defrayed as general expenses:
- (b) When the Local Government Board determine any expenses under this Act to be special expenses and a separate charge on any contributory place, and such expenses would if not separately chargeable on a contributory place be raised as general expenses, they may further direct that such special expenses shall be raised in like manner as general expenses, and not by such separate rate for special expenses as is mentioned in section two hundred and thirty of the Public Health Act, 1875: 38 & 39 Vict. c. 55.
- (c) A district council shall have the same power of charging highway expenses under exceptional circumstances on a contributory place as a highway board has in respect of any area under section seven of the Highways and Locomotives (Amendment) Act, 1878: 41 & 42 Vict. c. 77.
- (d) Where highway expenses would, if this Act had not passed, have been in whole or in part defrayed in any parish or other area out of any property or funds other than rates, the district council shall

make such provision as will give to that parish or area the benefit of such property or funds by way of reduction of the rates on the parish or area.

Section 29.—The expenses of a Rural Sanitary Authority are dealt with in Sections 229 to 232 of The Public Health Act, 1875, which will be found in the Appendix. A distinction is there drawn between general and special expenses.

General Expenses (other than those chargeable on owners and occupiers under the Act) shall be the expenses of the establishment and officers of the rural authority, the expenses in relation to disinfection, the providing conveyances for infected persons, and all other expenses not determined by the Act or by order of the Local Government Board to be special expenses.

General expenses are payable out of a common fund, to be raised out of the poor rate of the parishes in the district, according to the rateable value of each contributory place in manner in the Act mentioned.

Special Expenses shall be the expenses of the construction, maintenance, and cleansing of sewers in any contributory place within the district, the providing a supply of water to any such place, and the maintaining of any necessary works for that purpose, if and so far as the expenses of such supply and works are not defrayed out of water rates and rents under the Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural authority in trust for any contributory place, and all other expenses incurred or payable by the rural authority in or in respect of any contributory place within the district, and determined by order of the Local Government Board to be special expenses.

Special expenses are a separate charge on each contributory place.

A contributory place is defined at the end of Section 229 of The Public Health Act.

Highway Expenses.—Hitherto in highway parishes (see note to Section 25) a rate has been made to meet expenses by the surveyor of highways, and in highway districts the expenses of the highway board have been defrayed out of the common fund raised from the parishes comprised in the district according to the rateable value of each.

Section 230 of The Public Health Act, 1875.—See Appendix.

The distinction between raising expenses as general and special expenses is, that in the latter case, owners of certain classes of property specified in Section 230, only pay a fourth part for such property, of the rate paid in respect of houses and other property, whereas for general expenses all classes of property are rated equally.

Section 7 of The Highways and Locomotives Act, 1878, provides that “if a highway board think it just, by reason of natural differences of soil or locality, or other exceptional circumstances, that any parish or parishes within their district should bear the expense of maintaining its or their own highways, they may, with the approval of the county authority or authorities of the county or

counties within which their district or any part thereof is situate, divide their district into two or more parts, and charge exclusively on each of such parts the expenses payable by such highway board in respect of maintaining and keeping in repair the highways situate in each such part; so, nevertheless, that each such part shall consist of one or more highway parish or highway parishes."

30. The provisions of this Part of this Act respecting guardians shall apply to the administrative county of London and to every county borough.

Guardians
in London
and county
boroughs.

Section 30.—The provisions of the Act respecting Guardians are contained in Section 20. Presumably also Sections 60 and 79, relating to Guardians, will also apply to the administrative county of London and to every county borough.

31. (1) The provisions of this Act with respect to the qualification of the electors of urban district councillors, and of the persons to be elected, and with respect to the mode of conducting the election, shall apply as if members of the local board of Woolwich and the vestries elected under the Metropolis Management Acts, 1855 to 1890, or any Act amending those Acts, and the auditors for parishes elected under those Acts, and so far as respects the qualification of persons to be elected as if members of the district boards under the said Acts, were urban district councillors, and no person shall, *ex officio*, be chairman of any of the said vestries. Provided that the Elections (Horns of Poll) Act, 1885, shall apply to elections to the said vestries.

Provisions
as to Lon-
don vestries
and district
boards.

18 Vict. c. 10.

(2) Each of the said vestries, except those electing district boards, and each of the said district boards and the local board of Woolwich, shall at their first meeting after the annual election of members elect a chairman for the year, and section forty-one of the Metropolis Management Act, 1855, shall apply only in case of the absence of such chairman, and the provisions of this Act with respect to chairmen of urban district councils being justices shall apply as if the said vestries and boards were urban district councils.

18 & 19 Vict.
c. 120.

(3) Nothing in any local and personal Act shall prevent any vestry in the county of London from holding their meeting at such time as may be directed by the vestry.

Section 31.—On the general effect of the Act on London, see Chapter XI.

Qualification of Electors of Urban District Councillors.—See Section 23, Sub-section 3.

Persons to be elected.—See Section 23, Sub-section 2; and also disqualifications in Section 46, which are made applicable to London by Sub-section 9 of that Section.

Mode of conducting the Election.—See Section 23, Sub-sections 4 and 5, and Section 48.

The Local Board of Woolwich was created in 1848. Woolwich is under the control of the London County Council for the same purposes for which it was placed under the jurisdiction of the Metropolitan Board of Works by 18 & 19 Vict. c. 120, s. 238. Its members come into and retire from office on April 15th each year.

Vestries elected under The Metropolis Acts, 1855 to 1890.—*District Boards.*—The Act of 1855 divided London parishes in two classes, according to the schedules of that Act. The classification has been varied occasionally, and now is as follows:—

SCHEDULE A.

PARISHES IN WHICH THE VESTRY IS THE SANITARY AUTHORITY.

Battersea (St. Mary), excluding Penge; Bermondsey; Bethnal Green (St. Matthew); Camberwell; Chelsea; Clerkenwell (St. James and St. John); Fulham; Hammersmith; Hampstead (St. John); Islington (St. Mary); Kensington (St. Mary Abbott); Lambeth; Mile End Old Town, Hamlet of (part of Stepney); Newington (St. Mary); Paddington; Rotherhithe; St. George, Hanover Square; St. George in the East; St. George the Martyr, Southwark; St. James, Westminster; St. Luke; St. Martin in the Fields; St. Marylebone; St. Pancras; Shoreditch (St. Leonard's); Westminster (St. Margaret and St. John); Woolwich.

SCHEDULE B.

DISTRICT BOARDS ELECTED BY THE VESTRIES OF THE PARISHES COMPOSING THE DISTRICT.

Greenwich District—

Greenwich; St. Nicholas, Deptford; St. Paul, Deptford (including Hatcham).

Hackney District—

Hackney; Stoke Newington.

Holborn District—

Glasshouse Yard, Liberty of; Saffron Hill; Hatton Garden; Ely Rents; Ely Place; St. Andrew, Holborn above Bars; St. George the Martyr; St. Sepulchre.

Lewisham District—

Lewisham (including Sydenham Chapelry); Penge, Hamlet of.

Lincolnehouse District—

Rateliffe, Hamlet of; St. Anne, Lincolnehouse; St. John, Wapping; St. Paul, Shadwell.

Plumstead District—

Charlton next Woolwich; Eltham; Kidbrooke; Lee; Plumstead.

Poplar District—

All Saints, Poplar; St. Leonard, Bromley; St. Mary, Stratford-le-Bow.

St. Giles District—

St. Giles in the Fields; St. George, Bloomsbury.

St. Olave District

St. John, Horseleydown; St. Olave; St. Thomas, Southwark.

St. Saviour District—

Christchurch; St. Saviour (including the Liberty of the Clink).

Strand District—

Liberty of the Rolls; Precinct of the Savoy (or St. John the Baptist); St. Anne, Soho; St. Clement Dances; St. Mary-le-Strand; St. Paul, Covent Garden.

Wandsworth District—

Clapham; Putney (including Roehampton); Streatham; Tooting Graveney; Wandsworth.

Whitechapel District—

Christchurch in Spitalfields; District of the Tower; Holy Trinity, Minorities; Liberty of Norton Folgate; Mile End New Town, Hamlet of; Old Artillery Ground; Precinct of St. Katherine; St. Botolph-without-Aldgate; Whitechapel (St. Mary).

SCHEDULE C.

PLACES IN THE METROPOLIS WHICH ARE EXTRA PAROCHIAL (AND UNDER THE BOARD OF GUARDIANS ONLY OR THE OVERSEERS).

The Close of the Collegiate Church of St. Peter; The Charter House; Inner Temple; Middle Temple; Lincoln's Inn; Gray's Inn; Staple Inn; Furnival's Inn.

The Act only deals with the qualification of the members of district boards, so that it may be presumed that they will be elected by the Vestries as before the Act. Further, the Act does not alter the time for coming into office of Vestrymen, &c., which will be in May, as heretofore.

Ex-officio Chairman.—The rector, vicar, or other minister has no longer the right to take the chair; but as Section 23, Sub-section 1, has not been adopted for London it appears that he and the churchwardens are *ex-officio* members of the Vestry.

Elections (Hours of Poll) Act, 1885.—This Act provides that the poll must be kept open from 8 a.m. to 8 p.m. at Parliamentary and Municipal Elections, to which it applies. It is now extended to elections of Vestrymen in London.

The hours of poll in other elections under the Act are regulated by the Local Government Board and the County Councils of the various counties.

Section 41 of The Metropolis Management Act, 1855, provides that "every district board of works shall at every meeting of such board, before proceeding to business, elect a chairman of such meeting; and such chairman, in case of an equality of votes on any question, shall have a second or casting vote."

As to Chairmen of District Councils being Justices of the Peace see Section 22.

Application to county boroughs of provisions as to transfer of justices' powers.

32. The provisions of this Part of this Act respecting the powers, duties, and liabilities of justices out of session, or of quarter sessions, which are transferred to a district council, shall apply to a county borough as if it were an urban district, and the county borough council were a district council.

Section 32.—The provisions here referred to will be found in Section 27.

Power to apply certain provisions of Act to urban districts and London.

33. (1) The Local Government Board may, on the application of the council of any municipal borough, including a county borough, or of any other urban district, make an order conferring on that council or some other representative body within the borough or district all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties, or liabilities of overseers, and any powers, duties, or liabilities of a parish council, and applying with the necessary modifications the provisions of this Act with reference thereto.

(2) Where it appears to the Local Government Board that, by reason of the circumstances connected with any parish in a municipal borough (including a county borough) or other urban district divided into wards, or with the parochial charities of that parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the council of the borough or district, be properly represented on that body, they may, by their order, provide that such of those trustees as are appointed by the council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of the parish.

(3) Any order under this section may provide for its operation extending either to the whole or to specified parts of the area of the borough or urban district, and may make such provisions as seem necessary for carrying the order into effect.

(4) The order shall not alter the incidence of any rate, and shall make such provisions as may seem necessary and just for the preservation of the existing interests of paid officers.

(5) An order under this section may also be made on the application of any representative body within a borough or district.

(6) The provisions of this section respecting councils of urban districts shall apply to the administrative county of London in like manner as if the district of each sanitary authority in that county were an urban district, and the sanitary authority were the council of that district.

(7) The Local Government Board shall consult the Charity Commissioners before making any order under this section with respect to any charity.

Section 33.—As to the Appointment of Overseers and Assistant Overseers see Section 5 and the notes thereto.

Powers, Duties, and Liabilities of Overseers.—See Section 6.

Powers, Duties, and Liabilities of a Parish Council.—See Chapter IV., and Part I. of the Act generally (especially Sections 6, 8, 9, 10, and 14).

Sub-section 2 cannot come into effect until Sub-section 1 has been put into execution, and the powers of Section 14 conferred on the urban authority, which desires to obtain them.

34. Where an order of the Local Government Board under this Act confers on the council of an urban district, or some other representative body within the district, either the appointment of overseers and assistant overseers or the powers, duties, and liabilities of overseers, that order or any subsequent order of the Board may confer on such council or body the powers of the vestry under the third and fourth sections of the Poor Rate Assessment and Collection Act, 1869.

Supplemental provisions as to control of overseers in urban districts.

32 & 33 Vict. c. 51.

Section 34.—Order of the Local Government Board, i.e., made under the powers of Section 33, Sub-section 1.

Sections 3 and 4 of The Poor Rate Assessment and Collection Act, 1869, provide—

3. In case the rateable value of any hereditament does not exceed £20, if the hereditament is situate in the Metropolis, or £13 if situate in any parish wholly or partly in the borough of Liverpool, or £10 if situate in any parish wholly or partly within the city of Manchester or the borough of Birmingham, or £5 if situate elsewhere, and the owner of such hereditament is willing to enter

into an agreement in writing with the Overseers, to become liable to them for the poor rates assessed in respect of such hereditament, for any term not being less than one year from the date of such agreement, and to pay the poor rates, whether the hereditament is occupied or not, the Overseers may, subject nevertheless to the control of the Vestry, agree with the owner to receive the rates from him, and to allow him a commission not exceeding twenty-five per cent. on the amount thereof.

4. The Vestry of any parish may, from time to time, order that the owners of all rateable hereditaments, to which Section 3 of this (the Poor Rate Assessment) Act extends, situate within such parish, shall be rated to the poor rate in respect of such rateable hereditaments, instead of the occupiers, on all rates made after the date of such order; and thereupon, and so long as such order shall be in force, the following enactments shall have effect—

- (i.) The Overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or deduction of fifteen per cent. from the amount of the rate.
- (ii.) If the owner of one or more of such rateable hereditaments shall give notice to the Overseers in writing, that he is willing to be rated for any term, not being less than one year, in respect of all such rateable hereditaments, of which he is the owner, whether the same be occupied or not, the Overseers shall rate such owner accordingly, and allow to him a further abatement or deduction, not exceeding fifteen per cent. from the amount of the rate during the time he is so rated.
- (iii.) The Vestry may, by resolution, rescind any such order, after a day to be fixed by them, such day being not less than six months after the passing of such resolution, but the order shall continue in force with respect to all rates made before the date on which the resolution takes effect.

Provided that this clause shall not be applicable to any rateable hereditament in which a dwelling-house shall not be included.

These powers of the Vestry pass to the Parish Council in rural parishes by virtue of Section 6 (i.) a (ii.).

35. Save as specially provided by this Act, this Part of this Act shall not apply to the administrative county of London or to a county borough.

Restric-
tions on
application
of Act to
London, &c.

Section 35.—Administrative County of London.—The following Sections of this Part are made applicable to London:—

Section 20, as to Guardians (by Section 30).

Section 22, as to Chairmen of District Councils becoming Justices (applied to Chairmen of Vestries and District Boards by Section 31, Sub-section 2).

Section 23, Sub-sections 2, 3, 4, and 5, as to the qualification of the electors of

Urban District Councillors, and of the persons to be elected, and to the mode of conducting the election (applied to Vestrymen by Section 31, Sub-section 1).

Sections 30, 31, and 33.

County Boroughs.— The following Sections are made applicable to county boroughs :—

Section 20, as to Guardians (by Section 30).

Section 26, as to the duties and powers of District Councils as to rights of way, rights of common, and roadside wastes (by Section 26, Sub-section 7).

Section 27, on the transfer of certain powers of Justices to District Councils (by Section 32).

Sections 28, 30, 32, 33.

Section 34 (by implication from Section 33).

PART III.

AREAS AND BOUNDARIES.

Duties and powers of county council with respect to areas and boundaries.

36. (I) For the purpose of carrying this Act into effect in the case of—

- (a) every parish and rural sanitary district which at the passing of this Act is situate partly within and partly without an administrative county; and
- (b) every parish which at the passing of this Act is situate partly within and partly without a sanitary district; and
- (c) every rural parish which has a population of less than two hundred; and
- (d) every rural sanitary district which at the passing of this Act has less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district; and
- (e) every rural parish which is co-extensive with a rural sanitary district;

every county council shall forthwith take into consideration every such case within their county, and whether any proposal has or has not been made as mentioned in section fifty-seven of the Local Government Act, 1888, shall as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect this Act in accordance with the following provisions, namely:—

- (i.) the whole of each parish, and unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;
- (ii.) the whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district; and

- (iii.) every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

(2) Where a parish is at the passing of this Act situate in more than one urban district, the parts of the parish in each such district shall, as from the appointed day, unless the county council for special reasons otherwise direct, and subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

39 & 40 Vict.
c. 61.

(3) Where a parish is divided by this Act, the county council may by order provide for the application to different parts of that parish of the provisions of this Act with respect to the appointment of trustees or beneficiaries of a charity and for the custody of parish documents, but the order, so far as regards the charity, shall not have any effect until it has received the approval of the Charity Commissioners.

(4) Where a rural parish is co-extensive with a rural sanitary district, then, until the district is united to some other district or districts, and unless the county council otherwise direct, a separate election of a parish council shall not be held for the parish, but the district council shall, in addition to their own powers, have the powers of, and be deemed to be, the parish council.

(5) Where an alteration of the boundary of any county or borough seems expedient for any of the purposes mentioned in this section, application shall be made to the Local Government Board for an order under section fifty-four of the Local Government Act, 1888.

(6) Where the alteration of a poor law union seems expedient by reason of any of the provisions of this Act, the county council may, by their order, provide for such alteration in accordance with section fifty-eight of the Local Government Act, 1888, or otherwise, but this provision shall not affect the powers of the Local Government Board with respect to the alteration of unions.

(7) Where an order for the alteration of the boundary of any parish or the division thereof, or the union thereof or of any part thereof with another parish, is proposed to be made after the appointed day, notice thereof shall, a reasonable time before it is made, be given to the parish council of that parish, or if there is no parish council, to the parish meeting, and that parish council or parish meeting, as the case may be, shall have the right to appear at any inquiry held by the county council with reference to the order, and shall be at liberty to petition the Local Government Board against the confirmation of the order.

(8) Where the alteration of the boundary of any parish, or the division thereof or the union thereof or of part thereof with another parish, seems expedient for any of the purposes of this Act, provision for such alteration, division, or union may be made by an order of the county council confirmed by the Local Government Board under section fifty-seven of the Local Government Act, 1888.

51 & 52 Vict.
c. 41.

(9) Where a parish is by this Act divided into two or more parishes, those parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included.

(10) Subject to the provisions of this Act, any order made by a county council in pursuance of this Part of this Act shall be deemed to be an order under section fifty-seven of the Local Government Act, 1888, and any board of guardians affected by an order shall have the same right of petitioning against that order as is given by that section to any other authority.

(11) Where any of the areas referred to in section fifty-seven of the Local Government Act, 1888, is situate in two or more counties, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the councils of those counties shall, subject to the terms of delegation, be deemed to have and to have always had power to make orders under that section with respect to that area: and where at the passing of this Act a rural sanitary district or parish is situate in more than one county, a joint committee of the councils of those counties shall act under this section,

and if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee. Provided that any question arising as to the constitution or procedure of any such joint committee shall, if the county councils concerned fail to agree, be determined by the Local Government Board.

(12) Every report made by the Boundary Commissioners under the Local Government Boundaries Act, 1887, shall be laid before the council of any administrative county or borough affected by that report, and before any joint committee of councils, and it shall be the duty of such councils and joint committees to take such reports into consideration before framing any order under the powers conferred on them under this Act.

50 & 51 Vict.
c. 61.

(13) Every county council shall, within two years after the passing of this Act, or within such further period as the Local Government Board may allow either generally or with reference to any particular matter, make such orders under this section as they deem necessary for the purpose of bringing this Act into operation, and after the expiration of the said two years or further period the powers of the county council for that purpose shall be transferred to the Local Government Board, who may exercise those powers.

Section 36.—This Section is very largely supplemented by the incorporated Sections of The Local Government Act, 1888, which deal with the alteration of boundaries, districts, and parishes in different counties, and with the future constitution of urban districts. It is therefore more convenient to set out at once the incorporated Sections of The Local Government Act, 1888, before noting the matters which here arise.

THE LOCAL GOVERNMENT ACT, 1888 (51 & 52 Vict. c. 41).

54. (1) Whenever it is represented by the council of any county or borough to the Local Government Board—

- (a) that the alteration of the boundary of any county or borough is desirable; or
- (b) that the union, for all or any of the purposes of this Act, of a county borough with a county is desirable; or
- (c) that the union, for all or any of the purposes of this Act, of any counties or boroughs or the division of any county is desirable; or

- (d) that it is desirable to constitute any borough having a population of not less than fifty thousand into a county borough; or
- (e) that the alteration of the boundary of any electoral division of a county, or of the number of county councillors and electoral divisions in a county is desirable; or
- (f) that the alteration of any area of local government partly situate in their county or borough is desirable:

the Local Government Board shall, unless for special reasons they think that the representation ought not to be entertained, cause to be made a local inquiry, and may make an order for the proposal contained in such representation, or for such other proposal as they may deem expedient, or may refuse such order, and if they make the order, may by such order divide or alter any electoral division.

(2) Provided that in default of such representation by the council of any county or borough before the first day of November, one thousand eight hundred and eighty-nine, the Local Government Board may cause such local inquiry to be made, and thereupon may make such order as they may deem expedient.

(3) Provided that, if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any counties or boroughs, or for the division of any county, or for constituting a borough into a county borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(4) Where such order alters the boundary of a borough it may, as consequential upon such alteration, do all or any of the following things—increase or decrease the number of the wards in the borough, and alter the boundaries of such wards, and alter the apportionment of the number of councillors among the wards, and alter the total number of councillors, and in such case, make the proportionate alteration in the number of aldermen.

(5) At any time before the appointed day, the Local Government Board may make an order in pursuance of this Section without any such representation as in this Section mentioned.

57. (1) Whenever a county council is satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things: that is to say—

- (a) the alteration or definition of the boundary thereof;
- (b) the division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish;
- (c) the conversion of any such district, or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts;
- (d) the division of an urban district into wards; and
- (e) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards:

the County Council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality and to the Local Government Board, Education Department, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable may make an order for the same accordingly.

(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council.

(3) In any other case the order shall be submitted to the Local Government Board; and if within three months [*now six weeks, see Section 41*] after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district, or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one sixth of the total number of electors in that parish, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not.

(4) If any such petition is not presented, or being presented is withdrawn, the Local Government Board shall confirm the order.

(5) The Local Government Board on confirming an order may make such modifications therein as they consider necessary for carrying into effect the objects of the order.

(6) An order under this section, when confirmed by the Local Government Board, shall be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and if not, forthwith after the then next meeting of Parliament.

(7) This section shall be in addition to, and not in derogation of, any power of the Local Government Board in respect of the union or division or alteration of parishes.

58. The Local Government Board, where it appears expedient so to do, with reference to any poor law union which is situate in more than one county, instead of dissolving the union, may by order provide that the same shall continue to be one union for the purposes of indoor paupers or any of those purposes, and shall be divided into two or more poor law unions for the purpose of outdoor relief, and may by the order make such provisions as seem expedient for determining all other matters in relation to which such union is to be one union, or two or more unions.

Section 59, which is not incorporated, contains some supplemental provisions as to the alteration of areas: but it is not necessary to set it out here.

Parishes situate partly within and partly without a Sanitary District.—See Section 1, Sub-section 3.

Rural Parishes having population of less than 200.—See Section 1, Sub-section 1, although the County Council cannot establish councils in small parishes without the consent of the Parish Meetings.

Less than five elective Guardians.—See Section 24, Sub-section 5, and Section 9 of The Public Health Act, 1875 (set out in the Appendix).

Rural Parishes co-extensive with a Rural Sanitary Authority.—See Sub-section 4 of this Section.

Forthwith.—The County Council must act within two years, when, unless otherwise ordered, their powers are to be transferred to the Local Government Board (Sub-section 13 of this Section).

Parishes situate in more than one Urban District.—Rural parishes of a like nature are similarly provided for by Section 1, Sub-section 3.

Provisions as to parishes having parts with defined boundaries.

37. Where it is proved to the satisfaction of the county council that any part of a parish has a defined boundary, and has any property or rights distinct from the rest of the parish, the county council may order that the consent of a parish meeting held for that part of the parish shall be required for any such act or class of acts of the parish council affecting the said property or rights as is specified in the order.

Section 37.—This Section contains different provisions from Section 18, which provides for the division of a parish into wards for the purpose of electing Councillors.

Parish Meeting held for part of the Parish.—As to the calling and holding of such Meeting see Section 49.

On the further rights of parts of parishes see Sections 53 and 56.

Orders for grouping parishes and dissolving groups.

38. (1) Where parishes are grouped, the grouping order shall make the necessary provisions for the name of the group, for the parish meetings in each of the grouped parishes, and for the election in manner provided by this Act of separate representatives of each parish on the parish council, and may provide for the consent of the parish meeting of a parish to any particular act of the parish council, and for any other adaptations of this Act to the group of parishes, or to the parish meetings in the group.

(2) Where parishes are grouped the whole area under each parish council shall, unless the county council for special reasons otherwise direct, be within the same administrative county and county district.

(3) Where parishes are grouped, the grouping order shall provide for the application of the provisions of this Act with respect to the appointment of trustees and beneficiaries of a charity, and the custody of documents, so as to preserve the separate rights of each parish.

(4) The parish meeting of any parish may apply to the county council for a grouping order respecting that parish, and, if the parish has a less population than two hundred, for a parish council, and any such application shall be forthwith taken into consideration by the county council.

(5) The county council may, on the application of the council for any group of parishes or of the parish meeting for any parish included in a group of parishes, make an order dissolving the group, and shall by the order make such provision as appears necessary for the election of parish councils of the parishes in the group and for the adjustment of property, rights, and liabilities as between separate parishes and the group.

Section 38.—On the grouping of parishes for the purpose of a joint Parish Council see Chapter I.

Are Grouped.—See Section 1, Sub-section 1 *b*. The consent of the Parish Meeting of each parish must first be obtained.

Name of the Group.—See Section 55.

Manner of Election provided by the Act—i.e., in Section 3, Sub-section 6.

A County District.—This term includes every urban and rural district, whether a borough or not (see Section 21).

Appointment of Trustees, &c., of a Charity.—See Chapter V., and Section 44.

Custody of Documents.—See Section 17, Sub-sections 7, 8 and 9.

Adjustment of Property, &c.—Must be by agreement or by arbitration (see Section 68).

39. (1) Where the population of a parish not having a separate parish council increases so as to justify the election of such council, the parish meeting may petition the county council, and the county council, if they think proper, may order the election of a parish council in that parish, and shall by the order make such provision as appears necessary for separating the parish from any group of parishes in which it is included, and for the alteration of the parish

Provisions for increase and decrease of population.

council of the group, and for the adjustment of property, rights, and liabilities as between the group and the parish with a separate parish council.

(2) Where the population of a parish, according to the last published census for the time being, is less than two hundred, the parish meeting may petition the county council, and the county council, if they think proper, may order the dissolution of the parish council, and from and after the date of the order this Act shall apply to that parish as to a parish not having a parish council. The order shall make such provision as appears necessary for carrying it into effect, and for the disposal and adjustment of the property, rights, and liabilities of the parish council. Where a petition for such an order is rejected, another petition for the same purpose may not be presented within two years from the presentation of the previous petition.

