

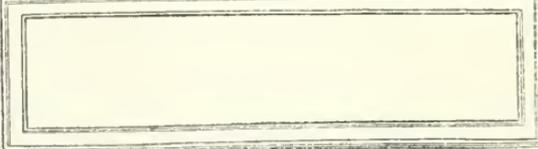
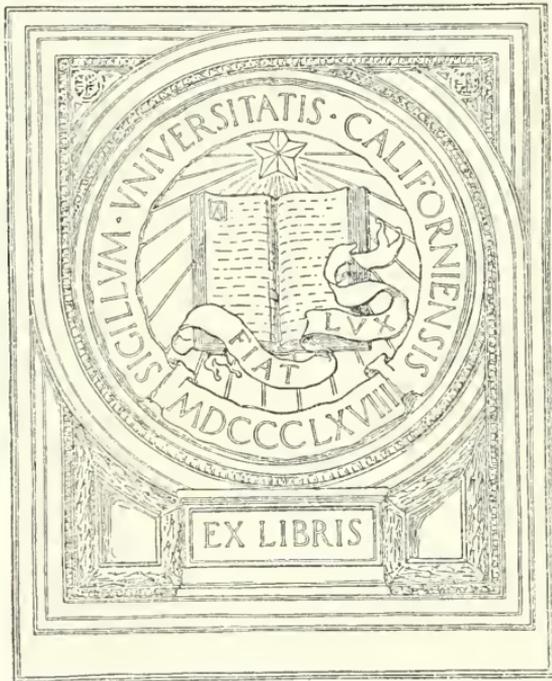
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THE  
PARISH COUNCILS  
GUIDE.

UNIVERSITY OF CALIFORNIA  
LOS ANGELES







THE PARISH COUNCILS GUIDE.



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THE  
PARISH COUNCILS GUIDE:

BEING

The Local Government Act, 1894,

TOGETHER WITH

AN INTRODUCTION AND EXPLANATORY NOTES.

NOTE.

*While the Third Edition was in the press, the Rules for Election of Parish and District Councils were issued by the Local Government Board.*

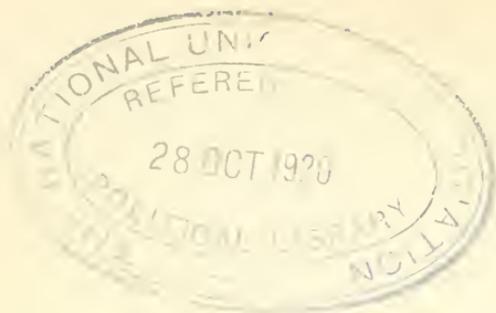
*These are most important, and will be found at the end of the book.*

THIRD EDITION. REVISED TO DATE.

London:

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# P R E F A C E .

EVERY rural parish, every urban district, even London itself, is affected by this Act.

LIBRARY SETS

It is to be expected then, that many persons other than lawyers, will desire to know how they personally have been affected by the Act.

The general public would find the Act itself an incomplete source of information, though the main one.

My endeavour has been to supplement the Act by notes, so as to lay before the reader in one book, as far as possible, all the law applicable to the subject.

DEC 1 1940

I have attempted to give in an Introduction the general principles of the Act—but for all details the Text and the Notes thereon must be consulted. The place where any particular subject is mentioned can be ascertained on referring to the Index.

HARDING

I have to express my acknowledgments to the following text books, which amongst others I have consulted—Steer's "Parish Law," Shaw's "Parish Law," and Wharton's "Law Lexicon;" and to my friend, Mr. E. A. Hastings Jay, B.A., LL.B., of the Oxford Circuit, for assistance at various times.

HARTLEY B. N. MOTHERSOLE.

*New Court,  
Temple, E.C.*

380408



## INTRODUCTION.

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Sec. 1 (2). THE Act provides that every rural parish is to have a parish meeting, whether its population be large or small; if the rural parish has three hundred or more inhabitants, it has also a parish council in addition to its parish meeting.

Even a parish with only one hundred inhabitants, or less, may by order of the county council likewise be governed by a parish council. In the case of small parishes, situate close to each other, it may be thought advisable to group them together under one common parish council, while reserving to each its own separate parish meeting: this can be done by the county council by means of a "grouping order."

Sec. 1 (a).  
Sec. 1 (b).  
Sec. 38. Every parish in a Rural Sanitary District is affected by this Act, and where a parish is partly within and partly without a Rural Sanitary District, the two parts may be created separate parishes.

Sec. 1 (3). The persons alone qualified to attend the parish meeting are the "parochial electors," *i.e.*, the persons registered in either the local government or parliamentary register relating to the parish. Parish meetings.

Sec. 2. Sec. 2.

The parish meeting is to assemble at least, once in every year, but a meeting may be convened at any time by any one of the following, viz. :—

- (a) The chairman of the parish council.
- (b) Any two parish councillors.
- (c) The chairman of the parish meeting.
- (d) Any six parochial electors.

Parish council,

The parish council consists of from five to fifteen persons chosen from the parochial electors, or from persons resident during the whole of the preceding twelve months in the parish or within three miles of it. Sec. 3  
(1).

Women may be elected to the parish council, whether married or single.

The electors to the parish council are the “parochial electors,” and the first election is to take place on the 8th of November, 1894.

The ordinary term of office of a parish councillor is for one year, from April 15th to April 15th, but in the case of those first elected they will remain in office from the 8th of November to April 15th next but one following. Sec. 3  
(3).

Use of school room.

Under certain conditions, for which see Sec. 4, the parochial electors and the parish council may use the public elementary schoolroom, free of charge, for the purposes of the parish meeting, or any meeting of the council, or for holding meetings for the discussion of questions relating to allotments, or the candidature of any person for the district or parish council. Sec. 4.

The persons or body using the schoolroom are liable for expenses or damage incurred by the use. Sec. 4  
(2).

The parish council may, if they prefer, acquire buildings for public offices and for meetings. The parish council may not meet in a public-house, unless no other suitable room can be obtained “for love or money.” Sec. 8  
(a).  
Sec. 61.

Sec. 5. The duty of appointing overseers and assistant overseers, the nomination of whom hitherto reposed in the vestry, is now transferred to the parish council, and in such small parishes where there is no parish council, to the parish meeting. Overseers.

The council must on any appointment as above, give written notice to the Board of Guardians, in accordance with the form prescribed by the Local Government Board. Churchwardens are no longer as such *ex-officio* overseers, and all property now held by the overseers, or churchwardens and overseers, not being property connected with the Church, etc., is handed over to the parish council, or meeting, as the case may be.

Sec. 6. Speaking generally, the parish council, or, in small parishes where there is no council, the parish meeting Powers of parish council. stands in the place of the old vestry meeting as regards all civil business, and the same body takes over certain duties of the churchwardens in civil matters, and of the overseers as regards appeals from rates.

All these will be found on reference to the copious notes on Sec. 6 in the text.

Sec. 7. At various times Acts have been passed enabling the ratepayers, if they so desired, to carry out certain improvements in their district, such as the establishment of public baths and libraries, etc. "Adoptive Acts."

These Acts, which will be found set out in Sec. 7 and the notes thereon, have been adopted in this Act, and the powers hitherto residing in the ratepayers or vestry, as the case may be, are now transferred to the parish meeting, which body can now put the above Acts in force.

Sec. 8. The parish council has the same powers as an urban authority with regard to the provision and maintenance of public walks, etc., and has a joint obligation with the Recreation grounds, etc.

Supply of  
water.

district council as regards the supply of water in the parish and the remedying of bad drains, etc.

Acquisition of  
land.

A parish council can acquire land for its own needs Sec. 9. and also for allotments, either by voluntary agreement, or, under certain conditions, compulsorily.

The parish or district council if unable to acquire the land they require by voluntary agreement, will represent the case to the county council.

The county council then proceed to hold a public inquiry in the parish: all persons interested may attend the inquiry and state their objections. After the completion of the inquiry, the county council may make an order empowering the parish, or district council, to take the land compulsorily under the Lands Clauses Act. It has been usual where land has been taken compulsorily, to grant 10 per cent. above the value as compensation; this practice is not to be observed in the present case.

Public notice is to be given of the order made by the county council, and the order itself must be deposited with the Local Government Board. Anyone interested may then petition the Local Government Board to hold further inquiry before confirming the order of the county council.

In the absence of such petition, however, the Local Government Board will, if satisfied, confirm the order, and the order after this will have the same effect as an Act of Parliament.

If a petition be sent to the Local Government Board, the board will proceed to hold a local inquiry before they decide to confirm the order.

If the county council in the first instance refuse to make the order, the Local Government Board may, on petition, hold a local inquiry, and make an order if they think fit.

Sec. 10. The parish council may also hire land for allotments, either by voluntary agreement or compulsorily, on an order by the council. Hiring of land for allotments.

This order would need the same confirmation as the order for the compulsory purchase of land mentioned in Sec. 9.

The parish council would be considered as the landlord and the holder of the allotment as tenant.

The council would be liable for rates, taxes, and tithe, but the tenant could be turned out by the council if he allowed his rent to remain unpaid forty days after it was due.

Sec. 11. The parish council may not without the consent of a parish meeting do anything which renders a rate of more than 3d. in the £ necessary in any year:—neither can they incur any expense which will involve the raising of a loan, unless they have the consent of the parish meeting and the county council. The total rate per annum for their expenses must not exceed 6d. in the £, and the expenses of the parish council and parish meeting are to be defrayed out of the poor rate. Restrictions on expenditure.

Sec. 12. In certain cases set out in Sec. 12, the parish council is empowered to borrow money on the security of the poor rate and its revenues. Borrowing by parish council.

The consent of the county council and the Local Government Board must however be obtained, and in no case must the outstanding debt of the parish council exceed one-half of the value of the premises in the parishes liable to contribute to the rates.

Sec. 12 (2). The county council may, if they think fit, lend the money to the parish council, and may even themselves borrow money in order to enable them to do so.

Sec. 13. The consent of the district council as well as that of the parish council is required before any public right of way in a rural parish can be stopped up or diverted. Footpaths or roads.

In some cases, a highway hitherto repairable at the public expense may have become of little use to the public ; where this is so, the parish council should give notice of a resolution to declare it unnecessary which, after certain formalities (see Sec. 13) have been observed, will release the parish from liability as to its maintenance.

Public property and charities.

The regulations as to charities here contained are only applicable to charities when they have been founded for forty years, or when already founded by donors, anyone of whom is now alive, at the expiration of forty years from the passing of this Act, unless the surviving donors consent to its prior application. Sec. 14.

The trustees of any property held for any public purpose (other than an ecclesiastical charity) in a rural parish, may with consent of the Charity Commissioners transfer the property to the parish council. The parish council will then hold the property subject to the conditions on which the trustees held the same.

In every case where overseers, as such, are included as trustees of any parochial charity, the overseers will retire, and their places will be filled by the parish council, who may nominate some of their own body or other persons as they choose.

Where the governing body of a parochial charity, although not an ecclesiastical charity, does not include any persons directly representing the inhabitants of the parish, the parish council may appoint additional members : the same rule will apply where churchwardens, as such, are at present trustees of any charity not an ecclesiastical charity.

The Charity Commissioners regulate the number they may appoint in any case.

Where one trustee has alone managed the property,

the number of trustees may with the same approval be increased to three.

In such a case the parish council or meeting would nominate one, and the sole trustee would nominate the other. The term of office of all trustees so appointed by the parish council shall be for four years—as to those first appointed refer to the text, Sec. 14 (7).

The draft of every scheme relating to any such charity affecting a rural parish, shall, before the final order is made, be communicated to the parish council or meeting as the case may be.

On receipt of the draft scheme the council or meeting may then take steps to support or oppose the carrying out of the proposed order.

Sec. 16. The accounts of all parochial charities are to be Accounts. annually laid before the parish meeting, and the names of the recipients of gifts from the same are to be published each year.

Where a district council fails to provide a proper supply Default of district council. of water, or to carry out the other duties as to sanitary matters given them under the Public Health Acts, or have failed to properly maintain any highway, the parish council may complain to the county council. The county council then resolve that the powers of the district council shall be transferred to themselves or to some other person or body appointed by them.

Sec. 18. A parish may be divided into wards for the purpose of Parish wards. election of parish councillors. There will then be a separate election of parish councillors for each ward. This division can only be made by the county council on application by the parish council or not less than one-tenth of the parochial electors.

The county council would have to be satisfied that a single parish meeting for the election of councillors was

impracticable owing to the population being very large or scattered.

Small  
parishes.

Where a parish having under three hundred population Sec. 19. has not obtained a parish council by order of the county council, the parish meeting has many of the powers here given to parish councils. They are clearly set out in Sec. 19 of the text.

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## PART II.

### GUARDIANS AND DISTRICT COUNCILS.

After the 8th day of November, 1894, in every rural Sec. 20. district there will be a Rural District Council, which will take over all the duties and liabilities of the existing Rural Sanitary Authority.

The parishes in the rural district will on that day proceed to elect certain persons to represent them on the district council, and the persons so elected will have to perform the duties of guardians of the poor, as well as the duties of district councillors.

The parishes in urban districts will likewise elect district councillors on that day, but in their case they must also elect persons to serve as guardians of the poor.

Until the 8th of November all existing guardians and urban and rural sanitary authorities will remain in office, although under ordinary circumstances their term of office would have expired previously (*viz.*, in April next). The next election to these offices will not take place until the 8th of November, and will be held under the conditions prescribed in the Act.

Qualification  
for guardian.

Hitherto it has been necessary to have a certain property qualification to enable a person to be a

guardian, but now any parochial elector, or person resident within the union during the whole of the previous twelve months, is qualified for election as guardian.

A woman, even though married, may be elected if otherwise qualified.

The guardians so elected shall hold office for three years, one-third of the number retiring on the 15th of April in each year.

Sec. 79. Of the guardians elected on the 8th of November, 1894, one-third will hold office until April 15th, 1896, one-third until April 15th, 1897, and so on, in order to preserve rotation. Justices of the peace for the district by virtue of their office, and certain guardians nominated by the Local Government Board, have been able to act as guardians, though not elected by the vestry. This Act declares that there shall be no *ex-officio* or nominated guardians. The only guardians in future, therefore, will be those elected by the parochial electors of the parishes in the district.

Sec. 21. In urban districts the district council will be called <sup>District councils.</sup> the "Urban District Council," and in rural districts the

Sec. 24. "Rural District Council." In rural districts, as above-mentioned, the district councillors perform also the duties of guardians. The rules as to urban district

Sec. 23. councils are set out in Sec. 23.

Sec. 26. The rural district council becomes the rural sanitary authority and highway authority for the district, and must protect all public rights of way and commons.

Sec. 27. The district council takes over certain duties formerly <sup>Powers of Justices.</sup> exercised by the justices as to the licensing of gang-masters, the certification of pawnbrokers, infant life protection, etc., which are set out in Sec. 27 of the Act and the notes thereon.

London.

The provisions of the Act as to guardians apply to Sec. 30. the administrative county of London, so that the guardians throughout the country are now placed on the same popular basis.

The existing sanitary authorities, in the case of Sec. 31. London are the vestries elected under the Metropolis Managements Acts, or in some cases, district boards formed by several vestries.

The old property qualification which was necessary for voters and candidates here has been abolished, and they have been placed on the same footing as urban district councils, under Sec. 23. A great reform in this part of the Act has been the abolition of all *ex-officio* and nominated members of the various authorities.

Any urban district (including the district of any Sec. 33. sanitary authority in London) may, on application to the Local Government Board, be granted the powers, etc., given under this Act to parish councils.

Expenses.

The expenses of a district council in a rural district Sec. 29. are in general to be defrayed out of the general rate of the district, and in an urban district out of the district fund, unless the urban district is a borough, when it will be chargeable on the borough fund. Sec. 28.

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## PART III.

### AREAS AND BOUNDARIES.

One of the great aims of this Act is to introduce uniformity into our system of local government, of which it has been said, "there is no labyrinth so intricate as the chaos of our local administration."

The county council is entrusted with this task. This Sec. 36.

body must at once take steps with a view to so altering existing areas and boundaries, that the whole of every parish may be in one administrative county and district, and the whole of every rural district may be in one administrative county.

The county council must hold a local inquiry in the place affected, and may then make such order as to alteration of area as may seem desirable.

The order will then be submitted to the Local Government Board, unless the Board dispense with this, as they are empowered to by Sec. 80 (?), in all cases during the year 1894.

If the order is submitted by the county council to the Local Government Board, the latter body will confirm it at the expiration of six weeks, unless a petition, as mentioned in the notes on Sec. 36, has been presented in the interval. After two years from the 5th of March, 1894, the Local Government Board will take over from the county council the powers as to alteration of areas, etc., hereby conferred on the council.

The remainder of Part III. contains various provisions relating to the alteration of certain specified areas, and to the regulations to be observed in making orders grouping several parishes under one common parish council: for these the Act itself must be consulted, with the notes thereon, Secs. 36-42.

# Local Government Act, 1894.

56 & 57 VICT. CH. 73,

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A.D. 1894.

## ARRANGEMENT OF SECTIONS.

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#### PARISH MEETINGS AND PARISH COUNCILS.

##### *Constitution of Parish Meetings and Parish Councils.*

Section.

1. Constitution of parish meetings and establishment of parish councils.
2. Parish meetings.
3. Constitution of parish council.
4. Use of schoolroom.

##### *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.
8. Additional powers of parish council.
9. Powers for acquisition of land.
10. Hiring of land for allotments.
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Section.

A.D. 1894.

13. Footpaths and roads.
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- A.D. 1894. 34. Supplemental provisions as to control of overseers in urban districts.
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*Parish and District Councils.*

Section.

51. Public notices.
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### SCHEDULES.

## CHAPTER 73.

An Act to make further provision for Local Government in England and Wales. A.D. 1894.  
[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.

PART I.

#### PARISH MEETINGS AND PARISH COUNCILS.

##### *Constitution of Parish Meetings & 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

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PART I.

(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.

*Parish Meetings.*—This section provides for the establishment of a parish meeting in *every* parish in a rural sanitary district.

*Definition of a Parish.*—A “Parish” means a place for which a separate overseer is or can be appointed (52 & 53 Vict. c. 63, Sec. 5).

*Rural Sanitary District.*—The area covered by any “Union” not within an urban district is a rural sanitary district (38 & 39 Vict. c. 55, Sec. 5). “Unions” are groups of parishes joined together for the purpose of administering relief to the poor, the business of the union being transacted by a board of guardians, to which board each parish in the union elects one or more guardians.

The “Board of Guardians” is the Rural Sanitary Authority, but may and generally does delegate its authority to a committee of its members (38 & 39 Vict. c. 55, Sec. 201).

*Parish Councils.*—Every “parish” having a population of three hundred or upwards, has in addition to a parish meeting a parish council.

*Creation of by County Council.*—See Part III. of this Act.

- (1) On the resolution of a parish meeting of a parish having a population of one hundred or upwards, the county council must create a parish council.
- (2) With consent of parish meeting of parish having a population of less than one hundred, the county council may create a parish council.
- (3) With consent of the parish meeting the county council may group the parish with some neighbouring parish or parishes under a common parish council.

(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 Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

A.D. 1894.

PART I.

39 & 40 Vict.  
c. 61.

(3) *Separate Parishes*—The effect of this subsection 3 is on and after 8th November, 1894, to create two separate and distinct parishes out of any one parish, where one part is within a certain rural sanitary district while the remaining part is outside it.

This effect will only be produced where the area has not already been altered by the county council under Part III. of this Act, or by the Local Government Board under any other Act.

*The Divided Parishes and Poor Law Amendment Act, 1876*, in effect provides that where a parish has some parts of it isolated in another parish, the Local Government Board may make an order constituting separate parishes out of the isolated parts, or joining them to some adjacent parish.

Secs. 1-9.

Ecclesiastical divisions of parishes are not affected, nor the constitution of school districts without consent of the Education Department, nor can the boundaries of a municipal borough be altered.

The parish when constituted shall be a parish for which an overseer shall be appointed, and for all other lay and civil purposes to which a parish may be liable or entitled.

The Local Government Board shall make due adjustment of the property, etc., between the various parts.

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

Parish meetings.

A.D. 1894. registered in such portion either of the local government  
 PART I. register of electors or of the parliamentary register of  
 electors as relates to the parish.

### Parochial Electors.

No person may vote at any election, parliamentary or local, without being duly registered.

The parochial electors constitute the parish meeting, and they are qualified as being registered electors for the county council or for members of parliament.

### A Local Government Electors—Qualifications of.

- (1) Voter may be male or female, but must be twenty-one years of age.
- (2) Must have been during the whole twelve months previous to July 15th in occupation as owner or tenant of a house, warehouse, or other building within the county.
- (3) Must have resided within seven miles of the county during the same period.
- (4) Must have been rated to all poor rates in respect of the property, and paid the same before 20th July, in respect of rates due January 5th previously.

### B Parliamentary Electors—Qualifications of.

The qualifications required by law to entitle a person to be registered as a parliamentary voter in a county are either on account of ownership or occupation.

### OWNERSHIP OF.

- (a) *Freehold* of 40s. clear yearly value of an estate of inheritance or in occupation, or acquired by marriage settlement, devise, benefice, or office.
- (b) *Freehold* of £5 clear yearly value if an estate for life not in occupation or acquired as above described.
- (c) *Copyhold* or any tenure other than freehold of £5 clear yearly value.
- (d) *Leasehold*—(1) of £5 clear yearly value if originally created for not less than 60 years.

(2) of £50 clear yearly value if originally created for a term of not less than 20 years.

A.D. 1894

PART I.

## OCCUPATION.

Persons occupying land or tenements within the county of the clear yearly value of £10 are entitled to be registered if

- (a) they have occupied them for twelve months before the 15th of July in that year ;
- (b) all poor rates in respect of the property have been paid before the 20th of July.

Parliamentary voters in respect of a £10 occupation can also be registered as county electors under certain conditions.

## Residence.

Every *inhabitant*, occupier of a dwelling house, or any part of a dwelling house, is entitled to be registered if

- (a) the rates have been paid ;
- (b) he has lived in the house for twelve months preceding the 15th of July.

## Lodger.

Every occupier of lodgings of the clear yearly value unfurnished of £10 who has occupied for twelve months before July 15th, of the year in which he claims to be registered: he must, however, make a fresh claim every year.

(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.

## Number of Votes.

Each parochial elector may give one vote only on any question.

In an election he may give as many votes as there are members to be elected, so that he in no case gives any one candidate more than one vote, *e.g.*, where there were fourteen candidates for five places, he might give five votes altogether, but not more than one vote to any individual.

(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.

As to first parish meeting, see Sec. 78.

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It is to take place on the 8th of November, unless the Local Government Board fix a later day (Sec. 84).

As to parish meetings where there is no parish council, see Sec. 19.

As to subsequent meetings, the chairman of the parish council, or any two parish councillors, or the chairman of the parish meeting, or any six parochial electors, may convene a parish meeting at any time (Sec. 45).

(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.

If the elected chairman is absent or unwilling to take the chair, the meeting may appoint a chairman (Sched. I., Part I., R. 10).

If the chairman of the parish council is present, and is not a candidate for election at the meeting, he shall be chairman of the meeting (Sec. 45).

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

### Ballot.

Voting by ballot was introduced into parliamentary and municipal elections by the Ballot Act of 1872 (35 & 36 Vict. c. 33). The form of voting being by marking a cross opposite the name of the one of the candidates, whose names are printed on a ballot paper, for whom the voter wishes to vote.

(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.

The persons having control over the room are entitled to be repaid all expenses incurred in preparing the room for the meeting, or for damage caused at the same.

The expenses are to be defrayed as part of the expenses of the parish meeting, or council, as the case may be (Sec. 4 [2]).

(7.) With respect to parish meetings the provisions in the First Schedule to this Act shall have effect. A.D. 1891.  
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As to the general rules and provisions concerning parish meetings or councils, see Appendix Sched. I. below.

**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.

(1) *Qualification for Councillors.*—A parish councillor must be either a parochial elector, or (2) a resident in the parish, or within three miles thereof, during the whole of the twelve months before the election. Sec. 3.

*Residence.*—A man is held by law to have resided in a district for twelve months, when during that period he had a residence there, and intended to return to it after temporary absence.

(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.

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**As to Parochial Electors.**PART I.

See Sec. 2 note.

(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.

As to first elections of parish councils, see Sec. 78 and Sched. I., Part 1 and 2.

(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.

The annual meeting of the council must be between the 15th and 22nd of April, both days inclusive.

(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.

(9) "*Body Corporate*."—"A corporation never dies." It is an artificial person created for the purpose of preserving for ever (*i.e.*, in *perpetual succession*) certain rights, which, if conferred on individual human beings, would in process of time naturally fail, owing to the death of those individuals.

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(a) A corporation, as a general rule, must affix its common seal to all its contracts, except when the matter is a trivial one.

This subsection does away with the necessity for the use of a common seal, substituting the signatures and seals of the chairman and two other councillors; but for this provision the common seal of the corporation would be necessary.

*Without Licence in Mortmain*.—Neither land, nor any estate, or interest in land, *e.g.*, a mortgage, can be conveyed to, or for the benefit of, or be acquired by, or on behalf of, any corporation, otherwise than under the authority of a licence from the Queen or of a statute.

This section empowers the parish council to buy, sell, or hold land, for the purpose of its powers and duties, without obtaining a licence from the Crown.

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

(10) *General Rules*.—See Sched. I.

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—

Use of school-room.

- (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

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## PART I.

53 & 54 Vic.  
c. 65.

(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

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.

4.—(a) The parochial electors (see note, Sec. 2) and the parish council may use the *public elementary school* room free of charge (if they can obtain no other suitable room free of charge) for the purposes above mentioned.

(b) An example of an inquiry by the Local Government Board is contained in Sec. 9 below, where the Local Government Board holds an inquiry in a parish on application by the parish or district council to grant an order for the acquisition of land.

(c) As to allotments, see Sec. 9.

## Public Elementary School.

This is a school at which elementary education forms the principal part of the education given, and at which the ordinary payments in respect of the instruction from each scholar do not exceed 9d. a week (Elementary Education Act, 1870, Sec. 3).

## Government Grant.

Towards the maintenance of the above-mentioned schools the Government contributes by means of an annual grant which varies according to the efficiency of the school and the average attendance.