Section 39.—The rise in population mentioned in Sub-section 1 has not to be ascertained by the last census, as is the case in Sub-section 2.

Adjustment of Property.—See Section 38, Sub-section 5; and Section 68.

Certain orders of county council not to require confirmation.

40. A grouping order, and an order establishing or dissolving a parish council, or dissolving a group of parishes, and an order relating to the custody of parish documents or requiring the approval of the Charity Commissioners, and an order requiring the consent of the parish meeting for any part of the parish to any act or class of acts of the parish council, shall not require submission to or confirmation by the Local Government Board.

Section 40.—The matters here mentioned are provided for by Section 1; Section 17, Sub-sections 8 and 9; Section 36, Sub-section 3; Sections 37, 38, and 39.

Reduction of time for appealing against county council orders.

41. The time for petitioning against an order under section fifty-seven of the Local Government Act, 1888, shall be six weeks instead of three months after the notice referred to in subsection three of that section.

Section 41.—Section 57 of The Local Government Act, 1888, is set out in the notes to Section 36.

42. When an order under section fifty-seven of the Local Government Act, 1888, has been confirmed by the Local Government Board, such order shall at the expiration of six months from that confirmation be presumed to have been duly made, and to be within the powers of that section, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

Validity of
county
council
orders.

Section 42.—Section 57 of The Local Government Act, 1888, is set out in the notes to Section 36.

PART IV.

SUPPLEMENTAL.

Parish Meetings and Elections.

Removal of
disqualifica-
tion of
married
women.

43. For the purposes of this Act a woman shall not be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property.

Section 43.—Local Government Register of Electors.—See Section 44, Sub-section 1, and notes.

For the purposes of this Act.—Married women will not be entitled to be on the Local Government Register for all purposes. A special mark is to be placed against their names, when they are qualified to vote as parochial electors only (see Section 44, Sub-section 6).

Married women are qualified for all offices created by this Act (see Section 3, Sub-section 2; Section 20, Sub-section 2; Section 23, Sub-section 2; and Section 24, Sub-section 4).

Register of
parochial
electors.

44. (1) The local government register of electors and the parliamentary register of electors, so far as they relate to a parish shall, together, form the register of the parochial electors of the parish; and any person whose name is not in that register shall not be entitled to attend a meeting or vote as a parochial elector, and any person whose name is in that register shall be entitled to attend a meeting and vote as a parochial elector unless prohibited from voting by this or any other Act of Parliament.

(2) Where the parish is in a parliamentary borough, such portion of the parliamentary register of electors for the county as contains the names of persons registered in respect of the ownership of any property in the parish shall be deemed to form part of the parliamentary register of electors for the parish within the meaning of this section.

(3) The lists and register of electors in any parish shall be framed in parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling at elections for any such wards.

(4) Nothing in any Act shall prevent a person, if duly qualified, from being registered in more than one register of parochial electors.

(5) Where in that portion of the parliamentary register of electors which relates to a parish a person is entered to vote in a polling district other than the district comprising the parish, such person shall be entitled to vote as a parochial elector for that parish, and in addition to an asterisk there shall be placed against his name a number consecutive with the other numbers in the list.

(6) Where the revising barrister in any list of voters for a parish would—

(a) In pursuance of section seven of the County Electors Act, 1888, place an asterisk or other mark against the name of any person; or 51 Vict. c. 10.

(b) In pursuance of section four of the Registration Act, 1885, erase the name of any person otherwise than by reason of that name appearing more than once in the lists for the same parish; or

(c) In pursuance of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878, as amended by section five of the Registration Act, 1885, place against the name of a person a note to the effect that such person is not entitled to vote in respect of the qualification contained in the list, 41 & 42 Vict. c. 26.
48 & 49 Vict. c. 15.

the revising barrister shall, instead of placing that mark or note, or erasing the name, place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in division three of the list, or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to be registered as a parochial elector, and the name so marked shall not be printed in the parliamentary register of electors, but shall be printed,

as the case requires, either in division three of the local government register of electors, or in a separate list of parochial electors.

(7) Where the name of a person is entered both in the ownership list and in the occupation list of voters in the same parish, and the revising barrister places against that name a mark or note signifying that the name should be printed in division three of the lists, an asterisk or other mark shall be there printed against the name, and such person shall not be entitled to vote as a parochial elector in respect of that entry.

(8) Such separate list shall form part of the register of parochial electors of the parish, and shall be printed at the end of the other lists of electors for the parish, and the names shall be numbered consecutively with the other names on those lists, and the law relating to the register of electors shall, with the necessary modifications, apply accordingly, and the lists shall, for the purposes of this Act, be deemed to be part of such register.

(9) Any person may claim for the purpose of having his name entered in the parochial electors list, and the law relating to claims to be entered in lists of voters shall apply.

(10) The clerk of the county council or town clerk, as the case may be, shall, in printing the lists returned to him by the revising barrister, do everything that is necessary for carrying into effect the provisions of this section with respect to the persons whose names are marked by the revising barrister in pursuance of this section.

Section 44.—This Section explains Section 2, Sub-section 1.

The Local Government Register of Electors means in a county the county register, and, as respects a county borough or other municipal borough, the burgess roll. The electors entitled to be registered thereon consist of the following persons of full age, both men and women:—

- (a) All persons who on the 15th July in any year are, and during the whole of the preceding twelve months have been, in the occupation, joint or several, whether as owner or tenant of any house, warehouse, counting-house, shop, or other building, in the county or borough, and have during the whole of that period resided in the county or borough, or within twelve miles thereof: they or someone else must have been rated in

respect of such property to all poor rates, &c., made on that property during the period of twelve months: and, further, they must on or before the 20th July in the same year have paid all such rates as have become payable in respect of such property up to the then last preceding 5th January.

- (b) All persons who during the same period have occupied, as owner or tenant, some land or tenement in the county of the clear yearly value of not less than £10, and have resided for the six months next preceding the same 15th July in or within seven miles of the county. They are also subject to the same qualifications as to payment of rates, &c., as those in the previous Section.

The Parliamentary Register of Electors means the register of persons entitled to vote at any parliamentary election. The following are the qualifications:—

As Owners and Occupiers.—

- (i.) Owners of freeholds in fee simple or fee tail of the value of 40s. per annum, and held for six months prior to the 15th July in each year, unless acquired by descent.
- (ii.) Owners of an estate for life or for lives, if of the value of 40s., but less than £5 per annum, in the actual *bonâ fide* occupation of the owner, unless acquired (1) before The Reform Act, 1832, or (2) by marriage, marriage settlement, devise, or promotion. Six months' possession is also required as in (i.).
- (iii.) Owners of an estate for life or lives, or of any larger estate, of the value of £5 at least, in lands or tenements of any tenure whatever, copyhold, customary, freehold, &c., with the same qualification as to possession as in (i.).
- (iv.) Owners of leaseholds in any lands or tenements of freehold or of any other tenure of the value of at least £5 per annum, originally created for not less than sixty years, whether in possession of lessee or assignee, in occupation or not, whether determinable on a life or lives, or not, with twelve months' possession, unless acquired by descent.
- (v.) Owners of leaseholds in any lands or tenements of freehold or any other tenure of the annual value of at least £50, originally created for not less than twenty years, in possession of lessee or assignee, in occupation or not, whether determinable in a life or lives, or not, with twelve months' possession, unless acquired by descent.
- (vi.) Occupiers, as tenants or owners of any lands or tenements of the clear yearly value of £10 for twelve months continuously, or in succession, previous to the 15th July in each year, and being rated for and having paid up the poor rates in respect of the qualifying property.
- (vii.) Inhabitant occupiers of a dwelling house (or any part of a house occupied as a separate dwelling) for twelve months previous to 15th July, for which some person has been rated and the rates paid.

Service Franchise.—

(viii.) Persons who inhabit dwelling houses by virtue of any office, service, or employment, if houses are not inhabited by any persons under whom such men serve in such office, service, or employment, are to be deemed inhabitant occupiers of such dwelling houses as tenants.

As Lodgers.—

(ix.) All lodgers who for the year preceding the last day of July in each year have occupied lodgings which are of a clear yearly value, if let unfurnished, of £10 or upwards.

Unless Prohibited from Voting.—The following persons are prohibited from voting at municipal and parliamentary elections:—Aliens, unless naturalised; infants, lunatics, and idiots; felons; persons guilty of corrupt or illegal practices under The Corrupt Practices Act, 1883; persons employed for reward in the conduct of the election; persons in receipt of parochial relief or other alms.

In a Parliamentary Borough, except in certain old franchises retained by The Reform Act, 1832, ownership is not a qualification for being placed on the parliamentary register. Owners of property in a borough are entitled to vote in respect of such qualification in the county division in which the borough is situate. By Sub-section 2, for the purposes of elections held under this Act, these owners must be added to the parliamentary register for the parishes in the boroughs.

Sub-section 4 enables persons who possess qualifications in more than one parish of a parliamentary or electoral division to be registered for every parish in which they are qualified, subject to a distinguishing mark being placed against their names as provided in Sub-section 6.

Sub-section 5.—Non-resident voters are frequently placed in a polling district of an electoral division other than that in which their qualifying property is situate. This Sub-section provides for their being added to the register in the parishes from which they derive their qualification.

Sub-sections 6 to 10 practically provide for the formation of a list of parochial electors for the purposes of elections held under this Act. The provisions are more for the guidance of revising barristers and persons engaged in the preparation of the voters' lists, and are not of sufficient general importance to justify the setting out *in extenso* of the Sections of the Acts mentioned in Sub-section 6. Reference should, if necessary, be made to the Acts themselves.

Supple-
mental pro-
visions as
to parish
meetings.

45. (1) Subject to the provisions of this Act, parish meetings shall be held on such days and at such times and places as may be fixed by the parish council, or, if there is no parish council, by the chairman of the parish meeting.

(2) If the chairman of the parish council is present at a parish meeting and is not a candidate for election at the

meeting, he shall, save as otherwise provided by this Act, be the chairman of the meeting.

(3) The chairman of the parish council, or any two parish councillors, or the chairman of the parish meeting, or any six parochial electors, may at any time convene a parish meeting.

Section 45.—The Provisions of the Act as to Parish Meetings will be found in Section 2, and in the Rules in Schedule L, Part 1.

Time.—The Parish Meeting may not be summoned at an hour earlier than 6 p.m. (Section 2, Sub-section 3).

Place.—See Sections 4 and 61.

Parishes with no Parish Council are dealt with in Section 19.

Chairman.—See Section 2, Sub-section 4.

Notices of Meetings.—See Schedule L, Part 1, Rules 2 and 3, as to the length of notice to be given before a Meeting, and Section 51 as to the publication of notices convening Meetings.

46. (1) A person shall be disqualified for being elected or being a member or chairman of a council of a parish or of a district other than a borough or of a board of guardians if he—

Disqualifications for parish or district council.

- (a) is an infant or an alien; or
- (b) has within twelve months before his election, or since his election, received union or parochial relief; or
- (c) has, within five years before his election or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors; or
- (d) holds any paid office under the parish council or district council or board of guardians, as the case may be; or
- (e) is concerned in any bargain or contract entered into with the council or board, or participates

in the profit of any such bargain or contract or of any work done under the authority of the council or board.

(2) Provided that a person shall not be disqualified for being elected or being a member or chairman of any such council or board by reason of being interested—

- (a) in the sale or lease of any lands or in any loan of money to the council or board, or in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing high-ways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood; or
- (b) in any newspaper in which any advertisement relating to the affairs of the council or board is inserted; or
- (c) in any contract with the council or board as a shareholder in any joint stock company; but he shall not vote at any meeting of the council or board on any question in which such company are interested, except that in the case of a water company or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council.

(3) Where a person who is a parish councillor, or is a candidate for election as a parish councillor, is concerned in any such bargain or contract, or participates in any such profit, as would disqualify him for being a parish councillor, the disqualification may be removed by the county council if they are of opinion that such removal will be beneficial to the parish.

(4) Where a person is disqualified by being adjudged bankrupt or making a composition or arrangement with his creditors, the disqualification shall cease, in case of bankruptcy, when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy

was caused by misfortune without any misconduct on his part, and, in case of composition or arrangement, on payment of his debts in full.

(5) A person disqualified for being a guardian shall also be disqualified for being a rural district councillor.

(6) If a member of a council of a parish, or of a district other than a borough, or of a board of guardians, is absent from meetings of the council or board for more than six months consecutively, except in case of illness or for some reason approved by the council or board, his office shall on the expiration of those months become vacant.

(7) Where a member of a council or board of guardians becomes disqualified for holding office, or vacates his seat for absence, the council or board shall forthwith declare the office to be vacant, and signify the same by notice signed by three members and countersigned by the clerk of the council or board, and notified in such manner as the council or board direct, and the office shall thereupon become vacant.

(8) If any person acts when disqualified, or votes when prohibited under this section, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds.

(9) This section shall apply in the case of any authority whose members are elected in accordance with this Act in like manner as if that authority were a district council, and in the case of London auditors as if they were members of a district council.

Section 46.—The disqualifications here enumerated apply, by virtue of Sub-section 9, to members of the London Vestries and District Boards, to auditors, and members of the Woolwich Local Board, to whose election the provisions of the Act are extended by Section 31.

Aliens.—This expression does not include persons who have become naturalised subjects, under The Naturalisation Act, 1870.

Union or Parochial Relief.—It will be noticed that the receipt of moneys arising from a charity is no disqualification for holding office under this Act, excepting the office of trustee of the charity (Section 11, Sub-section 9).

A person employed by the Guardians and receiving more than the value of his work in wages has been held to be in receipt of relief.

Payment of school fees by a Board of Guardians does not disqualify (The Elementary Education Act, 1876, s.s. 10).

The receipt of certain kinds of medical relief will not be a disqualification.

Bankruptcy.—See also Sub-section 4 of this Section.

Interest in Bargains and Contracts.—These cases must be determined on their own particular facts, as it is impossible to give a simple test for them. There is a long list of cases decided under similar provisions in The Public Health Act, 1875, and other Acts of Parliament, which may assist in determining these questions, but space will not admit of their discussion here.

Vacancy caused by Absence.—There will be no vacancy under these provisions until a resolution is passed declaring the office vacant. It appears that such a disqualification is not permanent, and does not prevent the person affected being re-elected.

Supple-
mental pro-
visions as
to parish
councillors.

47. (1) If at the annual election of parish councillors any vacancies are not filled by election, such number of the retiring councillors as are not re-elected, and are required to fill the vacancies, shall, if willing, continue to hold office. The councillors so to continue shall be those who were highest on the poll at the previous election, or if the numbers were equal or there was no poll, as may be determined by the parish meeting, or if not so determined, by the chairman of the parish council.

(2) A retiring parish councillor or chairman of a parish council or parish meeting shall be re-eligible.

(3) A parish councillor may, by notice in writing to the chairman of the council, resign his office, and a chairman of a parish council or parish meeting may resign his chairmanship by notice in writing to the council or meeting.

(4) A casual vacancy among parish councillors or in the office of chairman of the council shall be filled by the parish council, and where there is no parish council, a casual vacancy in the office of chairman of the parish meeting shall be filled by the parish meeting, and the person elected shall retire from office at the time when the vacating councillor or chairman would have retired.

(5) If any parish council become unable to act by reason of a want of councillors, whether from failure to elect or otherwise, the county council may order a new election, and may by order make such provision as seems expedient for authorising any person to act temporarily in the place of the parish council and of the chairman thereof.

Section 47.—The Election of Parish Councillors.—See Section 3.

Notice to the Chairman . . . Council or Meeting.—A notice to the Chairman may be sent to his usual place of abode, and to the Council may be given to the Clerk of the Council (see Rules in Schedule I., Part II.). A notice to the Parish Meeting must be given to the Chairman of the Parish Meeting (see Schedule I., Part I., Rules 2 and 11).

Casual Vacancies may be caused by death, resignation, non-acceptance of office, and want of or loss of qualification.

48. (1) The election of a parish councillor shall be at a parish meeting, or at a poll consequent thereon.

(2) Rules framed under this Act by the Local Government Board in relation to elections shall, notwithstanding anything in any other Act, have effect as if enacted in this Act, and shall provide, amongst other things—

Supplemental provisions as to elections, polls, and tenure of office.

- (i.) for every candidate being nominated in writing by two parochial electors as proposer and seconder and no more;
- (ii.) for preventing an elector at an election for a union or for a district not a borough from subscribing a nomination paper or voting in more than one parish or other area in the union or district;
- (iii.) for preventing an elector at an election for a parish divided into parish wards from subscribing a nomination paper or voting for more than one ward;
- (iv.) for fixing or enabling the county council to fix the day of the poll and the hours during which the poll is to be kept open, so, however, that the poll shall always be open between the hours of six and eight in the evening;
- (v.) for the polls at elections held at the same date and in the same area being taken together, except where this is impracticable;
- (vi.) for the appointment of returning officers for the elections.

(3) At every election regulated by rules framed under this Act, the poll shall be taken by ballot, and the Ballot Act, 1872, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and sections seventy-four and seventy-five and Part IV. of the Municipal Corporations

35 & 36 Vict.
c. 33,
47 & 48 Vict.
c. 70,
45 & 46 Vict.
c. 50.

Act, 1882, as amended by the last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—

- (a) section six of the Ballot Act, 1872, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes; and
- (b) section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the First Schedule to that Act.

(4) The provisions of the Municipal Corporations Act, 1882, and the enactments amending the same, with respect to the expenses of elections of councillors of a borough, and to the acceptance of office, resignation, re-eligibility of holders of office, and the filling of casual vacancies, and section fifty-six of that Act, shall, subject to the adaptations, alterations, and exceptions made by the said rules, apply in the case of guardians and of district councillors of a county district not a borough, and of members of the local board of Woolwich, and of a vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same. Provided that—

- (a) the provisions as to resignation shall not apply to guardians, and district councillors of a rural district shall be in the same position with respect to resignation as members of a board of guardians; and
- (b) nothing in the enactments applied by this section shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election; and

(c) The rules may provide for the incidence of the charge for the expenses of the elections of guardians being the same as heretofore.

(5) If any difficulty arises as respects the election of any individual councillor or guardian, or member of any such local board or vestry as aforesaid, or auditor, and there is no provision for holding another election, the county council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

(6) Any ballot boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipal, school board, or other), shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer for an election under this Act, upon such conditions and either free of charge or, except in the prescribed cases, for such reasonable charge as may be prescribed.

(7) The expenses of any election under this Act shall not exceed the scale fixed by the county council, and if at the beginning of one month before the first election under this Act a county council have not framed any such scale for their county, the Local Government Board may frame a scale for the county, and the scale so framed shall apply to the first election, and shall have effect as if it had been made by the county council, but shall not be alterable until after the first election.

(8) This section shall, subject to any adaptations made by the said rules, apply in the case of every poll consequent on a parish meeting, as if it were a poll for the election of parish councillors.

Section 48.—See Chapter IX. on Elections.

Elections held under this Act depend very largely upon the rules framed by the Local Government Board. It is impossible in a work of this description to go fully into the conduct of an election under the Ballot and Municipal Corporations Acts, for which reference should be made to a work on Elections. The Sections adopted from those Acts which are necessary to explain this Section are briefly noticed below.

A Poll consequent on a Parish Meeting.—At a Parish Meeting for the election of Parish Councillors any one parochial elector can demand a poll.

Nomination.—Special forms are prescribed by the Rules.

Time of Poll.—All polls must be open from 6 p.m. to 8 p.m. in the evening. In elections for London Vestries polls must remain open from 8 a.m. to 8 p.m. (see Section 31, Sub-section 1).

Polls taken together.—In rural districts the polls for Parish and District Councillors, and in urban districts those for Councillors and Guardians are taken together. This is not the case in London with Vestrymen and Guardians where the polls are held at different times; but polls for Auditors are taken with those for Vestrymen.

Part IV. of The Municipal Corporations Act, 1882, as amended, relates to corrupt and illegal practices and election petitions at municipal elections (see brief summary in Chapter IX.).

Sections 74 and 75 of The Municipal Corporations Act, 1882, relate to offences in relation to nomination papers, and the neglect of duty of the Returning Officer or his deputy:—

74. (1) If any person forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the Returning Officer any forged nomination paper, knowing it to be forged, he shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding six months, with or without hard labour.
- (2) An attempt to commit any such offence shall be punishable as the offence is punishable.
75. (1) If a person who has undertaken to act as returning officer, or deputy returning officer, at an election of neglects or refuses to conduct or declare the election in manner provided by the Local Government Act, 1894, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.
- (2) An action under this section shall not lie after three months from the neglect or refusal.

Section 6 of the Ballot Act refers to the use of schools and public rooms for polls, and provides that—

The Returning Officer at an election of may use, free of charge, for the purpose of taking the poll or for counting the votes at such election, any room in a school receiving a grant out of moneys provided by Parliament, and any room, the expense of maintaining which is payable out of any local rate, but he shall make good any damage done to such room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of its being used for the purpose of taking the poll or for counting the votes as aforesaid.

The use of any room in an unoccupied house for the purpose of taking the poll shall not render any person liable to be rated or to pay any rate for such house.

PROVISIONS OF THE MUNICIPAL CORPORATIONS ACT, 1882, AND THE ENACTMENTS AMENDING THE SAME, WITH RESPECT TO THE ACCEPTANCE OF OFFICE, RE-ELIGIBILITY OF HOLDERS OF OFFICE, AND FILLING OF CASUAL VACANCIES.

[Note that these provisions do not apply to Parish Councillors, and in the following Sections the office of *Guardian* is taken as representative.]

Obligation to accept Office or pay Fine.

34. (1) Every qualified person elected to the office of *Guardian*, unless exempt under this section or otherwise by law, either shall accept the office by making and subscribing the declaration required by this Act within one month after notice of election, or shall in lieu thereof be liable to pay to the *Board of Guardians* a fine of such amount, not exceeding fifty pounds, as the *Guardians* by regulation determine.

(2) If there are no regulations determining fines, the fine shall be twenty pounds.

(3) The persons exempt under this section are--

Any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body.

(4) A fine payable under this section shall be recoverable summarily.

(5) If a person is elected *Guardian* in more than one parish or other area in the poor law union for which the election is held, he shall not accept office in respect of more than one of such areas, and if he accepts office or pays the fine for non-acceptance of office in respect of one of such areas he shall not be liable to a fine for non-acceptance of office in respect of any other of such areas.

(6) Any person who has been elected without his consent to his nomination being previously obtained, shall not be liable to a fine under this section.

Declaration on Acceptance of Office.

35. A person elected to the office of *Guardian* shall not, until he has made and subscribed before *two Guardians* of the poor law union, or the *clerk to the Guardians* of the union, a declaration in the following form, or in a form to the like effect, act in the office except in administering that declaration:

FORM OF DECLARATION ON ACCEPTANCE OF OFFICE.

I, *A.B.*, having been elected *Guardian* for the Poor Law Union of
in respect of the Parish of _____ [or of the United Parishes
of _____ and _____, or of the Ward of the
Parish of _____], hereby declare that I take the said office upon myself,
and will duly and faithfully fulfil the duties thereof according to the best of my
judgment and ability.

Dated this _____ day of _____, 189 _____.

This declaration was made and subscribed before us,

Power to receive Declaration.

239. (1) Members of the *Board of Guardians* or the clerk shall have authority to receive the declaration required to be made by a *Guardian* without any commission or authority other than this Act.

Penalty on Acting in Office without making Declaration.

41. (1) If any person acts in the office of *Guardian* without having made the declaration by this Act required, he shall for each offence be liable to a fine not exceeding twenty pounds, recoverable by action.

Re-eligibility of Office-holders.

37. A person ceasing to hold the office of *Guardian* shall, unless disqualified to hold the office, be re-eligible.

Filling of Casual Vacancies.

40. (1) On a casual vacancy in the office of *Guardian* an election shall be held in accordance with rules framed under the Local Government Act, 1894; and the person elected shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office.

(2) In case of more than one casual vacancy in the office of *Guardian* being filled at the same election, the *Guardian* elected by the smallest number of votes shall be deemed to be elected in the place of him who would regularly have first gone out of office, and the *Guardian* elected by the next smallest number of votes shall be deemed to be elected in the place of him who would regularly have next gone out of office, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of rotation shall be determined by the *Board of Guardians*.

(3) Non-acceptance of office by a person elected creates a casual vacancy.

Time for Filling Casual Vacancies.

66. (1) On a casual vacancy in the office of *Guardian*, the election shall be held within one month after notice in writing of the vacancy has been given to the chairman of the district council or to the clerk by two *Conceillors*.

(3) The day of election shall be fixed by the *clerk to the Board of Guardians*.

(4) Nothing in this Act shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election.

Section 56 of The Municipal Corporations Act, 1882, provides that at an election under the Act—

(1) If the number of valid nominations exceeds that of the vacancies, the *Councillors* shall be elected from amongst the persons nominated.

- (2) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected.
- (3) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected, and such of the retiring *Councillors for the Borough or Ward* as were highest on the poll at their election, or, if the poll was equal, or there was no poll, as are selected for that purpose by the *Mayor* (Returning Officer) shall be deemed to be re-elected to make up the required number.
- (4) If there is no valid nomination, the retiring *Councillors* shall be deemed to be re-elected.

Prescribed—i.e., by the Local Government Board (see Section 75).

Poll consequent on a Parish Meeting.—See Rule 7 of Schedule I., Part I.

49. Where a parish meeting is required or authorised in pursuance of this Act to be held for a ward or other part of a parish, then—

Provision as to parish meeting for part of parish.

- (a) The persons entitled to attend and vote at the meeting, or at any poll consequent thereon, shall be the parochial electors registered in respect of qualifications in that ward or part; and
- (b) The provisions of this Act with respect to parish meetings for the whole of a parish, including the provisions with respect to the convening of a parish meeting by parochial electors, shall apply as if the ward or part were the whole parish.

Section 49.—A *Parish Meeting for a Ward* may be held for the election of Parish Councillors (Section 18).

A *Parish Meeting for part of a Parish* may be held for the purpose of the Adoptive Acts in that part (Section 7, Sub-section 4), or when the part has rights of property distinct from the rest of the parish (Sections 37 and 56, Sub-section 2).

Meetings may be convened at any time by any six parochial electors (Section 45, Sub-section 3).

50. If, in the case of a rural parish or of any urban parish in respect to which the power of appointing overseers has been transferred under this Act, notice in the prescribed form of the appointment of overseers is not received by the guardians of the poor law union comprising the parish within three weeks after the fifteenth day of April, or after the occurrence of a vacancy in the office of overseer, as the

Supplemental provisions as to overseers.

case may be, the guardians shall make the appointment or fill the vacancy, and any overseer appointed by the guardians shall supersede any overseer previously appointed whose appointment has not been notified. Any such notice shall be admissible as evidence that the appointment has been duly made.

Section 50.—*The Appointment of Overseers* is conferred on the Parish Council by Section 5, and on the Parish Meeting in small parishes by Section 19, Sub-section 5, and may be acquired by the Councils in Urban Districts under Section 33.

Prescribed—i.e., by the Local Government Board (see Section 75).

Parish and District Councils.

Public notices.

51. A public notice given by a parish council for the purposes of this Act, or otherwise for the execution of their duties, and a public notice of a parish meeting, shall be given in the manner required for giving notice of vestry meetings, and by posting the notice in some conspicuous place or places within the parish, and in such other manner (if any) as appears to the council or to the persons convening the meeting desirable for giving publicity to the notice.

Section 51.—*Notice of Parish Meeting.*—As a rule, seven days' notice must be given of a Parish Meeting, and fourteen days when the matter for discussion relates to any of the Adoptive Acts, or to the establishment or dissolution of a Parish Council (Schedule L, Part 1., Rules 2 and 3). These times must be substituted for the *three days* mentioned in the following note.

Notice of Vestry Meetings. 58 Geo. III. c. 69, s. 1, provides that public notice must be given of the time and place for holding a meeting of the Vestry, and of the special purpose thereof, at least three days beforehand, by the publication of such notice in the parish church or chapel on a Sunday during or immediately after Divine Service, and by affixing the same on the principal door of such church or chapel. This provision is amended by 1 Viet. c. 45, s. 2, which enacts that all notices required to be given in churches or chapels, either during or immediately after Divine Service, shall be reduced to writing, and copies thereof shall be affixed before commencement of Divine Service on or near the doors of all the churches or chapels within the parish.

Supplemental provisions as to transfer of powers.

52. (1) Any power which may be exercised and any consent which may be given by the owners and ratepayers of a parish or by the majority of them under any of the

Acts relating to the relief of the poor or under the School Sites Acts or the Literary and Scientific Institutions Act, 1854, so far as respects the dealing with parish property or the spending of money or raising of a rate may, in the case of a rural parish, be exercised or given by the parish meeting of the parish.

17 & 18 Viet.
c. 112.

(2) In a rural parish the power of making an application or passing a resolution given by section twelve of the Elementary Education Act, 1870, and by section forty-one of the Elementary Education Act, 1876, to the electing body mentioned in the former section shall be transferred to the parish meeting of the parish, and shall in cases under the latter section be exercisable by the like majority of the parish meeting, and, if a poll is taken, of the parochial electors, as is required by that section in the case of the said electing body, and rule two of the Second Part of the Second Schedule to the former Act with respect to the passing of such resolution shall not apply.

33 & 34 Viet.
c. 75.
39 & 40 Viet.
c. 79.

(3) The consent of justices shall not be required for the sale of land belonging to a parish which has been used for materials for the repair of highways or for the purchase of land with the proceeds of any such sale.

(4) Where the legal estate in any property is vested in the churchwardens and overseers of any parish by virtue of the Poor Relief Act, 1819, nothing in the Charitable Trusts Acts, 1853 to 1891, shall be deemed to require the consent of such churchwardens and overseers in their capacity as a corporation under that Act, or of the parish council as their successors, to a vesting order under those Acts dealing with the said legal estate. Provided that nothing in this section shall affect any rights, powers, or duties of the churchwardens and overseers or the parish council, in cases where they have active powers of management.

59 Geo. III.
c. 12.

(5) All enactments in any Act, whether general or local and personal, relating to any powers, duties, or liabilities transferred by this Act to a parish council or parish meeting from justices or the vestry or overseers or churchwardens and overseers shall, subject to the provisions of this Act and so far as circumstances admit, be construed as if any reference therein to justices or to the vestry, or to the overseers,

or to the churchwardens and overseers, referred to the parish council or parish meeting as the case requires, and the said enactments shall be construed with such modifications as may be necessary for carrying this Act into effect.

Section 52.—The School Sites Acts are—

- 4 & 5 Vict. c. 38 (1841).
- 7 & 8 Vict. c. 37 (1844).
- 12 & 13 Vict. c. 49 (1849).
- 14 & 15 Vict. c. 24 (1851).
- 15 & 16 Vict. c. 59 (1852).

By the Act of 1841 corporations, trustees, and other persons or bodies holding land for public, parochial, charitable, and other purposes, may grant such land, or part of it, for the purposes of the Act, but subject to the consent of a majority at a meeting of the ratepayers and owners of property in the parish convened for the purpose of giving such consent.

The Literary and Scientific Institutions Act, 1854, gives the bodies and persons mentioned in *The School Sites Act, 1841*, power to grant land for the purposes of the Act, subject to the same consent. These consents must now be given at a Parish Meeting.

The Elementary Education Act, 1870.—Section 12 empowers the Education Department, after making certain prescribed inquiries, to form a School Board, on an application by the persons who, if there were a School Board in the district, would elect the School Board.

The Elementary Education Act, 1876.—Section 41 provides that on an application by the like persons mentioned in Section 12 of the Act of 1870, passed by a majority of not less than two-thirds, the Education Department may dissolve a School Board on being satisfied that there is no school or no school site under the control of the Board, and that there is sufficient school accommodation in the district.

Applications for the formation and dissolution of a School Board must now be made at a Parish Meeting, and a poll may be demanded on the question by any one parochial elector (see Schedule L., Part L. Rule 7 *f*).

The Consent of Justices of the Peace for the sale of lands allotted to the parish for materials for the repair of highways, and in which the materials had been exhausted, was required by *The Highway Act, 1835* (5 & 6 Will. IV. c. 50, s. 48). Consent for the sale of other parish lands is dealt with in *The Sale of Exhausted Parish Lands Act, 1876* (39 & 40 Vict. c. 62).

The Poor Relief Act, 1819.—Section 17 constitutes the Churchwardens and Overseers of any Parish a body corporate for the purpose of holding lands belonging to the parish.

Powers, &c., transferred by this Act.—As to powers, &c., of the Vestry, and of the Churchwardens and Overseers so transferred see Section 6.

53. (1) Where on the appointed day any of the adoptive Acts is in force in a part only of a rural parish, the existing authority under the Act, or the parish meeting for that part, may transfer the powers, duties, and liabilities of the authority to the parish council, subject to any conditions with respect to the execution thereof by means of a committee as to the authority or parish meeting may seem fit, and any such conditions may be altered by any such parish meeting.

Supplemental provisions as to adoptive Acts.

(2) If the area on the appointed day under any authority under any of the adoptive Acts will not after that day be comprised within one rural parish, the powers and duties of the authority shall be transferred to the parish councils of the rural parishes wholly or partly comprised in that area, or if the area is partly comprised in an urban district, to those parish councils and the district council of the urban district, and shall, until other provision is made in pursuance of this Act, be exercised by a joint committee appointed by those councils. Where any such rural parish has not a parish council the parish meeting shall, for the purposes of this provision, be substituted for the parish council.

(3) The property, debts, and liabilities of any authority under any of the adoptive Acts whose powers are transferred in pursuance of this Act shall continue to be the property, debts, and liabilities of the area of that authority, and the proceeds of the property shall be credited, and the debts and liabilities and the expenses incurred in respect of the said powers, duties, and liabilities, shall be charged to the account of the rates or contributions levied in that area, and where that area is situate in more than one parish the sums credited to and paid by each parish shall be apportioned in such manner as to give effect to this enactment.

(4) The county council on the application of a parish council may, by order, alter the boundaries of any such area if they consider that the alteration can properly be made without any undue alteration of the incidence of liability to rates and contributions or of the right to property belonging to the area, regard being had to any corresponding

advantage to persons subject to the liability or entitled to the right.

Section 53.—This Section is supplemental to Section 7.

As to the Transfer of Powers and Duties from one authority to another see Section 67.

The Appointment of Committees and Joint Committees is dealt with in Sections 56 and 57.

Alteration of Boundaries.—See Section 36.

Effect on
parish
council of
constitution
of urban
district.

54. (1) Where a new borough is created, or any other new urban district is constituted, or the area of an urban district is extended, then—

- (a) as respects any rural parish or part of a rural parish which will be comprised in the borough or urban district, provision shall be made, either by the constitution of a new parish, or by the annexation of the parish or parts thereof to another parish or parishes, or otherwise, for the appointment of overseers and for placing the parish or part in the same position as other parishes in the borough or district, and
- (b) as respects any parish or part which remains rural, provision shall be made for the constitution of a new parish council for the same, or for the annexation of the parish or part to some other parish or parishes, or otherwise for the government of the parish or part, and
- (c) provision shall also where necessary be made for the adjustment of any property, debts, and liabilities affected by the said creation, constitution, or extension.

(2) The provision aforesaid shall be made—

- (a) Where a new borough is created, by a scheme under section two hundred and thirteen of the Municipal Corporations Act, 1882 ;
- (b) Where any other new urban district is constituted, by an order of the county council under section fifty-seven of the Local Government Act, 1888 ;

45 & 46 Vict.
c. 50.

51 & 52 Vict.
c. 41.

(c) Where the area of an urban district is extended, by an order of the Local Government Board under section fifty-four, or of the county council under section fifty-seven, as the case may be, of the Local Government Act, 1888.

(3) Where the area of an urban district is diminished this section shall apply with the necessary modifications.

Section 54.—A *New Urban District* is now formed after due inquiries by an order of the County Council, confirmed by the Local Government Board (Local Government Act, 1888, s. 57).

Adjustment of Property, &c.—See Section 68.

The Local Government Act, 1888.—Sections 54 and 57 are set out in the notes to Section 36.

55. (1) Where a parish is divided or united or grouped with another parish by an order in pursuance of this Act each new parish or group so formed shall bear such name as the order directs. Power to change name of district or parish.

(2) Where a parish is divided by this Act, each parish so formed shall bear such name as the county council direct.

(3) Any district council may, with the sanction of the county council, change their name and the name of their district.

(4) Every change of name made in pursuance of this section shall be published in such manner as the authority authorising the change may direct, and shall be notified to the Local Government Board.

(5) Any such change of name shall not affect any rights or obligations of any parish, district, council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name.

Section 55.—*Division or Union of Parishes.*—See Sections 36 and 38.

Change of Name. Copies of the orders of the County Council making such change must be sent to the Local Government Board and to the Board of Agriculture (see Section 71).

56. (1) A parish or district council may appoint committees, consisting either wholly or partly of members of the council, for the exercise of any powers which, in the Committees of parish or district councils.

opinion of the council, can be properly exercised by committees, but a committee shall not hold office beyond the next annual meeting of the council, and the acts of every such committee shall be submitted to the council for their approval.

Provided that where a committee is appointed by any district council for any of the purposes of the Public Health Acts or Highway Acts, the council may authorise the committee to institute any proceeding or do any act which the council might have instituted or done for that purpose other than the raising of any loan or the making of any rate or contract.

(2) Where a parish council have any powers and duties which are to be exercised in a part only of the parish, or in relation to a recreation ground, building, or property held for the benefit of a part of a parish, and the part has a defined boundary, the parish council shall, if required by a parish meeting held for that part, appoint annually to exercise such powers and duties a committee consisting partly of members of the council and partly of other persons representing the said part of the parish.

(3) With respect to committees of parish and district councils the provisions in the First Schedule to this Act shall have effect.

(4) This section shall not apply to the council of a borough.

Section 56.—This Section applies to Parish Councils, Rural and Urban District Councils, but not to Councils of Boroughs, and is in substitution for Sections 200 and 201 of The Public Health Act, 1875, which are repealed, except so much of Section 200 as applies to Boroughs.

Annual Meetings—

- (i.) Of a Parish Council must be on or within seven days of April 15th.
- (ii.) Of a District Council must be as soon as may be after April 15th.

Parish Meetings in part of a Parish.—See Sections 37 and 49.

SCHEDULE 1.

PART FOUR.

Proceedings of Committees of Parish or District Councils.

(1) The quorum, proceedings, and place of meeting of a committee, whether within or without the parish or district, and the area (if any) within which the

committee are to exercise their authority, shall be such as may be determined by regulations of the council or councils appointing the committee.

(2) Subject to such regulations, the quorum, proceedings, and place of meeting, whether within or without the parish or district, shall be such as the committee direct, and the chairman at any meeting of the committee shall have a second or casting vote.

57. (1) A parish or district council may concur with any other parish or district council or councils in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested, and in conferring, with or without conditions or restrictions, on any such committee any powers which the appointing council might exercise if the purpose related exclusively to their own parish or district.

Joint committees.

(2) Provided that a council shall not delegate to any such committee any power to borrow money or make any rate.

(3) A joint committee appointed under this section shall not hold office beyond the expiration of fourteen days after the next annual meeting of any of the councils who appointed it.

(4) The costs of a joint committee under this section shall be defrayed by the councils by whom it is appointed in such proportions as they may agree upon, or as may be determined in case of difference by the county council.

(5) Where a parish council can under this Act be required to appoint a committee consisting partly of members of the council and partly of other persons, that requirement may also be made in the case of a joint committee, and shall be duly complied with by the parish councils concerned at the time of the appointment of such committee.

Section 57. - Annual Meeting of Councils. - See note to Section 56.

58. (1) The accounts of the receipts and payments of parish and district councils, and of parish meetings for parishes not having parish councils, and their committees and officers, shall be made up yearly to the thirty-first day of March, or in the case of accounts which are required to

Audit of accounts of district and parish councils and inspection.

be audited half-yearly, then half-yearly to the thirtieth day of September and the thirty-first day of March in each year, and in such form as the Local Government Board prescribe.

(2) The said accounts shall, except in the case of accounts audited by the auditors of a borough (but inclusive of the accounts of a joint committee appointed by a borough council with another council not being a borough council), be audited by a district auditor, and the enactments relating to audit by district auditors of accounts of urban sanitary authorities and their officers, and to all matters incidental thereto and consequential thereon, shall apply accordingly, except that in the case of the accounts of rural district councils, their committees and officers, the audit shall be half-yearly instead of yearly.

(3) The Local Government Board may, with respect to any audit to which this section applies, make rules modifying the enactments as to publication of notice of the audit and of the abstract of accounts and the report of the auditor.

(4) Every parochial elector of a rural parish may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the parish council of the parish or parish meeting.

(5) Every parochial elector of a parish in a rural district may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the district council of the district.

Section 58.—On audits generally see Chapter X.

District Auditors.—The chief provisions relating to district auditors are contained in Sections 247 and 250 of The Public Health Act, 1875, set out in the Appendix. The district auditors are appointed by the Local Government Board under The District Auditors Act, 1879, and orders are issued by the Board as to the audit of accounts and the form in which they should be kept and presented.

Auditors for the Vestries in the Metropolis are to be elected by the parochial electors (see Section 31).

Supple-
mental pro-
visions as to
district
councils.
38 & 39 Vict.
c. 55.

59. (1) Section one hundred and ninety-nine and Schedule I. of the Public Health Act, 1875, so far as that schedule is unrepealed (which relate to the meetings of urban authorities, and to the meetings and proceedings of

local boards), shall apply in the case of every urban district council other than a borough council and of every rural district council and board of guardians, as if such district council or board were a local board, except that the chairman of the council or board may be elected from outside the councillors or guardians.

(2) Any urban district council other than a borough council, and any rural district council and board of guardians may, if they think fit, appoint a vice-chairman to hold office during the term of office of the chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman.

(3) Any rural district council shall be entitled to use for the purpose of their meetings and proceedings the board room and offices of any board of guardians for the union comprising their district at all reasonable hours, and if any question arises as to what hours are reasonable it may be determined by the Local Government Board.

(4) Nothing in this section shall affect any powers of the Local Government Board with respect to the proceedings of guardians.

(5) If any district council, other than a borough council, become unable to act, whether from failure to elect or otherwise, the county council of the county in which the district is situate may order elections to be held, and may appoint persons to form the district council until the newly-elected members come into office.

(6) Nothing in this Act shall affect any powers of the Secretary of State under the Public Health Supplemental Act for Aldershot, 1857, or the position of persons nominated under those powers.

20 & 21 Vict.
c. 22.

Section 59.—*Section 199 and Schedule I. of The Public Health Act, 1875,* are set out in the Appendix.

Chairman of Board of Guardians.—See Section 20, Sub-section 7.

Vice-Chairman.—A Board of Guardians has power to elect a vice-chairman from outside of their own body (Section 20, Sub-section 7).

Public Health Supplemental Act for Aldershot, 1857. Under this Act the Secretary of State for War has power to nominate three members of the Local Board to give representation to the military authorities.

Miscellaneous.

Supple-
mental pro-
visions as to
guardians.

60. (1) The council of each county may, from time to time, by order, fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and for those purposes may exercise powers of adding parishes to each other and dividing parishes into wards, similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Local Government Board.

(2) The council of each county may for the purpose of regulating the retirement of guardians or rural district councillors, in cases where they retire by thirds, and in order that as nearly as may be one-third of the persons elected as guardians for the union, and one-third of the persons elected as rural district councillors for the district, shall retire in each year, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

(3) Where a poor law union is situate in more than one county, the power under this section of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of district councillors, shall be exercised by a joint committee of the councils of the counties concerned, but if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee.

Provided that if any order under this sub-section is, within six weeks after the making thereof, objected to by any of the county councils concerned, or by any committee of any of those councils authorised in that behalf, it shall be of no effect until confirmed by the Local Government Board.

(4) Where under any local and personal Act guardians of a poor law union are elected for districts, whether called by that name or not, the provisions of this Act with respect to the election of guardians shall apply as if each of the districts were a parish.

(5) The board of guardians of a union elected in pursuance of this Act shall, save as otherwise provided by an order of the Local Government Board, made on the application of those guardians, have the same powers and duties under any local and personal Act as the existing board of guardians.

(6) Nothing in this Act shall alter the constitution of the corporation of the guardians of the poor within the city of Oxford, or the election or qualification of the members thereof, except those members who are elected by the ratepayers of parishes.

Section 60.—Transfer of Powers from the Local Government Board to the County Council.—The following are the Acts respectively conferring the powers here mentioned:—

- (i.) To fix and alter the number of Guardians.—4 & 5 Will. IV. c. 76, and 7 & 8 Vict. c. 101.
- (ii.) Adding parishes to each other.—31 & 32 Vict. c. 106.
- (iii.) Division of parishes into wards for the election of Guardians.—39 & 40 Vict. c. 61.

Retirement of Guardians by Thirds—See Section 20, Sub-section 6. As to the provisions for establishing a rotation for retirement see Section 79.

Local and Personal Acts.—The effect of these Sub-sections is to keep in force the powers so conferred by the local Acts, excepting that the Guardians must be qualified and elected according to the provisions contained in Section 20 of this Act.

61. No parish meeting or meeting of a parish council, or of a district council, or of a board of guardians shall be held in premises licensed for the sale of intoxicating liquor, except in cases where no other suitable room is available for such meeting either free of charge or at a reasonable cost.

Place of meeting of parish or district council or board of guardians.

Section 61. As to the use of schoolrooms and other public rooms for these purposes see Section 4 and Chapter V.

62. (1) Where there is in any urban district, or part of an urban district, any authority constituted under any of the adoptive Acts, the council of that district may resolve that the powers, duties, property, debts, and liabilities of that authority shall be transferred to the council as from the date specified in the resolution, and upon that date the

Permissive transfer to urban district council of powers of other authorities.

same shall be transferred accordingly, and the authority shall cease to exist, and the council shall be the successors of that authority.

(2) After the appointed day any of the adoptive Acts shall not be adopted for any part of an urban district without the approval of the council of that district.

Section 62.—As to the Adoptive Acts and the transfer of powers, &c., under any of them see Sections 7 and 53.

Provisions
as to county
council
acquiring
powers of
district
council.

63. (1) Where the powers of a district council are by virtue of a resolution under this Act transferred to a county council, the following provisions shall have effect:—

- (a) Notice of the resolution of the county council by virtue of which the transfer is made shall be forthwith sent to the district council and to the Local Government Board:
- (b) The expenses incurred by the county council shall be a debt from the district council to the county council, and shall be defrayed as part of the expenses of the district council in the execution of the Public Health Acts, and the district council shall have the like power of raising the money as for the defraying of those expenses:
- (c) The county council for the purpose of the powers transferred may on behalf of the district council borrow subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the district council might have borrowed for the purpose of those powers:
- (d) The county council may charge the said fund or rate with the payment of the principal and interest of the loan, and the loan with the interest thereon shall be paid by the district council in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on that fund or rate by the district council:
- (e) The county council shall keep separate accounts of all receipts and expenditure in respect of the said powers:

(j) The county council may by order vest in the district council all or any of the powers, duties, property, debts, and liabilities of the county council in relation to any of the said powers, and the property, debts, and liabilities so vested shall be deemed to have been acquired or incurred by the district council for the purpose of those powers.

(2) Where a rural district is situate in two or more counties a parish council complaining under this Act may complain to the county council of the county in which the parish is situate, and if the subject-matter of the complaint affects any other county the complaint shall be referred to a joint committee of the councils of the counties concerned, and any question arising as to the constitution of such joint committee shall be determined by the Local Government Board, and if any members of the joint committee are not appointed the members who are actually appointed shall act as the joint committee.

Section 63.—Transfer of Powers of District Council to the County Council.—See Sections 16 and 26.

Expenses of District Council.—See Section 28 (urban) and Section 29 (rural).

64. A county council may employ a district council as their agents in the transaction of any administrative business on matters arising in, or affecting the interests of, its own district.

Power to act through district council.

65. Where any improvement commission affected by this Act have any powers, duties, property, debts, or liabilities in respect of any harbour, the improvement commission shall continue to exist and be elected for the purpose thereof, and shall continue as a separate body, as if this Act had not passed, and the property, debts, and liabilities shall be apportioned between the district council for the district and the commission so continuing, and the adjustment arising out of the apportionment shall be determined in manner provided by this Act.

Saving for harbour powers.

Section 65.—Adjustment in manner provided by this Act.—See Section 68.

Saving for elementary schools.

66. Nothing in this Act shall affect the trusteeship, management, or control of any elementary school.

Section 66.—As to the use of rooms in a public elementary school, for meetings, &c., see Section 4 and Chapter V.

Transfer of property and debts and liabilities.

67. Where any powers and duties are transferred by this Act from one authority to another authority—

- (1) All property held by the first authority for the purpose or by virtue of such powers and duties shall pass to and vest in the other authority, subject to all debts and liabilities affecting the same; and
- (2) The latter authority shall hold the same for the estate, interest, and purposes, and subject to the covenants, conditions, and restrictions for and subject to which the property would have been held if this Act had not passed, so far as the same are not modified by or in pursuance of this Act; and
- (3) All debts and liabilities of the first authority incurred by virtue of such powers and duties shall become debts and liabilities of the latter authority, and be defrayed out of the like property and funds out of which they would have been defrayed if this Act had not passed.

Section 67.—Transfer of Property, Debts, and Liabilities.—Such transfers may be made under any of the following Sections: 5, 6, 7, 25, 27, 53, 62, 63.

Where any doubt arises as to whether or not powers and duties are transferred by this Act, the question must be settled as provided by Section 70.

Adjustment of property and liabilities.

68. (1) Where any adjustment is required for the purpose of this Act, or of any order or thing made or done under this Act, then, if the adjustment is not otherwise made, the authorities interested may make agreements for the purpose, and may thereby adjust any property, income, debts, liabilities, and expenses, so far as affected by this Act, or such scheme, order, or thing, of the parties to the agreement.

(2) The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or

without any conditions, and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board: Provided that where any of the authorities interested is a board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board.

(3) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in accordance with the Arbitration Act, 1889, and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.

52 & 53 Vict.
c. 49.

(4) Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses of exercising their duties under this Act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and if it is a capital sum the payment thereof shall be a purpose for which the authority may borrow under the Acts relating to such authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.

(5) Any capital sum paid to any authority for the purpose of any adjustment under this Act shall be treated as capital, and applied, with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

Section 68.—If the Adjustment is not otherwise made—i.e., by the order of the Local Government Board or County Council, whenever either of these authorities has given a decision which renders such adjustment necessary.

May Borrow.—Borrowing powers are conferred on Parish Councils by Section 12; they are inherited by District Councils from their predecessors, who derived them under Sections 233 to 242 of The Public Health Act, 1875.

Power to deal with matters arising out of alteration of boundaries.

69. Where an alteration of any area is made by this Act, an order for any of the matters mentioned in section fifty-nine of the Local Government Act, 1888, may, if it appears to the county council desirable, be made by the county council, or, in the case of an area situate in more than one county, by a joint committee of county councils, but nothing in this section shall empower a county council or joint committee to alter the boundaries of a county.

Section 69.—*Section 59 of The Local Government Act, 1888,* provides as follows:—

- (1) A scheme or order under this Act may make such administrative and judicial arrangements incidental to or consequential on any alteration of boundaries, authorities, or other matters made by the scheme or order as may seem expedient.
- (2) A place, which is part of an administrative county for the purposes of this Act, shall, subject as in this Act mentioned, form part of that county for all purposes, whether sheriff, lieutenant, *custos rotulorum*, justices, militia, coroner, or other: Provided that—
 - (a) Notwithstanding this enactment, each of the entire counties of York, Lincoln, Sussex, Suffolk, Northampton, and Cambridge shall continue to be one county for the said purposes, so far as it is one county at the passing of this Act: and
 - (b) This enactment shall not affect the existing powers or privileges of any city or borough as respects the sheriff, lieutenant, militia, justices, or coroner; but, if any county borough is at the passing of this Act, a part of any county for any of the above purposes, nothing in this Act shall prevent the same from continuing to be part of that county for that purpose; and
 - (c) This enactment shall not affect parliamentary elections nor the right to vote at the election of a member to serve in Parliament, nor land tax, tithes, or tithe rentcharge, nor the area within which any bishop, parson, or other ecclesiastical person has any cure of souls or jurisdiction.
- (3) For the purposes of parliamentary elections, and of the registration of voters for such elections, the sheriff, clerk of the peace, and

council of the county in which any place is comprised at the passing of this Act for the purposes of parliamentary elections, shall, save as otherwise provided by the scheme or order, or by the County Electors Act, 1888, or this Act, continue to have the same powers, duties, and liabilities, as they would have had if no alteration of boundary had taken place.