## Evening Schools

Are also contributed to by the Government and are for the purpose of continuing the education of those who are no longer compelled to attend school.

(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.

As to expenses of parish meeting or parish council, see Sec. 11.

(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

A.D. 1894. justice or police by a Secretary of State, and in any  
 PART I. other case by the Local Government Board.

*Powers and Duties of Parish Councils and Parish  
 Meetings.*

Parish council  
 to appoint  
 overseers.

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 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.

**Annual Meeting.**

This must be held on some day between the 15th and 22nd of April of each year (both dates inclusive).

Notice of appointment of overseers must be given to the board of guardians in writing, in the form prescribed by the Local Government Board.

(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.

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(a) The object of this Sec. 5 is to separate the civil and ecclesiastical duties of the churchwarden and to take away from him those duties as overseer which duties he has had merely because he was churchwarden.

(b) Where in any Act a churchwarden is mentioned together with overseers, really only in his capacity as overseer, this section declares that the reference shall be construed as if only overseers had been mentioned.

This is necessary to carry out the principle in (a).

## Affairs of the Church.

(c) It is impossible to give a perfectly reliable definition of these, but it may be safely taken to include their duties regarding the services of the church, the keeping in repair of the church fabric and ornaments, the distribution of offertories and collections made in church (Sec. 75).

## Ecclesiastical Charity.

See Sec. 75 and notes thereon.

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

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

(a) Amongst the general powers and duties of the vestry may be enumerated the election of parish surveyors, the appointment of paid collectors of highway rates, the converting of roads repairable by individuals into parish roads.

(ii.) One of the duties of the vestry is to elect a churchwarden.

Since the severance of all civil duties from the office by Sec. 5, this duty will come under this exception.

(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.

The chief powers, etc., of the churchwardens left to them by Sec. 5, are such as relate to the affairs of the church or of ecclesiastical charities and are, therefore, not transferred to the council.

Their duties as overseers, taken away by the above Sec. 5, are transferred to the council.

### Closed Churchyards.

Where a churchyard has been closed by an order in council and burials therein have therefore been

discontinued, the churchwardens are bound to maintain it and the walls and fences thereof in necessary repair.

Their expenses were to be repaid by the overseers out of the poor rate, on their giving a certificate as to the amount. (18 & 19 Vict. c. 128.)

This subsec. (*b*) transfers this duty as to closed churchyards to the parish council, where the churchwarden subsequently to the Parish Councils Act, 1894, shall give a certificate as above, for the purpose of obtaining repayment of such expenses out of the poor rate.

(*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.

## Valuation Lists.

In poor law unions an assessment committee is appointed by the guardians (25 & 26 Vict. c. 103, Sec. 2).

For this assessment committee the overseer is bound to prepare a *valuation list*, *i.e.*, a list of all

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the rateable hereditary rents in the parish with the annual value thereof (Sec. 14-Sec. 16), or a person appointed by the committee may make the valuation list (Sec. 16).

*Objections.*—If the overseers think their parish is unfairly treated in any way, they may within twenty-eight days after notice of the deposit of the list, give notice to the committee and the party interested of the objection and the reason for it.

The committee then hear and determine the objection (Sec. 19).

*Appeals.*—If the overseers of one parish think that the parish is unfairly treated, they may appeal to Quarter Sessions after fourteen days notice (Sec. 32-Sec. 33).

All rates to the Poor are founded on valuation lists.

### Poor Rate.

Where notice of appeal has been given by any person against the rate or assessment, until the appeal is heard the person appealing shall only pay so much as he or the last occupier paid on account of the last rate. If the Court of Quarter Sessions decide in favour of the appellant, any sum ordered to be repaid or returned shall be recovered by distress or otherwise from the overseers (41 Geo. III. c. 23, 83, 88).

This section transfers the liability of the overseer in case of appeals against poor rate to the parish council.

### County Rate.

A committee of the county council from time to time prepare a basis or standard for the collection of a fair and equal county rate.

Against this basis the overseers or any inhabitant of a parish may, after notice of it is given, appeal to Quarter Sessions, or they may appeal after the justices at Quarter Sessions have made the rate at so much in the pound (51 & 52 Vict. c. 41, Sec. 17, Secs. 22-25).

This power resting in the overseers has also been transferred to the parish council.

## PARISH BOOKS, &c.

(2) The overseers may, with consent of the vestry, provide depositaries for parish books at cost of the poor rate, and where the parish has a population of four thousand inhabitants may provide a suitable building, by erection or hiring, for a parochial office (24 & 25 Vict. Sec. 1-Sec. 2.) On resolution by a vestry empowering the overseers to provide a fire engine, etc., the overseers may do so and charge the expense to the poor rate (30 & 31 Vict. c. 106, Sec. 29).

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These powers and duties of the overseers are by this subsection (2) transferred to the parish council.

### Recreation Grounds.

(3) Under the Inclosure Acts, 1845-68, commons might with the consent of the Commissioners be enclosed, provided that a certain portion was left as an allotment for the purpose of a recreation ground. (Under 39 & 40 Vict. c. 56, Sec. 25) such a recreation ground was vested in the overseers and churchwardens, and is now, therefore, to be vested in the parish council.

### Village Greens.

It is the duty of the overseer or churchwarden to lay an information before two Justices in case of a nuisance being committed on any village green by deposit of rubbish, etc., or of cattle being allowed to stray thereon, without lawful authority (20 & 21 Vict. c. 3, Sec. 12).

### Allotments.

See the Allotments Act, 1887, 50 & 51 Vict. (48) below.

(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

A.D. 1894. dwellings or obstructive buildings as is conferred on  
 PART I. inhabitant householders by the Housing of the Working  
 53 & 54 Vict. Classes Act, 1890, but without prejudice to the powers  
 c. 70. of such householders.

### Housing of the Working Classes.

Sec. 31.

(1) 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 shall forthwith inspect the same and transmit to the local authority the said complaint together with his opinion thereon, and if he is of opinion that the dwelling-house is in the condition aforesaid, shall represent the same to the local authority; but the absence of any such complaint shall not excuse him from inspecting any dwelling-house and making a representation thereon to the local authority.

(2) If within three months after receiving the said complaint and opinion or representation of the medical officer, the local authority not being in the administrative county of London, or not being a rural sanitary authority in any other county, declines or neglects to take any proceedings to put this part of this Act in force, the householders who signed such complaint may petition the Local Government Board for an inquiry, and the said Board after causing an inquiry to be held may order the local authority to proceed under this part of this Act, and such order shall be binding on the local authority.

Sec. 32.

(1) If a medical officer of health finds that any building within his district although not in itself unfit for human habitation, is so situate that by reason of its proximity to or contact with any other buildings, it causes one of the following effects, that is to say:—

- (a) It stops ventilation, or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation, or dangerous or injurious to health; or
- (b) It prevents proper measures from being carried out for remedying any nuisance injurious to

health, or other evils complained of in respect  
of such other buildings

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in any case, the medical officer of health shall represent to the local authority the particulars relating to such first-mentioned building (in this Act referred to as an obstructive building) stating that in his opinion it is expedient that the obstructive building should be pulled down.

(2) Any four or more inhabitant householders of a district may make to the local authority of the district, a representation as respects any building to the like effect as that of the medical officer under this section.

(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. 48.  
53 & 54 Vict.  
c. 65.

As to allotment managers, see Sec. 9, Allotments Act, 1887, here below.

Under the present section, the parish council, equally with the parliamentary electors, mentioned in Sec. 9, may apply for allotment managers to be appointed.

### Allotments Act, 1887.

(1) Where allotments have been provided under Sec. 9. 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

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as may, subject to the regulations hereinafter mentioned, be fixed by the said authority.

(3) The number of allotment managers in each case shall be such (not being less than three or 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 remain 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 enactments respecting offences at the election of guardians, and may revoke or alter any previous order under this section. Provided as follows:—

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- (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.
- (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 regulation 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.
- (g) An election under this section shall not be questioned except in such manner as may be prescribed by regulations under this section, and the

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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.

(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 Sec. 16 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.

### The Small Holdings Act, 1892.

Sec. 16, 55 & 56 Vict. (31).

The county council may delegate their powers under this Act as to the acquiring of land for the purpose of small holdings to a committee, consisting of the local county councillor, two other county councillors, and two allotment managers.

This section substitutes two members of the parish council for the allotment managers, so that the committee will now consist of the local county councillor, two other county councillors, and two parish councillors.

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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,—

(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.

3 & 4 Will. 4.  
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.

(1) *Appointed Day*.—The appointed day is the 8th of November, 1894, unless the Local Government Board shall fix a later date in the year (see Sec. 84).

## ADOPTIVE ACTS.

### The Lighting and Watching Act, 1833.

(a) Under this Act on an application of three or more ratepayers in the parish, the churchwardens were to call a meeting of all the ratepayers to consider whether the provisions of the Act should be adopted. The Act empowers the collection of a rate for the purpose of providing lights and watchmen for the parish, but the Act may be adopted partly, or as a whole, *i.e.*, either as regards lights only, or as regards watchmen only, or as to both.

In any case a majority of two-thirds of the ratepayers is required for its adoption.

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The parish meeting is now substituted for the ratepayers, and has exclusive authority to adopt the said Act, but there must be a majority of two-thirds of the meeting in favour of the adoption.

### Baths and Washhouses Acts, 1846-1832.

(b) These Acts provide for the establishment out of the rates of public bathing places and washhouses, with or without drying grounds.

On application of ten ratepayers a vestry meeting was to be called, but for the adoption of the Act it was necessary that there should be a two-thirds majority in favour of the adoption.

This Section 7 now substitutes the parish meeting for the vestry meeting, and requires a majority of two-thirds of the meeting for the adoption.

### Burial Acts, 1852-1885.\*

(c) These Acts provide for new burial grounds where for sanitary reasons such are desirable. By these Acts the churchwardens without requisition by the ratepayers were empowered to summon a meeting of the vestry for the purpose of considering the adoption of these Acts.

Such Acts might be adopted for a part of a parish where such parish was divided (see Sec. 1 above).

The powers of the churchwardens and vestry meeting as to these Acts are now transferred to the parish meeting.

A simple majority in favour will suffice for the adoption of the Burial Acts.

### Public Improvement Act, 1860.

(d) This Act provides for the carrying out of improvements beneficial to the health and for the comfort and convenience of the inhabitants, such as erection of seats and opening up of footpaths, etc. The provisions are similar to those of the *Baths, etc., Act*, above, but the population of the parish wherein to be adopted must be over five hundred.

The parish meeting has now the power to adopt these Acts by a simple majority of its body.

\* See Appendix.

## Public Libraries' Act, 1892.

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(c) This Act provides for the establishment of public free libraries and reading rooms at the expense of the rates.

On request by ten county electors, or burgesses in a borough, to the overseers (now the parish meeting), that body shall, by means of voting papers, ascertain the opinion of the voters.

A simple majority of the voters shall suffice for the adoption.

The parish meeting has the exclusive authority of adopting the said Act, but must first obtain a majority of the parochial electors in favour of the adoption.

(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

A.D. 1894. the parish council coming into office, be transferred to  
 PART I. 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.

(6) *Incidence of Charge.*—The rate necessary for the expenses of carrying out the adoptive Acts shall be due from the same persons in respect of the same property and in the same proportion as are provided for by the said adoptive Acts.

(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.

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
- (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

(c) The Board of Agriculture's Office is at 4, Whitehall Place, London, S.W.

39 & 40 *Vict. c. 56, Sec. 9*, provides that on application by persons interested in any common, the

Additional powers of parish council.

39 & 40 *Vict. cap. 56.*

Inclosure Commissioners (now the Board of Agriculture), shall issue information as to the mode in which applications under the Inclosure Acts are to be made, with explanations as to the law with respect to the regulation and improvement of commons.

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The Board of Agriculture will now give the desired information on application by any parish council.

## Closed Churchyards.

See Sec. 6 (*b*) above.

(*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.

38 & 39 Vict.  
c. 55.  
53 & 54 Vict.  
c. 59.

(*d*) *Public Health Act, 1875, Sec. 164.* Powers referred to.

- (1) To purchase, take on lease, lay out, plant, improve, and maintain lands for public walks or pleasure grounds.
- (2) To support, or contribute to support of, ditto when provided by any person.
- (3) To make bye-laws for regulation of ditto, and provide for removal of persons infringing bye-laws.

*Public Health Act, 1890, Sec. 44.*

- (1) \*Power to close pleasure grounds, not exceeding

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[\* Not to be closed on Sundays or public holidays.]

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twelve days in year, and grant use of them to

- (1) public charities,
  - (2) agricultural or horticultural shows,
  - (3) or any other public purpose,
- or use themselves.

Admission to be by payment, or not, at decision of *urban authority*, or society with their consent.

- (2) Power to provide and let for hire (or license any person to so let) pleasure boats on lake or piece of water.
- (3) Power to make bye-laws with regard to boats, boathouses, boatmen, etc.

*Public Health Act, 1875, Secs. 183-6.* Rules as to bye-laws—

May impose on offenders penalties *not exceeding* £5; for continuing offences, 40s. per day after written notice.

Bye-laws must *provide* for recovery of smaller sums.

All bye-laws to be submitted to the Local Government Board for approval.

*Conditions.*

- (a) Notice of intention to apply must be inserted in *one or more* of local newspapers at least *one month* before application.
- (b) Copy of proposed bye-laws must be kept at *office* for inspection by ratepayers during *office hours* without fee for *one month*.

Clerk to furnish ratepapers with copy on application, at 6d per 100 words.

The effect of this appears to be that the parish council are to keep a copy themselves at the parochial office, to be open to the inspection of ratepayers during office hours, or, if no regular office hours, "at all reasonable hours."

- (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

This power conferred on the parish council does not release the district council from its obligations to provide a proper water supply (see Secs. 16 and 25 below).

Sec. 185.

- (*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

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The district council takes over the powers of the sanitary authorities under the Public Health Act, 1875, and the parish council can complain of their default if the district council fails to do its duty, see Sec. 16 below.

- (*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

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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.

(2) The provisions in this section come to this:—

### Letting.

Parish council may let any lands or buildings vested in them for one year or under.

Parish council may let for more than one year, only with consent of Local Government Board.

### Sale or Exchange.

Parish council may only sell or exchange lands, etc., vested in them, with consent of the parish meeting, *and*

- (a) where it has been acquired out of any rate or income applied in aid of rate, with consent of Local Government Board, also
- (b) where it has been acquired in any other way with consent and approval required under the Charitable Trusts Acts, 1853-1891.

### Charitable Trusts Act, 1853.

(2) Sec. 24. On application by trustees of charity to Charity Commissioners, Charity Commissioners may direct sale or exchange of land if satisfied that it will be advantageous, and give directions with regard to such sale or exchange.

Sec. 25. On such sale or exchange may sell or purchase rent charge.

Sec. 26. Such leases, sales, and exchanges, to be valid as if authorized by express terms of trust.

### Charitable Trusts Amendment Act, 1855.

Sec. 29. Trustees may not make or grant otherwise than with the express authority of Parliament, or of a court or judge of competent jurisdiction, or according to a scheme legally established, or with the approval of the Board, any sale, mortgage, or

charge of the charity estate, or any lease thereof in reversion after more than three years of any existing term, or for any term of life, or in consideration wholly, or in part of any fine, or for any term of years exceeding twenty-one years.

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(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.

As to powers of district council see Secs. 16 and 25 below.

(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.

See Sec. 8, subsection 1 (c) above.

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.

Powers for acquisition of land.

38 &amp; 39 Vict. c. 55.

## Purchase of Land.

(1) *The Lands Clauses Acts*, were passed for the purpose of enabling the promoters of undertakings of a public nature, to have greater facility in acquiring lands, either by agreement or compulsorily.

(i.) *The Lands Clauses Act*, 1845, Secs. 5, provides that it shall only be necessary in future to state that the said Act, or any part of the said Act, is incorporated, to make the said Act, or that part of it mentioned, an effectual part of the subsequent Act.

In accordance with this provision, Sec. 9 of the Parish Councils Act enacts that the provisions of

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the Lands Clauses Act as to acquiring land voluntarily shall be incorporated.

(ii.) *The Lands Clauses Act*, 1845, Sec. 6-15, together with this Sec. 9 of the Parish Councils Act, enables the parish council to purchase land for the purposes of its powers and duties by voluntary agreement with the owners.

It also enables persons having only a limited interest in the land, *e.g.*, executors and administrators, trustees, persons only having a life interest in the lands, etc., and generally all persons entitled to receive the rents and profits of the land for the time being, to sell land, etc., to the parish council.

In these cases the principal money would be paid into a bank for the benefit of all parties interested. For the other provisions the Lands Clauses Acts must themselves be consulted.

(iii.) *The Public Health Act*, 1875 (38 & 39 Vict. c. 55), Sec. 178, enables the Chancellor of the Duchy of Lancaster to sell to the local authority (*i.e.*, the parish council) any lands belonging to the Crown, through the Duchy of Lancaster, subject to the rights of the then occupier.

(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.

### Acquisition of Land.

The general effect of this Sec. 9 will be found set out in the Introduction, p. 10 above.

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

(3.) If on any such representation, or on any proceeding under the Allotment 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.

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(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.

## Compulsory Acquisition of Land.

### *Compulsory Acquisition.*

Under Sec. 3 of the Allotments Act, 1887, the county authority may, on petition by the sanitary authority, stating that they are unable to acquire suitable land by voluntary agreement, make a *provisional order* authorising the sanitary authority to put the compulsory clauses of the Lands Clauses Acts in force.

### *Superfluous Lands.*

Sec. 11 of the Allotments Act, 1887, provides that where more land has been acquired than is necessary, the authority (*i.e.*, the parish council) may sell or exchange the same, provided that the former owner has a right of pre-emption, *i.e.*, that it is offered to him first to re-purchase if he will.

(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,

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(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.

*In the prescribed manner*—The Local Government Board will prescribe the manner in which the order is to be served.

(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.

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This section re-enacts

(8) The Public Health Act, 1875, Secs. 293-296 and Sec. 297 (1) (2), and in effect provides that the Local Government Board may determine by whom or out of what rate the costs of the local inquiry and appeals to the Board shall be defrayed.

It also empowers the Inspectors of the Local Government Board to call and examine witnesses on oath and to order the production of such papers, etc., as they may require for the purposes of the inquiry.

Public notice of any order the Board may make, or of any local inquiry to be held by them must be inserted in two successive weeks in some local newspaper circulating in the district.

(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.

8 & 9 Vict.  
c. 20.

### Mines.

(10) *The effect of The Railways Clauses Consolidation Act, 1845, Secs. 77-85, in conjunction with*

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this Sec. 9 is to disentitle the parish council to any mines under lands purchased by them.

If the working of them would be likely to injure the land for the purposes of which the parish council require the same, they have the option of purchasing the mines, but if they refuse to purchase them the owner may work them nevertheless.

### Disputed Compensation.

The Allotments Act, 1887, Sec. 3, in effect provides that any question of disputed compensation shall be referred to a single arbitrator appointed by the parties. If the parties do not concur, the Local Government Board on the application of either of them, are to appoint an arbitrator.

If the arbitrator fail to make his award within two months, the Local Government Board must make a fresh appointment.

The arbitrator must also determine the amount of the costs of the inquiry, and how and by whom they are to be paid.

(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.

### Public Inquiry.

(12) When the county council causes a public inquiry to be held under subsection 3 above, the

persons holding the inquiry shall have the powers of Inspectors of the Local Government Board, which are set out in the note to subsection (8) above.

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The Public Health Act, 1875, Sec. 294, together with this subsection 12, empowers the Local Government Board to make an order as to the persons or rates which are to bear the costs of the inquiry.

(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.

50 &amp; 51 Vict.

c. 48.

53 &amp; 54 Vict.

c. 65.

### Allotments Act, 1887.

(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.

Sec. 2.

For the purpose of this section, the expression "reasonable rent" means the rent exclusive of rates, taxes, and tithe-rent charge, 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 allotments, 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.

(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

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shall be deemed 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 for the purposes of this Act, without any fine or premium for a term not exceeding thirty-five years.

(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

Sec. 11.  
Superfluous  
Land, Sale of.

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 other land more suitable for the purpose is available, or otherwise; 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.

### Allotments Act, 1890.

(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. Sec. 3.

(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 any 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

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satisfied of the *bonâ fides* of the application, shall forthwith cause a local inquiry into the circumstances to be made, and shall report the result to the council.

(14.) Where the land is acquired otherwise than for 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.

As to these Secs. 5-8 of the Allotments Act, 1887, see notes Sec. 10, subsection 6, where the effect is stated in detail.

(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.

(16) *Common Pasture.*—Under Sec. 12 of the Allotment Act, 1887, the sanitary authority (and by this section 9 of the Local Government Act, 1894, the county council) is empowered to acquire land for purposes of common pasture if the county council or sanitary authority, as the case may be, is of opinion that such common pasture is needed by the parish or district, and that the fees charged for the pasturing of cattle thereon will recompense the authority for the expense of creating and maintaining the common pasture.

(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.

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(17) *The Allotments Act, 1890, Secs. 2-4* in effect provide that where a representation as to the necessity of land being acquired for allotments has been made to the sanitary authority and has not been complied with, the six parliamentary electors therein mentioned, or the parish council (under the subsection 17), may petition the county council to the like effect.

The county council may then, if they think fit, take over the powers of the sanitary authority. All petitions on this subject are handed over to a standing committee of the county council. The county council may too make a provisional order for the purchase of land on the recommendation of the standing committee without any petition from the sanitary authority.

(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.

(19) See subsection 12 above, and section 72 subsection (4) below.

**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

Hiring of  
land for  
allotments.

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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.

### Hiring of Land for Allotments.

If the parish council are unable to acquire land for allotments by agreement, they shall represent the case to the county council. The county council, however, may not make an order for hiring land for allotments for less than fourteen years or more than thirty-five years. The provisions of the last Sec. 9, in the case of an order by a county council as to purchase of land, equally apply here in the case of an order for hiring.

(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

See subsection 7 below, page 67.

- (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.

### Compensation for severance, etc.

(b) If the removal of the land purchased will render the remaining land of the owner less beneficial or convenient to him he is entitled to extra allowance on that account.

He is also entitled to such a valuation for improvements as he would be entitled to from his landlord if he were a tenant of the land then giving it up.

If the owner prefer, the arbitrator must fix the selling value of the land taken, and the rent awarded shall be at the rate of three per cent. on that value.

### Arbitrator.

The provisions of Sec. 3 of the Allotments Act can be found on reference to notes on Sec. 9 (10) and (13).

(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.

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(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.

(5) The arbitrator's report is to be deposited with the parish books, etc., and to be accessible at all reasonable hours for inspection by the owner. See section 17, subsection 8 below.

(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.

*Under the Allotments Act, 1887, Secs. 5-8, in conjunction with this, Sec. 10.*

(6) The parish council may improve any land acquired by them and adapt the same for letting it in allotments, *e.g.*, by draining, fencing, and making approaches to it. It may make regulations for the letting of allotments, the conditions of cultivation, etc., which regulations must be confirmed by the Local Government Board.

The parish council may appoint allotment managers to regulate the allotments, or to see to the proper carrying out of the regulations, etc.

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PART I.

The parish council is to be deemed the occupier as regards rates, taxes, and tithe-rent charge.

The parish council is in the position of landlord, and the holder of the allotment in the position of tenant; and if the rent is in arrear for forty days, or the tenant after holding the allotment for three months has disobeyed the regulations, the parish council may, by written notice, at the expiration of one month after serving the same, terminate the tenancy.

The council must, however, if there is no agreement with the incoming tenant, pay the outgoing tenant any compensation due to him as such outgoing tenant.

(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.

46 & 47 Vict.  
c. 61.

The following provisions of the Agricultural Holdings Act, 1883, will apply here:—

The tenant is entitled to such sum as fairly represents the value of the improvement to the incoming tenant, but nothing which is due to the inherent capabilities of the soil must be considered as part of such improvement (Sec. 1).

Certain improvements do not entitle the tenant to compensation unless the consent of the landlord has been obtained to their being made.

Again, there are certain improvements for which the tenant will not be compensated unless he has given notice to the landlord that he is about to make them, or has made an agreement with the landlord that he may carry them out without informing him.

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PART I.

(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 Vict.  
c. 31.

### Small Holding.

(9) The county council were empowered by the Small Holdings Act, 1892, to acquire any suitable land for the purpose of providing small holdings for persons who desire to buy and will cultivate the holdings themselves.

The small holding is to be more than one acre in extent, but not more than fifty acres, unless in case of excess the whole annual value does not exceed £50.

(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.

(10) The provisions of Sec. 3 of the Allotment Act, 1887, are set out in the notes on Sec. 9 (10) and (13).

**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.

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The effect of subsections 1, 2, &amp; 3 is

(a) with regard to rates to give the parish council power of itself to impose a rate of threepence in the pound, and a further power to impose an additional rate of threepence with the consent of the parish meeting;

(b) with regard to expenditure necessitating loans, to provide that the parish council shall raise loans only with the sanction both of the parish meeting and of the county council.

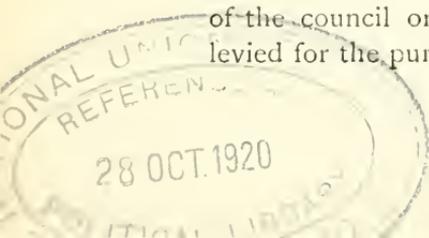
Subsec. 3.

(3) Further enacts that interest on any loan raised in accordance with this section is to be reckoned as part of the annual expenditure.

(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.

*Same Powers as a Board of Guardians.*—A board of guardians is empowered to demand from the overseers of the parishes within their district such sums as they may fix as contributions to their common fund. Where the overseer of any parish makes default in collecting or handing over the poor rate, a summons before two justices at the instance of the guardians will be granted to compel them to perform their duty. The parish council will obtain money for its expenses from the overseers at such times and in such amounts as they may order, subject to this Sec. 11.

(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.



**Prescribed Form.**

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The form of the demand note is regulated by a general order of the Local Government Board of 14th June, 1875.

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**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 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. 38 & 39 Vict. c. 55.

The parish council has the like powers conferred on it as to borrowing as are conferred on local authorities by Secs. 233, 234, 236, 239, of the Public Health Act, 1875 (38 & 39 Vict. c. 55). These sections, taken together with Sec. 12 of this

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## PART I.