- (4) Any scheme or order made in pursuance of this Act may, so far as may seem necessary or proper for the purposes of the scheme or order, provide for all or any of the following matters: that is to say—
- (a) may provide for the abolition, registration, or establishment, or extension of the jurisdiction of any local authority in or over any part of the area affected by the scheme or order, and for the adjustment or alteration of the boundaries of such area, and for the constitution of the local authorities therein, and may deal with the powers and duties of any council, local authorities, quarter sessions, justices of the peace, coroners, sheriff, lieutenant, *custos rotulorum*, clerk of the peace, and other officer therein, and with the costs of any such authorities, sessions, persons, or officers, as aforesaid, and may determine the status of any such area as a component part of any larger area, and provide for the election of representatives in such area; and may extend to any altered area the provisions of any local Act which were previously in force in a portion of the area; and—
 - (b) may make temporary provision for meeting the debts and liabilities of the various authorities affected by the scheme or order for the management of their property, and for regulating the duties, position, and remuneration of officers affected by the scheme or order, and applying to them the provisions of this Act as to existing officers; and
 - (c) may provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the scheme or order, and for determining questions arising from such transfer; and—
 - (d) may provide for all matters which appear necessary or proper for bringing into operation and giving full effect to the scheme or order; and—
 - (e) may adjust any property, debts, and liabilities, affected by the scheme or order.
- (5) Where an alteration of boundaries of a county is made by this Act, an order for any of the above-mentioned matters may, if it appears to the Local Government Board desirable, be made by that Board, but such order, if petitioned against by any council, sessions, or local authority affected thereby, within three months after notice of

such order is given in accordance with this Act, shall be provisional only, unless the petition is withdrawn or the order is confirmed by Parliament.

- (6) A scheme or order may be made for amending any scheme or order previously made in pursuance of this Act, and may be made by the same authority and after the same procedure as the original scheme or order. Where a provision of this Act respecting a scheme or order requires the scheme or order to be laid before Parliament, or to be confirmed by Parliament, either in every case or if it is petitioned against, such scheme or order may amend any local and personal Act.

Alteration of Boundaries of a County.—See Section 54 of The Local Government Act, 1888, set out in the notes to Section 36.

Summary proceeding for determination of questions as to transfer of powers.

70. (1) If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under this Act to any parish council, parish meeting, or district council, or any property is or is not vested in the parish council, or in the chairman and overseers of a rural parish, or in a district council, that question, without prejudice to any other mode of trying it, may, on the application of the council, meeting, or other local authority concerned, be submitted for decision to the High Court in such summary manner as, subject to any rules of court, may be directed by the Court; and the Court, after hearing such parties and taking such evidence (if any) as it thinks just shall decide the question.

(2) If any question arises or is about to arise under this Act as to the appointment of the trustees or beneficiaries of any charity, or as to the persons in whom the property of any charity is vested, such question shall, at the request of any trustee, beneficiary, or other person interested, be determined in the first instance by the Charity Commissioners, subject to an appeal to the High Court brought within three months after such determination. Provided that an appeal to the High Court of Justice from any determination of the Charity Commissioners under this section may be presented only under the same conditions as are prescribed in the case of appeals to the High Court from orders made by the Charity Commissioners under the Charitable Trusts Acts, 1853 to 1891.

(3.) An appeal shall, with the leave of the High Court or Court of Appeal, but not otherwise, lie to the Court of Appeal against any decision under this section.

Section 70.—Summary Determination of Questions by the High Court.—Rules have been published under this Section, and will be found in *The Annual Practice* [1895], vol. ii., p. 375. They provide that questions shall be submitted to the High Court by special case to be agreed upon by the parties, or in default of such agreement to be settled by an arbitrator to be agreed on by the parties or appointed by a Judge in chambers, or to be settled by a Judge in chambers. The special case, when settled, must be filed in the Crown Office within eight days, and be put into the Crown Paper for argument.

Sub-section 2.—These questions may arise under Sections 5, 6, 14, 19, and 33.

Appeals from Decisions of the Charity Commissioners.—Such appeals must be by petition presented to the Chancery Division of the High Court. The Attorney-General, and any person authorised by him or by the Commissioners, and in certain cases any two inhabitants, have the right to appeal. The petition must be presented within three months after the definitive publication of the order appealed against, and twenty-one days' notice of the intention to appeal must be given to the Charity Commissioners and to the Attorney-General.

71. A copy of every order made by a county council or joint committee in pursuance of this Act shall be sent to the Local Government Board, and, if it alters any local area or name, also to the Board of Agriculture.

Supplemental provisions as to county council orders.

Section 71.—Alteration of Local Names.—See Section 55.

72. (1) The expenses incurred by the Local Government Board in respect of inquiries or other proceedings under this Act shall be paid by such authorities and persons and out of such funds and rates as the Board may by order direct, and the Board may certify the amount of the expenses so incurred, and any sum so certified and directed by the Board to be paid by any authority or person shall be a debt from that authority or person to the Crown.

Provisions as to local inquiries.

(2) Such expenses may include the salary of any inspector or officer of the Board engaged in the inquiry or proceeding, not exceeding three guineas a day.

(3) The Local Government Board and their inspectors shall have for the purposes of an inquiry in pursuance of this Act the same powers as they respectively have for the purpose of an inquiry under the Public Health Act, 1875.

(4) Where a county council hold a local inquiry under this Act or under the Local Government Act, 1888, on the application of the council of a parish or district, or of any inhabitants of a parish or district, the expenses incurred by the county council in relation to the inquiry (including the expenses of any committee or person authorised by the county council) shall be paid by the council of that parish or district, or, in the case of a parish which has not a parish council, by the parish meeting; but, save as aforesaid, the expenses of the county council incurred in the case of inquiries under this Act shall be paid out of the county fund.

Section 72.—Inspectors of the Local Government Board.—Section 296 of The Public Health Act, 1875, provides that “Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which Poor Law Inspectors have under the Acts relating to the relief of the poor, for the purposes of these Acts.” These powers are conferred by 4 & 5 Will. IV. c. 76, s. 12, and 10 & 11 Vict. c. 109, ss. 20 and 21. They enable the Inspector to summon persons to be examined before him, and to produce and verify on oath books, documents, &c. He may examine witnesses on oath, and false evidence given before him is punishable as perjury.

Provision
as to
Sundays
and bank
holidays.

73. When the day on which any thing is required by or in pursuance of this Act to be done is Sunday, Christmas Day, or Good Friday, or a bank holiday, that thing shall be done on the next following day, not being one of the days above mentioned.

Provisions
as to Scilly
Islands.
51 & 52 Vict.
c. 41.

74. This Act shall be deemed to be an Act touching local government within the meaning of section forty-nine of the Local Government Act, 1888, and a provisional order for the Scilly Islands may, on the application of the council of the Isles of Scilly, and after such public notice as appears to the Local Government Board sufficient for giving information to all persons interested, be made accordingly.

Section 74.—Section 49 of The Local Government Act, 1888, gave the Local Government Board, power to make a Provisional Order for the application of that Act to the Scilly Islands, and for providing for the exercise and performance in those islands of the powers and duties of County Councils, and also of

authorities under the Acts relating to highways and the Public Health Acts, and for the application to the islands of any provisions of any Act touching local government. Accordingly, in 1890, the Scilly Islands were constituted a rural sanitary authority with the powers of a county council. Such council may now apply to the Local Government Board for the application of such portions of this Act to the Scilly Islands as they may think fit.

75. (1) The definition of "parish" in section one hundred of the Local Government Act, 1888, shall not apply to this Act, but, save as aforesaid, expressions used in this Act shall, unless the context otherwise requires, have the same meaning as in the said Act.

Construction of Act.
51 & 52 Vict.
c. 41.

(2) In this Act, unless the context otherwise requires—

Any reference to population means the population according to the census of one thousand eight hundred and ninety-one.

The expression "parochial elector," when used with reference to a parish in an urban district, or in the county of London or any county borough, means any person who would be a parochial elector of the parish if it were a rural parish.

The expression "election" includes both the nomination and the poll.

The expression "trustees" includes persons administering or managing any charity or recreation ground, or other property or thing in relation to which the word is used.

The expression "ecclesiastical charity" includes a charity, the endowment whereof is held for some one or more of the following purposes:—

- (a) for any spiritual purpose which is a legal purpose: or
- (b) for the benefit of any spiritual person or ecclesiastical officer as such: or
- (c) for use, if a building, as a church, chapel, mission room, or Sunday School, or otherwise by any particular church or denomination: or

- (d) for the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or
- (e) otherwise for the benefit of any particular church or denomination, or of any members thereof as such.

Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act; and the Charity Commissioners shall, on application by any person interested, make such provision for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to this Act.

The expression shall also include any building which in the opinion of the Charity Commissioners has been erected or provided within forty years before the passing of this Act mainly by or at the cost of members of any particular church or denomination.

The expression "affairs of the church" shall include the distribution of offertories or other collections made in any church.

The expression "parochial charity" means a charity the benefits of which are or the separate distribution of the benefits of which is confined to inhabitants of a single parish, or of a single ancient ecclesiastical parish divided into two or more parishes, or of not more than five neighboring parishes.

The expression "vestry" in relation to a parish means the inhabitants of the parish whether in vestry assembled or not, and includes any select vestry either by statute or at common law.

The expression "rateable value" means the rateable value stated in the valuation list in force, or, if there is no such list, in the last poor rate.

The expression "county" includes a county borough, and the expression "county council" includes the council of a county borough.

The expression "elementary school" means an elementary school within the meaning of the Elementary Education Act, 1870. 33 & 34 Vict. c. 75.

The expression "local and personal Act" includes a Provisional Order confirmed by an Act and the Act confirming the Order.

The expression "prescribed" means prescribed by order of the Local Government Board.

Section 75.—The definition of "Parish" must be taken from The Interpretation Act, 1889 (52 & 53 Vict. c. 63). In Section 5 "Parish" is defined to mean, as respects England and Wales, "a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed."

The Local Government Act, 1888, Section 100. is the interpretation clause of that Act, to which reference should be made.

Parochial Electors.—See Section 2, Sub-section 1. They are defined as "the persons registered in such portion, either of the local government register of electors or of the parliamentary register of electors as relates to the parish." The preparation of these registers is dealt with in Section 44 and the notes thereto.

"*Affairs of the Church,*" "*Ecclesiastical Charity,*" and "*Parochial Charity.*" See Chapter V., where these matters are fully discussed.

Elementary School is defined in The Elementary Education Act, 1870, s. 3, as being "a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction from each scholar exceed ninepence a week."

76. This Act shall not extend to Scotland or Ireland. Extent of Act.

77. This Act may be cited as the Local Government Act, short title. 1894.

PART V.

TRANSITORY PROVISIONS.

First elections to parish councils.

78. (1) The overseers of each rural parish shall convene the first parish meeting of the parish at the time fixed by or under this Act for the first election of parish councillors, whether there is or is not a parish council for the parish, and for this purpose the overseers of a parish shall be deemed to be the overseers of every part of the parish.

(2) The chairman of the parish meeting at which the first parish councillors are nominated, or in his default the clerk of the guardians, shall convene the first meeting of the parish council.

(3) The first parish councillors and the first chairman of a parish meeting elected under this Act shall retire on the second ordinary day of coming into office of councillors which happens after their election.

Section 78.—Retirement of the first Parish Councillors and of the first Chairman of a Parish Meeting.—That will be on the 15th April, 1896.

First elections of guardians and district councils.

79. (1) The existing boards of guardians and urban and rural sanitary authorities shall take the necessary measures for the conduct of the first elections of guardians and district councillors respectively under this Act, including any appointment of returning officers required by rules under this Act.

(2) Where a parish is divided by this Act into two or more new parishes, then, subject to any order made by the county council, there shall be one guardian, and if it is in a rural district, one district councillor for each of such new parishes.

(3) Of the guardians and urban and rural district councillors first elected under this Act, save as hereinafter mentioned, one third as nearly as may be shall continue in

office until the fifteenth day of April one thousand eight hundred and ninety-six, and shall then retire; and one third as nearly as may be shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-seven, and shall then retire; and the remainder shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-eight, and shall then retire.

(4) The guardians and rural district councillors to retire respectively on the fifteenth day of April one thousand eight hundred and ninety-six and on the fifteenth day of April one thousand eight hundred and ninety-seven shall be the guardians and rural district councillors for such parishes, wards, or other areas, as may be determined by the county council for the purpose of the rotation.

(5) Where guardians or rural district councillors retire together at the end of the triennial period, the guardians and district councillors first elected under this Act shall retire on the fifteenth day of April one thousand eight hundred and ninety-eight.

(6) Of the first urban district councillors elected under this Act, the third who are respectively to retire on the fifteenth day of April one thousand eight hundred and ninety-six and one thousand eight hundred and ninety-seven shall be determined according to their place on the poll at the election, those that were lowest on the poll retiring first. If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter shall be determined by ballot conducted under the direction of the council.

(7) In the case of an urban district divided into wards, the foregoing provisions with respect to retirement shall apply separately to each ward.

(8) Upon the day on which the first guardians and urban or rural district councillors elected under this Act come into office, the persons who are then members of boards of guardians, and urban and rural sanitary authorities, shall cease to hold office, but until that day the persons who are at the passing of this Act guardians and members of urban sanitary authorities (for urban districts not being boroughs)

and of highway boards shall continue in office notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and, except for the purpose of filling casual vacancies or electing additional guardians, no further elections shall be held.

(9) The first meeting of each district council elected under this Act shall be convened by the returning officer.

(10) The foregoing provisions shall apply to the existing members and first members elected under this Act of the local board of Woolwich and of any vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same, and to the existing and first auditors elected under those Acts in like manner as if they were members of urban sanitary authorities or urban district councillors, as the case may require, except that the date of the annual election shall be substituted for the fifteenth day of April.

(11) The overseers of any parish divided by this Act shall, until the first appointment of overseers next after the appointed day, continue in office as if they were overseers of each part of the said parish, which by reason of such division becomes a separate parish.

Section 79.—Division of Parishes by the Act.—See Section 1, Sub-section 3, and Section 36, Sub-section 2.

Powers of County Council to alter the number of Guardians, &c.—See Section 60.

Simultaneous Retirement of Guardians and District Councillors.—See Section 20, Sub-section 6, and Section 24, Sub-section 4.

Date of annual election.—See page 87, *ante*.

Power of
county
council
to remove
difficulties.

80. (1) If any difficulty arises with respect to the holding of the first parish meeting of a rural parish, or to the first election of parish or district councillors, or of guardians, or of members of the local board of Woolwich, or any vestry in the county of London, or of auditors in the county of London, or to the first meeting of a parish or district council, or board of guardians, or such local board or vestry as aforesaid, or if, from no election being held or an election being defective or otherwise, the first parish or district council, or board of guardians, or local board or vestry has not been properly constituted, or there are no

auditors under the Metropolis Management Acts, 1855 to 1890, or an insufficient number properly elected, the county council may by order make any appointment or do any thing which appears to them necessary or expedient for the proper holding of any such first meeting or election and properly constituting the parish or district council, board of guardians, local board, or vestry, or auditors, and may, if it appears to them necessary, direct the holding of a meeting or election, and fix the dates for any such meeting or election, but a parish shall, notwithstanding any such failure to constitute the parish council, be deemed to be a parish having a parish council within the meaning of this Act. Any such order may modify the provisions of this Act, and the enactments applied by or rules framed under this Act so far as may appear to the county council necessary or expedient for carrying the order into effect.

(2) The Local Government Board shall make regulations for expediting and simplifying the procedure under section fifty-seven of the Local Government Act, 1888, in all cases in the year one thousand eight hundred and ninety-four, for the purpose of bringing this Act into immediate operation, and such regulations may dispense with the final approval of an order by the county council in cases where the prescribed notice of the proposed order has been given before it is made by the county council.

Section 80. Section 57 of The Local Government Act, 1888, is set out in the notes to Section 36.

81. (1) Where the powers and duties of any authority other than justices are transferred by this Act to any parish or district council, the officers of that authority shall become the officers of that council, and for the purposes of this section the body appointing a surveyor of highways shall be deemed to be a highway authority and any paid surveyor to be an officer of that body.

Existing officers.

(2) Where there is in a rural parish an existing vestry clerk appointed under the Vestries Act, 1850, he shall become the clerk of the parish council, and if there is also an assistant overseer in the parish, then, notwithstanding

13 & 14 Vict.
c. 57.

the foregoing provisions of this Act, that assistant overseer shall not, while such vestry clerk holds office, be the clerk of the parish council.

(3) Any existing assistant overseer in a parish for which a parish council is elected shall, unless appointed by a board of guardians, become an officer of the parish council.

(4) Every such officer, vestry clerk, and assistant overseer, as above in this section mentioned shall hold his office by the same tenure and upon the same terms and conditions as heretofore, and while performing the same duties shall receive not less salary or remuneration than heretofore.

(5) Where a parish or rural sanitary district is divided by this Act, any officer for the parish or district so divided shall hold his office as such officer for each parish or district formed by the division, and his salary shall be borne by the respective parishes or districts in proportion to their rateable value at the commencement of the local financial year next after the passing of this Act.

(6) So much of any enactment as authorises the appointment of assistant overseers by a board of guardians shall be repealed as from the appointed day.

51 & 52 Vict.
c. 41.

(7) Section one hundred and twenty of the Local Government Act, 1888, which relates to compensation to existing officers, shall apply in the case of existing officers affected by this Act, whether officers above in this section mentioned or not, as if references in that section to the county council were references to the parish council, or the district council, or board of guardians or other authority whose officer the person affected is when the claim for compensation arises as the case may require. Provided that all expenses incurred by a district council in pursuance of this section shall be paid as general expenses of the council, and any expenses incurred by a board of guardians in pursuance of this section shall be paid out of their common fund, and any expenses incurred by any other authority in pursuance of this section shall be paid out of the fund applicable to payment of the salary of the offices affected.

Section 81.—Appointment of Clerk to Parish Council.—See Section 17, Subsections 1 to 3, and Chapter III.

Assistant Overseer—This officer is to be appointed by the Parish Council or Parish Meeting (Sections 5 and 19), and no longer by the Board of Guardians.

The Local Government Act, 1888.—Section 120 should be referred to when necessary. It is not of sufficient general interest to be here set out in full.

82. (1) Where before the appointed day the highway expenses were charged on a particular parish or other area and not on a district, the district council may determine that the highways in that parish or area shall be placed in proper repair before the expenses of repairing the same become a charge upon the district, and, failing such highways being placed in proper repair to the satisfaction of the district council, the district council may themselves place the highways in proper repair, and the expense incurred by them of placing those highways in proper repair shall be a separate charge on the parish or area, and any question which arises as to whether any such expenses are properly a separate charge on the parish or area shall be determined by the county council.

Provision as to highways.

(2) Where in pursuance of an order of a county council a parish continues to maintain its own highways after the appointed day, the highway expenses shall not be deemed to be expenses of the parish council or of the parish meeting within the meaning of this Act.

Section 82.—When the Parish Council has to pay the expenses of maintaining its own highways, the costs of so doing will not be included in the ordinary rate, which is limited to 6d. in the pound (see notes to Section 11).

83. It shall be the duty of every county council to exercise all such of their powers as may be requisite for bringing this Act into full operation within their county as soon as may be after the passing thereof, and a county council may delegate their powers under this Act to a committee.

Duty of county council to bring Act into operation.

84. (1) The first elections under this Act shall be held on the eighth day of November next after the passing of this Act, or such later date or dates in the year one thousand eight hundred and ninety-four as the Local Government Board may fix.

Appointed day.

(2) The persons elected shall come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the rules made under this Act in relation to their election.

(3) Every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election shall, if it affects the parishes or parts for which the registers of parochial electors will be made, be made so far as practicable before the first day of July next after the passing of this Act, and any such division or alteration which after the appointed day may be made on application by the parish council or any parochial electors of any parish, may be made before the appointed day on application by the vestry or a like number of the ratepayers of the parish.

Provided that—

- (a) If any county council having any such division or alteration under consideration so direct, the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered ; and
- (b) If the county council making such division or alteration on or after the said day and on or before the last day of August one thousand eight hundred and ninety-four so direct, the clerk of the county council shall make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and in that case the said division or alteration shall be observed in the case of that election.
- (4) Subject as in this Act mentioned, “the appointed day” shall,
- (a) for the purpose of elections and of parish meetings in parishes not having a parish council, be the day

or respective days fixed for the first elections under this Act, or such prior day as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections: and

- (b) for the purpose of the powers, duties, and liabilities of councils or other bodies elected under this Act, or other matters not specifically mentioned, be the day on which the members of such councils or other bodies first elected under this Act come into office: and
- (c) for the purpose of powers, duties, and liabilities transferred to a council of a borough by this Act, be the first day of November next after the passing of this Act:

and the lists and registers of parochial electors shall be made out in such parts as may be necessary for the purpose of the first elections under this Act.

Provided that where an order of a county council postpones the operation of the section with respect to highways as respects their county or any part thereof the day on which such postponement ceases shall, as respects such county or part, be the appointed day, and the order of postponement shall make such provision as may be necessary for holding elections of highway boards during the interval before the appointed day.

Section 84.—Rules made under this Act—i.e., by the Local Government Board, under Sections 3, 20, and 23.

85. (1) Every rate and precept for contributions made before the appointed day may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act had not passed. Current rates, &c.

(2) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not passed, but as soon as

practicable after the appointed day; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.

(3) All proceedings, legal and other, commenced before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act.

(4) Every valuation list made for a parish divided by this Act shall continue in force until a new valuation list is made.

(5) The change of name of an urban sanitary authority shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act, whether public general or local and personal, referring to the members of such authority shall, unless inconsistent with this Act, continue to refer to the members of such authority under its new name.

Saving for existing securities and discharge of debts.

86. (1) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or property transferred to a council or parish meeting by this Act; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council or parish meeting shall be discharged, paid, and satisfied by that council or parish meeting, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the transferee as the case may require.

(2) It shall be the duty of every authority whose powers, duties, and liabilities are transferred by this Act to liquidate so far as practicable before the appointed day, all current debts and liabilities incurred by such authority.

Section 86.—Presumably this rate will be in addition to the ordinary Parish Council rate of 6d. in the pound (see notes to Section 11).

87. All such byelaws, orders, and regulations of any authority, whose powers and duties are transferred by this Act to any council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.

Saving for existing byelaws.

88. (1) If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a council or parish meeting, any action or proceeding, or any cause of action or proceeding is pending, or existing by or against any authority in relation thereto the same shall not be in anywise prejudicially affected by the passing of this Act, but may be continued, prosecuted, and enforced by or against the council or parish meeting as successors of the said authority in like manner as if this Act had not been passed.

Saving for pending contracts, &c.

(2) All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer in this section mentioned, and affecting any of such powers, duties, liabilities, debts, or property, shall be of as full force and effect against or in favour of the council or parish meeting, and may be enforced as fully and effectually as if, instead of the authority, the council or parish meeting had been a party thereto.

89. The Acts specified in the Second Schedule to this Act are hereby repealed as from the appointed day to the extent in the third column of that schedule mentioned, and so much of any Act, whether public general or local and personal, as is inconsistent with this Act is also hereby

Repeal.

repealed. Provided that where any wards of an urban district have been created, or any number of members of an urban sanitary authority fixed, by or in pursuance of any local and personal Act, such wards and number of members shall continue and be alterable in like manner as if they had been fixed by an order of the county council under this or any other Act.

S C H E D U L E S.

FIRST SCHEDULE.

RULES AS TO PARISH MEETINGS, PARISH COUNCILS, AND COMMITTEES.

PART ONE.

Rules Applicable to Parish Meetings.

(1) The annual assembly of the parish meeting shall be held on the twenty-fifth day of March in each year, or within seven days before or after that day.

(2) Not less than seven clear days before any parish meeting, public notice thereof shall be given specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by the chairman of the parish council or other conveners of the meeting.

(3) If the business relates to the establishment or dissolution of a parish council, or the grouping of a parish, or the adoption of any of the adoptive Acts, not less than fourteen days' notice shall be given.

(4) A parish meeting may discuss parish affairs and pass resolutions thereon.

(5) Every question to be decided by a parish meeting shall, in the first instance, be decided by the majority of those present and voting on the question, and the chairman shall announce his decision as to the result, and that decision shall be final, unless a poll is demanded.

(6) A poll may be demanded at any time before the conclusion of a parish meeting.

(7) A poll may be demanded by any one parochial elector in the case of a resolution respecting any of the following matters: namely—

- (a) Any application, representation, or complaint to a county council or district council;
- (b) The appointment of a chairman for the year or of a committee, or the delegation of any powers or duties to a committee, or the approval of the acts of a committee;

- (c) The appointment of an overseer, the appointment or revocation of the appointment or dismissal of an assistant overseer or a parish officer;
- (d) The appointment of trustees or beneficiaries of a charity;
- (e) The adoption of any of the adoptive Acts;
- (f) The formation or dissolution of a school board;
- (g) The consent or refusal of consent to any act, matter, or thing which cannot by law be done without that consent;
- (h) The incurring of any expense or liability;
- (i) The place and time for the assembly of the parish meeting;
- (k) Any other prescribed matter.

But, save as aforesaid, a poll shall not be taken unless either the chairman of the meeting assents, or the poll is demanded by parochial electors present at the meeting, not being less than five in number or one third of those present, whichever number is least.

(8) In case of an equal division of votes at a parish meeting the chairman shall have a second or casting vote.

(9) Where a parish meeting is held for the election of parish councillors, opportunity shall be given at the meeting for putting questions to such of the candidates as are present, and receiving explanations from them, and any candidate shall be entitled to attend the meeting and speak thereat, but, unless he is a parochial elector, not to vote.

(10) If the chairman of the parish meeting is absent from or unwilling or unable to take the chair at any assembly of the parish meeting, the meeting may appoint a person to take the chair, and that person shall have, for the purpose of that meeting, the powers and authority of the chairman.

(11) Any notice required to be given to or served on a parish meeting may be given to or served on the chairman of the parish meeting.

PART TWO.

Rules Applicable to Parish Councils.

(1) Every parish councillor shall, at the first meeting after his election, or if the council at the first meeting so permit, then at a later meeting fixed by the council, sign, in the presence of some member of the council, a declaration that he accepts the office, and if he does not sign such a declaration his office shall be void.

(2) If any casual vacancy arises in the council, the council shall forthwith be convened for filling the vacancy.

(3) The first business at the annual meeting shall be to elect a chairman and to appoint the overseers.

(4) The chairman may at any time convene a meeting of the parish council. If the chairman refuses to convene a meeting of the council after a requisition

for that purpose signed by two members of the council has been presented to him, any two members of the council may forthwith, on that refusal, convene a meeting. If the chairman (without so refusing) does not within seven days after such presentation convene a meeting, any two members of the council may, on the expiration of those seven days, convene a meeting.

(5) Three clear days at least before any meeting of a parish council notice thereof, specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by or on behalf of the chairman of the parish council or persons convening the meeting, shall be given to every member of the parish council, and in case of the annual meeting notice specifying the like particulars shall be given to every member of the parish council immediately after his election.

(6) Any notice required by law to be given to the chairman or any other member of the parish council may be left at or sent by post to the usual place of abode of such chairman or member.

(7) No business shall be transacted at any meeting of a parish council unless at least one third of the full number of members are present thereat, subject to this qualification, that in no case shall the quorum be less than three.

(8) The names of the members present at any meeting of the parish council, as well as of those voting on each question on which a division is taken, shall be recorded, so as to show whether each vote given was for or against the question.

(9) Every question at a meeting of a parish council shall be decided by a majority of votes of the members present and voting on that question.

(10) In case of an equal division of votes the chairman of the meeting shall have a second or casting vote.

(11) The parish council may, if they think fit, appoint one of their number to be vice-chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman.

(12) The proceedings of a parish council shall not be invalidated by any vacancy among their members, or by any defect in the election or qualification of any members thereof.

(13) A parish council shall hold not less than four meetings in each year, of which one shall be the annual meeting, and every such meeting shall be open to the public unless the council otherwise direct.

(14) Every cheque or other order for payment of money by a parish council shall be signed by two members of the council.

(15) Any notice required to be given to or served on a parish council may be given to or served on the clerk to the parish council.

(16) The parish council may appear before any court or in any legal proceedings by their clerk or by any officer or member authorised generally or in respect of any special proceeding by resolution of the council, and their clerk or any member or officer shall, if so authorised, be at liberty to institute and carry on any proceeding which the parish council are authorised to institute and carry on.

PART THREE.

General.

(1) Minutes of the proceedings of every parish council and parish meeting shall be kept in a book provided for that purpose.

(2) A minute of proceedings at a meeting of a parish council, or of a committee of a parish or district council, or at a parish meeting, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(3) Until the contrary is proved, every meeting in respect of the proceedings whereof a minute has been so made shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a committee, the committee shall be deemed to have been duly constituted, and to have had power to deal with the matters referred to in the minutes.

(4) Any instrument purporting to be executed under the hands or under the hands and seals of the chairman and of two other members of a parish council or of a parish meeting shall, until the contrary is proved, be deemed to have been duly so executed.

(5) Subject to the provisions of this Act, a parish council may make, vary, and revoke standing orders for the regulation of their proceedings and business, and of the proceedings and business at parish meetings for a rural parish having a parish council.

(6) Where there is no council for a rural parish, the parish meeting may, subject to the provisions of this Act, regulate their own proceedings and business.

PART FOUR.

Proceedings of Committees of Parish or District Councils.

(1) The quorum, proceedings, and place of meeting of a committee, whether within or without the parish or district, and the area (if any) within which the committee are to exercise their authority, shall be such as may be determined by regulations of the council or councils appointing the committee.

(2) Subject to such regulations, the quorum, proceedings, and place of meeting, whether within or without the parish or district, shall be such as the committee direct, and the chairman at any meeting of the committee shall have a second or casting vote.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
54 Geo. III. c. 91	An Act to amend so much of an Act passed in the forty-third year of Her late Majesty Queen Elizabeth, as concerns the time for appointing overseers of the poor	The whole Act, so far as it relates to rural parishes.
58 Geo. III. c. 69	The Vestries Act, 1818	Sections one, two, three, and four, so far as they relate to parish meetings and parish councils under this Act.
59 Geo. III. c. 85	The Vestries Act, 1819	The whole Act, so far as it relates to parish meetings under this Act.
1 & 2 Will. IV. c. 60	The Vestries Act, 1831	The whole Act, so far as it relates to parish meetings under this Act, except section thirty-nine.
4 & 5 Will. IV. c. 76	The Poor Law Amendment Act, 1834.	In section thirty-eight, the words "and the said guardians shall be elected by the ratepayers and by such owners of property in the parishes forming such union as shall in manner hereinafter mentioned require to have their names entered as entitled to vote as owners in the books of such parishes respectively" ; and from "and also fix a qualification" to "for the ensuing year shall be chosen" ; and from "and every justice of the peace" to "as such elected guardians" ; and from "Provided also" to the end of the section.

Session and Chapter.	Short Title.	Extent of Repeal.
4 & 5 Will. IV. c. 76	The Poor Law Amendment Act, 1834.	Section thirty-nine, from "and every justice" to the end of the section. In section forty, the words "In all cases of the election of guardians under this Act or." Section forty-one. Section forty-eight from "Provided always" to the end of the section, so far as the words repealed relate to the office of parish or district councillor or guardian.
5 & 6 Will. IV. c. 50	The Highway Act, 1835.	In section forty-eight, the words "with the consent in writing of the justices of the peace at a special sessions for the highways" and the words "at and for such price as the said justices may deem fair and reasonable."
7 Will. IV. & 1 Vict. c. 45.	The Parish Notices Act, 1837.	Section three, so far as it relates to notices by parish councils and notices of parish meetings under this Act.
5 & 6 Vict. c. 57 -	The Poor Law Amendment Act, 1842.	Section eight, section eleven, from "and in every case," to the end of the section, and section fifteen.
7 & 8 Vict. c. 101 -	The Poor Law Amendment Act, 1844.	Sections seventeen, twenty, and twenty-four, and section sixty-one from "and wherever any such collector" to "provisions of this Act."
13 & 14 Vict. c. 57 -	The Vestries Act, 1850	Sections six, seven, eight, and nine, so far as they relate to parish meetings under this Act.
14 & 15 Vict. c. 105	The Poor Law Amendment Act, 1851.	Section two and section three.
16 & 17 Vict. c. 65 -	The Vestries Act, 1853	The whole Act, so far as it relates to parish meetings under this Act.

Session and Chapter.	Short Title.	Extent of Repeal.
18 & 19 Vict. c. 120	The Metropolis Management Act, 1855.	Section six. Sections thirteen to twenty-seven. In section thirty the words "or custom." Section fifty-four. In section two hundred and thirty-five the words "under this Act," where they secondly occur.
19 & 20 Vict. c. 112	The Metropolis Management Amendment Act, 1856.	Sections six, seven, and eight.
23 & 24 Vict. c. 30 -	The Public Improvements Act, 1860.	In section four the words "in value."
25 & 26 Vict. c. 102	The Metropolis Management Amendment Act, 1862.	Section thirty-six, and section forty from "by rating" to "of such parish."
25 & 26 Vict. c. 103	The Union Assessment Act, 1862.	In section two, the words "consisting partly of ex officio and partly of elected guardians," and from "Provided always" to the end of the section. In section five, the words "ex officio or elected" in both places where they occur, and the words, "as the case may be."
30 & 31 Vict. c. 6 -	The Metropolitan Poor Act, 1867.	Section seventy-nine.
30 & 31 Vict. c. 106	The Poor Law Amendment Act, 1867.	Sections four, five, six, and nine, section ten so far as it relates to elections of guardians, and section twelve.
31 & 32 Vict. c. 122	The Poor Law Amendment Act, 1868.	Section four from "and the powers" to the end of the section.
38 & 39 Vict. c. 55 -	The Public Health Act, 1875.	Section eight from "and the number" to the end of the section. In section nine from "Provided that (1) An ex officio guardian" to "situated in an urban district" (being the provisoes); and the words "from owners or occupiers of property situated in the rural district of a value sufficient to qualify them as elective guardians for a union," and from "Subject to the provisions of this Act" to the end of the section.

Session and Chapter.	Short Title.	Extent of Repeal.
38 & 39 Vict. c. 55 -	The Public Health Act, 1875.	Section two hundred, except so far as it applies to boroughs; sections two hundred and one and two hundred and four; section two hundred and forty-eight, except so far as it relates to overseers; and section three hundred and twelve. So much of Schedule I. as relates to committees, and Schedule II.
39 & 40 Vict. c. 61 -	The Divided Parishes and Poor Law Amendment Act, 1876.	Section six, from "The meeting of inhabitants" to the end of the section, so far as it relates to rural parishes; section eight to "no alteration," except as to cases where a parish is dealt with by order of the Local Government Board.
39 & 40 Vict. c. 79 -	The Elementary Education Act, 1876.	In section seven the words "so however that in the case of a committee appointed by guardians one third at least shall consist of ex officio guardians, if there are any and sufficient ex officio guardians."
47 & 48 Vict. c. 70 -	The Municipal Elections (Corrupt and Illegal Practices) Act, 1884.	Section thirty-six, from "(h.) The Local Government Board" to "validity of any vote."
48 & 49 Vict. c. 53 -	The Public Health (Members and Officers) Act, 1885.	Sections three and four.
55 & 56 Vict. c. 53 -	The Public Libraries Act, 1892.	Sub-section three of section one. The First Schedule so far as it applies to rural parishes.

APPENDIX.



THE PUBLIC HEALTH ACT, 1875 (INCORPORATED SECTIONS).

THE ALLOTMENTS ACT, 1887.

THE ALLOTMENTS ACT, 1890.

CIRCULAR OF THE LOCAL GOVERNMENT BOARD AS
TO RIGHTS OF WAY, &c.

CIRCULARS OF THE CHARITY COMMISSIONERS WITH
REFERENCE TO CHARITIES.

PUBLIC HEALTH ACT, 1875.

(38 & 39 VICTORIA, CHAPTER 55.)

An Act for consolidating and amending the Acts relating to Public Health in England.

[11th August, 1875.]

[The words printed in *Italics* are repealed by Section 89 of The Local Government Act, 1894.]

6. Urban districts shall consist of the places in that behalf mentioned in the first column of the table in this section contained, and urban authorities shall be the several bodies of persons specified in the second column of the said table in relation to the said places respectively.

Description of urban districts and urban authorities.

Urban District.	Urban Authority.
Borough constituted such either before or after the passing of this Act.	The Mayor, Aldermen, and Burgesses acting by the Council.
Improvement Act district constituted such before the passing of this Act, and having no part of its area situated within a borough or local government district.	The Improvement Commissioners.
Local Government district constituted such either before or after the passing of this Act, having no part of its area situated within a borough, and not coincident in area with a borough or Improvement Act district.	The Local Board.

Provided that—

- (1) Any borough, the whole of which is included in and forms part of a Local Government district or Improvement Act district, and any Improvement Act district which is included in and forms part of a Local Government district, and any Local Government district which is included in and forms part

of an Improvement Act district, shall for the purposes of this Act be deemed to be absorbed in the larger district in which it is included, or of which it forms part; and the improvement commissioners or local board, as the case may be, of such larger district, shall be the urban authority therein; and

- (2) Where an Improvement Act district is coincident in area with a Local Government district, the improvement commissioners, and not a local board, shall be the urban authority therein; and
- (3) Where any part of an Improvement Act district is situated within a borough or Local Government district, or where any part of a Local Government district is situated within a borough, the remaining part of such Improvement Act district or of such Local Government district so partly situated within a borough shall, for the purposes of this Act, continue subject to the like jurisdiction as it would have been subject to if this Act had not been passed, unless and until the Local Government Board by provisional order otherwise directs.

For the purposes of this Act, the boroughs of Oxford, Cambridge, Blandford, Calne, Wenlock, Folkestone, and Newport, Isle of Wight, shall not be deemed to be boroughs, and the borough of Cambridge shall be deemed to be an Improvement Act district, and the borough of Oxford to be included in the Local Government district of Oxford. So much of the borough of Folkestone as is not included within the Local Government district of Sandgate shall be an urban district, and shall be under the jurisdiction, for the purposes of this Act, of the authority for executing "The Folkestone Improvement Act, 1855."

* * * * *

Description
of rural
districts
and rural
authorities.

9. The area of any union which is not coincident in area with an urban district, nor wholly included in an urban district (in this section called a rural union), with the exception of those portions (if any) of the area which are included in any urban district, shall be a rural district, and the guidance of the union shall form the rural authority of such district:

Provided that—

- (1) *An ex-officio guardian resident in any parish or part of a parish belonging to such union, which parish or part*

of a parish forms or is situated in an urban district, shall not act or vote in any case in which guardians of such union act or vote as members of the rural authority, unless he is the owner or occupier of property situated in the rural district of a value sufficient to qualify him as an elective guardian for the union ;

- (2) *An elective guardian of any parish belonging to such union, and forming or being wholly included within an urban district, shall not act or vote in any case in which guardians of such union act or vote as members of the rural authority ;*
- (3) *Where part of a parish belonging to a rural union forms or is situated in an urban district, the Local Government Board may by order divide such parish into separate wards, and determine the number of guardians to be elected by such wards respectively, in such manner as to provide for the due representation of the part of the parish situated within the rural district ; but until such order has been made the guardian or guardians of such parish may act and vote as members of the rural authority in the same manner as if no part of such parish formed part of or was situated in an urban district.*

Where the number of elective guardians who are not by this section disqualified from acting and voting as members of the rural authority is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number from owners or occupiers of property situated in the rural district of a value sufficient to qualify them as elective guardians for the union, and the persons so nominated shall be entitled to act and vote as members of the rural authority but not further or otherwise.

Subject to the provisions of this Act, all statutes, orders, and legal provisions applicable to any board of guardians shall apply to them in their capacity of rural authority under this Act for purposes of this Act ; and it is hereby declared that the rural authority are the same body as the guardians of the union or parish for or within which such authority act.

10. In addition to the powers, rights, duties, capacities, liabilities, and obligations exercisable by or attaching to an urban authority under this Act, every urban authority shall within their district (to the exclusion of any other authority

Powers and
duties of
urban
authorities.

which may have previously exercised or been subject to the same) have, exercise and be subject to all the powers, rights, duties, capacities, liabilities, and obligations within such district exercisable or attaching by and to the local authority under the Bakehouse Regulation Act, and the Artizans and Labourers Dwellings Act, or any Acts amending the same.

Where the Baths and Washhouses Acts and the Labouring Classes Lodging Houses Acts, or any of them, are in force within the district of any urban authority, such authority shall have all powers, rights, duties, capacities, liabilities, and obligations in relation to such Acts exercisable by or attaching to the council, incorporated commissioners, local board improvement commissioners, and other commissioners or persons acting in the execution of the said Acts or any of them.

Where the Baths and Washhouses Acts are not in force within the district of any urban authority, such authority may adopt such Acts: and where the Labouring Classes Lodging Houses Acts are not in force within the district of any urban authority, such authority may adopt such Acts.

Where any local Act other than an Act for the conservancy of any river is in force within the district of an urban authority, conferring on any commissioners, trustees, or other persons powers for purposes the same as or similar to those of this Act (but not for their own pecuniary benefit), all the powers, rights, duties, capacities, liabilities, and obligations of such commissioners, trustees, or other persons, in relation to such purposes, shall be transferred and attach to the said urban authority.

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PART IV.

LOCAL GOVERNMENT PROVISIONS.

HIGHWAYS AND STREETS.

As to Highways.

Powers of
surveyors of
highways
and of ves-
tries under

144. Every urban authority shall within their district exclusively of any other person execute the office of and be surveyor of highways, and have, exercise and be subject to all the powers, authorities, duties, and liabilities of

surveyors of highways under the law for the time being in force, save so far as such powers, authorities, or duties are or may be inconsistent with the provisions of this Act; every urban authority shall also have, exercise and be subject to all the powers, authorities, duties, and liabilities which, by the Highway Act, 1835, or any Act amending the same, are vested in and given to the inhabitants in vestry assembled of any parish within their district.

5 & 6 Will.
IV. c. 50,
vested in
urban
authority.

All ministerial acts required by any Act of Parliament to be done by or to the surveyor of highways may be done by or to the surveyor of the urban authority, or by or to such other person as they may appoint.

145. The inhabitants within any urban district shall not in respect of any property situated therein be liable to the payment of highway rate or other payment, not being a toll, in respect of making or repairing roads or highways without such district: Provided that any person who in any place after the passing of this Act ceases under or by virtue of any provision of this Act, or of any order made thereunder, to be surveyor of highways within such place, may recover any highway rate made in respect of such place, and remaining unpaid at the time of his so ceasing to be such surveyor, as if he had not ceased to be such surveyor; and the money so recovered shall be applied, in the first place, in reimbursing himself any expenses incurred by him as such surveyor, and in discharging any debts legally owing by him on account of the highways within his jurisdiction; and the surplus (if any) shall be paid by him to the treasurer of the urban authority, and carried to the fund or rate applicable to the repair of highways within their district.

Inhabitants
of urban
district not
liable to
rates for
roads with-
out district.

146. Any urban authority may agree with any person for the making of roads within their district for the public use through the lands and at the expense of such person, and may agree that such roads shall become and the same shall accordingly become on completion highways maintainable and repairable by the inhabitants at large within their district; they may also, with the consent of two-thirds of their number, agree with such person to pay, and may accordingly pay, any portion of the expenses of making such roads.

Power of
urban
authority to
agree as to
making of
new public
roads.

147. Any urban authority may agree with the proprietors of any canal, railway, or tramway to adopt and maintain any existing or projected bridge, viaduct, or arch within their

Power of
urban
authority to
construct or

adopt public
bridges, &c.,
over or
under
canals, &c.

district, over or under any such canal, railway, or tramway, and the approaches thereto, and may accordingly adopt and maintain such bridge, viaduct, or arch and approaches as parts of public streets or roads maintainable and repairable by the inhabitants at large within their district; or such authority may themselves agree to construct any such bridge, viaduct, or arch at the expense of such proprietors; they may also, with the consent of two-thirds of their number, agree to pay, and may accordingly pay, any portion of the expenses of the construction or alteration of any such bridge, viaduct, or arch, or of the purchase of any adjoining lands required for the foundation and support thereof, or for the approaches thereto.

Power of
urban
authority to
enter into
agreements
with
turnpike
trustees as
to repair,
&c., of
roads.

148. Any urban authority may by agreement with the trustees of any turnpike road, or with any person liable to repair any street or road, or any part thereof, or with the surveyor of any county bridge, take on themselves the maintenance, repair, cleansing, or watering of any such street or road, or any part thereof, or of any road over any county bridge, and the approaches thereto, or of any part of the said streets or roads within their district, and may remove any turnpike gates, toll gates, or bars which may be situated within their district, and may erect other turnpike gates, toll gates, or bars in lieu thereof, on such terms as the urban authority and such trustees or person or surveyor as aforesaid may agree on:

Provided—

That where any mortgage debt is charged on the tolls of any such turnpike road, no agreement shall be made for the removal of any of the toll gates or bars thereon, unless with the previous consent in writing of a majority of at least two-thirds in value of the mortgagees; and

That where the terms arranged include any annual or other payments from such urban authority to the trustees of any such turnpike road, then the payments may be secured on any fund or rate applicable by such authority to any of the purposes of this Act in the same manner as other charges on any such fund or rate are authorised by this Act.

Any executors, administrators, guardians, trustees, or committee of the estate of any idiot or lunatic, who are as such for the time being entitled to any money charged or secured on the tolls of any such turnpike road, may consent

to any such agreement as aforesaid, as fully as if they respectively were so entitled in their own right, discharged of all trusts in respect thereof; and all executors, administrators, guardians, trustees, and committees so consenting are hereby severally indemnified for so doing.

* * * * *

164. Any urban authority may purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever.

Urban authority may provide places of public recreation.

Any urban authority may make byelaws for the regulation of any such public walk or pleasure ground, and may by such byelaws provide for the removal from such public walk or pleasure ground of any person infringing any such byelaw by any officer of the urban authority or constable.

* * * * *

178. The Chancellor and Council of the Duchy of Lancaster for the time being may, if they think fit (but subject and without prejudice to the rights of any lessee, tenant, or occupier), from time to time contract with any local authority for the sale of, and may (subject as aforesaid) absolutely sell and dispose of, for such sum as to the said Chancellor and Council may appear sufficient consideration, the whole or any part of any lands belonging to Her Majesty, her heirs, or successors, in right of the said duchy, or any right, interest, or easement in, through, over, or on any such lands which for the purposes of this Act such local authority from time to time deem it expedient to purchase; and on payment of the purchase money, as provided by the Duchy of Lancaster Lands Act, 1855, the said Chancellor and Council may grant and assure to the said authority, under the seal of the said duchy, in the name of Her Majesty, her heirs, or successors, the subject of such contract or sale, and such money shall be dealt with as if such subject had been sold under the authority of the Duchy of Lancaster Lands Act, 1855.

Provision for lands belonging to the Duchy of Lancaster.

* * * * *

183. Any local authority may, by any byelaws made by them under this Act, impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of five pounds for each offence, and in the case of a continuing offence a further penalty not exceeding forty shillings for each day after written notice of the offence from the local authority; but all such byelaws imposing

Power to impose penalties on breach of byelaws.

any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty.

Nothing in the provisions of any Act incorporated herewith shall authorise the imposition or recovery under any byelaws made in pursuance of such provisions of any greater penalty than the penalties in this section specified.

Confirma-
tion of
byelaws.

184. Byelaws made by a local authority under this Act shall not take effect unless and until they have been submitted to and confirmed by the Local Government Board, which Board is hereby empowered to allow or disallow the same as it may think proper; nor shall any such byelaws be confirmed—

Unless notice of intention to apply for confirmation of the same has been given in one or more of the local newspapers circulated within the district to which such byelaws relate, one month at least before the making of such application; and

Unless for one month at least before any such application a copy of the proposed byelaws has been kept at the office of the local authority, and has been open during office hours thereat to the inspection of the ratepayers of the district to which such byelaws relate, without fee or reward.

The clerk of the local authority shall, on the application of any such ratepayer, furnish him with a copy of such proposed byelaws or any part thereof, on payment of sixpence for every hundred words contained in such copy.

A byelaw required to be confirmed by the Local Government Board shall not require confirmation, allowance or approval by any other authority.

Byelaws to
be printed,
&c.

185. All byelaws made by a local authority under this Act, or for purposes the same as or similar to those of this Act under any local Act, shall be printed and hung up in the office of such authority; and a copy thereof shall be delivered to any ratepayer of the district to which such byelaws relate, on his application for the same; a copy of any byelaws made by a rural authority shall also be transmitted to the overseers of every parish to which such byelaws relate, to be deposited with the public documents of the parish, and to be open to the inspection of any ratepayer of the parish at all reasonable hours.

186. A copy of any byelaws made under this Act by a local authority (not being the council of a borough), signed and certified by the clerk of such authority to be a true copy and to have been duly confirmed, shall be evidence until the contrary is proved in all legal proceedings of the due making, confirmation and existence of such byelaws without further or other proof.

Evidence of byelaws.

* * * * *

199. Every urban authority (not being the council of a borough) shall hold an annual meeting, and other meetings for the transaction of business under this Act once at least in each month, and at such other times as may be necessary for properly executing their powers and duties under this Act.

Meetings, &c., of urban authority not being the council of a borough.

Meetings of local boards shall be held and the proceedings thereat shall be conducted in accordance with the rules as to meetings and proceedings contained in Schedule 1. to this Act; and any improvement commissioners may, if they think fit, adopt all or any of such rules.

* * * * *

202. A rural authority (including any committee so formed as aforesaid) may, at any meeting specially convened for the purpose, form for any contributory place within their district a parochial committee consisting wholly of members of such authority or committee, or partly of such members and partly of such other persons liable to contribute to the rate levied for the relief of the poor in such contributory place, and qualified in such other manner (if any) as the authority forming such parochial committee may determine.

Power of rural authority to form parochial committees.

A rural authority (including any committee so formed as aforesaid) may from time to time add to or diminish the number of the members, or otherwise alter the constitution of any parochial committee formed by it, or dissolve any parochial committee.

A parochial committee shall be subject to any regulations and restrictions which may be imposed by the authority which formed it: Provided that no jurisdiction shall be given to a parochial committee beyond the limits of the contributory place for which it is formed, and that no powers shall be delegated to a parochial committee except powers which the rural authority could exercise within such contributory place.

A parochial committee shall be deemed to be the agents of the authority which formed it, and the appointment of such committee shall not relieve that authority from any obligation imposed on it by Act of Parliament or otherwise.

A parochial committee may be empowered by the authority which formed it to incur expenses to an amount not exceeding such amount as may be prescribed by such authority; it shall report its expenditure to such authority as and when directed by such authority, and the amount so reported, if legally incurred, shall be discharged by such authority.

PART VI.

RATING AND BORROWING POWERS, &c.

EXPENSES OF URBAN AUTHORITY AND URBAN RATES.

Mode of
defraying
expenses of
urban
authority.

207. All expenses incurred or payable by an urban authority in the execution of this Act, and not otherwise provided for, shall be charged on and defrayed out of the district fund and general district rate leviable by them under this Act, subject to the following exceptions: (namely,)

That if in any district the expenses incurred by an urban authority (being the council of a borough) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of the borough fund or borough rate, then the expenses incurred by that authority in the execution of this Act shall be charged on and defrayed out of the borough fund or borough rate; and

That if in any district the expenses incurred by an urban authority (being improvement commissioners) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of any rate in the nature of a general district rate leviable

by them as such commissioners throughout the whole of their district, then the expenses incurred by that authority in the execution of this Act shall be charged on and defrayed out of such rate; and for the purposes of this section the council of the borough of Folkestone shall be deemed to be improvement commissioners; and

That where at the time of the passing of this Act the expenses incurred by an urban authority in the execution of certain purposes of the Sanitary Acts were payable out of the borough fund and borough rate, and the expenses incurred by such authority in the execution of the other purposes of the said Acts were payable out of a rate or rates leviable by that authority throughout the whole of their district for paving, sewerage or other sanitary purposes, then the expenses incurred by that authority in the execution of the same or similar purposes respectively under this Act shall respectively be charged on and defrayed out of the borough fund and borough rate, and out of the rate or rates leviable as aforesaid.

208. Where at the time of the passing of this Act the expenses incurred by an urban authority for sanitary purposes are payable otherwise than in the manner provided by the Local Government Acts, the Local Government Board may, on the application of such authority, or of any ten persons rated to the relief of the poor within the district, declare by provisional order that the expenses of such authority incurred in the execution of this Act shall be defrayed out of a district fund and general district rate to be levied by them under this Act, subject to the provisions of this Act with respect to the mode of defraying in certain cases the expenses of the repair of highways.

Power in certain cases by provisional order to alter mode.

General District Rate.

209. In the district of every urban authority whose expenses under this Act are directed to be defrayed out of the district fund and general district rate there shall be continued or established a fund called the district fund; a separate account called "the district fund account" of all moneys carried under this Act to the account of that fund

District fund account.

shall be kept by the treasurer of the urban authority; and such moneys shall be applied by the urban authority in defraying such of the expenses chargeable thereon under this Act as they may think proper.

Making
general
district
rate.

210. For the purpose of defraying any expenses chargeable on the district fund which that fund is insufficient to meet, the urban authority shall from time to time, as occasion may require, make by writing under their common seal, and levy in addition to any other rate leviable by them under this Act, a rate or rates to be called "general district rates."

Any such rate may be made and levied either prospectively in order to raise money for the payment of future charges and expenses, or retrospectively in order to raise money for the payment of charges and expenses incurred at any time within six months before the making of the rate: in calculating the period of six months during which the rate may be made retrospectively, the time during which any appeal or other proceeding relating to such rate is pending shall be excluded.