Act above in effect provide that with the consent of the county council and the Local Government Board, the parish council may borrow money for the purposes of this section (Sec. 12) on the security of the poor rate and the revenues of the parish council, and may mortgage the same provided that—

Purpose.  
Limit of  
amount.

- (1) The money shall be for permanent works.  
(2) The sum borrowed together with all outstanding loans shall not in the whole exceed one-half the assessable value of the premises in the parish.

Limit of  
time.

- (3) The money shall not be borrowed for more than sixty years.

Repayment.

The parish council shall either pay off the borrowed amount by equal annual instalments of principal, or of interest and principal, or by setting apart a sinking fund for accumulation by investment at compound interest.

Mortgages.

- (4) If the money shall be borrowed on mortgage, the mortgage shall be by deed truly stating the consideration and time of payment.

The parish council must keep at their office a register of such mortgages which shall be open to public inspection free of cost.

Any such mortgage must be entered on the register, with full description of the parties thereto, within fourteen days of the execution thereof.

Such mortgages shall be capable of transfer from one person to another, by deed duly stamped: these transfers should be duly entered on the register.

Recovery of  
principal.

At the expiration of six months after principal or interest has become due, and after demand in writing, is unpaid, the person entitled thereto may apply to the justices for the appointment of a receiver, provided that the sum due amounts to one thousand pounds.

(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.

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PART I.

### Irrespective of any limit of borrowing.

This applies to any limit on the powers of the county council as to borrowing.

(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.

*Adoptive Acts.*—The conditions under which the parish council may borrow money for any purpose are contained in this Sec. 12. In the case of the Adoptive Acts, the poor rate, on the security of which the money will be borrowed, must be repaid out of the special rate imposed for these Acts. See page 48 above, Sec. 7 (6).

13.—(1.) The consent of the parish council and of the district councils 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—

Footpaths  
and roads.

(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

A.D. 1894. authority or person from any liability with respect to  
 PART I. such repair or maintenance.

### Public Right of Way,

(1) Where the inhabitants of a parish have long been accustomed to use a particular road or foot-path, or have in any other way acquired a right to use that way, the consent of the parish council and the district council is required before the way can be stopped up or diverted.

### Highway not repairable, etc.

A highway is a public road which all subjects of the realm are entitled to use.

The parish is by the common law of England obliged to repair all existing highways; and the fact of their repairing any road is evidence of its being a highway (*R. v. Leake*, 5, B. & A.D., 465).

If the authority liable for the repair of any highway is of opinion that it has become unnecessary for public use, and therefore ought not to be kept at the public expense, it should apply to the justices of the local Petty Sessions to view the same, and to make an order declaring it unnecessary for public use, and not repairable at the public expense, 41 & 42 Vic. c. 77, Sec. 24. Under Sec. 25 below (page 100) in rural districts, the rural district council becomes the highway authority; but under this section (Sec. 13) the parish council must also give its consent before the highway can be rendered not repairable, etc.

The provisions as to the giving of the consent are set out in the section (Sec. 13) above.

(2) As to the restrictions on expenditure, see Sec. 11 above.

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.

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PART I.  
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“*Trustees.*”—Sec. 75 of this Act enacts that “Trustees” shall include persons administering or managing any charity or recreation ground or other property or thing in relation to which the word is used.

The rules to be observed where overseers or churchwardens, as such, are trustees, may be found on pages 34-39 above. This subsection provides that *any* persons who are trustees for public property in the parish may transfer it to the parish council with the approval of the Charity Commissioners.

*Inclosure Acts, etc.*—As to the holding of land under these and other Acts, see Sec. 6, Subs. c. (iii.)

(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.

(2) Where overseers as such are at present trustees, the council may appoint a like number of trustees either from the councillors or other persons, in their place: the same rule will apply where *churchwardens*, as such, are at present trustees of any charity *not* an ecclesiastical charity.

### Parochial Charity.

Sec. 75 below defines a “parochial charity” as a charity, the benefits of which are, or the separate distribution of the benefits of which is, confined to the 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.

(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

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 PART I.  
 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.

(3) The effect of this subsection as to election of trustees by a parish council will be found set out in the introduction above, pages 12-13.

## Ecclesiastical Charity.

(4) See Sec. 75 below.

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## The Charitable Trusts Act, 1860.

Sec. 6.

(5) This provides that no order for administration of any charity shall be made by the Charity Commissioners until the expiration of one month after public notice has been given.

The notice shall contain sufficient particulars of the objects of the order, and shall fix a reasonable time for the transmission of objections to the order, and shall withhold or suspend or modify the order, as after consideration of the objections may seem fit to them.

The draft of the scheme is to be communicated to the parish council or meeting, as the case may be, and subject to the restrictions on expenditure in Sec. 11 the council may oppose the scheme, as may any inhabitant of the parish affected.

(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. 124.

## Dole Charities.

(6) These are such charities as provide for the giving of money or food, etc., in small quantities, periodically to poor, aged, or impotent persons.

The names of the recipients of such charities are to be published annually in such form as the parish council or meeting may think fit.

*The Charitable Trusts Amendment Act, 1855* regulates the administration of charities, and by

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Sec. 44 provides for the keeping and presentation of accounts to the vestry, for which, by this Sec. 14, the parish meeting is substituted.

(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.

### Charitable Trusts Amendment Act, 1855.

(18 & 19 Vic. c. 124 [part] Sec. 44).

Such trustees or administrators shall also, on or before the 25th of March in every year, or such other day as may be fixed for that purpose by the board, or 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 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 monies 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 monies 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 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 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 any person may require a copy of every such account or of any part thereof, on paying for the same at the rate of twopence for every seventy-two words or figures.

### Charities—when affected.

(8) When the vestry have hitherto appointed trustees, in every such case the parish council shall have power to appoint. When the provisions of this section transfer the appointment of trustees from any other person to the parish council, they shall only apply

- (1) To charities when they are forty years old.
- (2) To other existing charities of which the donors are now alive, at expiration of forty years from the date of this Act, and not before, unless with consent of the donors or survivors of them.

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PART I.Delegated  
powers of  
parish  
councils.

**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.

The rural district council may delegate to the parish council the following powers enumerated in *Sec. 202 of the Public Health Act, 1875*, here set out.

**38 & 39 Victoria, chap. 55.**

Sec. 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.

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.

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

(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, 38 & 39 Vict. c. 55.

A.D. 1874.

PART I.

A.D. 1894. 1875, and may appoint a person to perform the duty  
 PART I. 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.

### Default of District Council.

(1) and (2).—The parish council may complain to the county council, who on being satisfied of the default of the district council, shall have the powers of the district council to act in the matter in their place, or, if the county council prefer, they may, make an order in accordance with *Secs. 299-302 Public Health Act, 1875*, here enumerated.

The county council is hereby substituted for the Local Government Board there mentioned.

### 38 & 39 Victoria, chap. 55.

Sec. 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.

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 monies 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 non-payment of such debt.

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 monies 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

A.D. 1894.

PART I.

Sec. 300.

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PART I.

Sec. 301.

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.

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 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.

Sec. 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 persons by that Board.

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PART I.

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.

If there is a vestry clerk in existence, he is to become clerk to the parish council, see Sec. 81, Subsection 2, page 179.

(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.

### Parochial Committee.

(5) See Sec. 15 above.

(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,

A.D. 1894. with the chairman, of the parish council, and the enact-  
 PART I. ments 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.

### Documents requiring to be deposited with the parish clerk.

These documents and maps are required to be deposited with the parish clerk, under standing orders of Parliament, before certain public works are begun.

7 William IV., & 1 Vict. cap. 83,

and

9 Vict. cap. 20, sec. 9.

(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.

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(8) Registers and other books containing entries wholly or partly relating to the church or ecclesiastical charities are to remain in their present custody. All other books of a public character are either to be left as at present, or otherwise, as the parish council may direct. The county council from time to time is to inquire as to the manner in which the latter are being preserved.

(9) As regards either class of books the parish council or the incumbent and churchwardens, as the case may be, are to have reasonable access.

**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.

(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

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PART I.

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.

### Parish Wards.

Where the area or population of a parish is very large, the county council may, on application either (*a*) of the parish council or (*b*) of not less than one-tenth of the parochial electors (see Sec. 2 and Sec. 75), order that the parish be divided into *wards*.

There shall then be a separate election of parish councillors for each ward.

The order may be revoked or varied by the county council on a like application.

**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 ;

See, too, Sec. 45 below.

- (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.

Provisions  
as to small  
parishes.

“*Rural Parish*”—see Sec. 1, Subsection (2) and (3), page 24. A.D. 1894.

*Small Parishes.*—Parishes having a population of less than three hundred, which have not been granted a parish council by order of the county council under Secs. 1 and 36, or Sec. 39.

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(4) Ecclesiastical charity, see Sec. 75 below.

- (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.

*Appointment of Overseers and of Trustees*, see Secs. 5 and 14 above.

- (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.

The property here referred to is vested under Sec. 5, Subsec. 2 (c), page 35 above.

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**Body Corporate.**

PART I.

(6) As to a "body corporate," "perpetual succession," and "license in mortmain," see notes on Sec. 3, subsection (9) above.

**Appointed Day.**

The 8th of November, 1894, unless a later day in 1894 is appointed by the Local Government Board, see Sec. 84.

(7) As to the powers of the parish council, by this subsection conferred on the parish meeting of a small parish, see notes on Sec. 13 above.

(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.

See Sec. 13, p. 73 for the provisions as to highways, etc.

(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.

(9) The total rate, including any rate made in respect of the adoptive Acts, see Sec. 7, must not exceed sixpence in the pound in any 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.

The county council may confer on the parish meeting all powers acquired by the parish council under this Act. Most of these powers have been enumerated in Secs. 6-16 above.

- (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.

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PART I.

This does away with the necessity for a common seal which, as a general rule, a corporate body must use.

## PART II.

PART II.

### GUARDIANS AND DISTRICT COUNCILS.

**20.** As from the appointed day the following provisions shall apply to boards of guardians:—

Election and qualification 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.

#### Qualifications for Guardians.

(2) Any person may be elected a guardian who is a parochial elector or has resided in the Union during the whole of the twelve months previously,

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PART II.

or in the case of a borough, is qualified to be elected a councillor of the borough. Hitherto it has been necessary to have had a certain property qualification for the office: this qualification is no longer necessary.

### Qualifications for Councillor of a Borough.

The Municipal Corporation Act, 1882, Sec. 12 (1). A person shall be disqualified for being elected, and for being a councillor, if and while he is in holy orders, or the regular minister of a dissenting congregation.

A possible interpretation of Sec. 20 Subsec. (2) above, would exclude clergy and dissenting ministers from being guardians for a parish within a borough. It has been stated in the House of Commons that this was not the *intention* of the Act, but the *real effect* of the section can only be determined by the decision of one of Her Majesty's Judges.

- (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.

As to parochial electors, see Sec. 2 and Sec. 75. Wards, see Sec. 18.

- (1.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected.

No elector may give more than one vote to any one candidate. If there are vacancies for two or more to be elected, he may give one vote each to as many candidates as are required to fill those vacancies.

- (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.

## FIRST ELECTION.

A.D. 1894.

PART II.

Sec. 79.

The Local Government Board is to frame rules for subsequent elections.

(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.

(6) One-third of the guardians first elected are to go out of office on the 15th of April, 1896 ;

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one-third on the 15th of April, 1897; and one-third on April 15th, 1898.

The county council will decide which of the guardians shall constitute the one-third to go out of office on the 15th of April, 1896, and so on, in order to preserve the rotation, so that one-third may go out of office in every year. Subject to the above rules as to the first elections of guardians, the term of office of a guardian shall be three years.

The county council may however provide for the simultaneous retirement together of guardians for any particular Union, on the 15th of April in every third year, and, unless the county council otherwise direct, where the guardians at the passing of the Act have been accustomed to retire together at the end of every third year, they shall continue to do so.

(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.

*First Election of Chairman, etc*—Chairmen and vice-chairmen, etc., may be members of the board of guardians, but if elected from outside the members, they must be selected from the late ex-officio or nominated guardians, if they are willing to serve. In the event of their being unable or unwilling to serve, the board has an unrestricted choice amongst persons qualified to be guardians.

**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

Names of  
county  
districts and  
district  
councils.

alter the style or title of the corporation or council of a borough :

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- (2.) For every rural sanitary district there shall be a rural district council whose district shall be called a rural district.

*Rural Sanitary District.*—See page 24 above.

- (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.

**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.

**23.** As from the appointed day, where an urban district is not a borough—

Constitution of district councils in urban districts not being boroughs.

- (1.) There shall be no ex-officio or nominated members of the urban sanitary authority :
- (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.

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**Qualification for District Councillor.**

- (2) The candidate must either
- (i.) be a parochial elector for some parish in the district ; or
  - (ii.) have resided in the district during the whole of the preceding 12 months.

*As to Residence*, see note, Sec. 3, page 29 above.

- (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.

**Qualifications of Electors.**

As to parochial electors, see Sec. 2 and Sec. 75.

As to wards, see Sec. 18.

- (4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected.

**Number of Votes.**

See note on Sec. 20 above.

- (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.

As to first elections of district councils, see Sec. 79 below.

- (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.

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*General rule.*—Term of office three years, one-third of councillors retire every year. County council may, on request, provide for simultaneous retirement together of the district councillors every third year.

**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.

### Number of Councillors.

(2) and (3) The number of councillors for each parish is to be the same as the number of guardians for that parish, and in the rural districts the district councillors shall act as the guardians for the parish. The number of guardians is regulated by the Local Government Board, who may alter the original number fixed if necessary (7 & 8 Vict. c. 101, Sec. 18).

(4) The provisions of this Act with respect to the qualification, election, and term of office and retirement

A.D. 1894. of guardians, and to the qualification of the chairman of  
 PART II. 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.

As to the qualification of electors, term of office,  
 and retirement of district councillors and their  
 chairman, see the like provisions above in Sec. 20  
 as to guardians.

(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 pur-  
 suance of this or any other Act, be as from the appointed  
 day a rural district ;

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 adminis-  
 tered 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. A.D. 1894.

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### Division of a Rural Sanitary District.

(5) If a rural sanitary district has portions of its area in one administrative county and portions in another, it will be divided accordingly, and each separate portion in an administrative county will be a separate rural district.

Where the number of councillors is less than five for each part so constituted, the Local Government Board *under Sec. 9 of the Public Health Act, 1875, (38 & 39 Vict. c. 55, Sec. 9)* may nominate such number of persons as may be necessary to make up the number to five, and the persons so nominated shall be entitled to act and vote as members of the rural authority. The Local Government Board may, however, direct that the affairs of the district be managed by an adjoining district council, and when those affairs are discussed the guardians for the small district may sit on the adjoining district council. The County Council, however, has power, under Sec. 36 below, p. 116, to unite the district to a neighbouring district.

Number of  
councillors  
below five.

(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.

*Body Corporate, etc.*, see notes on Sec. 3, subsection (9) above.

The district council is to have a common seal, and must, therefore, as a general rule affix the same to all contracts made by it, except when the matter is of trivial importance or of frequent occurrence.

**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

Powers of  
district  
council with  
respect to  
sanitary and  
highway  
matters.

A.D. 1894. in the district, and highway boards shall cease to exist,  
 PART II. 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  
 38 & 39 Vict. forty-eight of the Public Health Act, 1875, and those  
 c. 55. 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  
 further period as the Local Government Board may on  
 the application of such council allow.

### Appointed Day.

See Sec. 84.

The rural district council takes over all powers, etc., from the rural sanitary authorities, and from any existing highway authority, its powers and duties as to highways.

The council has moreover the power, etc., conferred by the *Public Health Act*, 1875, Secs. 144—148, which, in effect, together with this Sec. 25 provide—

- (1) The district council shall exercise the office and duties of surveyor of highways, or may appoint a deputy, and shall have all the powers hitherto vested in the vestry as to highways.
- (2) The district council may agree with any person to make at his own expense roads for the public use, and on completion, they shall become repairable by the inhabitants at large.

With the consent of two-thirds of the council, a portion of the original expense of making may also be paid.

- (3) Similar provisions as in (2) as to any bridges, viaducts, or arches, in connection with any canal, railway, or tramway. A.D. 1894.  
PART II.
- (4) The district council may agree with the trustees of turnpike roads, or others liable to repair any road, for the taking over and maintaining of such road, subject to certain limitations contained in Sec. 148 (Public Health Act, 1875).

The county council may prevent the transfer of these powers, etc., as to highways, until the expiration of three years (or more with consent of the Local Government Board) from the appointed day (see Sec. 81).

(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.

### Highway repairable *ratione tenuræ*.

An individual may be liable to repair a highway by reason of his tenure of certain land, if it appear that those who have held the land have been immemorially accustomed to repair the highway.

(*R. v. Hayman, Moo & M, 401.*)

(3.) Where a highway authority receives any contribution from the county council towards the cost of any highway under section eleven, subsection (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. 51 & 52 Vict.  
c. 41.

A.D. 1894.

**Local Government Act, 1888.**

PART II.

Sec. 11, subsection (10), empowers the county council to contribute, if they think fit, to the maintenance or repair of any highway or public footpath in the county, though not a main road.

(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.

Where a parish is partly in an urban district and partly in a rural district, the part within the rural district shall not be liable for rates for the highway in respect of the urban district.

(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.

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PART II.

(7) On application by a county council, or in the case of a parish by the parish council, the Local Government Board may declare the provisions in the Public Health Act, 1875, as to urban districts, to be in force in such county or parish as the case may be.

These provisions may be found in the Public Health Act, 1875, but they contain too much matter to be set out here.

**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.

Duties and powers of district council as to rights of way, rights of common, and roadside wastes.

(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 Vict.  
c. 56.

A.D. 1894.

PART II.

Suburban  
commons.

(2) *The Commons Act, 1876* (39 & 40 *Vict. c. 56, Sec. 8*), together with this subsection (2) of *Sec. 26*, empowers the district council, with consent of the county council, when proceedings are being instituted to obtain a provisional order from the Board of Agriculture as to regulation or inclosure of the common, to make representation to the Board as to the expediency or in expediency of the application. The district council may, too, with the sanction of the Board of Agriculture, undertake to contribute to the maintenance of recreation grounds, etc., out of the common, or to pay compensation to commoners in order to secure greater benefits for the town.

The council can acquire by gift or purchase, and hold such suburban common, with a view to prevent the extinction of rights of common, or, with consent of persons having one-third in value of the interests in the said common, apply to the Board of Agriculture for the regulation of the said common.

The Board of Agriculture may then, if they think fit, invest the district council with powers of management.

(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.

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PART II.

(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.

Neither the county council nor the district council shall be disallowed their expenses with regard to proceedings, etc., taken by them in respect of a right of way, even if it be proved that there was in reality no right of way at all.

(6.) Nothing in this section shall affect the powers of the county council in relation to roadside wastes.

*Roadside Wastes.*—The county council has, under Sec. 11 of the Local Government Act, 1888, the powers of a highway board for asserting the rights of the public to the use of 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.

**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,—

Transfer of certain powers of justices to district councils.

- (a) the licensing of gang masters ;
  - (b) the grant of pawnbrokers' certificates ;
  - (c) the licensing of dealers in game ;
  - (d) the grant of licenses 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.

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PART II.

(27) The district council takes over the following powers of the justices as to

### Gang Masters.

- (a) Children, young persons, and women may not be employed to work in gangs except by gang masters who have been duly licensed (30 & 31 Vict. c. 130).

Licenses are to be for not more than six months. No child under eight is to be employed, nor are males and females to be employed together, nor females under a male gang master.

### Pawnbrokers' Certificates.

- (b) A pawnbroker's license cannot be granted except on production of a certificate. Certain notices *must* be given before the application for a certificate for the first time. The application shall not be refused unless the evidence as to the character of the applicant be unsatisfactory, or it appears that the house is frequented by thieves, or is in close proximity to houses so frequented.

### Dealers in Game.

- (c) In July, every year, the justices meet to grant licenses to deal in game to householders, shopkeepers, and stall-keepers.

No licensed victualler, nor owner, guard, or driver of any public conveyance, nor carrier could be licensed.

### Passage Brokers.

- (d) Any person desiring to act as a broker, to let passages or berths on any passenger ship, must be duly licensed.

He is previously obliged to enter into a bond as security (16 & 17 Vict. c. 84).

### Emigrant Runners.

These are persons who solicit emigrants for orders in any way relating to emigration: they require to be licensed.

### Fairs.

Abolition of.

- (e) Under the *Fairs Act, 1871*, Sec. 3, the magistrates (for whom the district council is now substituted), may, if they so desire, represent to the Home Secretary, that it would be for the convenience and advantage of the public if the fair were abolished.

The Home Secretary can then, with the consent of the owner of the tolls or fair, order that such fair be abolished.

A.D. 1891.

PART II.

A Secretary of State may, on a representation by justices (now by the *district council*), alter the dates of any fair, after notice has been given to the owner.

Alteration of dates of, under the Fairs Act, 1873.

## Petroleum.

(f) No person may keep petroleum without a license, unless kept for private use, or if for sale, unless

- (1) It is kept in separate glass, earthenware, or metal vessels of not more than one pint each, and securely stopped.
- (2) The aggregate amount kept does not exceed two gallons.

## Infants' Life Protection.

Under the Infants' Life Protection Act, 1872, no person can retain or receive for hire or reward more than one infant, or in case of twins, two infants, under the age of one year, for the purpose of nursing apart from their parents for more than twenty-four hours, except in a registered house.

The registration is to be effected by the justices (now by the district council), who can make bye-laws as to the number of infants allowed to be taken by any person.

The registration lasts for one year.

(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.

## Knackers' Yards.

No person is allowed to keep a place for killing animals, except for butchers' meat, without being licensed annually. The applicant must produce a certificate as to his character from the minister, and churchwardens, overseers, or two householders.

(3.) All fees payable in respect of the powers, duties, and liabilities transferred by this section shall be payable to the district council.

28. The expenses incurred by the council of an urban district in the execution of the additional powers con-

Expenses of urban district council.

A.D. 1894. ferred on the council by this Act shall, subject to the  
PART II. provisions of this Act, be defrayed in a borough out of  
 38 & 39 Vict. the borough fund or rate, and in any other case out of  
 c. 55. the district fund and general district rate or other fund  
 applicable towards defraying the expenses of the execu-  
 tion of the Public Health Act, 1875.

*The Public Health Act, 1875, Secs. 207-228, provide for the payment of expenses incurred by urban authorities with reference to the Act out of a "district fund," consisting of sums obtained by means of rates levied upon the assessable property in the district (38 & 39 Vict. c. 55).*

Expenses of  
 rural district  
 council.

**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.

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 :

(c.) A district council shall have the same power of charging highway expenses under exceptional circumstances on a contributory place as a highway

38 & 39 Vict.  
 c. 55.

board has in respect of any area under section seven of the Highways and Locomotives (Amendment) Act, 1878.

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PART 11.

(b) *The Public Health Act, 1875*, Secs. 229-232, provides that the rural authorities (the rural district council) shall arrange all their expenses under the heads of "general" and "special" expenses, the former being chargeable upon the rates levied in the whole district, and the latter being payable by a portion of the district only, styled a "contributory place."

(c) *The Highways and Locomotive (Amendment) Act, 1878*, 41 & 42 Vict. c. 77, Sec. 7, provides that all expenses incurred in keeping in repair the highways in any one parish in the district shall be deemed to have been incurred for the common benefit of all the parishes within the district, and shall be charged on the district fund, *provided that* where by reason of natural differences of soil or locality it should seem just that any parish should bear the particular expense of maintaining its own roads, the district authority may, with the approval of the county authority, charge exclusively on any such parish the expenses incurred.

(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. 41 & 42 Vict. c. 77.

**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.

The rules as to guardians in Sec. 20, page 91, are applicable to London and county boroughs. The provisions as to the first election of guardians also apply, and may be found on pages 17-7.

A.D. 1894.

## PART II.

Provisions  
as to London  
vestries and  
district  
boards.

48 Vict. c. 10.

**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 (Hours of Poll) Act, 1885, shall apply to elections to the said vestries.

### London Vestries and District Boards.\*

In future all the London vestries, and the Woolwich local board, and the auditors of these vestries are to be elected in the same manner and under the same regulations as those laid down in the case of urban district councillors by Sec. 23. and Sec. 48

The polls for election are to be open from eight a.m. to eight p.m. and no longer (Election, Hours of Poll) Act, 1885.

This Sec. 31 also applies to district boards. These are elected by the vestries of the several parishes within the district, and not directly by the parochial electors, so that only the provisions of Sec. 23 which relate to the qualification of candidates affect district boards.

(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

18 & 19 Vict.  
c. 120.

\* See Appendix.

Act with respect to chairmen of urban district councils being justices shall apply as if the said vestries and boards were urban district councils.

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Certain of the London vestries mentioned in the schedule of the Metropolis Management Act, 1855, are joined together into districts governed by a district board of works composed of members elected by the vestries of the several parishes within the district.

The more important vestries manage their own affairs for themselves without the intervention of a district board.

Each of the vestries which does not elect a district board, each of the district boards, and the local board at Woolwich, must at their first meeting elect a chairman for the year, and are not to elect a fresh chairman at each meeting under Sec. 41 of the Metropolis Management Act.

In accordance with Sec. 22 of this Local Government Act, 1894, the chairmen of these vestries and district boards are to become justices of the peace.

(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.

**32.** The provisions of this Part of the 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.

Application to county boroughs of provisions as to transfer of justices' powers.

See Sec. 27 above for these powers.

**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

Power to apply certain provisions of Act to urban districts and London.

A.D. 1894.

PART II.

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.

The general effect of this Sec. 33 is to empower the Local Government Board on the application of any council of an urban district, whether borough or not, to make an order conferring on that council, or some other representative body within the district, all or any of the powers given under this Act to parish councils.

As to appointment of trustees nominated by the Charities. councillors of the ward, to ensure the proper representation of the parish to which they belong, see subsection (2) above.

The Charity Commissioners must be consulted before any order is made.

### The Administrative County of London.

(6.) This comprises the city of London, and the various metropolitan parishes in Middlesex, Surrey, and Kent, which were formerly under the jurisdiction of the Metropolitan Board of Works.