Public notice of intention to make any such rate, and of the time when it is intended to make the same, and of the place where a statement of the proposed rate is deposited for inspection, shall be given by the urban authority in the week immediately before the day on which the rate is intended to be made, and at least seven days previously thereto; but in case of proceedings to levy or recover any rate it shall not be necessary to prove that such notice was given.

Assess-
ment, &c.,
of general
district
rate.

211. With respect to the assessment and levying of general district rates under this Act the following provisions shall have effect: (namely,)

- (1) General district rates shall be made and levied on the occupier of all kinds of property for the time being by law assessable to any rate for the relief of the poor, and shall be assessed on the full net annual value of such property, ascertained by the valuation list for the time being in force, or, if there is none, by the rate for the relief of the poor made next before the making of the assessment under this Act, subject to the following exceptions, regulations and conditions: (namely,)

- (a) The owner, instead of the occupier, may at the option of the urban authority be rated in cases—

Where the rateable value of any premises liable to assessment under this Act does not exceed the sum of ten pounds; or

Where any premises so liable are let to weekly or monthly tenants; or

Where any premises so liable are let in separate apartments, or where the rents become payable or are collected at any shorter period than quarterly:

Provided that in cases where the owner is rated instead of the occupier he shall be assessed on such reduced estimate as the urban authority deem reasonable of the net annual value, not being less than two thirds nor more than four fifths of the net annual value; and where such reduced estimate is in respect of tenements whether occupied or unoccupied, then such assessment may be made on one half of the amount at which such tenements would be liable to be rated if the same were occupied and the rate were levied on the occupiers:

- (b) The owner of any tithes, or of any tithe commutation rentcharge, or the occupier of any land used as arable, meadow or pasture ground only, or as woodlands, market gardens or nursery grounds, and the occupier of any land covered with water, or used only as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall be assessed in respect of the same in the proportion of one fourth part only of such net annual value thereof:
- (c) If within any urban district or part of such district any kind of property is exempted from rating by any local Act in respect of all or any of the purposes for which general district rates may be made under this Act, the same kind of property shall, in respect of the same purposes, and to the same extent within the parts to

which the exemption applies (but not further or otherwise), be exempt from assessment to any general district rates under this Act unless the Local Government Board by provisional order otherwise direct.

- (2) If at the time of making any general district rate any premises in respect of which the rate may be made are unoccupied, such premises shall be included in the rate, but the rate shall not be charged on any person in respect of the same while they continue to be unoccupied; and if any such premises are afterwards occupied during any part of the period for which the rate was made and before the same has been fully paid, the name of the incoming tenant shall be inserted in the rate, and thereupon so much of the rate as at the commencement of his tenancy may be in proportion to the remainder of the said period shall be collected, recovered and paid in the same manner in all respects as if the premises had been occupied at the time when the rate was made:
- (3) If any owner or occupier assessed or liable to any such rate ceases to be owner or occupier of the premises in respect whereof he is so assessed or liable, before the end of the period for which the rate was made, and before the same is fully paid off, he shall be liable to pay only such part of the rate as may be in proportion to the time during which he continues to be such owner or occupier; and in every such case if any person afterwards become owner or occupier of the premises during part of the said period, he shall pay such part of the rate as may be in proportion to the time during which he continues to be such owner or occupier, and the same shall be recovered from him in the same manner as if he had been originally assessed or liable:
- (4) The urban authority may divide their district or any street therein into parts for all or any of the purposes of this Act, and from time to time abolish or alter any such divisions, and may make a separate assessment on any such part for all or any of the purposes for which the same is formed; and every such part, so far as relates to the purposes in respect of which such separate assessment

is made, shall be exempt from any other assessment under this Act: Provided that if any expenses are incurred or to be incurred in respect of two or more parts in common the same shall be apportioned between them in a fair and equitable manner.

212. For the purpose of assessing general district rates any person appointed by the urban authority may inspect, take copies of, or make extracts from, any valuation list or rate for the relief of the poor within the district, or any book relating to the same.

Inspection
of poor rate
books for
purposes
of assess-
ment.

Any officer having the custody of any such rate or book who refuses to permit such inspection, or the taking of such copies or extract, shall be liable to a penalty not exceeding five pounds.

* * * * *

Highway Rate.

216. In any urban district where the expenses under this Act of the urban authority are charged on and defrayed out of the district fund and general district rates, and no other mode of providing for repair of highways is directed by any local Act, the cost of repair of highways shall be defrayed as follows: that is to say—

Costs of
repairs of
highways.

- (1) Where the whole of the district is rated for works of paving, water supply and sewerage, or for works for such of these purposes as are provided for in the district, the cost of repair of highways shall be defrayed out of the general district rate:
- (2) Where parts of the district are not rated for works of paving, water supply and sewerage, or for such of these purposes as are provided for in the district, the cost of repair of highways in those parts shall be defrayed out of a highway rate to be separately assessed and levied in those parts by the urban authority as surveyor of highways, and the cost of such repair in the residue of the district shall be defrayed out of the general district rate:
- (3) Where no public works of paving, water supply and sewerage are established in the district, the cost of repair of highways in the district shall be defrayed out of a highway rate, to be levied throughout the whole district by the urban authority as surveyor of highways:

Provided that where part of a parish is included within an urban district, and the excluded part was, before the constitution of that district, liable to contribute to the highway rates for such parish, such excluded part shall (unless in the case of an urban district constituted before the passing of this Act a resolution deciding that such excluded part should be formed into a separate highway district has been passed in pursuance of the Local Government Act 1858 Amendment Act, 1861), or unless such excluded part has been included in a highway district under the Highway Acts, for all purposes connected with the repairs of highways and the payment of highway rates, be considered to be and be treated as forming part of such district.

Provided also, that in the case of an urban district constituted after the passing of this Act a meeting of owners and ratepayers of the excluded part (to be convened and conducted in the manner provided by Schedule III. to this Act) may decide that such excluded part shall be a highway parish, and thereupon the excluded part shall for all purposes connected with highways, surveyors of highways, and highway rates, be considered and treated as a parish maintaining its own highways; but the requisition for holding any such meeting shall be made within six months after the constitution of the urban district.

The court of quarter sessions may by order direct that for any such excluded part a waywarden or waywardens shall be elected, and may invest any waywarden elected in pursuance of any such order with all or any of the powers of waywardens under the Highway Acts.

* * * * *

Publication and collection of rates.

222. All rates made or collected under this Act shall be published in the same manner as poor rates, and shall commence and be payable at such time or times, and shall be made in such manner and form, and be collected by such persons, and either together or separately, or with any other rate or tax, as the urban authority may from time to time appoint: Provided that no publication shall be required of any private improvement rate.

Evidence of rates.

223. The production of the books purporting to contain any rate or assessment made under this Act shall, without any other evidence whatever, be received as *prima facie* evidence of the making and validity of the rates mentioned therein.

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EXPENSES OF RURAL AUTHORITY.

229. The expenses incurred by a rural authority in the execution of this Act shall be divided into general expenses and special expenses. Expenses of rural authority.

General expenses (other than those chargeable on owners and occupiers under this Act) shall be the expenses of the establishment and officers of the rural authority, the expenses in relation to disinfection, the providing conveyance for infected persons, and all other expenses not determined by this Act or by order of the Local Government Board to be special expenses.

Special expenses shall be the expenses of the construction, maintenance, and cleansing of sewers in any contributory place within the district, the providing a supply of water to any such place, and maintaining any necessary works for that purpose, if and so far as the expenses of such supply and works are not defrayed out of water rates or rents under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural authority in trust for any contributory place, and all other expenses incurred or payable by the rural authority in or in respect of any contributory place within the district, and determined by order of the Local Government Board to be special expenses.

Where the rural authority make any sewers or provide any water supply or execute any other work under this Act for the common benefit of any two or more contributory places within their district, they may apportion the expense of constructing any such work, and of maintaining the same, in such proportions as they think just, between such contributory places, and any expense so apportioned to any such contributory place shall be deemed to be special expenses legally incurred in respect of such contributory place.

The overseers of any contributory place, if aggrieved by any such apportionment, may, within twenty-one days after notice has been given to them of the apportionment, send or deliver a memorial to the Local Government Board stating their grounds of complaint, and the said Board may make such order in the matter as to it may seem equitable, and the order so made shall be binding and conclusive on all parties concerned.

General expenses shall be payable out of a common fund to be raised out of the poor rate of the parishes in the

district according to the rateable value of each contributory place in manner in this Act mentioned.

Special expenses shall be a separate charge on each contributory place.

The following areas situated in a rural district shall be contributory places for the purposes of this Act: that is to say,

- (1) Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the Sanitary Acts or of this Act, or of an urban district; and
- (2) Every such special drainage district as aforesaid; and
- (3) In the case of a parish wholly situated in a rural district, and part of which forms or is part of any such special drainage district as aforesaid, such portion of that parish as is not comprised within such special drainage district; and
- (4) In the case of a parish a part of which is situated within an urban district, such portion of that parish as is not comprised within such urban district, or within any such special drainage district as aforesaid.

Mode of raising contributions in rural district.

230. For the purpose of obtaining payment from the several contributory places within their district of the sums to be contributed by them, the rural authority shall issue their precept to the overseers of each such contributory place requiring such overseers to pay, within a time limited by the precept, the amount specified in such precept to the rural authority or to some person appointed by them, care being taken to issue separate precepts in respect of contributions for general expenses and special expenses, or to make such expenses respectively separate items in any precept including both classes of expenses.

Where a contributory place is part of a parish as defined by this Act, the overseers of such parish shall for the purposes of this Act be deemed to be the overseers of such contributory place, and where any part of a contributory place is part of a parish the overseers of such parish shall for the like purposes be deemed to be the overseers of such part of such contributory place.

The overseers shall comply with the requisitions of such precept by paying the contribution required in respect of general expenses out of the poor rate of their respective parishes, and with respect to special expenses by raising the

contribution required by the levy (in the case of an entire parish on the whole of such parish, and in the case of a contributory place or part of a contributory place forming part of a parish by the levy on such place, or such part thereof, exclusive of the rest of the parish) of a separate rate in the same manner as if it were a rate for the relief of the poor, with this exception: namely,

That the owner of any tithes, or of any tithe commutation rentcharge, or the occupier of any land used as arable, meadow, or pasture ground only, or as woodlands, market gardens, or nursery grounds, and the occupier of any land covered with water, or used as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall, where a special assessment is made for the purpose of such rate, be assessed in respect of one-fourth part only of the rateable value thereof, or where no special assessment is made, shall pay in respect of the said property one-fourth part only of the rate in the pound payable in respect of houses and other property:

Provided that where the amount required by any precept or precepts from a contributory place in respect of special expenses is less than ten pounds, or is so small that a rate less than one penny in the pound would be required to raise the same, the overseers shall not assess and levy any special rate for the same, but shall pay the amount as if it formed part of the contribution required from them in respect of general expenses.

A separate rate under this section shall, as respects the powers of the overseers in relation to making, assessing, and levying such rate, and as respects the appeal against such rate, and all other incidents thereof except the purposes to which it is applicable, and such exemption as aforesaid, and except the allowance of justices, which shall not be required, be subject to the same provisions as apply in law to a rate levied for the relief of the poor: and the overseers of a parish shall have the same powers of levying such separate rate in a contributory place or part of a contributory place forming part of their parish, as they would have if such contributory place or such part thereof formed the whole of their parish.

Where a contribution for general expenses is required from a contributory place or part of a contributory place which is part of a parish, the overseers shall from time to

time levy such increase of rate from the contributory place or such part thereof as may be sufficient to recoup the parish for the sum it has paid on account of the contributory place or such part thereof in respect of general expenses under this Act, and carry the same to the general account of the parish, and such increase of rate shall be raised in such contributory place or part of a contributory place by an addition to the poor rate, or by a separate rate to be assessed, made, allowed, published, collected, and levied in the same manner as a poor rate. The officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect any separate rate made under this section, and receive out of such separate rate such remuneration for the additional duty as the overseers with the consent of the vestry may determine.

The overseers shall, at the expiration of their term of office, pay any surplus in their hands arising from any separate rate levied in pursuance of this Act, above the amount for which the rate was made, to the rural authority or to such person as they may appoint, to the credit of the contributory place within which or within part of which such rate was made, and such surplus shall go in reduction of the next call that may be made on such contributory place, or such part thereof, for the purpose of defraying the expenses incurred by the rural authority.

Remedy for nonpayment by overseers of amount required by precept of rural authority.

231. If the amount required by any precept of a rural authority, to be paid by the overseers of any parish, is not paid in manner directed by such precept, and within the time therein specified for that purpose, the rural authority shall have the like remedy for recovery from the overseers of such amount as is not paid as guardians have for the time being for recovery from overseers of contributions of parishes, and for that purpose the precept of the rural authority requiring the payment shall be conclusive evidence of the amount thereof.

As to private improvement expenses.

232. Whenever a rural authority have incurred or become liable to any expenses which by this Act are, or by such authority may be declared to be private improvement expenses, such authority may make and levy a private improvement rate in the same manner as private improvement rates may be made and levied by an urban authority; and all the provisions of this Act applicable to private improvement rates leviable by an urban authority shall apply accordingly to any private improvement rate leviable by a rural authority.

BORROWING POWERS.

233. Any local authority may, with the sanction of the Local Government Board, for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by them in the execution of the Sanitary Acts or of this Act, or for the purpose of discharging any loans contracted under the Sanitary Acts or this Act, borrow or re-borrow, and take up at interest, any sums of money necessary for defraying any such costs, charges, and expenses, or for discharging any such loans as aforesaid.

Power to borrow on credit of rates.

An urban authority may borrow or re-borrow any such sums on the credit of any fund, or all or any rates or rate out of which they are authorised to defray expenses incurred by them in the execution of this Act, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund or rates or rate.

A rural authority may borrow or re-borrow any such sums, if applied or intended to be applied to general expenses of such authority, on the credit of the common fund out of which such expenses are payable, and if applied or intended to be applied to special expenses of such authority, on the credit of any rate or rates out of which such expenses are payable, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund, rate or rates.

234. The exercise of the powers of borrowing conferred by this Act shall be subject to the following regulations: namely,

Regulations as to exercise of borrowing powers.

- (1) Money shall not be borrowed except for permanent works (including under this expression any works of which the cost ought in the opinion of the Local Government Board to be spread over a term of years):
- (2) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable

within the district in respect of which such money may be borrowed :

- (3) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their inspectors has held a local inquiry and reported to the said Board :
- (4) The money may be borrowed for such time, not exceeding sixty years, as the local authority, with the sanction of the Local Government Board, determine in each case ; and, subject as aforesaid, the local authority shall either pay off the moneys so borrowed by equal annual instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer Bills or other Government securities, such sum as will with accumulations in the way of compound interest be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned :
- (5) A local authority may at any time apply the whole or any part of the sinking fund set apart under this Act in or towards the discharge of the moneys for the repayment of which the fund has been established : Provided that they pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied :
- (6) Where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned, unless with the sanction of the Local Government Board, and shall in no case be extended beyond the period of sixty years from the date of the original loan.

Where any urban authority borrow any money for the purpose of defraying private improvement expenses, or expenses in respect of which they have determined a part only of the district to be liable, it shall be the duty of such

authority, as between the ratepayers of the district, to make good, so far as they can, the money so borrowed, as occasion requires, either out of private improvement rates, or out of a rate levied in such part of the district as aforesaid.

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236. Every mortgage authorised to be made under this Act shall be by deed, truly stating the date, consideration, and the time and place of payment, and shall be sealed with the common seal of the local authority, and may be made according to the form contained in Schedule IV. to this Act, or to the like effect.

Form of mortgages.

237. There shall be kept at the office of the local authority a register of the mortgages on each rate, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and description of the parties thereto, as stated in the deed. Every such register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds.

Register of mortgages.

238. Any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date and the consideration for the transfer; and such transfers may be according to the form contained in Schedule IV. to this Act, or to the like effect.

Transfer of mortgages.

There shall be kept at the office of the local authority a register of the transfers of mortgage charged on each rate, and within thirty days after the date of such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the clerk of the local authority, who shall, on payment of a sum not exceeding five shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer; and until such entry is made the local authority shall not be in any manner responsible to the transferee.

On the registration of any transfer the transferee, his executors or administrators, shall be entitled to the full benefit of the original mortgage and the principal and

interest secured thereby; and any transferee may in like manner transfer his estate and interest in any such mortgage; and no person except the last transferee, his executors or administrators, shall be entitled to release or discharge any such mortgage or any money secured thereby.

If the clerk of the local authority wilfully neglects or refuses to make in the register any entry by this section required to be made, he shall be liable to a penalty not exceeding twenty pounds.

Receiver may be appointed in certain cases.

239. If at the expiration of six months from the time when any principal money or interest has become due on any mortgage of rates made under this Act, and after demand in writing, the same is not paid, the mortgagee or other person entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to a court of summary jurisdiction: and such court may, after hearing the parties, appoint in writing under their hands and seals some person to collect and receive the whole or a competent part of the rates liable to the payment of the principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and of collection, are fully paid.

On such appointment being made all such rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees of such rates, and shall be rateably apportioned between them:

Provided that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application is made by two or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as last aforesaid, moneys collectively amounting to that sum.

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AUDIT.

Audit of Accounts of Local Authorities.

Accounts of local authorities.

245. Accounts of the receipts and expenditure under this Act of every local authority shall be made up in such form and to such day in every year as the Local Government Board may appoint.

246. Where an urban authority are the council of a borough the accounts of the receipts and expenditure under this Act of such authority shall be audited and examined by the auditors of the borough, and shall be published in like manner and at the same time as the municipal accounts, and the auditors shall proceed in the audit after like notice and in like manner, shall have like powers and authorities, and perform like duties, as in the case of auditing the municipal accounts.

Audit where urban authority are a town council.

Each of such auditors shall in respect of each audit be paid such reasonable remuneration, not being less than two guineas for every day in which they are employed in such audit, as such authority from time to time appoint. Any order of such authority for the payment of any money may be removed by certiorari, and like proceedings may be had thereon as under section forty-four of the Act of the first year of Her Majesty, chapter seventy-eight, with respect to orders of the council of a borough for payments out of the borough fund.

247. Where an urban authority are not the council of a borough the following regulations with respect to audit shall be observed (namely).

Audit where urban authority are not a town council.

- (1) The accounts of the receipts and expenditure under this Act of such authority shall be audited and examined once in every year, as soon as can be after the twenty-fifth day of March, by the auditor of accounts relating to the relief of the poor for the union in which the district of such authority or the greater part thereof is situate, unless such auditor is a member of the authority whose accounts he is appointed to audit, in which case such accounts shall be audited by such auditor of any adjoining union as may from time to time be appointed by the Local Government Board:
- (2) There shall be paid to such auditor in respect of each audit under this Act, such reasonable remuneration, not being less than two guineas for every day in which he is employed in such audit, as such authority from time to time appoint, together with his expenses of travelling to and from the place of audit:
- (3) Before each audit such authority shall, after receiving from the auditor the requisite appointment, give at least fourteen days' notice of the time and place at

which the same will be made, and of the deposit of accounts required by this section, by advertisement in some one or more of the local newspapers circulated in the district; and the production of the newspaper containing such notice shall be deemed to be sufficient proof of such notice on any proceeding whatsoever :

- (4) A copy of the accounts duly made up and balanced, together with all rate books, account books, deeds, contracts, accounts, vouchers, and receipts mentioned or referred to in such accounts, shall be deposited in the office of such authority, and be open, during office hours thereat, to the inspection of all persons interested for seven clear days before the audit, and all such persons shall be at liberty to take copies of or extracts from the same, without fee or reward; and any officer of such authority duly appointed in that behalf neglecting to make up such accounts and books, or altering such accounts and books, or allowing them to be altered when so made up, or refusing to allow inspection thereof, shall be liable to a penalty not exceeding five pounds :
- (5) For the purpose of any audit under this Act, every auditor may, by summons in writing, require the production before him of all books, deeds, contracts, accounts, vouchers, receipts, and other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, receipts, documents or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same; and if any such person neglects or refuses so to do, or to produce any such books, deeds, contracts, accounts, vouchers, receipts, documents or papers, or to make or sign such declaration, he shall incur for every neglect or refusal a penalty not exceeding forty shillings; and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury :
- (6) Any ratepayer or owner of property in the district may be present at the audit, and may make any

objection to such accounts before the auditor: and such ratepayers and owners shall have the same right of appeal against allowances by an auditor as they have by law against disallowances:

- (7) Any auditor acting in pursuance of this section shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person, and on application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made:
- (8) Any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a writ of certiorari to remove the disallowance into the said court, in the same manner and subject to the same conditions as are provided in the case of disallowances by auditors under the laws for the time being in force with regard to the relief of the poor: and the said Court shall have the same powers with respect to allowances, disallowances and surcharges under this Act as it has with respect to disallowances or allowances by the said auditors: or in lieu of such application any person so aggrieved may appeal to the Local Government Board, which Board shall have the same powers in the case of the appeal as it possesses in the case of appeals against allowances, disallowances, and surcharges by the said poor law auditors:
- (9) Every sum certified to be due from any person by an auditor under this Act shall be paid by such person to the treasurer of such authority within fourteen days after the same has been so certified, unless there is an appeal against the decision: and if such sum is not so paid, and there is no such appeal, the auditor shall recover the same from the person against whom the same has been certified to be due by the like process and with the like powers

as in the case of sums certified on the audit of the poor rate accounts, and shall be paid by such authority all such costs and expenses, including a reasonable compensation for loss of time incurred by him in such proceedings, as are not recovered by him from such person :

- (10) Within fourteen days after the completion of the audit, the auditor shall report on the accounts audited and examined, and shall deliver such report to the clerk of such authority, who shall cause the same to be deposited in their office, and shall publish an abstract of such accounts in some one or more of the local newspapers circulated in the district.

Where the provisions as to audit of any local Act constituting a board of improvement commissioners are repugnant to or inconsistent with those of this Act, the audit of the accounts of such improvement commissioners shall be conducted in all respects in accordance with the provisions of this Act.

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Auditor to
audit
accounts of
officers.

250. The accounts under this Act of officers or assistants of any local authority who are required to receive moneys or goods on behalf of such authority shall be audited by the auditors or auditor of the accounts of such authority, with the same powers, incidents, and consequences as in the case of such last-mentioned accounts.

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Local
Govern-
ment Board
may invest
rural
authority
with power
of urban
authority.

276. The Local Government Board may, on the application of the authority of any rural district, or of persons rated to the relief of the poor, the assessment of whose hereditaments amounts at the least to one tenth of the net rateable value of such district, or of any contributory place therein, by order to be published in the *London Gazette* or in such other manner as the Local Government Board may direct, declare any provisions of this Act in force in urban districts to be in force in such rural district or contributory place, and may invest such authority with all or any of the powers, rights, duties, capacities, liabilities, and obligations of an urban authority under this Act, and such investment may be made either unconditionally or subject to any conditions to be specified by the Board as to the time, portion of the district, or manner during at and in which such powers, rights, duties, liabilities, capacities, and obligations are to be exercised and attach :

Provided that an order of the Local Government Board made on the application of one tenth of the persons rated to the relief of the poor in any contributory place shall not invest the rural authority with any new powers beyond the limits of such contributory place.

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PART IX.

LOCAL GOVERNMENT BOARD.

Inquiries by Board.

293. The Local Government Board may from time to time cause to be made such inquiries as are directed by this Act, and such inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction, approval or consent is required by this Act.

Power of Board to direct inquiries.

294. The Local Government Board may make orders as to the costs of inquiries or proceedings instituted by, or of appeals to the said Board under this Act, and as to the parties by whom or the rates out of which such costs shall be borne; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein.

Orders as to costs of inquiries.

295. All orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as that Board may direct.

Orders of Board under this Act.

296. Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have, in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts.

Powers of inspector of Local Government Board.

Provisional Orders by Board.

297. With respect to provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made:—

As to provisional orders made by Local Government Board.

- (1) The Local Government Board shall not make any provisional order under this Act unless public

notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates :

- (2) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections.

* * * * *

Power of Board to enforce Performance of Duty by defaulting Local Authority.

Proceedings on complaint to Board of default of local authority.

299. Where complaint is made to the Local Government Board that a local authority has made default in providing their district with sufficient sewers, or in the maintenance of existing sewers, or in providing their district with a supply of water, in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or that a local authority has made default in enforcing any provisions of this Act which it is their duty to enforce, the Local Government Board, if satisfied, after due inquiry, that the authority has been guilty of the alleged default, shall make an order limiting a time for the performance of their duty in the matter of such complaint. If such duty is not performed by the time limited in the order, such order may be enforced by writ of Mandamus, or the Local Government Board may appoint some person to perform such duty, and shall by order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the costs of the proceedings, shall be paid by the authority in default; and any order made for the payment of such expenses and costs may be removed into the Court of Queen's Bench, and be enforced in the same manner as if the same were an order of such Court.

Any person appointed under this section to perform the duty of a defaulting local authority shall, in the performance and for the purposes of such duty, be invested with all the powers of such authority other than (save as hereinafter provided) the powers of levying rates: and the Local Government Board may from time to time by order change any person so appointed.

300. Any sum specified in an order of the Local Government Board for payment of the expenses of performing the duty of a defaulting local authority, together with the costs of the proceedings, shall be deemed to be expenses properly incurred by such authority, and to be a debt due from such authority, and payable out of any moneys in the hands of such authority or of their officers, or out of any rate applicable to the payment of any expenses properly incurred by such authority, which rate is in this part of this Act referred to as "the local rate." If the defaulting authority refuses to pay any such sum, with costs, as aforesaid, for a period of fourteen days after demand, the Local Government Board may by order empower any person to levy, by and out of the local rate, such sum (the amount to be specified in the order) as may, in the opinion of the Local Government Board, be sufficient to defray the debt so due from the defaulting authority, and all expenses incurred in consequence of the nonpayment of such debt.

Further provision for recovery of expenses.

Any person or persons so empowered shall have the same powers of levying the local rate, and requiring all officers of the defaulting authority to pay over any moneys in their hands, as the defaulting authority would have in the case of expenses legally payable out of a local rate to be raised by such authority; and the said person or persons, after repaying all sums of money so due in respect of the order, shall pay the surplus, if any (the amount to be ascertained by the Local Government Board), to or to the order of the defaulting authority.

301. The Local Government Board may from time to time certify the amount of expenses that have been incurred, or an estimate of the expenses about to be incurred, by any person appointed by the said Board under this Act to perform the duty of a defaulting local authority; also, the amount of any loan required to be raised for the purpose of defraying any expenses that have been so incurred, or are estimated as about to be incurred; and the certificate of the

Power of Board to borrow to defray expenses of performing duty of defaulting authority.

said Board shall be conclusive as to all matters to which it relates.

Whenever the Local Government Board so certifies a loan to be required, the Public Works Loan Commissioners may advance to the Local Government Board, or to any person appointed as aforesaid, the amount of the loan so certified to be required on the security of the local rate, without requiring any other security; and the Local Government Board, or the person so appointed, may, by any instrument duly executed, charge the local rate with the repayment of the principal and interest due in respect of such loan, and every such charge shall have the same effect as if the defaulting local authority were empowered to raise such loan on the security of the local rate, and had duly executed an instrument charging the same on the local rate.

Recovery of
principal
and
interest.

302. Any principal money or interest for the time being due in respect of any loan under this Act made for payment of the expenses incurred or to be incurred in the performance of the duty of a defaulting local authority shall be taken to be a debt due from such authority, and, in addition to any other remedies, may be recovered in the manner in which a debt due from a defaulting authority may be recovered in pursuance of the provisions of this part of this Act.

The surplus (if any) of any such loan, after payment of the expenses aforesaid, shall, on the amount thereof being certified by the Local Government Board, be paid to or to the order of the defaulting authority.

“Expenses,” for the purposes of the provisions of this part of this Act relating to defaulting local authorities, shall include all sums payable under those provisions by or by the order of the Local Government Board, or the person appointed by that Board.

SCHEDULE I.

RULES AS TO MEETINGS AND PROCEEDINGS.

(1) *Rules Applicable to Local Boards.*

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

2. No business shall be transacted at any such meeting unless at least one third of the full number of members be present thereat, subject to this qualification, that in no case shall a larger quorum than seven members be required.

3. Every local board shall from time to time at their annual meeting appoint one of their number to be chairman for one year at all meetings at which he is present.

4. If the chairman so appointed dies, resigns, or becomes incapable of acting, another member shall be appointed to be chairman for the period during which the person so dying, resigning, or becoming incapable would have been entitled to continue in office, and no longer.

5. If the chairman is absent from any meeting at the time appointed for holding the same, the members present shall appoint one of their number to act as chairman thereat.

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

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

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

9. The proceedings of a local board shall not be invalidated by any vacancy or vacancies among their members, or by any defect in the election of such board, or in the election or selection or qualification of any members thereof.

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

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

12. The first meeting of a local board for a district constituted after the passing of this Act shall be held at such place and on such day (not being more than ten days after the completion of the election) as the returning officer may by written notice to each member of the board appoint; and the members

shall appoint one of their number to be chairman at such meeting, and shall also appoint one of their number to be chairman for one year at all meetings at which he is present.

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

(2) *Rules Applicable to Committees of Local Authorities, other than Councils of Boroughs, and to Joint Boards.*

1. A joint board may meet and adjourn as it thinks proper.
2. The joint board shall consist of such number of members as may be prescribed by the authority that appointed the joint board, or, if no number is prescribed, of three members.
3. A joint board may appoint a chairman of its meetings.
4. If no chairman is elected, or if the chairman elected is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be chairman of such meeting.
5. Every question at a meeting shall be determined by a majority of votes of the members present and voting on that question.
6. In case of an equal division of votes the chairman shall have a second or casting vote.
7. The proceedings of a joint board shall not be invalidated by reason of any vacancy or vacancies amongst their members, or any defect in the mode of appointment of such joint board or of any member thereof.
8. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, purporting to be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

ALLOTMENTS ACT, 1887.

(50 & 51 VICTORIA, CHAPTER 48.)

An Act to facilitate the provision of Allotments for the Labouring Classes. [16th September, 1887.]

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

1. This Act may be cited as the Allotments Act, 1887. Short title.

2. (1) On a representation in writing to the sanitary authority of any urban or rural district by any six registered parliamentary electors or ratepayers resident, in the case of an urban district, in that district, and, in the case of a rural district, in some parish in that district, that the circumstances of the urban district or parish are such that it is the duty of the sanitary authority to take proceedings under this Act therein, the sanitary authority shall take such representation into consideration.

Duty of sanitary authority to acquire land for allotments.

If the sanitary authority of any urban or rural district are of opinion, either after inquiry made in consequence of such representation or otherwise, that there is a demand for allotments for the labouring population in such urban district, or in any parish in such rural district, and that such allotments cannot be obtained at a reasonable rent and on reasonable conditions by voluntary arrangement between the owners of land suitable for such allotments and the applicants for the same, the sanitary authority, subject to the provisions of this Act, shall by purchase or hire acquire any suitable land which may be available, whether within or without their district or the said parish, adequate to provide a sufficient number of allotments, and shall let such land in allotments to persons belonging to the labouring

population resident in the said district or parish and desiring to take the same.

(2) A sanitary authority shall not under this Act acquire land for allotments save at such price or rent that in the opinion of the sanitary authority all expenses, except such expenses as are incurred in making roads to be used by the public, incurred by the sanitary authority in acquiring the land and otherwise in relation to the allotments, may reasonably be expected to be recouped out of the rents obtained in respect thereof.

For the purpose of this section, the expression "reasonable rent" means the rent, exclusive of rates, taxes, and tithe rentcharge, which a person taking an allotment might reasonably be expected to pay, taking one year with another, to a landlord, having regard to the value of similar land in the neighbourhood, to the extent and situation of the allotment, to the expenses of adapting the land to the purposes of the allotment, and to the repairs and other outgoings payable by the landlord, and to the cost and risk of collecting the rents of, and otherwise managing allotments.

Acquisition
of land for
purpose of
Act.

38 & 39 Vict.
c. 55.
8 & 9 Vict.
c. 18.

3. (1) For the purposes of the purchase of land by agreement by a sanitary authority for allotments, section one hundred and seventy-eight of the Public Health Act, 1875, and the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, shall be incorporated with this Act, except the provisions with respect to the purchase and taking of land otherwise than by agreement, and with respect to the provision to be made for affording access to the special Act.

(2) If a sanitary authority are unable by hiring or purchase by agreement to acquire suitable land sufficient for allotments under this Act for any district or parish at a reasonable price or rent and subject to reasonable conditions, such authority may petition the county authority of the county in which the district or parish is situate, and the county authority (after such inquiry and procedure as provided in the sections hereinafter incorporated in this Act) may make a provisional order authorising the sanitary authority to put in force, as respects the land mentioned in the order, the provisions of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same with respect to the purchase and taking of land otherwise than by agreement.

(3) The Local Government Board, on the application of

any county authority, shall introduce into Parliament a Bill confirming provisional orders made under this Act by such county authority, and the sanitary authority petitioning for the order shall be considered as the promoters of such order.

(4) For the purpose of the purchase of land under this section otherwise than by agreement, sections one hundred and seventy-six, two hundred and ninety-six, and two hundred and ninety-seven of the Public Health Act, 1875, shall, so far as consistent with the tenour of this Act, be incorporated with this Act, and apply as if they were herein re-enacted, with the substitution of "the county authority" for "the Local Government Board," and of "any officer of the county authority appointed for the purpose of an inquiry" for "inspectors of the Local Government Board."

Provided that—

- (a) Any question of disputed compensation shall be referred to the arbitration of a single arbitrator appointed by the parties, or if the parties do not concur in the appointment of a single arbitrator, then, on the application of either of them, by the Local Government Board, and the remuneration to be paid to the arbitrator appointed by the Local Government Board shall be fixed by that Board:
- (b) If an arbitrator appointed for the purposes of this Act dies or becomes incapable to act before he has made his award, or fails to make his award within two months after he is appointed, his appointment shall determine, and the determination of the compensation shall be referred to another arbitrator appointed in like manner as if no arbitrator had been previously appointed: Provided always that the same arbitrator may be re-appointed:
- (c) An arbitrator appointed under this section shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration shall apply accordingly; and, further, the arbitrator, notwithstanding anything in the said Acts, shall determine the amount of the costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

(5) In construing for the purposes of this section any section or Acts incorporated with this section, this Act, together with any Act confirming a provisional order under this section, shall be deemed to be the special Act, and the sanitary authority shall be deemed to be the local authority or the promoters of the undertaking, as the case requires, and the word "land" shall have the same meaning as in this Act.

(6) Where land is purchased by a sanitary authority under this Act otherwise than by agreement, the following provisions shall apply:

(a) The county authority shall not make a provisional order for purchasing any park, garden, pleasure-ground, or other land required for the amenity or convenience of any dwelling-house, or any land the property of a railway or canal company which is or may be required for the purposes of their undertaking:

(b) The county authority shall, in making a provisional order for purchasing land, have regard to the extent of land held in the neighbourhood by any owner and to the convenience of other property belonging to the same owner, and shall so far as is practicable avoid taking an undue or inconvenient quantity of land from any one owner.

(7) For the purpose of the hiring of land by a sanitary authority for allotments, any person or body of persons or body corporate authorised to sell land to the sanitary authority for the purposes of this Act may, without prejudice to any other power of leasing, lease land to the sanitary authority, without any fine or premium, for a term not exceeding thirty-five years.

(8) The county authority shall not make a provisional order for purchasing any right to coal or metalliferous ore.

Costs to be awarded in certain cases.

4. Where any Bill for confirming a provisional order made under this Act is referred to a committee of either House of Parliament upon the petition of any person opposing such Bill the committee shall take into consideration the circumstance under which such opposition is made to the Bill, and whether such opposition was or was not justified by the circumstances, and shall award costs accordingly to be paid by the promoters or the opponents of the Bill, as the committee may think just.

Any costs under this section may be taxed and recovered in the manner in which costs may be taxed and recovered under the twenty-eighth and twenty-ninth Victoria, chapter twenty-seven.

28 & 29 Vict.
c. 27.

The decision of the majority of the members of the committee for the time being present and voting on any question under this section shall be deemed to be the decision of the committee.

5. The sanitary authority may improve any land acquired by them under this Act, and adapt the same for letting in allotments, by draining, fencing, and dividing the same, acquiring approaches, making roads, and otherwise, as they think fit, and may from time to time do such things as may be necessary for maintaining such drains, fences, approaches, and roads, or otherwise for maintaining the allotments in a proper condition.

Improve-
ment and
adaptation
of land for
allotments.

6. (1) Subject to the provisions of this Act, the sanitary authority may from time to time make, revoke, and vary such regulations as appear to be necessary or proper for regulating the letting of allotments under this Act, and for preventing any undue preference in the letting thereof, and generally for carrying the provisions of this Act into effect; and such regulations may define the persons eligible to be tenants of such allotments, and the notices to be given for the letting thereof, and the size of the allotments, and the conditions under which they are to be cultivated, and the rent to be paid for them. Provided that all such regulations shall make provision for reasonable notice to be given to a tenant of any allotment of the determination of his tenancy. Provided also, that all regulations made under this section shall not be of any force unless and until they have been confirmed by the Local Government Board, in like manner and subject to the like provisions as in the case of byelaws under the Public Health Act, 1875.

Manage-
ment of
allotments.

(2) All regulations for the time being in force under this section shall be binding on all persons whatsoever; and the sanitary authority shall cause them to be from time to time made known, in such manner as the sanitary authority think fit, to all persons interested, and shall cause a copy thereof to be given gratis to any inhabitant of the district or parish demanding the same.

38 & 39 Vict.
c. 55.

(3) Subject to the provisions of this Act the sanitary authority may from time to time appoint, and when

appointed, remove allotment managers of land acquired under this Act for allotments, and such allotment managers shall consist either partly of members of such authority and partly of other persons, or wholly of other persons, so that in either case such other persons be persons residing in the locality and contributing to the rate out of which the expenses under this Act are paid.

(4) The proceedings and powers of allotment managers shall be such as, subject to the provisions of this Act, may be prescribed from time to time by the sanitary authority; the allotment managers may be empowered by the sanitary authority to do anything in relation to the management of such allotments which the sanitary authority are authorised to do, and to incur expenses to such amount as the sanitary authority prescribe, and any expenses properly so incurred shall be deemed to be expenses of the sanitary authority under this Act.

Provisions
as to letting
and use of
allotments.

7. (1) The rents of the allotments shall be fixed at an amount not less than such as may reasonably be expected to ensure the sanitary authority from loss; but in calculating such loss any expenses incurred in an unsuccessful attempt to acquire land for allotments shall be excluded, and, subject as aforesaid, such rents may be from time to time charged as are reasonable, having regard to the agricultural value of the land, and not more than a quarter's rent shall be required to be paid in advance in any case where it is deemed necessary by the sanitary authority to require the payment of rent in advance.

(2) The sanitary authority shall, for the purposes of all rates, taxes, and tithe rentcharge, be deemed to be the occupiers of the allotments which are let, but they shall cause the sums from time to time paid by way of rates, taxes, and tithe rentcharge in respect of the allotments to be apportioned among them, and cause the sum so apportioned in respect of each allotment to be certified to the tenant thereof, and such sum shall be added to the rent otherwise payable by the said tenant in respect of such allotment, and shall be deemed to be part of such rent, and be recoverable accordingly: Provided always, that for the purposes of the parliamentary franchise, and the municipal and all other local franchises, the tenants shall be deemed to be the occupiers, and such rates to have been paid by them, notwithstanding the provisions hereinbefore contained.

(3) One person shall not hold any allotment or allotments

acquired under this Act exceeding one acre, and an allotment shall not be sub-let.

(4) Provided that if at any time any allotment cannot be let in accordance with the provisions of this Act and the regulations, the same may be let to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the sanitary authority to resume possession thereof within a period not exceeding twelve months if it should at any time be required to be let under the provisions aforesaid.

(5) No building other than a toolhouse, shed, greenhouse, fowlhouse, or pigstye shall be erected on any part of any allotment, and if any building other than as aforesaid is so erected the sanitary authority shall forthwith pull down such building and sell and dispose of the materials thereof, and the proceeds of the sale shall be applicable in like manner as the rent of the allotment. If any building so allowed to be erected is erected upon an allotment, then at the end of the tenancy neither the sanitary authority nor the incoming tenant shall be bound to take any such building or pay any compensation therefor, but the outgoing tenant shall be at liberty, before the expiration of his tenancy, to remove the same, and if he fails so to do, the sanitary authority may pull down the building and dispose of the materials, and apply the proceeds in like manner as if it were a building prohibited to be erected.

(6) A tenant of an allotment may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him, for which he has no claim for compensation.

8. (1) The rent for an allotment let in pursuance of this Act, and the possession of such allotment in the case of any notice to quit, or failure to deliver up possession of the same as required by law, may be recovered by the sanitary authority as landlords, in the like manner as in any other case of landlord and tenant.

Recovery of rent and possession of allotments.

(2) If the rent for any allotment is in arrear for not less than forty days, or if it appears to the sanitary authority that the tenant of an allotment not less than three months after the commencement of the tenancy thereof has not duly observed the regulations affecting such allotment made by or in pursuance of this Act, or is resident more than one mile out of the district or parish for which the allotments are provided, the sanitary authority may serve upon the tenant, or if he is residing out of the district or parish,

leave at his last known place of abode in the district or parish, or fix in some conspicuous manner on the allotment, a written notice determining the tenancy at the expiration of one month after the notice has been so served or affixed, and thereupon such tenancy shall be determined accordingly: Provided that in every such case the sanitary authority in default of agreement between the incoming and outgoing tenant shall on demand pay to the tenant whose tenancy is so determined any compensation due to him as an outgoing tenant; and such compensation shall be assessed by an arbitrator appointed by the sanitary authority, or, if the tenant so elect, either by an arbitrator appointed under the Allotments and Cottage Gardens Compensation for Crops Act, 1887, or by a reference under the Agricultural Holdings (England) Act, 1883.

50 & 51 Vict.
c. 26,
46 & 47 Vict.
c. 61.

(3) Upon the recovery of an allotment from any tenant, the court or justice directing the recovery may stay delivery of possession until payment of the compensation, if any, due to the outgoing tenant has been made or secured to the satisfaction of the court or justice.

Election of
allotment
managers.

9. (1) Where allotments have been provided under this Act for a parish in any rural district, a petition to the sanitary authority may be presented by a number of the electors of allotment managers in such parish, not being less than one sixth of the whole number of such electors, praying for the election of allotment managers in such parish, and thereupon the sanitary authority shall order such election, and the allotment managers so elected shall be the allotment managers of the allotments in such parish in lieu of allotment managers appointed by the sanitary authority, who, on an election under this Act, shall cease to hold office.

(2) The first election shall be held on such day as may, subject to the regulations hereafter mentioned, be fixed by the said authority.

(3) The number of allotment managers in each case shall be such (not being less than three nor more than five) as the sanitary authority may fix, and the quorum shall be three, or, if the number of managers is less than five, be two.

(4) The allotment managers shall retire triennially on such day as may be prescribed by the regulations hereinafter mentioned, and the allotment managers first elected shall retire on the day for retirement which occurs next after the expiration of three years after the day fixed for their election.

(5) Any casual vacancy among the allotment managers

which occurs by death, resignation, disqualification, or otherwise may, if there remains a quorum of allotment managers, be filled up by such managers, but the person elected to fill the vacancy shall hold office only for the same time as the vacating manager would have done.

(6) If at any time by reason of a failure of election, either by electors or allotment managers, or of any other cause, there is no allotment manager, or no quorum of allotment managers in any parish, the sanitary authority shall appoint allotment managers under this Act in that parish, and shall continue to appoint the same until another petition for the election of allotment managers is presented under this section.

(7) The electors of allotment managers shall be the parliamentary electors in the parish, that is to say, the persons registered in any list of parliamentary electors for the parish as entitled to vote at an election of a member to serve in Parliament, and an elector shall not give more than one vote for any candidate, nor vote for more candidates than the number to be elected.

(8) The election of allotment managers shall be held at such time, and in such manner, and in accordance with such regulations as the Local Government Board may from time to time by order prescribe; and the Local Government Board may make regulations respecting the duties of the returning officer, and the expenses of the election, and may do and make regulations respecting all such things as appear to them necessary or proper for carrying into effect this section, whether preliminary or incidental to such election, and for applying to such election any enactments respecting offences at the election of guardians, and may revoke or alter any previous order under this section: Provided as follows:—

(a) Such guardian or overseer of the parish, or other person as the sanitary authority may appoint, shall be the returning officer;

(b) A poll, if demanded, shall be taken by ballot, and the said regulations shall provide for the application to such poll of The Ballot Act, 1872, including the provisions for punishing offences;

35 & 36 Vict.
c. 33.

(c) The poll shall be held on one day only, and shall close at eight o'clock in the evening, and shall be open for at least the period from five to eight o'clock in the evening;

- (d) The returning officer shall not vote except in the case of an equality of votes between any candidates, in which case he shall have a casting vote;
- (e) Any ballot boxes, instruments, fittings, and compartments provided by any public authority for parliamentary, municipal, or school board elections, or belonging to any public authority for the purpose of elections, shall be lent to the returning officer on his request for the purpose of an election of allotment managers, under such conditions and either free of charge or for such reasonable charge as may be prescribed by regulations under this section;
- (f) The returning officer may, except during ordinary school hours, use free of charge for the purpose of an election under this section any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any rate in the parish, but he shall make good any damage done to the room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the room, on account of its being so used.

(9) An election under this section shall not be questioned except in such matter as may be prescribed by regulations under this section, and the regulations may apply to such election any enactments respecting the questioning of an election of guardians.

(10) If an allotment manager is punished with imprisonment for any crime, or is adjudged a bankrupt, or enters into a composition or arrangement with his creditors, or ceases to reside in, or in the neighbourhood of, the parish, or absents himself for twelve months from all meetings of the allotment managers, except for temporary illness or other cause, to be approved by such managers, or is a tenant of any allotment under the management of the managers, he shall cease to be an allotment manager, and his office shall be vacant, and a person who, if elected, would by virtue of this enactment cease, otherwise than by reason of absence from meetings, to be a manager, shall not be qualified to be elected a manager, but, save as aforesaid, any retiring manager shall be eligible for re-election.

10. (1) All expenses incurred by a sanitary authority under this Act, including allowances to officers of such authority for duties under this Act, shall be defrayed—

Expenses
and
receipts.

(a) in the case of an urban sanitary authority as part of the general expenses of their execution of the Public Health Act, 1875; and

38 & 39 Vict.
c. 55.

(b) in the case of a rural sanitary authority as special expenses incurred in the execution of the Public Health Act, 1875, and such expenses shall be charged to the parish on account of which the land was acquired.

(2) Section two hundred and ninety-eight of the Public Health Act, 1875, with respect to costs of Provisional Orders, shall apply to costs incurred by a sanitary authority in relation to Provisional Orders under this Act.

(3) All sums received by a sanitary authority in respect of any land acquired under this Act, otherwise than from any sale or exchange, shall be applied in aid of the expenses incurred by them in respect of such land, and so far as they are not required for the payment of those expenses, shall be applied in aid of the general and special expenses above in this section mentioned, and in the case of a rural sanitary authority shall be credited to the parish on account of which the land was acquired.

(4) The sanitary authority may borrow for the purposes of acquiring, improving, and adapting land under this Act in like manner and subject to the like conditions as for the purpose of defraying the above-mentioned general and special expenses; and all sums payable by the sanitary authority in respect of principal or of interest on any money so borrowed shall be defrayed in manner provided by this section respecting expenses incurred under this Act in respect of such land.

(5) Sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine both inclusive, of the Public Health Act, 1875, relating to borrowing by a local authority, and sections two hundred and forty-two and two hundred and forty-three of the same Act, relating to loans by the Public Works Loan Commissioners to a local authority, shall apply to a loan for the purposes of this Act to a sanitary authority in like manner as if they were herein re-enacted and in terms made applicable thereto.

(6) Separate accounts shall be kept of the receipts and expenditure under this Act of the sanitary authority and

their officers and of allotment managers and other persons acting under this Act, and such accounts shall be audited in like manner, and with the like incidents and consequences as the accounts of the other receipts and expenditure of the sanitary authority and their officers under the Public Health Act, 1875, and in the case of allotment managers and other persons as the accounts of officers of the sanitary authority.

38 & 39 Vict.
c. 55.

Sale of
superfluous
or unsuit-
able land.

11. (1) Where the sanitary authority are of opinion that any land acquired by them in pursuance of this Act or any part thereof is no longer needed for the purpose of allotments, or that any other land more suitable for such purpose is available, they may, with the sanction of the county authority, sell or let such land or part, or exchange the same for other land more suitable for the said purpose, and may pay or receive money for equality of exchange.

(2) The proceeds of a sale under this section and any money received by the sanitary authority on any such exchange as aforesaid by way of equality of exchange shall be applied in discharging, either by way of a sinking fund or otherwise, the debts and liabilities of the sanitary authority in respect of the land acquired under this Act, or in acquiring, adapting, and improving other land for allotments under this Act, and any surplus remaining may be applied for any purpose for which capital money may be applied, and which is approved by the Local Government Board; and the interest thereon (if any) and any money received from the letting of the land may be applied in acquiring other land for allotments, or shall be applied in like manner as receipts from allotments under this Act are applicable: Provided that any such proceeds, surplus, interest, and money shall, in the case of a rural sanitary district, be credited to or applied for the benefit of the parish for which the land was purchased.

(3) Sections one hundred and twenty-eight to one hundred and thirty-two (both inclusive) of the Lands Clauses Consolidation Act, 1845 (relating to the right of pre-emption of superfluous lands), shall apply upon any sale by a sanitary authority in pursuance of this section of any land, whether because it is no longer needed for the purpose of allotments, or because other land more suitable for the purpose is available, but save as aforesaid, the provisions of the Lands Clauses Consolidation Act, 1845, with respect to the sale of superfluous lands shall not be deemed to be incorporated in this Act, or in any Provisional Order made under this Act.

12. Where it appears to any sanitary authority that, as regards their district, if urban, or any parish in their district, if rural, land can be acquired for affording common pasture at such price or rent that all expenses incurred by the sanitary authority in acquiring the land and otherwise in relation to the land when acquired may reasonably be expected to be recouped out of the charges paid in respect thereof, and that the acquisition of such land is desirable in view of the wants and circumstances of the labouring population, such sanitary authority may submit to the county authority for the county in which the district or parish is wholly or partly situate a scheme for providing such common pasture, and the county authority, if satisfied of the expediency of such scheme, may by order authorise the sanitary authority to carry it into effect, and upon such order being made this Act shall, with the necessary modifications, apply in like manner as if "allotments" in this Act included common pasture, and "rent" included a charge for turning out an animal.

Power to make scheme for provision of common pasture.

Provided that the regulations made under this Act may extend to regulating the turning out of animals on the common pasture, to defining the persons entitled to turn them out, the number to be turned out, and the conditions under which animals may be turned out, and fixing the charges to be made for each animal, and otherwise to regulating the common pasture.

13. (1) The allotment wardens under the Inclosure Act, 1845, and the Acts amending the same, having the management of any land appropriated under the said Acts either before or after the passing of this Act for allotments or field gardens for the labouring poor of any place, may by agreement with any sanitary authority within whose district such place is wholly or partly situate, transfer the management of such land to the sanitary authority, upon such terms and conditions as may be agreed upon with the sanction, as regards the said allotment wardens, of the Land Commissioners for England, and thereupon such land shall vest in the sanitary authority.

Power for allotment wardens or allotment trustees to transfer to sanitary authority. s. 8 & 9 Viet. c. 119.

(2) All trustees within the meaning of the Allotments Extension Act, 1882, required or authorised by that or any other Act to let lands in allotments to cottagers, labourers, journeymen, or others in any place may, if they think fit, in lieu of letting such land in manner provided by the said Acts, sell or let such land to the sanitary authority of the district in which such place is wholly or partly situate, upon

45 & 46 Viet. c. 89.

such terms as may be agreed upon, with the sanction, as regards the said trustees, of the Charity Commissioners for England and Wales.

(3) The provisions of this Act shall apply to land vested in the sanitary authority under this section, in like manner as if it had been acquired by the sanitary authority under the general powers of this Act.

As to combination of parishes and contributory places.

14. (1) If expenses under this Act are incurred in respect of two or more parishes, such expenses shall be apportioned among those parishes in like manner and subject to the like provisions as special expenses incurred for the common benefit of two or more contributory places under the Public Health Act, 1875, may be apportioned.

(2) Where in a rural district any area other than a parish is a contributory place for the purposes of the Public Health Act, 1875, this Act shall apply to such contributory place as if it were a parish, and the expression "parish" in this Act shall not include any parish wholly or partly within such contributory place, and the parliamentary electors for the contributory place shall be the persons registered in any list of parliamentary electors for any parish wholly in such contributory place, or for any parish partly therein, if registered in respect of any qualification situate in such contributory place.

(3) Where a district or parish forms part of more than one county, it shall be deemed for the purposes of this Act to be situate wholly in that county which comprised, according to the last published census for the time being, the largest portion of the population of such district or parish, and where such population is not specified in such census, then in the county in which the largest part of the area of such district or parish is situate, and any doubt which may arise under this section as to the county shall be determined by the Local Government Board.

Two or more parishes immediately adjoining each other may make a representation under this Act, and a sanitary authority of a rural district may take proceedings in respect of such parishes as if they were a single parish.