This body was abolished by the Local Government Act, 1888, Sec. 40, and its powers conferred on the London County Council.

This subsection (6) provides that any sanitary authority in the county of London may make the application mentioned in subsection (1) above.

The vestries and district boards should apply to the Local Government Board if they desire these additional powers.

### County Boroughs.

Boroughs having a population of not less than 50,000, were constituted administrative counties of themselves by Sec. 31 of the Local Government Act, 1888; besides these there were seventeen boroughs whose privilege had been granted them previously by the Crown. The total number of county boroughs is 61, but more may be added by the Local Government Board.

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## PART II.

Supplemental provisions as to control of overseers in urban districts.

32 & 33 Vict. c. 41.

**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.

*The Poor Rate Assessment and Collection Act, 1869, 32 & 33 Vict. c. 41, Sec. 3.*

Where the rateable value of any hereditament does not exceed

£20 in London,

£13 in Liverpool,

£10 in Manchester or Birmingham,

or £8 in any other place, and the owner is willing to agree with the overseers to become liable to, and to pay the poor rate in respect of the same, whether occupied or not, the overseers may allow the owner twenty-five per cent. reduction.

Sec. 4.

The vestry of any parish may, from time to time, order that the owners of all rateable hereditaments, to which Sec. 3 of this 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 such order shall be in force the following enactments shall have effect:—

- (1) The overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or reduction of fifteen per cent. from the amount of the rate.
- (2) If the owner of one or more 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 occupier accordingly, and allow to him a further abatement or deduction not exceeding fifteen per cent. per annum from

the amount of the rate during the time he is so rated. A.D. 1894.

- (3) 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 takes effect.

Provided that this clause shall not be applicable to any rateable hereditament in which a dwelling-house shall not be included.

**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. Restrictions on application of Act to London, &c.

The special provisions referred to are contained in Secs. 30-34 immediately preceding.

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## PART III.

PART III.

### AREAS AND BOUNDARIES.

**36.**—(1.) For the purpose of carrying this Act into effect in the case of— Duties and powers of county council with respect to areas and boundaries.

(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

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 PART III.  
 51 & 52 Vict.  
 c. 41.

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.

In the following cases, viz. :—

(i.) Parish—partly within and partly without a county.

Parish—partly within and partly without a sanitary district.

Rural parish co-extensive with a rural sanitary district.

Rural parish with a population of less than two hundred.

(ii) Rural sanitary district—partly within and partly without a county.

Or ditto—with less than five elective guardians as members of its authority.

The county council shall take into consideration every such case as above within the county.

*The Local Government Act, 1888, Sec. 57,\** provides that the county council shall cause inquiry to be made in the locality, and notice given both in the locality and to the Local Government Board, and may make such order as to alteration of area as they think fit.

\* See Appendix.

The order will then be submitted to the Local Government Board.

If within three months [now six weeks, under Sec. 41 below] of such notice the council of the district affected, or one-sixth of the electors thereof, or in the case of a parish, one-sixth of the county electors thereof petition the Local Government Board to disallow the order, the Local Government Board shall hold a local inquiry and determine whether the order is to be confirmed or not.

If no such petition is presented, the Local Government Board shall confirm the order with such modifications (if any) as they think necessary.

The restrictions on the order which the county council may make are contained in the Sec. 36 (i.), (ii.), (iii.) above.

(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.

As to *separate parishes* under the Divided Parishes Act, 1876, Secs. 1-9. See note on Sec. 1 (3) above.

(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.

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The provisions of this Act here referred to are contained in Secs. 15 and 18.

(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.

(4) As to the powers of the parish council and district council, see Parts I. and II. above.

(5) Where, in order to carry out the purposes of this Sec. 36, it is necessary to alter the boundary of any county or borough, the *Local Government Act*, 1888, Sec. 54, is to apply, which in effect provides that on application by the council of the county or borough, as the case may be, the Local Government Board, in their discretion, may cause a local inquiry to be made, and may make such order as they think fit.

If the Local Government Board make an order to alter the boundary as above, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(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.

This subsection (6) together with Sec. 58 of the Local Government Act, 1888, enables the county council, where the alteration of a poor law union is expedient, *e.g.*, a poor law union which is situate in more than one county, instead of dissolving the union, to order that the same shall continue to be one union for the purposes of indoor paupers, etc., and shall be divided into two or more poor law unions for the purpose of outdoor relief.

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(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.

A notice to a parish council may be given by leaving it at, or sending it by post to, the usual place of abode of the clerk of the parish council. See page 193 (6) (15) below.

A notice to a parish meeting by serving it similarly on the chairman of the parish meeting. See page 192 (11) below.

(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.

(8) As to such alteration under Sec. 57 of the Local Government Act, 1888, see subsection (1) above.

(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. <sup>51 & 52 Vict. c. 41.</sup>

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(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.

(10) See note Sec. 36, subsection (1).

(11) Where the alteration of area would affect two or more counties, a joint committee of those councils has the powers conferred by Sec. 57 of the Local Government Act, 1888. See note subsection (1).

On failure after request to appoint members by any one council the committee appointed by the other or others may act.

(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 county 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.

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PART III.  
50 & 51 Vict.  
c. 61.

(12) *The Local Government Boundaries Act, 1887* (50 & 51 Vict. c. 61), appointed certain persons herein named Boundary Commissioners, to inquire into and report upon—

- (i) the best mode of so adjusting boundaries that no union, borough, sanitary district, or parish shall be situate in more than one county ;
- (ii) the best mode of dealing with detached parts of a county ;
- (iii) the best mode of dealing with cases where a borough is not an urban sanitary district, and is wholly or partly comprised in an urban sanitary district.

The Boundary Commissioners are to report to the Local Government Board, and the report is to be laid before Parliament.

Under this subsection (12) the reports are also to be laid before the county council or joint committee, see subsection (11), who are to consider such reports before making any orders as to alteration of boundaries under this Sec. 35.

(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

A. D. 1894. or further period the powers of the county council for  
 PART III. that purpose shall be transferred to the Local Govern-  
 ment Board, who may exercise those powers.

The county council's powers, under this section, shall, at the expiration of two years from this Act, be transferred to the Local Government Board unless the latter shall allow an extension of time.

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.

As to parish meeting for part of a parish, see Sec. 49 below.

The consent of the parish meeting for the part is required for the acts of the parish council, where the part is particularly affected.

Order by the county council requiring this consent need not be submitted to the Local Government Board (Sec. 40).

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.

As to grouping orders, see Sec. 1, subsection 1 (b) above.

As to manner of election, see Sec. 48 below.

(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.

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The provisions with respect to trustees, charities, and documents referred to here are in Secs. 15 & 18.

(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.

See Sec. 1 (1) above.

Orders under this section do not require the consent of the Local Government Board (Sec. 40).

(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.

**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

Provisions  
for increase  
and decrease  
of population.

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PART III.

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 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.

This section provides that where through increase or decrease of population it has become advisable either to constitute or dissolve (as the case may be) a parish council, the parish meeting may petition the county council in the matter. The county council may then make such order as they think fit, which order need not be submitted to the Local Government Board for confirmation.

If the county council rejects the petition, another for the same purpose may not be presented until two years have elapsed.

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.

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PART III.

The orders referred to are under Secs. 37, 38, and 39 above; they do not require to be submitted to the Local Government Board.

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.

Reduction of time for appealing against county council orders.

See Sec. 36 above.

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.

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## PART IV.

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### SUPPLEMENTAL.

#### *Parish Meetings and Elections.*

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.

Removal of disqualification of married women.

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A woman, whether married or not, may vote for or be elected a parish councillor, district councillor, or guardian—see Sec. 3 and Sec. 20. Husband and wife may not both be qualified in respect of the same property.

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.

Every person to be entitled to vote as a parochial elector must be duly registered, either on the local government register of electors or on the parliamentary register.

As to the qualifications necessary for registration, see notes, Sec. 2 above.

(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.

Where a person owns, but does not occupy, certain freehold property in a borough of the clear value of forty shillings per annum, he is entitled to be registered in respect of that ownership as a parliamentary elector for the county. In such case his being registered as above will entitle him to vote as a parochial elector in the parish where his property is situate.

(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.

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(4.) Nothing in any Act shall prevent a person, if duly qualified, from being registered in more than one register of parochial electors.

(4) A man may be registered in more than one parish in the same division, and thus acquire a right to vote for more than one parish council in the same division. This will not entitle him to vote more than once in the same division for members of Parliament or the county council. See notes page 128 below.

(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.

Voters residing out of a polling district to which the parish belongs, wherein their qualification is situate, may vote in the district where they live on making a claim before the revising barrister (6 Vict. c. 18, Sec. 36).

In these cases an alphabetical list, with numbers added to the name of each, is issued in the district where the person is to poll; but where his name already occurs in the lists of the district where his qualification is situate, an asterisk only is added.

In every case where there would be an asterisk merely, under the above rule with respect to a parochial elector, there shall now be also a number consecutive with the other numbers on 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 51 Vic. c. 10.

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Electors Act, 1888, place an asterisk or other mark against the name of any person.

Instructions  
to revising  
barrister.

The County Electors Act, 1888, Sec. 7 (51 Vict. c. 10), provides that where the name of a person appears to be entered more than once as a parliamentary voter on the lists of voters for the same parliamentary county, the revising barrister shall place an asterisk or other mark against his name. The person is then only entitled to vote at an election for a county authority.

(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.

(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.

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**Parliamentary, etc., Registration Act, 1878 ;  
amended by the Registration Act,  
1885, Sec. 5.**

These instruct the revising barrister how to proceed, where a person is entered more than once as a parliamentary voter on the lists of voters for the same parliamentary borough.

If the voter does not select the entry to be retained, the barrister has to do so in accordance with this section, and append a note to the other entry.

(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.

Claims must be sent in to the overseers—

(a) By owners, before July 20th.

(b) By occupiers, before August 20th.

Persons on the register already need not claim, *except* lodgers, who must claim annually—

(a) Lodgers already on register must claim before July 25th.

(b) Lodgers not on the register must claim before August 20th.

(10.) The clerk of the county council or town clerk, as the case may be, shall, in printing the lists returned

A.D. 1894. to him by the revising barrister, do everything that is  
 PART IV. 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.

Supplemental  
 provisions 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.

See Sec. 2 above.

Disqualifica-  
 tions for  
 parish or  
 district  
 council.

**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—

(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 highways 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.

## Aliens.

(1) (*a*) These are persons who are not British subjects by reason of their birth. They may, however, become British subjects by being naturalized under the Naturalization Act, 1870.

Before an alien can obtain a certificate of naturalization he must have resided in the United Kingdom for not less than five years, or during the same period have been in the service of the Crown, and must also satisfy a Secretary of State that he intends to continue so to reside or serve.

A certificated alien who has taken the oath of

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 —

allegiance is entitled to all the rights, political or otherwise, of a British-born subject.

The meaning of the rest of the section can be gathered from a perusal of it.

(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.

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(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.

**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.

Supplemental  
provisions as  
to parish  
councils.

(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

A.D. 1894. chairman of a parish council or parish meeting may  
 PART IV. 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.

Supplemental provisions as to elections, polls, and tenure of office.

**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—

- (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 ;

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(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.

It is the duty of the Local Government Board to frame rules regulating the conduct of elections under this Act. The following notes refer to those parts of Acts mentioned in the section, which the Local Government Board have to consider in framing the rules, but the rules when framed have effect as if specially enacted. The details of these sections at present, more concern the legal advisers of the Local Government Board than the general public.

(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 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

35 & 36 Vict.  
c. 33.  
47 & 48 Vict.  
c. 70.  
45 & 46 Vict.  
c. 50.

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PART IV.

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.

*Ballot.* Voting by Ballot was introduced into Parliamentary and Municipal Elections by the *Ballot Act of 1872* (35 & 36 Vict. c. 33), the form of voting being by making a cross (X) opposite the name of the candidate (which is printed on the Ballot Paper), for whom the voter wishes to vote.

The Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and Part IV. of the Municipal Corporations Act, 1882, are concerned with the prevention of bribery and corruption and illegal practices at Municipal Elections.

They define these offences, and regulate the expenditure allowed to each candidate at an election, and provide for the publication of a return of all such expenses incurred.

Contraventions of these Acts render the election void, and expose the person contravening them to certain penalties.

The Municipal Corporations Act, 1882, Sec. 74, referred to above, renders persons forging or fraudulently defacing or destroying any nomination paper liable to imprisonment not exceeding six months.

Sec. 75, of the same Act, also referred to in the section, renders any mayor or alderman refusing to conduct or declare an election as required by the Act, liable to a fine not exceeding £100.

The other provisions of these Acts are too voluminous to be here set out, but the Acts themselves should be consulted in case of need.

(a) *The Ballot Act*, 1872, Sec. 6, grants the use, free of charge, of any public elementary schoolroom or room, the expense of maintaining which is paid out of the local rate, to the returning officer.

The returning officer is to make good any damage done.

(*b*) The Municipal Elections (Corrupt and Illegal Practices) Act, 1884, Sec. 37, enacts that the provisions of that Act as to the maximum expenses allowed to a candidate shall not apply to elections mentioned in the First Schedule.

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This subsection (*b*) together with the above Sec. 37 of the Municipal Elections Act, 1884, exempt elections under the Parish Councils Act from the provisions of that Act.

The regulation of expenses, etc., therefore, remains as under the Municipal Corporations Act, 1882.

The county council shall fix the scale of expenses, or, in default of their doing so, the Local Government Board. (Subsection 7.)

(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,

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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.

(4) The general provisions of the Municipal Corporations Act, 1882, are to be taken into account by the Local Government Board when framing rules for the regulation of elections under this Parish Councils Act.

The rules themselves when framed are to form the code of procedure.

These subsections really are instructions to the Local Government Board as to the method they are to pursue in the formation of the rules.

*Sec. 56 of the Municipal Corporations Act, 1882*, alluded to in the subsection (4), relates to the nomination of candidates. If there are an equal or less number of candidates nominated than vacancies, those nominated are to be declared elected. If a greater number are nominated than there are vacancies, the election is to be from those nominated. If the number nominated is less than the number of vacancies, the vacancies are to be filled up from the retiring councillors who were highest in the poll.

- (a) Guardians and district councillors are not subject to the fines on resignation, which are imposed by the Municipal Corporation Act, 1882.

### Casual Vacancy.

- (b) A returning officer need not fill a casual vacancy occurring within six months before the day for ordinary election.

(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.

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(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.

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

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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

Wards—See Sec. 18 above.

Parish Meetings—See Sec. 2 and Sec. 19 above.

Supplemental provisions as to overseers.

**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 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.

### Overseers.

Notice of appointment of overseers should immediately be sent to the guardians. The Local Government Board regulate the form in which the notice is to be given.

It was usual for a copy of the resolution of the vestry, signed by the chairman of the vestry, containing the appointment, to be sent to the Board of Guardians. If not sent within three weeks after vacancy, the guardians may make an appointment. Such appointment will supersede any previous appointment by the parish council, if not notified.

### *Parish and District Councils.*

**51.** A public notice given by a parish council for the purposes of this Act, or otherwise for the execution of

Public notices.

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.

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### Public Notice.

The regulations as to notice of a vestry meeting are as follows—(under 7 William IV. and 1 Vict. c. 45, Sec. 2).

Three days at least before the meeting is to be held, public notice shall be given of the place and hour of holding the same, and the business to be transacted. The publication of the notice is to be made by written or printed copies of the notice being affixed on, or near to, the principal doors of all the churches or chapels within the parish or place, on the Sunday, previously to the commencement of Divine service.

Under Sec. 51 above, the notice must *also* be posted in some conspicuous place in the parish.

In the case of a parish meeting public notice of the same is required to be given *seven* clear days before holding it. (See Sched. 1, part I, Sec. 2, p. 191 below.)

These regulations are to be observed in giving any public notice by a parish council, or parish meeting, in addition to any other method of making the same public, that they may adopt as desirable.

**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.

Supplemental provisions as to transfer of powers.

17 & 18 Vict. c. 112.

### Powers exercisable formerly only with consent of Ratepayers, etc.

- (a) These powers are now exercisable with consent of the parish meeting.

Land purchased for materials.

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*Under 5 & 6 Will. IV. c. 50, Sec. 48.*

In cases where land has been purchased for getting materials for the construction of a road, and such material is exhausted, the surveyor may sell the same with the consent of the vestry.

The consent of the justices was also required, but by subsection 3 of this present Sec. 45, has been rendered unnecessary.

*Under 59 Geo. III. c. 12, Sec. 14.*

(b) No sum exceeding in amount a rate of one shilling in the pound may be expended in any one year for building, etc., unless with consent of a majority of the ratepayers at a vestry meeting.

Limitation of  
expenditure.

### School Sites.

*Under the School Sites Act, 1844.**(4 & 5 Vict. c. 38), Sec. 6.*

No parochial property may be conveyed for the purpose of a site for schools, by any person holding it for a public, ecclesiastical, or charitable purpose, without consent of a majority of ratepayers and owners of the parish in vestry assembled.

The same rule applied to the conveyance of work-houses, etc., by guardians and overseers (5 & 6 Will. IV. c. 69), and to the conveyance of sites for literary and scientific institutions (17 & 18 Vict. c. 112, Sec. 6).

(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 resolutions shall not apply.

33 & 34 Vict.  
c. 75.  
39 & 40 Vict.  
c. 79.

*By Sec. 12 of the Elementary Education Act, 1870,* on application by certain persons, the Education Department may form a school board if they think fit.

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The parish meeting may now make this application directly, or by passing a resolution in favour of the change.

*By Sec. 41 of the Elementary Education Act, 1876,* on application of certain persons the Education Department may dissolve a school board.

This section requires a two-thirds majority of the parish meeting, or of the parochial electors if a poll is taken.

The resolution need not be in accordance with the second part of the second schedule to the Act of 1870, which provided that it should be passed in the same manner as one for the election of a member of a school board.

(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.

See subsection (1) (a) above.

(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.

*By the Poor Relief Act, 1819 (59 Geo. III. c. 12, Sec. 17),* the churchwardens and overseers are constituted a body corporate, and hold in trust for the

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parish all workhouses, etc., and other buildings concerned with the relief of the poor.

*Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137).*

A vesting order is to be made by the Chancery Division of the High Court, vesting land in the "Official Trustee," *i.e.*, the Charity Commissioners' Treasurer, in cases where trustees are unwilling or incapable of acting, or where, owing to expense, it is not advisable to appoint new trustees, and in certain cases of difficulty.

The vesting could not be made without the consent of the corporation.

*Now*, the consent of the churchwardens and overseers, or of the parish council, their successor, is *not* necessary except when they have active duties.

(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.

Where any Act has conferred any powers or duties, etc., on any person or body, which powers have now been transferred to the parish council or meeting, this Act shall be construed together with the former Acts, so as to substitute the parish council or meeting, as the case may be, for the persons there referred to.

Supplemental provisions as to adoptive Acts.

**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.

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### Adoptive Acts.

Where the adoptive Acts (see Sec. 7 notes) are on the appointed day (see Sec. 84) in force in part of a rural parish, the authority under the Acts, or the parish meeting for that part, may transfer their powers, etc., to the parish council, subject to such conditions as they think fit.

(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.

If in the above case the area will not be comprised within one rural parish after this Act, the transfer of powers, etc., shall be to the parish councils of the rural parishes within the area.

If the area is partly within an urban district, the transfer shall be to these parish councils, and the district council of the urban districts. In this case it will be exercised by a joint committee.

(3.) The property, debts, and liabilities of any authority under any of the adoptive Acts whose powers are

A.D. 1894. transferred in pursuance of this Act shall continue to be  
 PART IV. 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.

The area of the authority whose powers are transferred under this section (Sec. 53) shall continue to bear the expenses involved, which shall be charged to the rates levied in that area.

(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.

**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 district, and

Effect on  
 parish  
 council of  
 constitution  
 of urban  
 district.

- (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; A.D. 1894.  
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- (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.
- (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. 51 & 52 Vict.  
c. 41.
- (3.) Where the area of an urban district is diminished this section shall apply with the necessary modifications.

- (2) (a) *Boroughs* are created by a grant of incorporation by Her Majesty on the advice of the Privy Council, to whom all petitions for this purpose are referred.

The committee of the Privy Council may then under Sec. 213 above referred to, settle a scheme for the adjustment of powers, rights, liabilities, etc., of any then existing local authority, whose district comprises the whole, or part of the area of that borough, either with or without any adjoining or other place.

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- (b) The Local Government Act, 1888 (51 & 52 Vict. c. 41, Sec. 57), provides that the county council may, where it appears that there is a *prima facie* case for the change, cause inquiry to be made in the locality, and notice to be given in the locality, and to the necessary department of the Government, *i.e.*, the Local Government Board.

If satisfied of the necessity, the county council may then make the order, which has to be confirmed by the Local Government Board, and laid upon the table of both Houses of Parliament.

**Extension of Urban District.**

- (c) This can be done by the county council as above under Sec. 57, or by the Local Government Board under Sec. 54 of the same Act, on the representation being made to them by the council of the county or borough, after holding a local inquiry, or the Local Government Board may, without representation, hold the local inquiry and make the order.

Power to  
change name  
of district  
or parish.

**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.

(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.

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**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 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.

Committees  
of parish  
or district  
councils.

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.

### Public Health Acts—General Powers.

Amongst the powers conferred on sanitary authorities by the Public Health Acts, may be mentioned those connected with sewage, drainage, the making of bye-laws, and other powers with regard to the regulation of streets and houses, powers of supplying districts with water and regulations with regard to such supply, registration and other arrangements as to common lodging-houses, abatement of nuisances, bye-laws with regard to offensive trades, unsound meat, infectious diseases and hospitals, provisions in case of epidemic diseases, powers connected with safety of temporarily erected platforms, ingress and egress to places of public resort, parks and pleasure grounds, etc., etc., and as to music and dancing licenses.

### Highway Acts.

The chief powers under the Highway Acts are for

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maintaining repairs, diverting and stopping up high-ways, hiring and purchase of premises required for material, appointment of surveyors, etc., etc.

(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.

Joint  
 committees.

**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.

(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.

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(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.

### Committee of a Joint Committee.

(5) Where the parish council has to deal with a matter which concerns part of a parish only, on request by a parish meeting of that part, it must appoint a committee of its own members and representatives of the part to exercise its power, etc. See Sec. 56 above.

Where a joint committee has been appointed, it shall, under this present Sec. 57 on a like request, appoint a committee of its own members and of representatives of the parish specially affected.

**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 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.

Audit of accounts of district and parish councils and inspection.

(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

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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.

### Audit of Accounts.

(2) All accounts other than accounts of a borough are to be audited by a district auditor.

Accounts of rural district councils shall be audited half-yearly instead of yearly.

Seven clear days at least before the day fixed for the audit the overseers, collectors, and assistant overseers of every parish are to make up and balance their rate books which are then to be deposited at the house, within the parish, of one of such overseers, etc., and notice thereof, and of the time and place of the audit, is to be given, and the books are to be open to the inspection of the parochial electors.

Fourteen days' notice of the audit is to be sent by the auditor, by post or otherwise, to the overseers.

Every ratepayer may be present at the audit, and may object to the accounts.

The auditor may require any person holding or accountable for money, books, etc., relating to the poor rate or relief of the poor, to produce his accounts and vouchers and to sign a declaration, under a penalty if he refuses.—7 & 8 *Vict. c. 101, Sec. 33.*

### Appointment of Auditors.

The Local Government Board may appoint such number of district auditors as they may think necessary for the performance of the duties of auditing the accounts which are subject to be audited by district auditors, and may from time to time remove such auditors. 42 & 43 *Vict. c. 6, Sec. 4.*

The Local Government Board may modify the rules as to the auditors contained in these enactments here set out.

(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.

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.

Supplemental provisions as to district councils.  
38 & 39 Vict.  
c. 55.

*Section 199 of the Public Health Act, 1875, enacts that urban authorities (or borough councils) shall hold annual meetings, and meetings for transaction of business at least every month. Meetings of local boards to be regulated by following rules. (See Schedule I. of Public Health Act.)*

(a) Every local board to make regulations from time to time with respect to the summoning, notice, place, management, and adjournment of their meetings, and generally with respect to the transactions and management of their business under this Act.

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- (b) No business shall be transacted at any such meeting unless at least one-third of the full number of members are present,—but no larger quorum than seven shall ever be required.
- (c) The chairman to be appointed at the annual meeting for one year (need not be one of the members).
- (d) If the chairman dies, retires, or becomes incapable, another must be elected only for the rest of his year of office.
- (e) If absent, another member to be appointed for meeting.
- (f) The names of members present, as well as those voting on each question, to be recorded, so as to show whether each vote given was for or against the question.
- (g) Every question to be decided by a majority of those present and voting.
- (h) The chairman to have the casting vote.
- (i) Proceedings not to be invalidated by vacancies, or by defect in election of board, or in election, selection, or qualification of any members thereof.
- (j) Any minute of proceedings and copies of any orders or resolutions if signed by the chairman, or by chairman of next meeting, to be evidence, and meeting to be presumed to have been duly convened and held.
- (k) The annual meeting of board to be held as soon as convenient after the 15th of April each year.
- (l) The first meeting to be held at such place and on such day (not more than ten days after election) as returning officer appoints (by written notice to each member). *Members* to appoint chairman for meeting and also to appoint chairman for the year.

(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.

### **Powers of Local Government Board.**

(4) Amongst powers of Local Government Board with respect to proceedings of guardians may be mentioned—

- (a) Powers of combining unions with consent of guardians and constituting joint committees for execution of purposes required.
- (b) Of dissolving unions and separating parishes from them.
- (c) Ordering guardians to build workhouses or to enlarge or alter them.
- (d) Approving the hiring or taking on lease of land or buildings for term not longer than five years.
- (e) Giving consent to borrowing of money by guardians in certain cases.
- (f) Issuing orders for letting or sale of property and for investment or application of proceeds.
- (g) Directing guardians to appoint paid officers and making regulations with regard to such.
- (h) Orders with regard to keeping and auditing of accounts.

(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.

A.D. 1894. (6.) Nothing in this Act shall affect any powers  
 PART IV. of the Secretary of State under the Public Health  
 20 & 21 Vict. Supplemental Act for Aldershot, 1857, or the position of  
 c. 22. persons nominated under those powers.

20 & 21 Vict. c. 22.

(6) This Act creates a local board for the parish of *Aldershot*, and provides that it shall consist of twelve persons—one-third to retire annually, and that the Secretary of State, under the Act, shall nominate three out of the twelve, and shall fill up vacancies which occur.

*Miscellaneous.*

Supplemental  
 provisions  
 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.

**Powers conferred on County Council.**

These are the powers which are conferred on the county council:—

- (a) They may declare as many parishes as they think fit to be united for the purposes of the Act, and to form one "union," and presumably may form single parishes into unions where desirable, see 4 & 5 Will. IV. c. 76, Sec. 39.
- (b) May divide parishes into wards for election of guardians, and determine number to be elected for each ward, having regard to value of rateable property, every such ward to be considered separate parish for purposes of election, unless council shall order otherwise (39 & 40 Vict. c. 61, Sec. 11).

(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.

### Regulations as to Retiring Guardians.

The county council, in cases where one-third of the guardians or district councillors retire each year, may direct which particular councillors shall retire in order to preserve the rotation.

(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 subsection 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.

*Poor Law Union in more than one County.*—  
Where this is the case, a joint committee of the councils of the counties has the powers of the

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county council in other cases. In default of appointment within two months after request by any council concerned, the committee elected by the other or others of them has the power.

If any county council object to this order, the Local Government Board must sanction it before it has effect.

(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.

### Local and Personal Act.

This includes a provisional order confirmed by an Act and the Act confirming the order (Sec. 75).

(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.

**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.

See Section 4, page 31 above.

**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

Place of meeting of parish or district council or board of guardians.

Permissive transfer to urban district council of powers of other authorities.

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 same shall be transferred accordingly, and the authority shall cease to exist, and the council shall be the successors of that authority.

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(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.

**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:—

Provisions as to county council acquiring powers of district council.

(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

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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 :

(f.) 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.

### Transfer of Powers from District to County Council.

(1) Under Sec. 16 of this Act above in case of default by the district council to make proper provisions in any parish for the drainage, supply of water, or other purposes under the Public Health Acts, or maintenance of highways, the county council, on complaint by the parish council, may pass a resolution transferring the powers of the district council in the matter to themselves, subject to the provisions herein contained. Sec. 63 (1).

Under Sec. 26 (4) the same rule applies where a roadside waste has been encroached on or a public right of way obstructed.

(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.

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Where the rural district is situate in more than one county the complaint above referred to, under Sec. 16, may be made to the county council of the county where the parish is situate, and the subject-matter of the same may be referred to a joint committee of the county councils.

(See Sec. 57.)

**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 appointment shall be determined in manner provided by this Act.

Saving for harbour powers.

## Harbour Commissioners.

(65) Improvement commissioners in respect of any harbour continue to exist in spite of the present Act. Their property, debts, and liabilities being apportioned between the district council and themselves, according to the provisions for adjustment in Sec. 68 below.

**66.** Nothing in this Act shall affect the trusteeship, management, or control of any elementary school.

Saving for elementary schools.

“*Elementary School*” means a school at which elementary education forms the principal part of the education given, and the charge is not more than 9d. a week from each scholar. See Sec. 75 below.

**67.** Where any powers and duties are transferred by this Act from one authority to another authority—

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Transfer of  
property and  
debts and  
liabilities.

- (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.

Where any powers, duties, or liabilities are transferred from one authority to another under this Act, the latter authority shall stand in precisely the same position as the former.

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 agree-

ment 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.

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### Adjustment of Property and Liabilities.

(1) and (2) The authorities interested may make an agreement for the adjustment of any property, etc., affected by this Act.

The agreement may contain a provision for payment by one party to the other, for advantage offered as mentioned in the text.

Any agreement for the joint use of any property, to which a board of guardians is a party, must receive consent 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.

### Arbitration Act, 1889.

52 & 53 Vict. c. 49.

This Act provides for any matter in dispute being referred to arbitration, in accordance with the

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provisions therein contained. The parties make an agreement in writing to submit present or future differences to arbitration, sometimes mentioning an arbitrator therein; this is called the "submission," and is irrevocable, unless a condition of revocation is inserted. The reference to arbitration may be made by the parties themselves, without going to the Court at all, or by the Court, in certain cases during the hearing of a cause. The arbitrator has power to take evidence on oath.

(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.

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.

Where any alteration of area is made under the provisions of this Act, the county council, or joint committee, as the case may be, may make an order for any of the matters set out in Sec. 59 of the Local Government Act, 1888, which is as follows :

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### The Local Government Act, 1888.

51 & 52 Vic. c. 41, Sec. 59 (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, restriction, 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 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 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 liability of the various authorities affected by the scheme or order, for the management of their property, and for regulating the duties, position, and remunerations 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

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(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.

*Area of a County.*—A county council cannot alter the boundary of a county. This can only be done under Section 36, Subsection 5, page 118 above, where the steps to be taken are set out in the note.

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.

### Transfer of Powers.

(1) When any question arises as to what powers are included in the transfer in any particular case, the council, meeting, or other local authority concerned may make an application summarily to the High Court of Justice for the determination of the questions.

The rules of court are to be found in the "Annual Practice," which is a digest of the procedure of the Court; but on such question arising, professional aid would have to be sought.

(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.

### Transfer of Trusts.

(2) Questions arising on transfers of trusts, at the request of the trustee or person interested, will be determined by the Charity Commissioners, whose office is at Whitehall, London, S.W.

If either party is dissatisfied with the decision, they can appeal to the High Court of Justice within three months after such determination.

### The Charitable Trusts Act, 1860.

Sec. 8 in effect, provides that an appeal may be made within three months of publication of an order by the Charity Commissioners—

- (i.) by the Attorney-General, or any one under his authority, or under the authority of the Charity Commissioners ; or
- (ii.) by a trustee or acting administrator of a charity, or any two inhabitants of the parish or district specially affected, *provided that* the gross yearly income of the charity shall exceed £50.

The appeal is to the Chancery Division of the High Court of Justice, by petition in a summary way appealing against such order, and praying such relief as the case may require.

Where any person, other than the Attorney-General, intends to appeal, he must give twenty-one days' notice to the Charity Commissioners before presenting his petition.

3.) An appeal shall, with the leave of the High

A.D. 1894. Court or Court of Appeal, but not otherwise, lie to the  
 PART IV. Court of Appeal against any decision under this section.

Supplemental  
 provisions as  
 to county  
 council  
 orders.

**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.

The offices of the Local Government Board are at Whitehall, London, S.W. The offices of the Board of Agriculture are at 4, Whitehall Place, London, S.W.

Provisions as  
 to local  
 inquiries.

**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.

(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.

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## LOCAL INQUIRIES.

### The Local Government Board.

(1) The Public Health Act, 1875 (38 & 39 Vict. c. 55, Secs. 293-296), in conjunction with this section, confers on the Local Government Board and their inspectors, for the purposes of the inquiry, the right to call and examine witnesses, to demand the production of such papers and accounts as they deem necessary, and inspect all places and matters they may think fit.

The Local Government Board may give a certificate of the expenses involved in the inquiry, and direct any authority or person to pay the same.

### The County Council.

(2) Where the county council hold a local inquiry upon application of the council of a parish or district, or of any inhabitants of the same, the expense of the inquiry shall be defrayed by the council of the parish or district, as the case may be, or if there is no council, then the parish meeting.

Where the county council hold a local inquiry without being so requested, the expense of the inquiry shall be defrayed out of the county fund.

**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 Sundays and bank holidays.

**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

Provisions as to Scilly Islands. 51 & 52 Vict. c. 41.

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 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.

### Scilly Isles.

The Local Government Board may make a provisional order applying this present Act to the Scilly Isles.

Such order shall not be in force until confirmed by Parliament.

Construction  
 of Act.  
 51 & 52 Vict.  
 c. 41.

**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.

### “Parish.”

(1) The Interpretation Act, 1889 (52 & 53 Vict. c. 63, Sec. 5), defines a parish as “a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed.” Where the word “parish” is used in any Act of Parliament it has this meaning, unless expressly stated to the contrary.

(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.

(2) "*Parochial Electors*" in every case means the persons registered in such portion of the Local Government Register, or of the Parliamentary Register of Electors as relates to the parish.

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

A.D. 1894. such provision for the apportionment and management  
 PART IV. 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.

### Ecclesiastical Charity.

Charities whose endowments are for a spiritual purpose may nevertheless be outside the definition of "ecclesiastical charities," inasmuch as that purpose may not be a legal purpose.

In a very recent case (1894, P.D. 22,) Chancellor Espin held, that a bequest made for prayers for the dead being offered would be void by the common law of the realm, as superstitious.

Where a charity does not consist of a building, and part of the endowment only is for spiritual purposes, while the other part is for secular purposes, the part employed for spiritual purposes will not be affected by this Act.

The Charity Commissioners will, in that case, on application by any person interested, apportion the same accordingly. No building, which in the opinion of the Charity Commissioners has been erected by or *mainly* by or at a cost of members of any particular denomination or church since March, 1854, shall be affected in this Act.

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 neighbouring parishes. A.D. 1894.  
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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.

**76.** This Act shall not extend to Scotland or Ireland. Extent of  
Act.

**77.** This Act may be cited as the Local Government Act, 1894. Short title.

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## PART V.

PART V.

### TRANSITORY PROVISIONS.

**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 First elections  
to parish  
councils.

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(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.

The overseers of the parish are to convene the first parish meeting for the 8th day of November, 1894 (see Sec. 84).

As to the rules for parish meetings, see Sched. 1, part 1.

The election of the first parish councillors and the first chairman of a parish meeting, shall take place at this first parish meeting, and the persons elected shall hold office until the 15th of April, 1896 (Sec. 3).

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.

### Divided Parishes.

A parish may be divided by this Act

(a) when it is partly within and partly without a rural sanitary district, page 25 above ;

(b) when it is in more than one urban district.

(3.) Of the guardians and urban and rural district councillors first elected under this Act, save as herein-after 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.

### First Elections of Guardians and District Councils.

The existing boards of guardians and urban and rural sanitary authorities must take necessary steps for the conduct of the first elections of guardians and district councillors.

One-third of those elected shall retire on April 15th, 1896;

One-third of those elected shall retire on April 15th, 1897;

One-third of those elected shall retire on April 15th, 1898; except where the county council provide under Sec. 20 for their simultaneous retirement together at the end of every three years: in that case those first elected shall retire on the 15th of April, 1898.

Where one-third of the guardians and rural district councillors retire annually, the county council shall decide which councillors shall form the first third who retire on April 15th, 1896, and so on for the purpose of rotation.

In the case of urban district councillors, the third who are to retire respectively on the 15th of April, 1896 and 1897, shall be determined according to their place on the poll at the election, those lowest retiring first.

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All existing guardians, urban and district sanitary authorities and overseers, shall continue to hold office until their successors are appointed and come into office.

(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.

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(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.

**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

Power of  
county  
council to  
remove  
difficulties.

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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.

(1) Where any difficulty occurs as to the election of any parish or district council or board of guardians, or the holding of the first parish meeting or the first meeting of the parish or district council, the county council may, by order, make any appointment, or do anything necessary for the proper holding and constitution of the same.

(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.

(2) The Local Government Board\* is to make regulations for simplifying the procedure as to the arrangement of areas and boundaries under Sec. 57 of the Local Government Act, 1888, and under Secs. 36-42 of this present Act. The procedure is to be simplified during the year 1894, in all cases, in order to enable the alterations to be carried into effect with the greatest expedition.

\* See Appendix.

**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.

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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 the foregoing provisions of this Act, that assistant overseer shall not, while such vestry clerk holds office, be the clerk of the parish council.

13 & 14 Vict.  
c. 57.

### Vestry Clerk.

(2) In parishes which have a population exceeding two thousand, the Local Government Board may make an order for appointment of a vestry clerk, and the vestry meeting then, in that case, appoints some fit person to that office. 13 14 Vict. c. 57, Sec. 6.

Where such vestry clerk has already been appointed, he shall be clerk to 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

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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.

### Rateable Value.

(5) This means the rateable value stated in the valuation list in force, or if there is no such list, in the last poor rate (Sec. 75).

(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.

(6) The powers of the board of guardians to appoint assistant overseers are to cease from the eighth day of November next. (Sec. 84.)

Those at present existing will continue in office until the appointment of their successors, which appointment now vests in the parish council. (Sec. 5 above.)

51 & 52 Vic.  
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.

### Compensation to Existing Officers.

Any existing officer, who, in consequence of this Act, shall suffer any direct pecuniary loss by abolition of office, or by diminution or loss of fees or salary, shall be entitled to have compensation paid to him for such pecuniary loss, as the case may be, either by the district council out of general expenses, or by a board of guardians out of their common fund, or by any other authority out of the fund which supplied the salary.

The provisions as to claiming compensation in these cases are contained in Sec. 120 of the Local Government Act, 1888, here set out.

N.B.—Any reference to the county council in the section should be taken as equally referring to the district or parish council, board of guardians, or other authority above alluded to.

### The Local Government Act, 1888.

51 & 52 Vict. c. 41, Sec. 120.

(1) Every existing officer declared by this Act to be entitled to compensation and every other existing officer, whether before mentioned in this Act or not, who by virtue of this Act or anything done in pursuance of or in consequence of this Act suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, shall be entitled to have compensation paid to him for such pecuniary loss by the county council, to whom the powers of the authority whose officer he was are transferred under this Act, regard being had to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue of this Act, or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he had not refused to accept any office offered by any council or other body

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PART V.

acting under this Act, and to all the other circumstances of the case, and the compensation shall not exceed the amount which, under the Acts and rules relating to Her Majesty's Civil Service, is paid to a person on abolition of office.

(2) Every person who is entitled to compensation as above mentioned shall deliver to the county council a claim under his hand, setting forth the whole amount received and expended by him or predecessors in office in every year during the period of five years next before the passing of this Act, on account of the emoluments for which he claims compensations, distinguishing the offices in respect of which the same have been received and accompanied by a statutory Declaration Act, 1835, that the same is a true statement according to the best of his knowledge, information, and belief.

(3) Such statement shall be submitted to the county council, who shall forthwith take the same into consideration and assess the just amount of compensation (if any) and shall forthwith inform the claimant of their decision.

(4) If a claimant is aggrieved by the refusal of the county council to grant any compensation or by the amount of compensation assessed, or if not less than one-third of the members of such council subscribe a protest against the amount of the compensation as being excessive, the claimant or any subscriber to such protest (as the case may be) may within three months after the decision of the council appeal to the Treasury, who shall consider the case and determine whether any compensation, and if so, what amount ought to be granted to the claimant, and such determination shall be final.

(5) Any claimant under this section, if so required by any member of the county council, shall attend at a meeting of the council, and answer upon oath, which any justice present may administer, all questions asked by any member of the council touching the matters set forth in his claim, and shall further produce all books, papers, and documents in his possession or under his control relating to such claim.

(6) The sum payable as compensation to any person in pursuance of this section shall commence to be payable at the date fixed by the council on

granting the compensation, or in the case of appeal by the Treasury, and shall be a specialty debt due to him from the county council, and may be enforced accordingly in like manner as if the council had entered into a bond to pay the same.

(7) If a person receiving compensation in pursuance of this section is appointed to any office under the same or other county council, or by virtue of this Act or anything done in pursuance of or in consequence of this Act receives any increase of emoluments of the office held by him, he shall not while receiving the emoluments of that office receive any greater amount of his compensation (if any) than with the emoluments of the said office is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds office.

(8.) All expenses incurred by a county council in pursuance of this section shall be paid out of the county fund as a payment for general county purposes.

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PART V.

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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.

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Where at the appointed day (see Sec. 84) any particular parish or area, and not the district, is liable for expenses incurred in maintaining, etc., highways, the district council may before taking over the same and making the repairs chargeable to the district, insist on them being put in proper repair, and charge the expenses incurred on the parish or area. The county council shall decide whether such expenses are properly a separate charge on the area or district.

(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.

### **Parish Maintaining its Highways.**

By Sec. 11 above, a parish council is restricted from expending in any local financial year more than a sum equal to a rate of sixpence in the pound on the rateable value of the parish. In regard to this limit, expenses incurred by a parish in maintaining its own highways are not to be considered as expenses of a parish council or meeting as the case may be.

**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.

**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.

Duty of county council to bring Act into operation.

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.

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PART V.

(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.

### Appointed Day.

*Dates.* First elections, 8th November, 1894, or such later day in 1894 as the Local Government Board may fix.

Councils to come into office 22nd November, 1894, unless another day is fixed by the Local Government Board.

The register of parochial electors will not be completed until the end of November, so that the elections cannot be held until December.

Divisions into wards and alterations of boundaries by the 1st of July, 1894, if practicable.

(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

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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.

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PART V.

### Councils and other Bodies elected.

(4) Under this Act take over the liabilities, etc., from the day of coming into office.

*A Borough*, to which powers, etc., have been transferred, acquires them from the 1st of November, 1894.

**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, etc.

(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

A.D. 1894. this Act shall continue in force until a new valuation  
 PART V. 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.

### Current Rates, etc.

All proceedings commenced, or rates or valuation lists made *before* the appointed day, shall be in the same position as if this Act had not been passed.

The accounts of all receipts and expenditure before the appointed day, shall be audited in like manner, as nearly as possible, as if this Act had not been passed.

**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.

A.D. 1874.

PART V.

**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, etc.

(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

Repeal.

A.D. 1894. this Act is also hereby repealed. Provided that where  
PART V. 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.

# SCHEDULES.

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A.D. 1894.

## FIRST SCHEDULE.

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### RULES AS TO PARISH MEETINGS, PARISH COUNCILS, AND COMMITTEES.

#### PART ONE.

##### *Rules applicable to Parish Meetings.*

Sec. 2.

(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 ;

A. D. 1894.

- (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.*

Sec. 3.

(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.

### PART THREE.

#### *General.*

Secs. 2, 3.

(1.) Minutes of the proceedings of every parish council and parish meeting shall be kept in a book provided for that purpose.

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(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.

Sec. 56.

#### *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.

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ENACTMENTS REPEALED.

Sec. 89.

Session & Chapter.	Short Title.	Extent of Repeal.
54 Geo. 3. 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. 3. 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. 3. c. 85.	The Vestries Act, 1819.	The whole Act, so far as it relates to parish meetings under this Act.
1 & 2 Will. 4. 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. 4. c. 76.	The Poor Law Amendment Act, 1834.	<p>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.</p> <p>Section thirty-nine, from “and every justice” to the end of the section.</p> <p>In section forty, the words “In all cases of the election of guardians under this Act or.”</p> <p>Section forty-one.</p> <p>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.</p>

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Session & Chapter.	Short Title.	Extent of Repeal.
5 & 6 Will. 4. 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. 4. & 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.
18 & 19 Vict. c. 120.	The Metropolis Man- agement 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 Man- agement Amend- ment Act, 1856.	Sections six, seven, and eight.
23 & 24 Vict. c. 30.	The Public Improve- ments Act, 1860.	In section four the words “in value.”
25 & 26 Vict. c. 102.	The Metropolis Man- agement Amend- Act, 1862.	Section thirty-six; and section forty from “by rating” to “of such parish.”

Session & Chapter.	Short Title.	Extent of Repeal.
25 & 26 Vict. c. 103.	The Union Assessment Act, 1862.	<p>In section two, the words "constituting partly of ex-officio and partly of elected guardians," and from "Provided always" to the end of the section.</p> <p>In section five, the words "ex-officio or elected," in both places where they occur, and the words, "as the case may be."</p>
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.	<p>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.</p> <p>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.</p>
39 & 40 Vict. c. 61.	The Divided Parishes and Poor Law Amendment Act, 1876.	<p>So much of Schedule I. as relates to committees, and Schedule II.</p> <p>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.</p>

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Session & Chapter.	Short Title.	Extent of Repeal.
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 guar- "dians."
47 & 48 Vict. c. 70.	The Municipal Elec- tions (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.	Subsection three of section one. The First Schedule so far as it applies to rural parishes.

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# APPENDIX.

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## \*CIRCULARS ISSUED BY THE LOCAL GOVERNMENT BOARD.

- (1.) TO THE METROPOLITAN VESTRIES AND DISTRICT BOARDS  
AND THE LOCAL BOARD OF WOOLWICH.
- (2.) TO THE COUNTY COUNCILS.—Regulations as to Inquiries  
and Notices under the Act.
- (3.) TO ALL COUNTY COUNCILS, EXCEPT LONDON COUNTY  
COUNCIL, as to bringing the Act into operation, &c., &c.
- (4.) STATEMENT AS TO THE EFFECT OF THE ACT WITH RESPECT  
TO BURIAL BOARDS.

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Circular.

Metropolitan Vestries and District Boards  
and the Local Board of Woolwich.

## Local Government Act, 1894.

(56 & 57 VICT. c. 73.)

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Local Government Board,  
 Whitehall, S.W.,  
 19th March, 1894.

SIR,

I am directed by the Local Government Board to draw attention to certain provisions of the Local Government Act, 1894, affecting the Vestries and District Boards elected under the Metropolis Management Acts, and the Local Board of Woolwich.

Section 31 directs that the provisions of the 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 were urban district councillors. So far as respects the qualification of persons to be elected, the provisions referred to are also to apply as if members of the district boards under those Acts were urban district councillors; but in other respects the election of members of district boards will be conducted as heretofore.

Under the operation of section 31 of the new Act the electors of the members of the local board of Woolwich, of the vestries under the Metropolis Management Acts, and of the auditors elected under section 11 of the Metropolis Management Act, 1855, will be respectively the parochial electors of the parish of Woolwich and of the parishes for which vestries are elected. Where the area under the jurisdiction of any of the authorities mentioned is divided into wards, the electors for each ward will be such of the parochial electors as are registered in respect of qualifications within the ward. (Section 23 (3)). The expression "parochial elector" when used with reference to a parish in the county of London is defined by section 75 to mean any person who would be a parochial elector of the parish if it were a rural parish, and the parochial electors in a rural parish will under section 2 be 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. Section 44 of the Act provides for the manner in which the register of the parochial electors of a parish is to be formed.

With respect to the persons to be elected as urban district councillors, it is provided by sub-section (2) of section 23 that 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. This provision is made applicable to members of the local board and the vestries and district boards, and to the auditors for parishes, by section 31 of the Act.

In connexion with the qualification of persons to be elected, reference should be made to the provisions relating to the disqualification of a person for being elected or being a member of a district council, contained in section 46 of the Act, which by sub-section (9) is made applicable in the case of any authority whose members are elected in accordance with the 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.

An election under the Act will be conducted according to rules to be framed by the Local Government Board. (Section 23 (5) and section 48). If there is a poll it will have to be taken by ballot.

Copies of the rules for regulating the elections will be forwarded to you when they are issued.

The expenses of any election under the Act are not to exceed the scale fixed by the county council, but if at the beginning of one month before the first election the county council have not framed a scale, the Board may do so, and the scale thus framed will apply to the first election and will have effect as if it had been made by the county council. (Section 48 (7)).

The Elections (Hours of Poll) Act, 1885, will apply to elections of members of vestries under the Metropolis Management Acts. (Section 31 (1)).

Sub-section (5) of section 48 provides that if any difficulty arises as respects the election of any individual member of the local board, or vestry, 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.

The Act also provides that if any difficulty arises with respect to the holding of the first election of members of the local board or any vestry, or of auditors, or to the first meeting of the local board or vestry, or if, from no election being held or an election being defective or otherwise, the first 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 anything which appears to them necessary or expedient for the proper holding of any such first election and properly constituting the 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. Any such order may modify the provisions of the Act, and the enactments applied by, or rules framed under it, so far as may appear to the county council necessary or expedient for carrying the order into effect. (Section 80 (1)).

Section 84 provides that the first elections under the Act shall be held on the 8th of November next, or such later date or dates in the present year as the Board may fix, and that 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 by the Board under the Act in relation to their election.

By Section 79 persons who, at the passing of the Act, are members of the local board and of any vestry under the Metropolis Management Acts, or are auditors under those Acts, are continued in office until the day on which the first members and auditors elected under the Act come into office, as if the term of office for which they were elected expired on that day, and consequently the usual annual election of such members and

auditors respectively will not take place until the day appointed for the first elections under the Act. Under sub-sections (3) and (10) of the section, the first annual retirement of members of the local board and vestries first elected under the Act will take place at the date of the annual election in the year 1896; and sub-section (6) provides how the members who are to retire in 1896 and 1897, respectively, are to be determined. Except as regards the present year, the dates for the annual elections will not be altered by the Act; but, as indicated above, there will be no annual election in 1895.

The existing local board and the existing vestries are required to take the necessary measures for the conduct of the first elections under the Act of members of the local board and of the vestries respectively, including any appointment of returning officers required by rules made by the Board under the Act. (Section 79 (1) and (10)).

After the vestrymen first elected under the Act come into office, no person is *ex-officio* to be chairman of any of the vestries under the Metropolis Management Acts (section 31 (1)), but each of the vestries, except those electing district boards, and each of the district boards and the local board of Woolwich must, at their first meeting after the annual election of members, elect a chairman for the year, and the chairman so elected will, unless a woman or personally disqualified by any Act, be by virtue of his office a justice of the peace for the county of London, but before acting as such justice he must, 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. (Sections 22 and 31 (2)).

The provisions of section 41 of the Metropolis Management Act, 1855, enabling a district board to elect a chairman of the meeting, will apply only in the case of the absence of the chairman of the district board elected under the new Act. (Section 31 (2)).

Nothing in any local and personal Act is to prevent any vestry in the county of London from holding its meeting at such time as may be directed by the vestry. (Section 31 (3)).

Certain provisions of the Metropolis Management Acts which are inconsistent with or are superseded by the provisions above referred to, are repealed by section 89 and the Second Schedule to the new Act.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

The Clerk to the Vestry or District Board  
or to the Local Board of Woolwich.

LOCAL GOVERNMENT ACT, 1888,  
and  
LOCAL GOVERNMENT ACT, 1894.

Regulations as to Inquiries and Notices during 1894.

**To the County Councils** for the several  
ADMINISTRATIVE COUNTIES IN ENGLAND AND WALES;—

And to all others whom it may concern.

WHEREAS by sub-sections (1), (2), and (3) of Section 57 of the Local Government Act, 1888, it is enacted as follows:—

“(1.) Whenever a county council is satisfied that a *primâ 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 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.”