Register of tenancies.

15. The sanitary authority shall cause a register to be kept, showing the particulars of the tenancy, acreage, and rent of every allotment let, and of the unlet allotments, and such register shall be open to the examination of ratepayers in the urban district or the parish for which the allotments

have been provided, in such manner as may be prescribed by the regulations made under this Act by the sanitary authority, and any ratepayer of such district or parish, without paying any fee, may take copies of or extracts from such register, and within one month after the twenty-fifth day of March in every year shall cause an annual statement showing their receipts and expenditure under this Act in respect of the year ending on that day, and their liabilities outstanding on that day, to be deposited at some convenient place in the district, if urban, or the parish to which the statement relates if the district is rural, and any ratepayer may without fee inspect and take copies of such statement.

16. For the purposes of this Act "county authority" shall be any representative body elected by the inhabitants of the county which may be established under any Act of any future session of Parliament, and until such representative body is established the powers and duties of the county authority under this Act shall be exercised and performed by the Local Government Board, and the provisions of this Act and of the enactments incorporated with this Act shall accordingly be construed with the necessary modification. Definition of county authority.

17. In this Act, unless the context otherwise requires— Definitions.
The expression "allotment" includes a field garden.

The expression "urban district" and "rural district" mean respectively an urban and rural sanitary district within the meaning of The Public Health Act, 1875.

The expressions "sanitary authority" means the urban sanitary authority of an urban sanitary district and the rural sanitary authority of a rural sanitary district within the meaning of the Public Health Act, 1875.

The expression "land" includes pasture, arable, and other land, and any right of way or easement.

18. This Act shall not apply to Scotland or Ireland. Extent of Act.

ALLOTMENTS ACT, 1890.

(53 & 54 VICTORIA, CHAPTER 65.)

An Act to provide for an Appeal from a Sanitary Authority failing to carry into effect the Allotments Act, 1887. [18th August, 1890.]

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

Construc-
tion and
short title.
50 & 51 Vict.
c. 48.

1. This Act shall be construed as one with the Allotments Act, 1887 (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the Allotments Acts, 1887 and 1890, and this Act may be cited as the Allotments Act, 1890.

Appeal to
county
council by
persons
entitled to
make repre-
sentation
to sanitary
authority.
45 & 46 Vict.
c. 50.

2. (1) Where such representation as is authorised by section two of the principal Act has been made to the sanitary authority with respect to any district or parish, not being within the limits of a borough as defined by the Municipal Corporations Act, 1882, and any six persons qualified to make such representation consider that the circumstances of the district or parish are such as to make it the duty of the sanitary authority to take proceedings under that Act therein, and that the sanitary authority have failed to acquire land adequate and suitable in quality and position to provide a sufficient number of allotments, such persons may petition the county council of the county in which such district or parish is situate, stating the facts and requesting the council to put into force the principal Act for the purpose of providing a sufficient number of allotments for the district or parish.

(2) The council, if satisfied by the inquiry hereinafter mentioned that the circumstances are such that land for allotments should be acquired, shall pass a resolution to that effect, and thereupon the powers and duties of the sanitary authority under the principal Act, so far as regards that

district or parish, shall be transferred from the sanitary authority to the county council, and the county council, in substitution for the sanitary authority, shall proceed to acquire land in accordance with the principal Act, and otherwise execute that Act in the said district or parish.

Provided that this section shall not affect the property in, or any powers or duties of the sanitary authority in relation to, any land which before the passing of the said resolution was acquired by the sanitary authority under the principal Act.

3. (1) For the purposes of this Act or the principal Act every county council, as soon as is conveniently practicable after the passing of this Act, and annually thereafter, at the meeting for the election of chairman, shall appoint under the Local Government Act, 1888, a standing committee not exceeding one fourth of their whole body.

Standing committee.

51 & 52 Vict. c. 41.

(2) For the purpose of any business under this Act relating to any district or parish wholly or partly situate in an electoral division, the county councillor representing that division shall, if not already appointed, be an additional member of the committee.

(3) Any petition under this Act shall as of course, and without any order of the council, be referred to the standing committee, who, on being satisfied of the bona fides of the application, shall forthwith cause a local inquiry into the circumstances to be made, and shall report the result to the council.

(4) An inquiry under this Act or the principal Act shall be held by such one or more members of the standing committee, or such officer of the county council or other person as the standing committee may appoint to hold the same.

4. Where the powers of the sanitary authority under the principal Act are, by virtue of this Act, transferred to the county council, the following provisions shall have effect:—

Supplemental provisions on council acquiring powers of sanitary authority.

- (a) The principal Act shall apply with the modifications necessary for giving effect to this Act:
- (b) The county council may borrow for the purposes of this Act subject to the conditions, in the manner, and on the security of the rate, subject to, in, and on the security of which the sanitary authority might have borrowed under the principal Act, if this Act had not been passed. The council shall

have power to charge the said rate with the repayment of the principal and interest of the loan; and such loan with the interest thereon shall be repaid by the sanitary authority in like manner, and such charge shall have the like effect, as if the loan were lawfully raised and charged on that rate by the sanitary authority:

- (c) The county council shall keep separate accounts of all receipts and expenditure under this Act, and, in the application of sub-section six of section ten of the principal Act, the Local Government Act, 1888, shall be substituted for the Public Health Act, 1875:
- (d) The county council may make a provisional order for the purchase of land on the recommendation of the standing committee, without any petition from the sanitary authority, and the council shall be considered as the promoters of the order:
- (e) The county council may delegate to the sanitary authority any powers under section six, section seven, or section eight of the principal Act (which sections relate to the management of the allotments, and the letting and use thereof, and the recovery of the rent and of possession thereof); and, subject to the terms of the delegation, all expenses and receipts arising in the exercise of the powers so delegated shall be paid and dealt with as expenses and receipts of the sanitary authority under the principal Act:
- (f) The county council, on the request of the sanitary authority, may, by order under their seal, transfer to that authority all or any of the powers, duties, property, and liabilities vested in and imposed on the council by virtue of this Act as regards the district of such authority or any part thereof, and the property so transferred shall be deemed to have been acquired by that authority under the principal Act, and that authority shall act accordingly.

51 & 52 Vict.
c. 41.
38 & 39 Vict.
c. 55.

Use of
schoolroom
free of
charge.

5. Any room in a school receiving a grant out of moneys provided by Parliament may, except during ordinary school hours, be used free of charge for the purpose of an inquiry under this Act, or for the purposes of this Act by the county council or any committee appointed under this Act,

or, with the consent of any two managers, for the purpose of holding public meetings to discuss any question relating to allotments under this Act or the principal Act, but any damage done to the room and any expense incurred by the person or persons having control over the room on account of its being so used shall be paid by the county council or by the persons calling the meeting.

Nothing in this section shall give any right to hold a public meeting in a schoolroom (*a*) unless not less than six days before the meeting a notice of the intention to hold the meeting on the day and at the time specified in the notice, signed by the persons calling the meeting, being not less than six in number, and being persons qualified to make a representation to the local authority under the principal Act, has been given, if the school is under a school board, to the clerk of the board, and in any other case to one of the managers of the school; nor (*b*) if the use of the schoolroom on the said day and at the said time has previously to the receipt of the notice of the meeting been granted for some other purpose; but in that case the clerk or manager, or some one on his behalf, shall forthwith after the receipt of the notice, inform in writing one of the persons signing it that the use of the school has been so granted for some other purpose, and name some other day on which the schoolroom can be used for the meeting.

If the persons calling the meeting fail to obtain the use of a schoolroom under this section, they may appeal to the standing committee under this Act, and the committee shall forthwith decide the appeal and make such order respecting the use of the room as seems just.

6. (1) All expenses incurred by the county council in executing the principal Act or this Act in any district or parish on default of a sanitary authority, or incurred by the council in or incidentally to a local inquiry under this Act, shall be paid in the first instance out of the county fund as for general county purposes, and, unless defrayed out of moneys received by the council in respect of any land acquired under this Act otherwise than by sale or exchange, or out of money borrowed as before in this Act mentioned, shall, when the powers and duties of the sanitary authority under the principal Act are transferred to the county council in pursuance of this Act, be repaid to the county council as a debt by the sanitary authority. Expenses.

(2) All sums payable by a sanitary authority in pursuance of this Act shall be defrayed in like manner as

expenses under the principal Act are required to be defrayed, save that in the case of a rural authority they shall, with the exception of the principal and interest of any money borrowed, or the rent of any land hired by the county council, be charged as general expenses.

(3) All sums received by a county council in respect of any land acquired under this Act otherwise than from any sale or exchange, in so far as they are not required for the payment of expenses incurred by them in respect of such land, shall be paid to the sanitary authority, and in the case of a rural sanitary authority shall be credited to the parish on account of which the land was acquired.

MEMORANDUM as to the Powers and Duties of Rural District Councils under the Local Government Act, 1894, with respect to Rights of Way, Roadside Wastes, and Commons.

1. *Rights of Way.*

It is the duty of a District Council, whether they be the Highway Authority or not, under Section 26 (1) of the Local Government Act, 1894, to protect all public rights of way and to prevent, as far as possible, the stopping or obstruction of any such right of way, whether within their district or in an adjoining district in the county or counties in which the district is situate, where the stoppage or obstruction thereof would, in their opinion, be prejudicial to the interests of their district; and under Sub-section 3 of the same Section they may, for the purpose of carrying into effect the Section, institute or defend any legal proceedings and generally take such steps as they deem expedient.

This Section applies not merely to future obstructions or stoppages of rights of way, but to any past obstructions or stoppages which have been effected in recent times; and where there is clear evidence that the public have in past times enjoyed such rights, the District Council will be entitled to take proceedings for the purpose of recovering them, or of putting an end to the obstructions. It is not necessary, however, to point out that it will not be expedient to rake up cases which have long been allowed to pass unquestioned, for although there is no limit of time to the enforcement of public rights, there may be difficulty of proof in respect of rights which in fact have not been exercised for a length of time.

The Act by Section 26 (4) provides that where a parish council have represented to the district council that any public right of way within the district, or an adjoining district in the county or counties in which the district is situate, has been unlawfully stopped or obstructed, it shall be the duty of the district council, unless satisfied that the allegations of such representation are incorrect, to take proper proceedings accordingly.

If the district council refuse or fail to take proceedings in consequence of such representation, the parish council may petition the county council of the county within which the way is situate, who are then empowered to take such proceedings as the district council might have done. In view of this provision it will be necessary for

the district council carefully to inquire into any such case of obstruction or stoppage which is brought before them by a parish council, and to take action upon it, if it should be clear to them that the right of the public has been infringed. It may, however, be pointed out that the duties of a district council are not limited to cases where they are set in motion by a parish council, but that, in any case where it is brought to their notice from any quarter that a footpath has been obstructed or stopped, it will be their duty to take steps to vindicate the right of the public, if fully satisfied of the validity of the claim.

These observations apply equally to bridleways as to footpaths. It not infrequently happens that the right of the public to use a way for horses is questioned, while that of its use for foot passengers is admitted. In cases of bridleways it will be the duty of the district council to assert the right of the public to use the way for horses.

With respect to the proceedings to be adopted by the district council where they are clearly of opinion that a footway or bridleway has been obstructed or stopped, there appear to be three courses open to them:—

- (1) To direct the removal of the obstruction.
- (2) To indict the person who has caused the obstruction for a misdemeanour.
- (3) To proceed by way of action in the name of the Attorney-General, for which his "fiat" must be obtained in the usual way.

The last of these courses will, in many cases, be found preferable to that of indictment. As a general rule, however, where the public right appears to be quite clear, it will be better for the district council to direct their surveyor to remove the obstruction to a footpath, leaving it to the person who has placed it there, if he wishes to raise a question of law, to do so by bringing an action of trespass. This course should be adopted only after due notice to the parties concerned.

With respect to the legal diversion or stoppage of footpaths, it is to be observed that under the Local Government Act, 1894, s. 13, s.s. 1, the consent of both the parish council (or of the parish meeting where there is no parish council), and the district council is necessary before Justices in Quarter Sessions can give their sanction to such a course. The only ground on which a footpath can be wholly stopped without the substitution of another is that it is unnecessary, and this question will be for the consideration of both the parish and the district councils. Where it is proposed to divert a footpath the question for consideration will be whether the proposed footpath is more commodious for the public than the

existing footway (see Highway Act, 1835, 5 & 6 Will. IV., c. 50, ss. 84 to 92.)

The district council may refuse their consent to the stoppage or diversion of a footpath even after the parish council has given consent.

The owner of the land over which a public footpath lies has the right to maintain existing stiles or swing gates across it, provided they are of a reasonable kind, and are such that the public are not debarred from the use of the footway. But it will be the duty of the district council to see that the use by the public of a footpath is not hindered by the erection of stiles or gates which are substantially less convenient than have existed in the past.

2. *Roadside Wastes.*

Where on either side of a public road strips of land exist, open to the public, between the metalled road and the fences beyond, *primâ facie*, the public right of way extends, unless there be evidence to the contrary, over such strips or roadside wastes, and they cannot lawfully be closed by the owner of the adjoining land, or by the lord of the manor, or by any other person. Such strips may be of varying width, and the adjoining owner has no right to straighten the line of his fences by taking in any part of the roadside waste. It is not uncommonly believed that there is a right to enclose up to 15 feet from the centre of the road. This is not so: the public, unless it can be proved to the contrary, have the right to the roadside waste beyond this limit, and between the fences and the road, and moreover the district council have no power to authorise the enclosure of any portion of such roadside waste. The fact that trees or shrubs have been allowed to grow up on these roadside wastes, so as to interfere with their use by the public, does not necessarily destroy such right or justify their enclosure.

The Local Government Act, 1894, by Section 26 (1) and (3), makes it obligatory on the part of district councils to enforce the law for the protection of such roadside wastes. "It shall be the duty," the Act says, "of every district council to prevent any unlawful encroachment on any roadside waste within their district," and they may, for the purpose of performing this duty, "institute or defend any legal proceedings, and generally take such steps as they deem expedient." As in the case of footpaths, a parish council may make representation on this subject to the district council, and if the district council neglect or refuse to act the parish council may appeal to the county council, who may then, if they think fit, take action in the matter at the expense of the district council. The district council, however, are not limited in their action to cases where representation is made under the Section referred to. They

should at once take into consideration any information which they may receive that encroachments have been made on a roadside waste, from whatever source the information may come. The power of appealing to the county council conferred on the parish council may be exercised by a parish meeting where there is no parish council (Section 19, Sub-section 8).

It should be recollected that this right of the public to the maintenance of the roadside waste in rural districts does not mean that the soil of the land belongs to the public. As a general rule the ownership of the land of the roadside waste in rural districts is vested in the owner of the adjoining land, subject to the right of passage by the public. In some cases, however, it is part of the waste of a manor, and belongs to the lord of the manor subject to any manorial rights, and in some few cases the roadside waste belongs to the highway authority, where the road has been laid out under an enclosure Act or other private Act. As in the case of footpaths, the powers of the district council are not limited to future encroachments or enclosures of roadside wastes. There is no limit of time to the assertion of the right of the public to the use of roadside wastes. The district council should therefore consider all encroachments which have been made within recent times.

The legal remedies in the hands of the district council, where encroachments on roadside wastes have been made, are the same as in the case of stoppage of footpaths, and need not be reopened. In the case of all future encroachments where there is no doubt as to the public right, it will, as a general rule, be advisable to assert the right of the public by removing the obstruction, after due notice to the person who has made the encroachment, leaving it to the person claiming the right to obstruct to assert it by an action of trespass.

It will be borne in mind that as regards main roads the Local Government Act, 1888, confers on county councils the necessary powers for preventing and removing obstructions, and for asserting the right of the public to the use and enjoyment of the roadside wastes. The district council should, therefore, in the case of a main road, bring under the attention of the county council any such obstruction or interference with the public rights in respect of roadside wastes within their district which may come to their knowledge.

3. *Commons.*

The Local Government Act, 1894, contains very important provisions framed with the object of keeping open, in the interest of the public, any existing commons or open lands subject to common rights, of preventing their enclosure, and enabling district councils to propose schemes for their maintenance and regulation. These

must be considered in connection with the provisions of other Acts passed in late years.

With a view to prevent the enclosure of commons, the Law of Commons Amendment Act, 1893, 56 & 57 Vict. c. 57, has provided that no enclosure under the Statute of Merton should thenceforward be valid unless made with the consent of the Board of Agriculture, and further, that the Board should not consent to any such enclosure unless satisfied that it would be for the benefit of the neighbourhood. In combination with this it should also be noticed that the Commons Act, 1876, by Section 31, provides that any person intending to enclose a common or part of a common must publish a statement of his intention at least three months beforehand, three times in two or more of the principal local newspapers; and the Local Government Act, 1894, by Sections 8 (4) and 26 (2), requires that notice of any application to the Board of Agriculture in relation to a common shall be served upon the district council and upon the council of any parish in which any part of the common is situate.

In future, therefore, it is clear that where any lord of a manor or other person attempts to make an enclosure of a common, or any part of it, without the previous consent of the Board of Agriculture, he will commit an illegal act, and proceedings may be taken by the district council to restrain him. Where, however, he applies to the Board of Agriculture for their consent to the enclosure the parish council and the district council will have due notice, and they should at once make representations to the Board of Agriculture in any case where they are satisfied that the enclosure will not be for the public benefit.

With the view of affording means of preventing the complete extinction of all rights of common which might entitle the owner of the soil to claim that the common no longer exists as such, the Local Government Act, 1894, by Section 26, Sub-section 2, empowers a district council, with the consent of the county council, to exercise the powers conferred by Section 8 of the Commons Act of 1876 on certain urban sanitary authorities, and thus to acquire by gift or by purchase any land or houses having common rights annexed thereto. Where they have done this, the district council will be in the position in the future to claim that the land in question remains at law a common, and cannot be lawfully enclosed under the Statute of Merton, or otherwise, without the consent of the Board of Agriculture, who are bound by the Statute above referred to to refuse their consent if it be not proved to their satisfaction that the enclosure is for the benefit of the neighbourhood.

In view of these provisions, the council of any district within whose area any common land now exists will probably deem it right to consider whether they should not purchase one or more cottages or a small plot of land having a right of common annexed. Th

transaction need not be a costly one to the council, for the house or land thus purchased may be let on lease or otherwise for its full value without risk to the council of losing their *locus standi*.

It will be obvious that the proceedings under the Law of Commons Amendment Act, 1893, on the part of a local authority who have acquired an interest in a common to prevent the enclosure will be simple and inexpensive, as compared with a suit previous to that Act to prove that rights of common still exist, and that sufficiency of common has not been left as provided by the Statute of Merton.

The Local Government Act further vests in district councils important functions with respect to the regulation of commons. It often happens that, in the case of commons in populous districts or near to large towns, which are largely resorted to for recreation, it is desirable that regulations should be made for the preservation of order, for the prevention of nuisances, and for maintaining the surface and natural features of the common. In such cases a district council may, under Section 26 (2) of the Local Government Act, 1894, with the consent of persons representing one-third in value of the legal interests in a common, and with the consent of the county council, apply to the Board of Agriculture for a Provisional Order for regulation of the common, which will then be proceeded with in accordance with the provisions of the Commons Act, 1876. Where a regulation scheme has been confirmed by Parliament, the common cannot afterwards be enclosed.

If application is made by any other person or persons to the Board of Agriculture for the regulation of a common, the district council and the parish council within whose area the common is situate are entitled to notice of the same, with a view to their making any representation they may deem necessary to the Board upon the subject.—Local Government Act, 1894, ss. 8 (4) and 26 (2).

In the case of commons within the Metropolitan Police District, application for a regulation scheme must be made in accordance with the Metropolitan Commons Acts, 1866–69, and no consent of the commoners is required.

As the protection of the rights of the public in the matters above referred to, and the processes to be adopted in their assertion, will often involve difficult questions of fact and law, it will be well that district councils should consult their legal advisers before taking action in such cases.

LOCAL GOVERNMENT BOARD,
January, 1895.

The following Circulars, relating to Charitable Trusts and their administration, have been issued by the Charity Commissioners:—

LOCAL GOVERNMENT ACT, 1894.

OVERSEERS AND CHURCHWARDENS.

To the Clerk of the Parish Council.

SIR,

I am directed by the Charity Commissioners to request that, in order to secure the due payment to Trustees of Charities of the Dividends on Stock vested in the Official Trustees of Charitable Funds, you will be good enough to cause to be transmitted to me at this Office, as soon as conveniently may be after its adoption, a copy of every Resolution of the Parish Council, appointing Trustees of a Charity in the place of Overseers or Churchwardens, in pursuance of Section 14 (2) of the above-mentioned Act.

I am, SIR,

Your obedient Servant.

D. R. FEARON,

Secretary.

CHARITY COMMISSIONERS.

Whitehall, London, S.W.,

1st January, 1895.

ACCOUNTS OF CHARITIES.—CHARITABLE TRUSTS ACTS.

The Charitable Trusts Acts, as amended by the Local Government Act, 1894,* require that the Trustees or persons acting in the administration of every Charity shall, in books to be kept by them for that purpose, regularly enter or cause to be entered full and true accounts of all money received and paid respectively on account of such Charity, and shall also on or before the 25th day of March in every year, or such other day as may be fixed for that purpose

* See 16 & 17 Vict., cap. 137, sect. 61; 18 & 19 Vict., cap. 124, sect. 14; and 56 & 57 Vict., cap. 73, sect. 14 (6).

by the Board of Charity Commissioners, prepare and make out the following accounts in relation thereto (that is to say):

(1) An account of the gross income arising from the endowment, or which ought to have arisen therefrom, during the year ending on the 31st day of December then last, or on such other day as may have been appointed for this purpose by the Board;

(2) An account of all balances in hand at the commencement of the year and of all moneys received during the same year on account of the Charity;

(3) An account for the same period of all payments;

(4) An account of all moneys owing to or from the Charity, so far as conveniently may be;

which accounts shall be certified under the hand of one or more of the Trustees or administrators, and shall be audited by the auditor of the Charity, if any; and that the said Trustees or administrators shall, within fourteen days after the day appointed for making out such accounts, deliver or transmit a copy thereof to the Commissioners, at their office in London, and, in the case of Parochial Charities, shall deliver another copy thereof

*Where the Charities are
Ecclesiastical,†*

to the Churchwarden or Churchwardens of the Parish or Parishes with which the objects of such Charities are identified, who shall present the same at the next general meeting of the Vestry of such Parishes and insert a copy thereof in the minutes of the Vestry Book,

and that every such copy shall be open to the inspection of all persons at all reasonable hours, subject to such regulations as to the said Board may seem fit; and that any person may require a copy of every such account, or of any part thereof, on paying therefor after the rate of twopence for every seventy-two words or figures.

The Charity Commissioners are empowered to make such Orders as they may think fit in relation to the delivery or transmission of the said accounts, and the forms of such accounts, and it is provided that such Orders shall be executed by all Trustees and persons from whom the accounts to which they may relate are required.‡

*Where the Charities are not
Ecclesiastical,*

to the Chairman of the Parish Meeting of the Parish or Parishes with which the objects of such Charities are identified, who shall present the same at the next general meeting of the Parish Meeting of such Parishes, and insert a copy thereof in the minutes of the Parish Meeting,

† 56 & 57 Vict., cap. 73, sect. 75 (2).

‡ 18 & 19 Vict., cap. 121, sect. 15.

Any person refusing or wilfully neglecting to comply with any such Order of the Charity Commissioners shall be taken to be guilty of a contempt of the Chancery Division of the High Court of Justice, and shall be liable to be attached and committed by such Court, and shall pay such costs attending such contempt as the Judge shall direct.*

By the Local Government Act, 1894, s. 14 (6), it is provided that the names of the beneficiaries of Dole Charities shall be published annually in such form as the Parish Council, or where there is no Parish Council the Parish Meeting, think fit.†

CHARITY COMMISSION,
1st January, 1895.

The following Memorandum has been prepared with the view of correcting certain misapprehensions of the scope and effect of the Local Government Act, 1894, which the Official Correspondence of the Charity Commissioners on the working of the Act shows to be widely prevalent:—

1. Except in certain special cases, the Act does not, by its own operation, effect any change in the constitution of the Trustees or Governing Bodies of Charities, the action of the Parish Council (or in certain cases of the Parish Meeting) being generally required to give effect to the changes contemplated by the Act.

2. The position of the Incumbent of a Parish as *ex-officio* trustee of a Charity, whether ecclesiastical or not, is not affected by the Act; nor is the position of any other *ex-officio* trustee, except a Churchwarden or an Overseer, so affected.

3. The Act empowers a Parish Council to appoint Trustees of Charities of a particular class, and in certain specified cases.—Section 14 (2), (3), (4).§ Some, but not all, of these powers are given to the Parish Meeting of a rural parish in which there is no Parish Council.—Section 19 (5).||

4. In certain cases, indicated in Section 14 (1), the Trustees of Charitable Trusts are empowered to transfer, with the approval of the Charity Commissioners, the property of their trust to the Parish

* 18 & 19 Viet., cap. 121, sect. 9.

§ See pages 132 and 133, *ante*.

† 56 & 57 Viet., cap. 73, sect. 14 (6).

|| See page 113, *ante*.

Council, if the Council accept the transfer, or to persons appointed by the Parish Council. But property so transferred will remain subject to the same trusts as heretofore.

5. Except in the special cases referred to in paragraph 1, the only direct change effected by the Act in the administration or management of Charities by Trustees is that enacted by Section 14 (6) in respect of the publication of the accounts of Charities and of the names of the beneficiaries of Dole Charities.

6. Subject to the provision mentioned in the last foregoing paragraph, the law which regulates the administration of their trust by Trustees of Charities is not varied by the Act, and Trustees, whether appointed in pursuance of the Act or not, are bound to administer their trust in accordance with that law.

7. The approval or allowance of the Charity Commissioners is required in proceedings taken under Sub-sections (1) and (3) of Section 14 of the Act, but it is *not* required for proceedings taken under Sub-sections (2) and (4).

8. The appointment, under Section 14 (2), of Trustees by the Parish Council or Parish Meeting in the place of Overseers or Churchwardens, may be made either before or after the expiration of the term of office of the Overseers or Churchwardens holding office at the date of the first constitution of the Parish Council, or Parish Meeting, as the case may be.

CHARITY COMMISSION,
22nd January, 1895.

D. R. FEARON,
Secretary.

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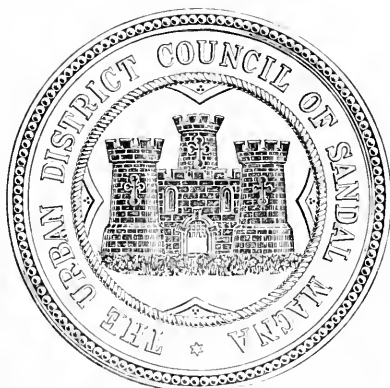
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