And whereas by sub-section (4) of Section 87 of the said Act it is enacted that—

“Where any matter is authorised or required by this Act to be “prescribed, and no other provision is made, declaring how the same “is to be prescribed, the same shall be prescribed from time to “time by the Local Government Board.”

And whereas We, the Local Government Board, by an Order dated the 14th day of September, 1889, prescribed certain Regulations with respect to the Inquiries to be made and the Notices to be given for the purposes of the said Section 57 of the Local Government Act, 1888, the manner of giving such Notices, and the several other matters to be prescribed and determined for the purposes of the said Section;

And whereas by Part III. of the Local Government Act, 1894, power is given to County Councils to make various Orders in relation to areas and boundaries and other matters as therein mentioned;

And whereas by sub-sections (10) and (11) of Section 36 of the said Act, which is included in Part III. thereof, it is enacted that—

“(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 whereas by Section 41 of the said Act it is enacted that—

“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 sub-section three  
 “of that section.”

And whereas by sub-section (2) of Section 80 of the said Act it is enacted that—

“The Local Government Board shall make regulations for exped-  
 “iting 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.”

And whereas by Section 75 of the said Act it is enacted that, in that Act, unless the context otherwise requires, the expression “prescribed” means prescribed by Order of the Local Government Board ;

And whereas by Section 83 of the said Act it is enacted that a County Council may delegate their powers under the Act to a Committee :

NOW THEREFORE, We, the Local Government Board, in pursuance of the powers given to Us in that behalf, by this Our Order make the Regulations following for expediting and simplifying the procedure under Section 57 of the Local Government Act, 1888, in all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing the said Local Government Act, 1894, into immediate operation, and do Prescribe and Determine as follows ; that is to say,—

ARTICLE I.—This Order shall, unless We shall otherwise direct, regulate the procedure under Section 57 of the Local Government Act, 1888, in all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing the Local Government Act, 1894, into immediate operation, except cases in which Notice of a local Inquiry has been given before the date of this Order ; and the said Order dated the Fourteenth day of September, One thousand eight hundred and eighty-nine, shall not apply in any case to which this Order applies.

ARTICLE II.—(1.) A local Inquiry, at which all persons interested may attend and be heard, shall, prior to any Order being made by a County Council under Section 57 of the Local Government Act, 1888, be held in regard to the proposal, either by a Committee of the County Council, or by some Person appointed by the County Council to hold such Inquiry, as the Council may direct.

(2.) The said Inquiry shall, unless the County Council otherwise determine, be held at some convenient place in the County District, or in one of the County Districts, proposed to be dealt with, or in the County

District within which is situate the Parish, or one of the Parishes, proposed to be dealt with, or at such place in the neighbourhood as may, in the opinion of the Committee or Person by whom the Inquiry is to be held, be most convenient for the purpose.

(3.) At least ten days before the day when the Inquiry is to be held, public Notice of the purport of the proposal, and of the day, time, and place fixed for the Inquiry in regard to it, shall be given by the County Council by advertisement in some local newspaper circulating in the locality to which the proposal relates.

ARTICLE III.—At least ten days before the day when any such local Inquiry is to be held, a printed Notice of the purport of the proposal, and of the day, time, and place for the Inquiry shall also be published in the manner herein-after prescribed, and shall be sent to the several Government Departments and Local or other Authorities herein-after specified; that is to say,—

- (1.) A copy of the said Notice shall be posted as a bill or placard in such places in the County District or Districts or Parish or Parishes interested in the proposal as are ordinarily made use of for posting public or parochial notices.
- (2.) In any case where the proposal relates to the alteration of or other dealing with any Sanitary District, a copy of the Notice shall be sent by the County Council to the Sanitary Authority of such District.
- (3.) In any case where the proposal relates to the alteration of or other dealing with any Parish a copy of the Notice shall be sent by the County Council to the Overseers of the Poor of such Parish; to the Guardians of the Poor of the Union in which such Parish is comprised; to the School Board (if any) for such Parish or for any part thereof; to the Highway Authority or Authorities of the Parish; to the Burial Board (if any) for such Parish or for any part thereof; and to the Urban Sanitary Authority (if any) in whose district such Parish or any part thereof is comprised.
- (4.) A copy of the Notice shall be sent by the County Council to any Local Authority which, in the opinion of the County Council, is specially interested in the proposal.
- (5.) A copy of every such Notice shall be sent by the County Council to the Local Government Board; and in any case where the proposal relates to the alteration of any area of local government a copy of the Notice shall be sent by the County Council to the Board of Agriculture, the Public Works Loan Commissioners, the Director General of the Ordnance Survey at Southampton, and to the Registrar General; and in any case where the proposal relates to the alteration or definition of the boundary of any Parish a copy of the Notice shall be sent to the Education Department.

ARTICLE IV.—(1.) If the case is one in which any Order made by a County Council under Section 57 of the Local Government Act, 1888, requires confirmation by the Local Government Board, public Notice of the provisions of any such Order made by a County Council shall be

given by the County Council by advertisement in some local newspaper circulating in each District or Parish affected by the Order; and such advertisement shall be published within ten days after the making of the Order.

(2.) If the case is one in which any Order made by a County Council under Section 57 of the Local Government Act, 1888, does not require confirmation by the Local Government Board, public Notice of the proposed Order shall, after the Inquiry required by Article II. hereof has been held, and not less than twenty-one days before the Meeting of the County Council at which the Order is proposed to be made, be given by the Clerk to the County Council by advertisement in some local newspaper circulating in each District affected by the Order.

(3.) Any advertisement issued in pursuance of this Article shall contain either a copy of the Order, or proposed Order, as the case may be, or a statement of the effect of the Order, or proposed Order, and shall also contain a statement of the time and place or places during and at which copies of the Order, or proposed Order, may be inspected by any owner or ratepayer in any area affected by the Order, or proposed Order, during a period of fourteen days from the date of the publication of such advertisement, and the Order, or proposed Order, shall be open for such inspection during such period.

(4.) There shall be appended to any proposed Order or Statement of a proposed Order advertised or deposited for inspection in pursuance of this Article, a Notice to the effect that any person interested in the proposed Order who objects thereto may attend and be heard at a Meeting of the County Council to be held on a day and at a time which shall be mentioned in the Notice it, not less than three days before the date of the Meeting, he sends to the Clerk of the Council a statement in writing of the nature of his objection.

ARTICLE V.—(1.) A copy of any Order made or proposed to be made by a County Council as aforesaid shall, at any time while copies of the Order, or proposed Order, are open to inspection as aforesaid, and in the case of an Order which requires to be confirmed by the Local Government Board, at any time before the expiration of six weeks from the publication of the advertisement in pursuance of Article IV. (1.) hereof, be supplied by the Clerk to the County Council to any owner or ratepayer in any area affected by the Order, or proposed Order, upon payment by such owner or ratepayer of a sum not exceeding threepence for each hundred words of manuscript if the copy of the Order, or proposed Order, be in writing, or upon payment of a sum not exceeding threepence for a printed copy of the Order, or proposed Order.

(2.) A copy of a proposed Order supplied in pursuance of this Article shall contain a Notice to the effect specified in Article IV. (4.) hereof.

ARTICLE VI.—On or before the date of the publication in pursuance of Article IV. (1.) hereof of the advertisement of the provisions of any Order made as aforesaid and requiring confirmation by the Local Government Board, three copies of the Order shall be forwarded to the Local Government Board and to each of the other Government Departments to whom a copy of the Notice of the Inquiry relative to the proposed Order was, by Article III. hereof, required to be sent; a copy of the Order shall also be sent to each of the Local or other Authorities to whom a copy of such Notice was so required to be sent, and a copy shall also be posted

in like manner as the Notice of the Inquiry was, in pursuance of the same Article, required to be posted.

ARTICLE VII.—The advertisement in pursuance of Article IV. (1.) hereof of the provisions of any Order made by a County Council under Section 57 of the Local Government Act, 1888, and requiring confirmation by the Local Government Board, shall be deemed to be the “first notice” for the purposes of Sub-section (3) of that Section as amended by Section 40 of the Local Government Act, 1894.

ARTICLE VIII.—(1.) If the case is one in which any Order made under Section 57 of the Local Government Act, 1888, does not require confirmation by the Local Government Board, a copy of the proposed Order shall, on or before the date of the publication in pursuance of Article IV. (2.) hereof of the advertisement of the provisions of the proposed Order, be sent to each of the Local or other Authorities to whom a copy of the Notice of the Inquiry relative to the proposed Order was, by Article III. hereof, required to be sent, and a copy shall also be posted in like manner as the Notice of the Inquiry was, in pursuance of the same Article, required to be posted.

(2.) Any such copy shall contain a notice to the effect specified in Article IV. (4.) hereof.

(3.) The final approval of the County Council of any such Order may be dispensed with, if the requirements of Article IV. hereof and of this Article have been complied with.

(4.) When any such Order has been made by a County Council three copies thereof shall forthwith be forwarded to the Local Government Board and to each of the other Government Departments to whom a copy of the Notice of the Inquiry was required by Article III. hereof to be sent, and a copy of the Order shall also be at the same time sent to each of the Local or other Authorities to whom a copy of such Notice was so required to be sent.

ARTICLE IX.—The expression “County Council” in this Order shall include a Committee to whom the County Council have delegated their powers under the Local Government Act, 1894, and also a Joint Committee appointed by any County Councils of Administrative Counties for the purpose of dealing with any case or cases in which such Councils are jointly interested, and, in any such last-mentioned case, references in this Order to the County shall be deemed to refer to either of the Counties interested, and references to the Clerk to the County Council to any person acting as Clerk to the Joint Committee or appointed by such Committee to discharge the duties of the Clerk to a County Council under this order.

Given under the Seal of Office of the Local Government Board, this Twenty-second day of March, in the year One thousand eight hundred and ninety-four.

G. SHAW LEFEVRE,

*President.*

HUGH OWEN,

*Secretary.*

Circular.County Councils, except the London County Council.

## Local Government Act, 1894.

(56 &amp; 57 Vict. c. 73.)

Local Government Board,  
Whitehall, S.W.,  
24th March, 1894.

SIR,

I am directed by the Local Government Board to draw the attention of the County Council to certain provisions of the Local Government Act, 1894, and especially to those under which powers and duties will devolve on the County Council for the purpose of bringing the Act into operation within the county.

Every parish in a rural sanitary district, and in the case of a parish which is partly within a rural sanitary district, the part within such district, will be for the purposes of the Act a rural parish. For every rural parish there will be a parish meeting, and for every rural parish which according to the census of 1891 has a population of 300 or upwards there will be a parish council, which will be elected by the parliamentary and county electors registered in the portions of the parliamentary and county registers relating to the parish. The parish meeting will consist of these persons, who are in the Act described as the parochial electors.

It is not necessary for the present purpose to set out all the powers which will be possessed by a parish council, but in connection with the duties that will devolve on the county council, it may be noticed that most of the powers of the vestry, in other than ecclesiastical affairs, will be transferred to the parish council, and that where the Lighting and Watching Act, 1833, and Baths and Washhouses Acts, 1846 to 1882, the Burial Acts, 1852 to 1885, the Public Improvements Act, 1860, and the Public Libraries Act, 1892, or any of these Acts (which are referred to as the adoptive Acts), have been put in force in a rural parish before the parish council come into office, that council will be the authority for executing the Acts, if they are in force in the whole of the parish. Section 53 of the Act provides means whereby the parish council may become such authority in a case where the Acts are in force in part of the parish only.

The Act makes important alterations in the qualification, mode of election, and retirement of guardians, and confers on county councils new powers in relation to certain matters connected with this subject, which will be explained in a latter part of this circular.

Urban sanitary authorities will as from the appointed day be called urban district councils, and their districts will be called urban districts, but the style or title of a town council will not be altered. The mode of election of urban district councillors will, except in a borough, differ from that at present in force, and certain powers are given to county councils in connection with the retirement of urban district councillors. These will be referred to hereafter.

For every existing rural sanitary district wholly comprised in one county there will be a rural district council, whose district will be called

a rural district, and where a rural sanitary district is situate in more than one county, such portion of it as is situate in each county will, save as otherwise provided in pursuance of the Act, or of any other Act, be as from the appointed day a rural district. District councillors will be elected for every parish or other area for the election of guardians in a rural district. They will be elected by the parochial electors, and will be the representatives of that parish or area on the board of guardians, and guardians as such will not be elected for that parish or area.

The provisions of the Act with respect to the qualification, election, term of office, and retirement of guardians will apply to rural district councillors. Hence the powers of the county council in relation to these matters, so far as guardians are concerned, will apply in the case of rural district councillors also.

Rural district councils will be substituted for rural sanitary authorities, and will have all the powers and duties of those authorities. They will have certain new powers and duties under the Act, but except in connection with highways, it is unnecessary to draw the attention of the county council to any of these powers or duties. The provisions as to highways are dealt with in a later part of this circular.

The provisions which should first receive the attention of the county council are those contained in Part III. of the Act, which relate to areas and boundaries.

The Act contemplates that every parish and, as a general rule, every rural district shall be wholly within one administrative county, and that, also as a general rule, every parish shall be wholly within one rural or urban district. With a view to secure this result, and to provide for the settling of incidental administrative arrangements consequent on the alterations of areas which are made by the Act itself, very important duties have been imposed on county councils.

Section 83 makes it the duty of every county council to exercise all such of their powers as may be requisite for bringing the Act into full operation within their county as soon as may be after the passing of the Act.

The first elections under the Act are to be held on the 8th November next, or such later date or dates in the present year as the Board may fix, and the persons elected are to 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 rules made by the Board under the Act in relation to their election. (Section 84). It is important that alterations which may affect the preparation of the lists of voters should be made sufficiently early to enable the lists to be properly prepared, and it is consequently provided by sub-section (3) of section 84 that 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 parishes or parts for which the registers of parochial electors will be made are affected, be made, so far as practicable, before the 1st of July next.

Many of the provisions of the Act referred to in this circular are to take effect from the "appointed day." Subject as mentioned in the Act, this day, for the purpose of elections, is defined as the day or respective days fixed for the first elections under the Act, or such prior day as may be necessary for the purposes of giving notices or doing other acts preliminary to such elections, and for the purpose of the powers, duties, and liabilities of councils or other bodies elected under the Act, or other matters not specifically mentioned, it will be the day on which the members first elected come into office.

The powers and duties of county councils, so far as they may have to be exercised either before or in connection with the first elections may be classified under the following heads:—I.—Areas and Boundaries. II.—Parish Councils. III.—Guardians and District Councillors. IV.—Highways. V.—Miscellaneous.

## I.—AREAS AND BOUNDARIES.

Sub-section (1) of section 36 provides as follows:—

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 containing a population of less than 200; 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 57 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 the present 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.

By sub-section (11) of section 36 it is provided that, where at the passing of the Act a rural sanitary district or parish is situate in more than one county, a joint committee of the councils of the several counties comprising the district or parish shall act under the section. The appointment by each county council of representatives on the joint committee is to be made within two months after request from any other of the councils interested. If any of the councils fail to appoint members of the committee within that period, the members actually appointed are to act. Any question relating to the constitution or procedure of the joint committee as to which the councils concerned are unable to agree, is to be determined by the board.

The first case mentioned in section 36 is that of a parish in more than one administrative county. In many instances of this kind the rural district will also be in more than one county, and the Board have dealt with them later on, in their remarks on cases where the rural district is so situate.

The county council will also have to consider the case of any parish which is not wholly contained within one sanitary district, and these cases include some in which the parish is in more than one county also. If at the passing of the Act, a parish is partly within and partly without a rural sanitary district, that is to say, is partly in such a district and partly in an urban district, and no action is taken by the county council prior to the appointed day, the parish will as from that date be divided by the Act, the part within the rural district and the part without being constituted separate parishes by sub-section (3) of section 1.

Where the part outside the rural district is comprised in more than one urban district, the provisions of sub-section (2) of section 36 referred to below will apply to it.

If the rural part of the parish is deemed too small to form a separate parish, the county council should consider whether it could properly be united with some other rural parish. It would, however, be competent to the county council, if the circumstances justified it, by an order under section 57 of the Act of 1888, to extend any urban district, not being a borough, containing part of the parish, so as to include the rural part of the parish.

If a parish is situate in two or more urban districts, the part in each urban district will, unless the county council otherwise direct, and subject to any alteration of area made by or in pursuance of the new Act or of any other Act, become as from the appointed day, a separate parish. (Section 36 (2)). The county council can either alter the boundary between the urban districts, if neither of them is a borough, so as to include the whole parish within one district, or direct that the parish and urban districts shall remain unaltered, but the latter course would be opposed to the general scheme of the Act, and can only properly be adopted where there are special reasons for it. These observations apply equally to the urban part of a parish situate partly in a rural and partly in two or more urban districts. In any case, such as those mentioned above, where the parish is situated partly in a borough, the boundary of the borough could be altered by an order of the Board under section 54 of the Local Government Act, 1888. The county council or a joint committee could not properly make an order which would place or leave a parish in more than one county. It would be inconsistent with the Local Government Act, 1888, that an urban district should be in more than one county.

Where a parish is divided by the Act into two or more new parishes, sub-section (9) of section 36 directs that those parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included, and sub-section (1) of section 79 directs that, subject to any order made by the county council, there shall be one guardian, and in the case of a new parish in a rural district, one district councillor for each of the new parishes. Many of the parishes which will be divided by the Act are at present entitled to more than two guardians, and not only in these cases, but in every other to which the above provision applies, the county council may be called upon to make an order as to the future representation of the new parishes.

The county council will have power to give names to the new parishes formed by the Act, although no order for any alteration of area has been made by them. (Section 55 (2)).

It is provided by sub-section (11) of section 79 of the new Act that the overseers of any parish divided by the 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 parish, which by reason of such division becomes a separate parish.

The case of parishes with a population under 100 is dealt with under the head of Parish Councils.

It is to be observed that when parishes are divided, and new parishes are constituted by the Act, whether under section 1 (3) or section 36 (2), they are to 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. The formation of parishes under the Acts referred to has no effect as regards the constitution of school districts without the sanction of the Education Department.

Taking next the case of the rural sanitary districts situate in more than one county, the Act provides that where any such district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall be as from

that day a rural district, save as otherwise provided by or in pursuance of this or any other Act. (Section 24 (5)). Unless, therefore, as regards any particular rural sanitary district not wholly comprised within one county, a joint committee of the county councils interested for special reasons otherwise direct, the district will be divided by the Act.

In a case where a rural sanitary district is in more than one county, but none of the parishes in the district overlap the boundary of any county, the first question for consideration will be whether any special reasons exist for directing that the district shall not be divided in the manner contemplated by sub-section (5) of section 24. The Act does not define what special reasons may be regarded as sufficient for interfering with the operation of that section, and the discretion of the joint committee of the county councils is, therefore, unfettered in that respect. If it is considered that there are special reasons for not dividing the district, but it is deemed expedient that the boundary between the counties should be altered so as to include the whole of the district within one county, this alteration can be effected by an order of the Board under section 54 of the Local Government Act, 1888. (*See* sub-section (5) of section 36 of the new Act).

If the division of the district is not interfered with, but the effect of it would be to create a rural district having less than five elective councillors, the case comes under paragraph (iii.) of sub-section (1) of section 36, which requires that any such district shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts. This applies also to rural districts having less than five elected councillors which already exist, irrespective of county boundaries. If the county council find that there are sufficient reasons for not uniting the district to some neighbouring district or districts, as, for instance, in a case where the severed part is entirely rural in character, and there is no other rural district within a convenient distance to which it could be united, they may make an order accordingly, and if the order is confirmed it will devolve on the Board, under sub-section (5) of section 24, to nominate members of the district council in order to make the number up to five, or to take some other action under that sub-section.

If no special reasons to the contrary exist, the council must make an order uniting the district to some neighbouring district or districts. The Act does not require that the district should necessarily be united to another rural district; and its provisions would apparently be complied with if the district were united to a neighbouring urban district, although usually, no doubt, the proper course would be to unite it with a neighbouring rural district. The district might, however, be divided by the order of the county council, part being added to one neighbouring district, and part to another.

In any case where a new rural district is formed by the Act, and in any other case where there is any doubt as to the name of a rural district, the county council will have to direct what shall be the name of the district.

Cases where a parish within a rural sanitary district overlaps the boundary of the county will be more complicated. In these cases arrangements must be made to prevent the overlapping of the county boundary by the parish, even if the rural district is allowed to be in more than one county. As a rule, it would seem in these cases that the parish should be divided by order of the county council, but the Act will admit of an alteration of the county boundary if that course seems expedient.

It is to be borne in mind that the Act itself does not form separate parishes of the parts of a parish situate in different administrative counties. The division under sub-section (5) of section 24 of a rural sanitary district comprising such a parish will not affect the parish in this respect, but the parish will have to be divided by order of the county

council, unless the county boundary is altered so as to include the whole of the parish in one county. Where a parish is so divided, the order of the county council must contain directions as to the number of guardians and district councillors to be elected for each of the new parishes formed by the order.

The alteration of a rural district by or in pursuance of the Act will not affect the area of the poor law union with which at present the district is co-extensive, or in which it is comprised, but where the alteration of a poor law union seems expedient by reason of any of the provisions of the Act, the county council are empowered by sub-section (6) of section 36, to provide by their order for such alteration.

Where the alteration of the boundary of a county is deemed expedient for any of the purposes mentioned in section 36, application should, as already indicated, be made to the Board for an order under section 54 of the Local Government Act, 1888. If it is proposed that the boundary of a borough should be altered for these purposes a like application should be made. (Section 35 (5)).

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 the Act, provision for such alteration, division, or union, may be made by an order of the county council under section 57 of the Act of 1888. (Section 36 (8)).

The provisions of section 59 of the Local Government Act, 1888, will apply to any order for the purposes of the present Act that may be made under section 57 of that Act, and section 69 of the new Act provides that in any case where an alteration of any area is made by the Act, an order may 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, for any of the matters mentioned in section 59 of the Act of 1888. Under these powers adjustments may be made of any property, debts, and liabilities affected by the alteration, and directions may be given for effecting any subsidiary arrangements rendered necessary by the alteration.

Sub-section (12) of section 36 requires that every report made, by the Boundary Commissioners under the Local Government Boundaries Act, 1887, shall be laid before the council of any administrative county affected by that report, and before any joint committees of county councils. The sub-section further provides that it shall be the duty of the councils and joint committees to take these reports into consideration before framing any order under the powers conferred on them by the Act. The county council will not be bound to give effect to the recommendations of the Commissioners, but the reports in question will be found to be of assistance in arriving at a decision in regard to any matter dealt with therein.

## II.—PARISH COUNCILS.

Under section 3 of the Act the county council are required to fix the number of councillors to be elected for each rural parish which will have a parish council. The number is to be not less than 5 nor more than 15, and it should be fixed sufficiently early for proper arrangements to be made for the candidature of persons desirous of offering themselves for election at the first election.

In any case where there is any doubt as to the name of the parish for which a parish council is elected, the name will be such as the county council, after consultation with the parish meeting, may direct. (Section 3 (9)).

The county council may be applied to by the parish council, or not less than one-tenth of the parochial electors of a parish, or before the

appointed day by the vestry or a like number of the ratepayers of the parish, to divide the parish into wards for the purpose of electing parish councillors; 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, the county council may make an order for the purpose. The order must fix the boundaries of the wards and the number of councillors to be elected for each ward. In making the order regard must 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. (Sections 18 and 84 (3)).

Section 1 of the Act provides for the grouping of two or more parishes under a common parish council, subject to the proviso that parishes shall not be grouped without the consent of the several parish meetings. For this purpose the section enacts that an order may be made by the county council under Part III. of the Act.

The county council may, with the consent of the parish meetings, make such an order either on their own initiative, or on the application of the parish meeting of any of the parishes proposed to be grouped. If any such application is made, it must be taken into consideration forthwith. (Section 38 (4)).

The whole of the parishes to be formed into a group should, as a rule, be within the same county and county district, but if there are special reasons for grouping parishes in adjoining counties or county districts, the county council may depart from the rule. (Section 38 (2)).

The order must make provision for the name of the group, and as under section 1 each of the grouped parishes is to have a separate parish meeting, it must make any necessary provisions as to this also. It is further enacted that a grouping order shall provide for the election in manner provided by the Act of separate representatives of each parish on the parish council, and that it may provide for the consent of the parish meeting of a parish to any particular act of the parish council or for any other adaptations of the Act to the group of parishes, or to the parish meetings in the group. The mode of election of parish councillors is determined by sections 3 and 48. Further, the grouping order must provide for the application of the provisions contained in sections 14 and 17 of the Act with respect to the appointment of trustees and beneficiaries of charities, and the custody of documents, so as to preserve the separate rights of each parish.

The county council will be empowered to order the establishment of parish councils in rural parishes which, according to the Census of 1891, have a population of less than 300. (Section 1). If in the case of a rural parish with less than 300 but more than 100 inhabitants, the parish meeting so resolve, the county council must, by an order under Part III. of the Act, provide for the establishment of a parish council. In this case, the county council will have no alternative but to issue the order if the necessary resolution is passed.

In regard to any rural parish with less than 100 inhabitants, the county council may issue an order establishing a parish council, if the parish meeting consent, but the parish will have no right to demand that a parish council should be established. The grant of a parish council will be in the discretion of the county council. Subject, however, to the necessity for obtaining the consent of the parish meeting the county council may act in these cases on their own initiative; but if the population of a parish is less than 200 the parish meeting may apply for a parish council under sub-

section (4) of section 38, and any such application must forthwith be taken into consideration by the county council.

Where a rural parish is co-extensive with a rural sanitary district, sub-section (4) of section 36 provides that 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. In these cases, therefore, it will rest with the county council to determine whether the rule laid down in the sub-section should be departed from; and in any such case it will be competent to the county council to make an order directing that a parish council shall be elected for the parish. There is no special reason, however, why these cases should be dealt with before the first elections under the Act.

### III.—GUARDIANS AND DISTRICT COUNCILLORS.

Under section 60 of the Act, the county council will have power to fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and it is provided that for those purposes the council 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 Board.

The power to add parishes to each other for the purpose of the election of guardians is conferred on the Board by section 6 of the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122). That section provides that the Board may add any parish in a union, the population of which does not exceed 300, and the aggregate rateable value of which does not exceed the average rateable value of the parishes in the same union, to some adjoining parish in the union, for the purpose of the election of guardians. The county council will thus be able to add any such parish, if it is an urban parish, to any other urban parish in the union, for the purpose of the election of guardians, and to add any such parish, if it is a rural parish, to any other parish in the rural district for the purpose of the election of rural district councillors; but they will not be able to add an urban parish to a rural parish, or *vice versa*.

The power conferred on the Board by the Poor Law Acts to divide parishes into wards for the election of guardians is contained in section 12 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), which enables the Board to divide any parish into wards for the election of guardians and to determine the number of guardians to be elected for each ward, due regard being had to the value of the rateable property therein.

Under sections 20, 24, and 60 of the new Act, the county council will regulate the retirement of guardians and rural district councillors. The first of these sections provides generally that the term of office of a guardian shall be three years, and that one-third, as nearly as may be, of every board of guardians shall go out of office on the 15th April in each year. Where, however, the county council on the application of a board of guardians consider that it would be expedient to provide for the simultaneous retirement of the whole board, they may direct that the members shall retire together on the 15th April in every third year. Where a union is in more than one county, an order for this purpose may be made by a joint committee of the councils of the counties concerned. There are some cases in which at the present time the whole of the guardians retire at the end of every third year in pursuance of an order of the Board, and in these cases the guardians are to 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.

Section 24 makes the provisions of the Act with respect to the term of office and retirement of guardians applicable to the district councillors of a rural district. In any case where such a district is in more than one union, it will be necessary to secure that the mode of retirement of the guardians of the unions shall be the same, as otherwise there may be serious difficulties in connection with the constitution of the district council.

Section 60 provides that 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, 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.

Where the union is situate in more than one county, the power of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of district councillors, is to 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 will have power to act as the joint committee. If any order made by a joint committee under this provision 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, the order will be inoperative until confirmed by the Board. (Section 59).

Where the guardians and rural district councillors are to retire by thirds, in accordance with the rule prescribed by section 20, it will be necessary, as the full number of guardians or district councillors will be elected at the first election, to provide for retirements in the years 1896 and 1897. There will be no retirements under the Act before 1896. (Section 78). The question as to the guardians and rural district councillors who will have to retire in the two years mentioned, is under sub-section (4) of section 79 to be determined by the county council with reference to the parishes, wards, or other areas for which the guardians or councillors are elected.

#### IV.—HIGHWAYS.

Section 25 of the Act provides that as from the appointed day, there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of any highway authority in the district, that highway boards shall cease to exist, and that rural district councils shall be the successors of the highway authorities. It is, however, enacted 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 further period as may, on the application of the county council, be allowed by the Board.

The expression "highway authority" as used in the Act, means as respects a highway district, the highway board, or authority having the powers of a highway board, and as respects a highway parish, the surveyor or surveyors of highways, or other officers performing similar duties. (See Local Government Act, 1888, section 100: Local Government Act, 1894, section 75).

The effect of section 25 will be that all these highway authorities will cease to exist on the day on which the first rural district councillors come into office, and that the rural district councils will thereupon become the highway authorities, unless the county councils postpone the operation of the section.

By section 79, persons who are members of highway boards at the passing of the Act will be continued in office until the day on which the first rural district councillors come into office, that is, as at present fixed, the second Thursday after the 8th of November next, as if the terms of office for which they were elected expired on that day, and consequently the usual annual election of waywardens will not take place.

The election of surveyors of highways under the Highway Act, 1835, will however take place, as usual, at the first meeting in vestry for each parish, not in a highway district, for the nomination of overseers in the present year.

An order under section 25 is, by section 84, to make such provision as may be necessary for holding elections of highway boards in any interval during which the operation of section 25 is postponed. This provision will enable the county council to give directions in their order for the election of waywardens in place of those who will cease to hold office, as mentioned above, when the rural district councillors come into office, and also to order for what period such waywardens shall be elected, having regard to the period of postponement.

No similar provision appears, as a rule, to be required as regards the annual election of surveyors for parishes not in highway districts during the interval referred to, and the effect of the postponement of the operation of section 25 would seem to be that in such a case surveyors will continue to be elected from year to year so long as necessary. But in the case of new rural parishes formed by or in pursuance of the Act, it may be necessary, in the event of the county council postponing the operation of section 25 to provide for the election of surveyors to act for periods until the next ordinary time for electing surveyors.

This course would not be requisite as regards a parish partly within and partly without an urban district, which, by virtue of section 216 of the Public Health Act, 1875, is at the present time treated as wholly within the urban district for highway purposes, because, if the county council postpone the operation of section 25, the part of the existing parish which is outside the urban district will continue subject to section 216 of the Act of 1875 until the rural district council become the highway authority, notwithstanding that it may have become a separate parish.

#### V.—MISCELLANEOUS.

Sub-section (7) of section 48 of the Act requires the county council to fix a scale for the expenses of elections under the Act, *i.e.*, of elections of parish and district councillors and guardians. If, at the beginning of one month before the first election, the county council have not framed any such scale for their county, the Board will have power to frame a scale for the purposes of that election. The Board will be glad to receive a copy of the scale framed by the county council under this section as soon as it has been approved by the council.

Under sections 48 and 80 the county council will have very extensive powers for the removal of any difficulties that may arise in connexion with the election of parish and district councillors and guardians, and generally in bringing the Act into operation within their county. Sub-section (5) of section 48 provides that if any difficulty arises as respects the election of any individual councillor or guardian, 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.

Under section 80, 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 to the first meeting of a parish or district council, or board of guardians, or if, from no election being held, or an election being defective or otherwise, the first parish or district council, or board of guardians, has not been properly constituted, the county council may, by order, make any appointment or do anything 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 or board of guardians. They may, if it appears to them necessary, direct the holding of a meeting or election, and fix the necessary dates for the purpose. Any such order may modify the provisions of the Act, and the enactments applied by, or rules framed under it so far as may appear to the county council necessary or expedient for carrying the order into effect.

If a parish council or a district council, other than a borough council, become unable to act whether from a failure to elect or otherwise, the county council may order elections to be held and may authorise persons to act temporarily in place of the parish or district council and the chairman of the parish council. (Section 47 (5) and section 59 (5)).

Under section 17 each parish council will be empowered to appoint an unpaid treasurer, and this officer is to give such security as may be required by regulations of the county council. It is desirable that such regulations should be made before the parish councils come into office. They may provide both as to the character and as to the amount of the security to be taken from the treasurers, and the Board suggest that they should be so framed as to require such security to be given by these officers as will be sufficient to cover the amount likely to be in their hands belonging to the parish councils at any one time.

It is now necessary to refer to the provisions which will govern the procedure of the county council in regard to the issue of orders for the purposes mentioned above.

Sub-section (10) of section 36 directs that, subject to the provisions of the Act, any order made by a county council in pursuance of Part III. of the Act (as to areas and boundaries) shall be deemed to be an order under section 57 of the Local Government Act, 1888. Every such order will consequently have to be made in accordance with the provisions of that section, and of the regulations issued by the Board thereunder, and, with the exceptions mentioned in section 40 of the Act (to which attention should be specially directed), will require confirmation by the Board in the manner prescribed by section 57 of the Act of 1888.

An important amendment of the section referred to is made by section 41 of the new Act, which provides that the time for petitioning to the Board against an order of a county council under the section shall be six weeks instead of three months after the first notice of the provisions of the order.

The Act also provides that any board of guardians affected by an order under Part III. of the Act, are to have the same right of petitioning against the order as is given by section 57 of the Act of 1888 to other authorities (section 36 (10)): and that where any of the areas referred to in section 57 of the Act of 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 county councils concerned is, subject to the terms of delegation, to be deemed to have and to have always had power to make orders under the section with respect to that area. (Section 36 (11)).

An order made under section 60 of the new Act as to the number or retirement of guardians or rural district councillors will, as already mentioned, require confirmation by the Board if, in the case of a union situate in more than one county, the order is objected to by any of the

county councils concerned or by a committee of any of those councils authorised in that behalf.

Among the orders that will not be subject to the provisions of section 57 of the Act of 1888, and will not require to be submitted to the Board, are orders of the county council fixing the number of parish councillors for a parish or dividing a parish into wards for the election of parish councillors.

An order made by the county council under section 25, postponing within their county or some part thereof the operation of that section as regards highways, will not require the confirmation of the Board, although, if it is proposed to postpone the operation of the section for more than three years from the appointed day, the postponement will require allowance by the Board.

In connexion with the orders of the county council under this Act, it may be pointed out that by section 42 it is provided that in any case where an order under section 57 of the Act of 1888 (including any order made or deemed to have been made thereunder for the purposes of this Act) has been confirmed by the Board, such order is at the expiration of six months from the date of confirmation to be presumed to have been duly made, and to be within the powers of that section, and no objection to the legality thereof can be entertained.

A copy of every order made by a county council or joint committee in pursuance of the Act is to be sent to the Board, and, if it alters any local area or name, a copy must be sent also to the Board of Agriculture. (Section 71).

Sub-section (2) of section 80 requires that the Board shall issue regulations for expediting and simplifying the procedure under section 57 of the Act of 1888 in all cases in the year 1894, for the purpose of bringing the Act into immediate operation.

The Board have issued an order for this purpose, which, as regards the cases referred to, will take the place of the regulations made by them on the 14th September, 1889, except where notice of a local inquiry has been given before the date of the order.

It will be found that the new regulations materially expedite and simplify the procedure under section 57 of the Act of 1888, and the Board may draw special attention to the provisions in Article VIII. (3). In cases in which an order made under the section does not require confirmation by the Board, it has hitherto been necessary that the order, after having been made, should be again approved by the county council after certain notices have been given and a specified interval has elapsed. The effect of the provision in Article VIII. (3) will be that no final approval on the part of the county council will be requisite, if the requirements of Articles IV. and VIII. have been complied with.

It will also be observed that under Article IX. the expression "county council," as used in the order, will include a committee of the county council, to whom they have delegated their powers under the Act of 1894, and also a joint committee appointed by any county councils for the purpose of dealing with any cases in which they are jointly interested.

It has sometimes been pointed out by county councils that no provision was made by the Local Government Act, 1888, as to the expenses of inquiries held by them under the Act. It is now provided by sub-section (4) of section 72 of the new Act, that where a county council hold a local inquiry under the Act or under the Act of 1888 on the application of a parish council or a district council, 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) are to 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. Subject to this, however, the expenses of the county council incurred in the case of inquiries under the Act must be paid out of the county fund.

Section 44 contains provisions as to the register of the parochial electors which is to be formed alike for urban and for rural parishes for the purposes of elections under the Act. The Board do not consider it necessary to refer to these provisions in detail; but the attention of the county council should be directed to the proviso to sub-section (3) of section 84, under which, if the county council have under consideration any division into wards or alteration of the boundaries of any parish, or union, or district which is to affect the first election, they may direct that 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.

In making any such division or alteration at any time in the month of July or August next, the county council may direct their clerk to 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 it will, of course, be the duty of the clerk to give effect to any such direction. (Section 84).

The orders of the county councils altering areas may direct that for the purpose of preparing the lists and registers of electors for the first elections of parish and district councillors, the orders shall take effect at such time as to enable the overseers to make out the lists for the altered areas, although the areas will not be actually altered until the appointed day.

Numerous powers and duties besides those which have been indicated above are conferred on county councils by the Act, but the Board do not think it necessary to specify them on this occasion, as their present purpose is to bring under the notice of the county council those powers and duties which may have to be exercised for the purpose of bringing the Act into operation, and they believe that they have now mentioned all that need be referred to with this object.

It is evident that in order that effect may be given to the intentions of the legislature, it is requisite that the county councils should without delay set about the exercise of the important powers which have been entrusted to them. As the Board have already pointed out, section 83 makes it the duty of every county council to exercise all such of their powers as may be required for bringing the Act into full operation within their county as soon as may be after its passing, and enables them to delegate their powers under the Act to a Committee, and the Board feel assured that they may rely on every effort being used by the County Council to bring the Act into full operation in their county at the earliest possible date.

The Board strongly recommend them forthwith to appoint a committee for carrying out the Act if they have not already done so, and to delegate to such committee their powers under it.

They also recommend that either such committee or the Council should at once place themselves in communication with the councils of the other counties in which parishes or rural sanitary districts partly within and partly without the county are situate, with a view to the immediate appointment of any joint committees necessary to enable such cases to be dealt with.

The Board would further suggest that the clerks to rural and urban sanitary authorities should, as soon as possible, be applied to for information as to whether the districts of those authorities come within the cases

mentioned in section 36 of the Act, or contain parishes or parts of parishes which are within those cases. In the meantime, the Parliamentary returns relating to counties and poor law parishes of which copies are enclosed will give the most recent information that has been published as to the cases where parishes and rural sanitary districts are in more than one county. The return relating to poor law parishes also shows the number of parishes partly in rural sanitary districts. The names of parishes partly in urban sanitary districts may be obtained from the tables numbered 4 in the second volume of the Report on the Census of 1891, but there have been alterations since the date of the census, and these tables may not now be quite accurate.

As regards the matters referred to under the head of parish councils, the Board have already pointed out that the number of councillors should be fixed sufficiently early for proper arrangements to be made for the candidature of persons desirous of offering themselves for election at the first election. With this exception, it would seem that unless application is made by the vestry, or one-tenth of the ratepayers of a parish, to divide the parish into wards, it will not devolve on the county council to make any orders with respect to these matters before the appointed day. By section 36 the council are required to take into consideration the cases of small rural parishes, but no order for the grouping of such parishes, or the establishment of parish councils therein, could actually be made without the consent of the parish meeting given after the appointed day.

As regards section 25 of the Act, it will of course be necessary that any order postponing the transfer of the powers of highway authorities should be made before the appointed day.

Some inquiries have been addressed to the Board with respect to the meaning of the word "parish" as used in the Act. They may state, therefore, that it bears the meaning given to it by section 5 of the Interpretation Act, 1889 (52 & 53 Vict. c. 63), which provides that unless the contrary intention appears, the expression shall mean a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

The Clerk of the County Council.

## Statement as to Effect of the Local Government Act, 1894, as regards Burial Boards.

“If, after the election of parish councils, the Burial Acts, 1852 to 1885, are adopted for the whole or part of any parish which has a parish council, no burial board will be elected, but the parish council will be the authority for the execution of the Acts. Consequently, after the Local Government Act, 1894, comes into operation, a burial board cannot be newly established in any rural parish having a parish council.

“In cases in which the area of jurisdiction of an existing burial board is co-extensive with a rural parish, all the powers, duties, and liabilities of the burial board will be transferred to the parish council on the latter coming into office. The burial board will cease to exist, and their place will be taken by the parish council, without any adoption of the Burial Acts by the parish meeting.

“Where the area under a burial board is part only of a rural parish, the burial board, or the parish meeting for that part, may transfer the powers, duties, and liabilities of the burial board to the parish council, subject to any conditions as to the execution thereof by a committee as the burial board or parish meeting may impose.

“Where the area is in two or more rural parishes, the powers of the burial board will be transferred by the Act of 1894 to the respective parish councils for such parishes: and where the area is partly in a rural parish and partly in an urban district, these powers will be transferred to the parish council and the district council of the urban district. Until other provision is made, the powers so transferred are to be exercised by a joint committee. Where there is no parish council, the parish meeting is to be substituted in the cases last-mentioned.

“Subject to this, a parish meeting in a rural parish which has no parish council will have none of the powers of a burial board under the Burial Acts, unless the county council, on the application of the parish meeting, confer on them the powers conferred by the Act of 1894 on a parish council in this matter; but burial boards may still be newly established for the same areas as heretofore in rural parishes having no parish council, if there is no existing burial board for such area, and if the Burial Acts are adopted by the parish meeting for it. Any such burial board will have the usual power to provide a cemetery.

“Existing burial boards in rural parishes, except where they are superseded as above stated, will continue to exist without any adoption of the Burial Acts by the parish meeting.

“Where a burial board district is wholly in an urban district the council of the district may resolve that the powers, duties, and liabilities of the burial board shall be transferred to the council from a specified date, and such transfer will take effect from that date and the burial board will cease to exist. Subject to this, the burial board for such a district will not be affected by the Act.

“The powers possessed by rural sanitary authorities of providing cemeteries under the Public Health (Interments) Act, 1879, will be transferred to rural district councils.

“Local Government Board, April, 1894.”

## APPENDIX

## II.

## PARISH COUNCILLORS.

## RULES AS TO NOMINATION AND ELECTION.

## DAY AND HOUR OF PARISH MEETING FOR ELECTION.

1. The parish meeting for the first election of parish councillors shall be held on Tuesday, the fourth day of December, one thousand eight hundred and ninety-four, at such hour, not being earlier than six o'clock in the evening, as may be fixed by the overseers convening the meeting.

## NOTICE OF PARISH MEETING.

2. The overseers shall publish public notice of the parish meeting not later than Saturday, the twenty-fourth day of November, one thousand eight hundred and ninety-four, and such notice shall be in the Form No. 1 in the first schedule to this Order, or in a form to the like effect.

## NOMINATION PAPERS TO BE PROVIDED.

3. The returning officer as defined by Rule 19 shall provide nomination papers for the office of parish councillor, and shall furnish the overseers with a supply thereof. Any parochial elector may obtain nomination papers from either the returning officer or the overseers free of charge.

## NOMINATION OF CANDIDATES.

4. (1) Each candidate for election as a parish councillor shall be nominated in writing. (2) The nomination paper shall state the surname and the other name or names in full of the candidate and his place of abode and description, and whether he is qualified as a parochial elector or by residence. It shall be signed by two parochial electors of the parish, or, if the parish is divided into wards, of the ward, as proposer and seconder, and no more, and shall state their respective places of abode. It shall be in the form set out in the notice in Form No. 1 in the first schedule to this Order, or in a form to the like effect. (3) The name of more than one candidate shall not be inserted in any one nomination paper. (4) Any parochial elector of the parish may sign as many nomination papers as the number of parish councillors to be elected, but no more, except that if the parish is divided into wards for the election of parish councillors, a parochial elector shall not sign nomination papers for more than one ward, and shall not sign a larger number of nomination papers than the number of parish councillors to be elected for the ward. (5) If any parochial elector shall sign a larger number of nomination papers than the number of parish councillors to be elected for the parish or ward, such of the nomination papers signed by him as are first received by the chairman of the parish meeting, up to the number of parish councillors to be so elected, shall alone be valid.

### NOMINATION PAPERS TO BE HANDED TO CHAIRMAN AT MEETING.

5. The chairman of the parish meeting shall ask at the meeting that nomination papers be handed in to him, and they shall be handed in accordingly. He shall number them in the order in which they are received by him; and the first valid nomination paper received by him for a candidate shall be deemed to be the nomination of that candidate.

### IF CHAIRMAN IS A CANDIDATE.

6. 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. The meeting shall forthwith proceed to elect some other person as chairman of the meeting, and as soon as such other person is elected he shall become the chairman of the meeting, and the original chairman shall vacate the chair.

### DEALING WITH NOMINATION PAPERS BY CHAIRMAN.

7. (1) When it shall appear to the chairman that all the nomination papers have been handed in, and not less than fifteen minutes shall have elapsed since he took the chair, he shall state to the meeting the names of the candidates in the alphabetical order of their surnames, and also their places of abode and 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 nomination paper. After such statement has been made, no other nomination papers shall be received, except as provided by Rule 9. The decision of the chairman that a nomination paper is valid, that is to say, that it has been properly filled up and signed by two parochial electors shall be final and shall not be questioned in any proceeding whatever. (2) If the chairman shall decide that a nomination paper is invalid, he shall forthwith put a note on the nomination paper to this effect, stating the grounds of his decision, and shall sign such note and state the effect of it to the meeting.

### QUESTIONS TO CANDIDATES.

8. After making the statement referred to in Rule 7, the chairman shall give opportunity for putting questions to such of the candidates as have been duly nominated and are present at the meeting, and for receiving explanations from them.

### WITHDRAWAL OF CANDIDATES.

9. (1) Before the names of the candidates are put to the meeting, or if, under Rule 10, the names are not required to be put to the meeting, before the chairman declares the names of the candidates elected, any candidate may withdraw his candidature. Any such withdrawal shall be in writing signed by the candidate, and shall be handed to the chairman; or if the candidate is present at the meeting, he may by word of mouth declare that he withdraws his candidature, and the chairman shall thereupon write "Candidature withdrawn" on the back of the nomination paper, and the candidate shall sign his name or initials thereto. Except as aforesaid, no candidature shall be withdrawn at the meeting. (2) Provided that if by such withdrawals the number of candidates is reduced below the number of persons to be elected, the chairman shall, if desired by any parochial elector present at the meeting, allow a reasonable time at the

meeting during which further nomination papers may be handed in to him. (3) If any such further nomination papers are handed in to the chairman, he shall make a statement to the meeting with regard to them, and shall decide as to their validity, as provided by Rule 7 with reference to the nomination papers first received; and if any of the candidates so nominated are decided by him to have been duly nominated, he shall give opportunity for putting questions to such of them as are present at the meeting and for receiving explanations from them. The provisions of paragraph (1) of this rule shall also apply to such candidates.

**IF NUMBER OF CANDIDATES DOES NOT EXCEED NUMBER OF PERSONS TO BE ELECTED.**

10. If the candidates (including those whose nominations are handed in under paragraphs (2) and (3) of Rule 9) whose nominations respectively the chairman decides to be valid, and whose respective candidatures are not withdrawn, are not more in number than the persons to be elected, such candidates shall be deemed to be duly elected, and shall be declared by the chairman to be elected.

**IF NUMBER OF CANDIDATES EXCEEDS NUMBER OF PERSONS TO BE ELECTED.**

11. If the candidates (including those whose nominations are handed in under paragraphs (2) and (3) of Rule 9) whose nominations respectively the chairman decides to be valid, and whose respective candidatures are not withdrawn, are more in number than the persons to be elected, the chairman shall put separately to the meeting the names of the several candidates in the alphabetical order of their surnames, and shall take the votes by show of hands in favour only of each candidate.

12. The chairman shall count the votes given in favour only of each candidate, and when the names of all the candidates have been put to the meeting and the votes in their favour have been taken and counted, he shall state to the meeting the number of votes given for each candidate, and that, subject to a poll being demanded, and the demand not being withdrawn, he declares to be elected the candidates (up to the total number to be elected) whom he names and who have obtained the largest number of votes.

**POLL MAY BE DEMANDED.**

13. The chairman shall then state to the meeting that a poll may be demanded at any time before the close of the meeting by any parochial elector present thereat, and shall ask whether a poll is demanded.

14. (1) After the chairman has made such statement as is mentioned in Rule 13, he shall allow at least ten minutes to elapse before the meeting is closed, and at any time before the close of the meeting, any parochial elector may demand that a poll shall be taken as to which of the persons whose names have been put to the meeting by the chairman shall be elected, and subject to Rule 24, a poll shall be taken accordingly, unless the demand for a poll is withdrawn at any time before the close of the meeting. (2) The business of the meeting shall be completed without adjournment, and when the ten minutes or such longer time after the statement mentioned in Rule 13 as shall be allowed for a demand of a poll to be made has elapsed, and the business relating to the election has been completed, the meeting shall be closed.

## STATEMENT TO BE SENT TO RETURNING OFFICER.

15. (1) The chairman shall certify under his hand the names and place of abode of each of any candidates declared by him to be elected under Rule 10, or in case a poll was not demanded, or if it was demanded, the demand was withdrawn, the names and place of abode of each of any candidates declared by him to be elected under Rule 12. Such certificate shall be in the Form No. 2 in the first schedule to this order, or in a form to the like effect. (2) Before two o'clock in the afternoon of Wednesday, the fifth day of December, one thousand eight hundred and ninety four, the chairman shall, if the candidates were elected under Rule 10 or Rule 12, cause a copy of his certificate to be delivered at the office of the returning officer: or if a poll was demanded, and the demand was not withdrawn, he shall cause to be delivered at the office of the returning officer, a statement in writing under his hand, of the names of the candidates in respect of whom the poll is to be taken, with the first valid nomination paper of each such candidate annexed thereto. He shall at the same time forward to the returning officer the other nomination papers, and inform him of the names of any of the candidates whose nominations he decided to be invalid, or whose candidature was withdrawn at the meeting.

## CANDIDATES TO BE INFORMED OF THEIR NOMINATION.

16. If a poll is demanded, and the demand is not withdrawn at the meeting, the chairman shall, 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.

## IF NO POLL, CHAIRMAN'S DECLARATION FINAL.

17. If a poll is not demanded, or the demand for a poll is withdrawn, the declaration of the chairman as to the election of the candidates who have received the largest number of votes shall be final, and shall not be questioned in any proceeding whatever on the ground that the persons to be elected, or any of them, were not duly elected by a majority of lawful votes.

## IF NO POLL, NAMES OF PERSONS ELECTED TO BE PUBLISHED.

18. If a poll is not to be taken, the chairman shall, as early as practicable after the meeting, by public notice, publish his certificate under rule 15 of the names and place of abode of each of the persons elected.

## RETURNING OFFICER.

19. (1) The returning officer shall be the Clerk to the Guardians of the Poor Law Union in which the parish is situate. (2) If the clerk is unwilling to act as returning officer, or if the office of clerk is vacant at the time when any duty relative to the election has to be performed by the returning officer, or if the clerk from illness or other sufficient cause is unable to perform such duty, the Guardians shall appoint some other person to act as returning officer or to perform such of the duties of the returning officer as then remain to be performed, as the case may be, but the same person shall in all cases be the returning officer at the election of the parish councillors and of any rural district councillors to be elected at the same date in the parish. (3) The clerk to the guardians, or acting clerk, shall, as early as practicable, give notice to the overseers of the parish as to whether he himself will act as returning officer, or whether

some other person has been appointed to act as such officer, and if so, as to the name of such person. (4) The returning officer shall appoint an officer for the purposes of the election, and shall give notice thereof to the overseers of the parish. (5) The returning officer may, in writing, appoint a fit person to be his deputy for all or any of the purposes relating to the election of parish councillors and shall appoint such a deputy in the case and for the purposes mentioned in Rule 30 of this order. A deputy returning officer shall have all the powers, duties, and liabilities of the returning officer in relation to the matters in respect of which he is appointed as deputy. (6) The same person shall act as deputy returning officer in respect of the election both of parish councillors and of any rural district councillors to be elected at the same date in the parish.

#### DAY AND HOURS OF POLL.

20. (1) The poll, if any, shall be held on Monday, the seventeenth day of December, one thousand eight hundred and ninety-four, or on such other day, not being earlier than Saturday, the fifteenth day of December, one thousand eight hundred and ninety-four, nor later than Wednesday, the nineteenth day of that month, as may, for special reasons, be fixed by the County Council. (2) The hours during which the poll shall be open shall be such as shall be fixed by the County Council by any general or special order, so, however, that the poll shall always be open between the hours of six and eight in the evening. (3) Provided that the day of any poll for the election of parish councillors and of any rural district councillors to be elected at the same date for the parish, and the hours during which any poll for such elections shall be open shall be the same.

#### POLLING DISTRICTS.

21. (1) (a) If the parish is divided into polling districts for the election of county councillors or of rural district councillors, the whole of each such district being comprised in the parish, and the lists of parochial electors are made out in separate parts for such districts, each district shall be a polling district for the election of parish councillors. (b) If the parish is not so divided, but is divided into wards for the election of rural district councillors, each of the wards shall be a polling district for the election of parish councillors. (c) If neither paragraph (a) nor paragraph (b) of this rule applies to the parish, the returning officer may, if he thinks fit, divide the parish into polling districts for the election of parish councillors, but each of such districts shall consist of an area for which separate lists of parochial electors will be available. (d) The polling districts for the election of parish councillors and of any rural district councillors elected at the same date for the parish shall be the same. (2) If the parish is divided into polling districts, each elector shall give his vote in the polling district in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one polling district, he may vote in any one (but in one only) of the polling districts in which it is situate.

#### POLLING PLACES AND STATIONS.

22. The returning officer shall determine the number and situation of the polling places. Provided as follows: (a) That no premises licensed for the sale of intoxicating liquor shall be used for a polling place; (b) That the same polling stations shall be used for the election of parish councillors and of any rural district councillors to be elected at the same date in the parish; (c) That, unless the County Council otherwise direct,

where the number of parochial electors in the parish, or (if the parish is divided into polling districts) in any polling district, is not more than five hundred, only one polling station shall be provided for the parish or polling district; and so on for each additional five hundred parochial electors, or for any less number of electors over and above the last five hundred.

#### WITHDRAWAL OF CANDIDATES AFTER MEETING.

23. Any candidate whose name has been put to the parish meeting may, not less than six clear days before the date fixed for the poll, withdraw his candidature by delivering or causing to be delivered at the office of the returning officer a notice in writing of such withdrawal, signed by him.

#### IF NUMBER OF CANDIDATES IS REDUCED TO NUMBER OF PERSONS TO BE ELECTED.

24. (1) If by the withdrawal of any candidates as provided by Rule 23, the number of candidates is reduced to a number not exceeding the number of persons to be elected, or if the number of candidates is otherwise so reduced, the returning officer shall give public notice in the parish to this effect, stating that no poll will be held, and declaring the remaining candidates to be elected. Subject to Rule 37, such candidate shall be deemed to have been elected at the parish meeting. (2) The returning officer shall forthwith send, by post or otherwise, a copy of such notice to the chairman of the parish meeting and to each of the persons whom he shall have declared to be elected. (3) The notice shall be in the Form No. 3 in the first schedule to this order, or in a form to the like effect.

#### NOTICE OF THE POLL.

25. (1) If a poll has to be taken, the returning officer shall, five clear days at least before the day fixed for the same, give public notice thereof. The notice shall specify—(a) the day and hours fixed for the poll; (b) the number of parish councillors to be elected; (c) the names, place of abode, and description of each candidate whose name was put to the parish meeting, and who has not since withdrawn his candidature; (d) the names of the proposer and seconder who signed the nomination paper of each candidate; (e) a description of the polling districts, if any, and; (f) the situation and allotment of the polling places, and the description of the persons entitled to vote thereat, and at the several polling stations. (2) The notice shall be in the Form No. 4 in the first schedule to this order, or in a form to the like effect. (3) If polls are to be taken in the parish as to election of both parish councillors and rural district councillors, the returning officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the Form No. 5 in the first schedule to this order, or in a form to the like effect.

#### PRESIDING OFFICERS.

26. The returning officer, or some person appointed by him for the purpose, shall preside at each polling station. The person presiding at any polling station shall be called the presiding officer. Provided as follows: (a) At any polling station the same person shall act as presiding officer for the election of parish councillors and of any rural district councillors to be elected at the same date in the parish. (b) In making

appointments under this Rule, the returning officer shall, as far as practicable, secure the services of suitable persons resident in the parish, so as to diminish expense.

#### COMPARTMENTS OF POLLING STATIONS.—BALLOT PAPERS.

27. The returning officer shall furnish every polling station with such number of compartments in which the voters can mark their votes screened from observation, and shall furnish each presiding officer with such number of ballot papers as may be necessary for effectually taking the poll at the election.

#### POLLING AGENTS.

28. 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.

#### QUESTIONS TO ELECTORS.

29. (1) The presiding officer may, and if required by any parochial elector of the parish, or any polling agent appointed under rule 28, shall put to any elector at the time of his applying for a ballot paper, but not afterwards, the following questions or one of them, and no other:—(a) Are you the person entered in the parochial register for this parish (or ward) as follows (*read the whole entry from the register*). (b) Have you already voted at the present election for parish councillors for this parish (*adu, in case of an election for a ward, in this or any other ward*). (2) A person required to answer either of these questions shall not receive a ballot paper or be permitted to vote, until he has answered it.

#### COUNTING THE VOTES.

30. (1) The returning officer, when he does not act as a presiding officer, shall appoint the presiding officer or some one of the presiding officers to act as deputy returning officer as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate and of the election of the candidates to whom the largest number of votes has been given. The person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the returning officer in relation to the decision of any question as to any ballot paper and otherwise as to the ballot papers. (2) The same person shall act as deputy returning officer in respect of the election both of parish councillors and of any rural district councillors to be elected at the same date for the parish. (3) The votes shall be counted in the parish or in some place near thereto as soon as practicable after the close of the poll.

#### EQUALITY OF VOTES.

31. If an equality of votes is found to exist between any of the candidates, and the addition of a vote would enable any of such candidates to be declared elected, the returning officer, or deputy returning officer, as the case may be, may, if a parochial elector of the parish, give such additional vote in writing, but shall not otherwise be entitled to vote at the election.

## DECLARATION OF RESULT OF POLL.

32. (1) The declaration of the result of the poll shall be in the form No. 6 in the first schedule to this order, or in a form to the like effect. (2) The returning officer, or deputy returning officer, as the case may be, making the declaration shall forthwith cause a copy of it to be affixed on the front of the building in which the votes have been counted, and another copy to be sent, by post or otherwise, to the chairman of the parish meeting. If the declaration is made by a deputy returning officer, he shall forthwith send it to the returning officer.

## PUBLICATION OF RESULT OF POLL.

33. The returning officer shall cause public notice to be given of the result of the poll as declared. The notice shall, subject to the notice prefixed to the form No. 7 in the first schedule to this order, be in that form or in a form to the like effect.

## APPLICATION AND ADAPTATION OF BALLOT ACT, 1872.

34. The provisions of the Ballot Act, 1872, which, with adaptations and alterations, are set out in the second schedule to this order, and only such provisions of that Act, shall, subject to such adaptations and alterations, apply to the election in like manner as in the case of a municipal election. Provided as follows:—(1) Such application shall be subject to the provisions of this order. (2) If an election of parish councillors and of any rural district councillors is held in the parish at the same date, one ballot box may, if the returning officer thinks fit, be used for the two elections; but, if separate ballot boxes are used for the two elections respectively, 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. (3) The ballot papers used at the election of parish councillors for the parish shall be of a different colour from that of any ballot papers used in the election of any rural district councillors held in the parish at the same date.

## ADAPTATION OF MUNICIPAL CORPORATIONS ACT, 1884.

35. (1) The provisions of section 74 and 75 of the Municipal Corporations Act, 1882, which, with adaptations and alterations, are set out in the third schedule to this order, shall, subject to such adaptations and alterations, apply to the election. (2) In the application to the election of Part IV. of the Municipal Corporations Act, 1882 (relating to Corrupt Practices and Election Petitions), as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect:—(a) Such application shall be subject to the provisions of this order. (b) References to the election of parish councillors shall be deemed to be substituted for references to a municipal election, or to an election to a corporate office. "Parish," and in section 93 (2) "poor law union," shall be deemed to be substituted for "borough," "poor rate of the parish" shall be substituted for "borough fund or borough rate," the returning officer shall be substituted for the town clerk, and "voter" shall mean a "parochial elector or a person who votes or claims to vote at an election of parish councillors." (3) For the purposes of section 88 (2) of the Act, the chairman of the parish meeting shall, as regards any election at which a demand for a poll has not been made, or if made has been withdrawn, be deemed to be the returning officer.

ADAPTATION OF THE MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL PRACTICES) ACT, 1884.

36. In the application of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, to the election the following provisions shall have effect:—(1) Such application shall be subject to the provisions of this order. (2) The expressions "parish or ward of a parish," "returning officer of parish council," and "poor rate" shall be deemed to be substituted in the Act for "borough or ward," "town clerk," and "borough fund or rate" respectively. (3) The expression "corporate office" in the Act shall mean "the office of parish councillor," and "a municipal election" shall mean "an election of parish councillors," and the expressions "municipal election court," "municipal election list," and "municipal election petition" shall be construed accordingly. (4) So much of section 13 of the Act as permits one polling agent to be employed in each polling station shall not apply, except so far as the employment of polling agents is permitted by rule 28 of this order. (5) 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. (6) A petition relating to the election of a parish councillor may be tried at any place within the poor law union in which the parish is situate. (7) Nothing in the 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 or other premises not situate in an urban sanitary district or in the administrative county of London. (8) Section 7 of the Act shall be read as if a reference to an election of parish councillors was substituted for a reference to any of the elections mentioned in the first schedule to the Act.

WHEN PARISH COUNCILLORS COME INTO OFFICE.

37. (1) If no poll is held for the parish, or, if the parish is divided into wards, for any ward, the persons elected as parish councillors shall come into office on Thursday, the thirteenth day of December, one thousand eight hundred and ninety-four. (2) If a poll is held for the parish, or, if the parish is divided into wards, for any ward, the day on which the poll is taken shall be deemed to be the day of election of the parish councillors, and the persons elected shall come into office on Monday, the thirty-first day of December, one thousand eight hundred and ninety-four.

EXPENSES.

38. (1) 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. (2) If a poll for the election of parish councillors and of rural district councillors is taken at the same date in the parish, one half of any expenses which may be payable in respect of the two polls jointly, including the remuneration of any officers employed in the conduct thereof, shall be deemed to have been incurred in relation to the poll for the election of parish councillors, and shall be defrayed accordingly.

IF PARISH IN MORE THAN ONE COUNTY.

39. If a parish is situate in more than one administrative county, it shall for the purposes of this order be deemed to be wholly situate in the county which, according to the census of one thousand eight hundred and ninety-one, contains the larger part of its population.

## WARDS.

40. (1) If the parish is divided into wards for the election of parish councillors, the foregoing Rules shall apply to each of such wards as if it were a parish. (2) Provided that if the parish is so divided, an elector shall not be permitted to vote in more than one ward.

## PUBLICATION OF NOTICES.

41. Any public notice required by this order shall be given by posting the same on or near the principal door of each church and chapel in the parish, and in some conspicuous place or places within the parish.

## MARK INSTEAD OF SIGNATURE.

42. In place of any signature required by this order, it shall be sufficient for the signatory to affix his mark if the same is witnessed by two parochial electors.

## MISNOMER.—INACCURATE DESCRIPTIONS.

43. No misnomer, or inaccurate description of any person or place named in any notice or nomination paper under this order, shall hinder the full operation of such notice or paper with respect to that person or place, provided the description of that person or place is such as to be commonly understood.

## TITLE OF ORDER.

44. This order may be cited as the "Parish Councillors Election Order, 1894."

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 FIRST SCHEDULE.

## FORM No. 1.

## NOTICE OF PARISH MEETING.

[This notice must be published not later than Saturday the 24th of November, 1894.]

## FORM No. 2.

## CERTIFICATE BY CHAIRMAN OF PARISH MEETING WHERE NO POLL.

## FORM No. 3.

## NOTICE OF ABANDONMENT OF POLL.

## FORM No. 4.

## NOTICE OF POLL.

[This form relates to a poll for the election of Parish Councillors only.]

## FORM No. 5.

## NOTICE OF POLL.

[This form relates to a poll for the election of Parish Councillors and Rural District Councillors for the same area.]

## FORM No. 6.

## DECLARATION OF RESULT OF POLL.

## FORM No. 7.

## NOTICE OF RESULT OF POLL.

## SECOND SCHEDULE.

*Provisions of the Ballot Act, 1872, as adapted and altered in their Application to the Election of Parish Councillors.*

## PROCEDURE AT ELECTIONS OF PARISH COUNCILLORS.

## POLL AT ELECTIONS.

2. The ballot of each voter shall consist of a paper (in this Act called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting, the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called "the presiding officer") after having shown to him the official mark at the back.

If in the register of parochial electors for a parish, the same number is placed opposite to the name of more than one parochial elector, the returning officer shall put a distinguishing mark on each part of the register which contains numbers used in other parts of the register, and when the number of any voter on any part of the register is entered on the counterfoil of a ballot paper, the mark on that part shall also be entered thereon.

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted.

After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

## OFFENCES.

## OFFENCES IN RESPECT OF BALLOT PAPERS AND BALLOT BOXES.

3. Every person who—(1) Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper; or (2) Without due authority supplies any ballot paper to any person; or (3) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or (4) Fraudulently takes out of the polling station any ballot paper; or (5) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; shall be guilty of a misdemeanour, and be liable, if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour. Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable. In any indictment or other prosecution for an offence in relation to the ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

## INFRINGEMENT OF SECRECY.

4. Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of parochial electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote. Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

## USE OF SCHOOL AND PUBLIC ROOM FOR POLL.

6. The returning officer at an election of parish councillors may use rooms 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.

## DUTIES OF RETURNING AND ELECTION OFFICERS.

### GENERAL POWERS AND DUTIES OF RETURNING OFFICER.

8. Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling stations, ballot boxes, ballot papers, stamping instruments, copies of register of parochial electors, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting the election.

### KEEPING OF ORDER IN STATION.

9. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorised in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day. Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace. Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

### POWERS OF PRESIDING OFFICER AND ADMINISTRATION OF OATHS, &c.

10. For the purpose of the adjournment of the poll, a presiding officer shall have the power by law belonging to a deputy returning officer in a parliamentary election; and any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the oath authorised by law to be asked of and administered to voters, and any justice of the peace and any returning officer may take and receive any declaration authorised by this Act to be taken before him.

### LIABILITY OF OFFICERS FOR MISCONDUCT.

11. Every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds. No returning officer or officer appointed by him in connexion with the election of parish councillors for any parish, nor any partner or clerk of any such officer

shall act as agent for any candidate in the management or conduct of his election as a parish councillor. If any returning officer or officer appointed by him, or the partner or clerk of any such officer, shall so act he shall be guilty of a misdemeanor.

## MISCELLANEOUS.

### PROHIBITION OF DISCLOSURE OF VOTE.

12. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

### NON-COMPLIANCE WITH RULES.

13. No election shall be declared invalid by reason of a defect in the title or appointment of a returning officer or deputy returning officer, or of a non-compliance with the rules contained in the first schedule to this Act or in the Parish Councillors Election Order, 1894, or of any mistake in the use of the forms in the second schedule to this Act or in the said Order, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of this Act and of the Local Government Act, 1894, and that such non-compliance or mistake did not affect the result of the election.

## PERSONATION.

### DEFINITION AND PUNISHMENT OF PERSONATION.

24. The following enactments shall be made with respect to personation at an election of parish councillors :—

It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the court in the same manner in which courts are empowered to allow the same in cases of felony.

Sections 86 to 89, both inclusive, of the Parliamentary Voters Registration Act, 1843, shall apply to personation at an election of parish councillors in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Act, but with the substitution of the words "any parochial elector or any agent appointed under the Parish Councillors Election Order, 1894," for "any such agent so appointed as aforesaid" or for any reference to any such agent, and of "the presiding officer" for "the returning officer or his respective deputy."

## MISCELLANEOUS.

### EFFECT OF SCHEDULES.

23. The schedules to this Act, and the notes thereto, and directions therein shall be construed and have effect as part of this Act.

## FIRST SCHEDULE.

## RULES FOR ELECTIONS OF PARISH COUNCILLORS.

## THE POLL.

15. At every polling place the returning officer shall, subject to the provisions of the Parish Councillors Election Order, 1894, provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst those electors in such manner as he thinks most convenient.

17. A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth.

18. No person shall be admitted to vote at any polling station except the one allotted to him.

20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret.

21. The presiding officer appointed to preside at each station shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

22. Every ballot paper shall contain a list of the candidates described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names: it shall be in the form set forth in the Second Schedule to this Act or as near thereto as circumstances admit, and shall be capable of being folded up.

23. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector, together with the distinguishing mark, if any, of the part of the register in which the number occurs, shall, as required by section 2 of this Act, as adapted, be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

26. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, or (if the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as herein-after mentioned that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reasons why it is so marked, shall be entered on a list, in this Act called "the list of voters marked by the presiding officer." The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form herein-after mentioned, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

27. If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions permitted by the Parish Councillors Election Order, 1894, to be asked of voters at the time of polling, and upon taking an oath in the form herein-after set out, which the presiding officer shall administer, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Act called a tendered ballot paper), shall be of a colour differing from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his number on the register shall be entered on a list, in this Act called the tendered votes list.

The oath shall be administered in the following form:—"You do swear "that you are the same person whose name appears as *A.B.* on the "Register of Parochial Electors for this Parish [*or Ward*] and that you "have not already voted at the present election for this Parish [*add, in "case of an election for a Ward, in this or any other Ward*].—So HELP "you God."

Provided that any person entitled to affirm in lieu of taking an oath may affirm in the following form:—"I, *A.B.*, do solemnly, sincerely, and "truly declare and affirm that I am the same person whose name appears "as *A.B.* on the Register of Parochial Electors for this Parish [*or Ward*], "and that I have not already voted at the present election for this Parish "[*add, in case of an election for a Ward, in this or any other Ward.*"]

28. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled.

29. The presiding officer of each station, as soon as practicable after the close of the poll, shall make up into separate packets sealed with his seal,—(1) Each ballot box in use at his station, unopened but with the key attached; and (2) The unused and spoilt ballot papers, placed together; and (3) the tendered ballot papers; and (4) the marked copies of the register of parochial electors, and the counterfoils of the ballot papers; and (5) The tendered votes list, and the list of votes marked by the

presiding officer, and a statement of the number of voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read; and shall deliver such packets to the returning officer, or deputy returning officer by whom the votes are to be counted, unless he is himself such officer.

30. The packets shall be accompanied by a statement made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

### COUNTING VOTES.

31. Each candidate may appoint an agent to attend the counting of the votes.

32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

33. The returning officer, his assistants and clerks, the agents of the candidates, and no other person, except with the sanction of the returning officer may be present at the counting of the votes.

34. If a poll has been taken as to the election of parish councillors only, before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates open each ballot box, and taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes. If polls have been taken at the same date for the election both of parish councillors and of rural district councillors, before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open one of the ballot boxes and taking out the papers therein shall separate those relating to the election of parish councillors from any relating to the election of rural district councillors, and shall count and record the number of ballot papers relating to each election. He shall then secure the ballot papers relating to each election by placing them in separate packets under his own seal, and the seals of such of the agents of the candidates as desire to affix their seals, and shall proceed in like manner with any other ballot boxes and the papers therein. When all the ballot boxes and the papers therein have been so dealt with, he shall open all the packets of ballot papers relating to one of the elections, and shall mix all such papers together, and shall proceed to count the votes, keeping the papers relating to the other election sealed up until he has completed such counting. He shall afterwards deal in manner aforesaid with the packets and papers relating to the other election. The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding, if and so far as he thinks it necessary, the hours between the close of the poll and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the

agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

36. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to," if an objection be in fact made by any agent to his decision. The returning officer shall draw up a statement showing the number of ballot papers rejected and not counted by him under the several heads of—(1) Want of official mark; (2) Voting for more candidates than entitled to; (3) Writing or mark by which voter could be identified; (4) Unmarked or void for uncertainty; and shall on request allow any agents of the candidates to copy such statement. If the votes are counted by a deputy returning officer he shall, with the declaration of the result of the poll, report to the returning officer the number of ballot papers rejected and not counted by him, under the above heads, and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any agents of the candidates, before such report is sent, to copy it.

37. Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed, in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall draw up a statement as to the result of such verification, and shall, on request, allow any agents of the candidates to copy it. If the votes are counted by a deputy returning officer, he shall report to the returning officer the result of the verification, and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any agents of the candidates, before such report is sent in, to copy it. He shall with his report send to the returning officer the sealed packets of counted and rejected ballot papers, and the unopened sealed packets which he has received from any presiding officer.

38. Lastly, the returning officer shall carefully preserve for the period herein-after mentioned all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the parish for which such election was held.

39. The returning officer shall retain for six months all documents relating to an election of parish councillors, and then, unless otherwise directed by an order of the county court having jurisdiction in the parish or in any part thereof, or of any tribunal in which the election is questioned, shall cause them to be destroyed.

40. No person shall be allowed to inspect any rejected ballot papers in the custody of the returning officer, except under the order of the county court or tribunal aforesaid, to be granted by such court or tribunal on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production

as the court or tribunal making the same may think expedient, and shall be obeyed by the returning officer.

41. No person shall, except by order of the county court having jurisdiction in the parish or any part thereof, or of any tribunal having cognizance of any question relating to the election, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the returning officer. Such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the court or tribunal making the order may think expedient: provided that on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent court to be invalid.

42. All documents in the custody of a returning officer in pursuance of this Act, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may be prescribed by the council of the county in which the parish is situate, and the returning officer shall supply copies of or extracts from the said documents to any person demanding the same, on payment of such fees and subject to such regulations as may be made by the county council.

43. Where an order is made for the production by the returning officer of any document in his possession relating to any specified election of parish councillors, the production by such officer or his agent of the document ordered, in such manner as may be directed by such order, or by an order of the court having power to make such first-mentioned order, shall be conclusive evidence that such document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by such returning officer or his agent shall be evidence of such papers being what they are stated to be by the endorsement. The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *prima facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had affixed to his name in the register of voters at such election the same number as the number written on such counterfoil.

43. (a) There shall be an appeal from any order of the county court under these rules in like manner as in other cases in such court.

#### GENERAL PROVISIONS.

47. If the returning officer presides at any polling station, the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

48. The returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

49. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorised to do by this Act at a polling station except ordering the arrest, exclusion, or ejection from the polling station of any person.

51. A candidate may himself undertake the duties which any agent of his, if appointed under Rule 31 of this schedule, might have undertaken, and

may, if he does not appoint such an agent, be present at the counting of the votes, or may himself take the place of such agent.

52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll; and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.

53. If any person appointed an agent for the purposes of attending at a polling station or at the counting of the votes dies, or becomes incapable of acting during the time of the election, another agent may be appointed in his place, and notice shall forthwith be given to the returning officer in writing of the name and address of any agent so appointed.

54. Every returning officer, and every officer, clerk, or agent authorised to attend at a polling station, and also every officer, clerk, or agent authorised to attend at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or an agent, of a justice of the peace or of the returning officer; but no such returning officer, officer, clerk, or agent, as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election.

55. Where in this Act any expressions are used requiring or authorising or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorised to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

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## SECOND SCHEDULE.

*Note*—The forms contained in this schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

*Form of Ballot Paper.*

Form of Front of Ballot Paper.

Counterfoil No.

## ELECTION OF PARISH COUNCILLORS.

1	BROWN (John Brown, of Water Lane, Agricultural Labourer.)	
2	GREEN (Robert Green, of Mudford, Shoemaker.)	
3	JONES (William David Jones, of Claygate Farm, Farmer.)	
4	MERTON (Hon. George Travis, commonly called Viscount Merton, of Stanworth, Wilts, gentleman.)	
5	ROBINSON (Henry Robinson, of High Street, Grocer.)	
6	SMITH Mary (Elizabeth Smith, of Lavender Cottage, spinster.)	

NOTE:—

*The counterfoil is to have a number to correspond with that on the back of the Ballot Paper.*

## Form of Back of Ballot Paper.

No. Election of Parish Councillors for Parish [or Ward  
of Parish].  
1894.

*Note*.—The number on the ballot paper is to correspond with that in the counterfoil.

## DIRECTIONS AS TO PRINTING BALLOT PAPER.

Nothing is to be printed on the ballot paper except in accordance with this schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, as shown in the form, and the names, places of abode, and descriptions, and the number on the back of the paper, shall be printed in small characters.

*Form of Directions for the Guidance of the Voter in voting, which shall be printed in conspicuous Characters, and placarded outside every Polling Station and in every Compartment of every Polling Station.*

The voter may vote for \_\_\_\_\_ candidates as parish councillors.

The voter will go into one of the compartments, and with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus X

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer and then, in the presence of the presiding officer, put the paper into the ballot box, and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than \_\_\_\_\_ candidates, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanor, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

*Note.*—These directions shall be illustrated by examples of the ballot paper.

#### FORM OF STATUTORY DECLARATION OF SECRECY.

I solemnly promise and declare, that I will not at this election of parish councillors for the parish of \_\_\_\_\_ do anything forbidden by section four of The Ballot Act, 1872, which has been read to me.

*Note.*—The section must be read to the declarant by the person taking the declaration.

#### FORM OF DECLARATION OF INABILITY TO READ.

I, *A.B.*, of \_\_\_\_\_, being numbered \_\_\_\_\_ on the register of parochial electors for the parish of \_\_\_\_\_, do hereby declare that I am unable to read.

*A.B.*, \_\_\_\_\_ his mark.

\_\_\_\_\_ day of December, 1894.

I, the undersigned, being the presiding officer for the polling station for the parish of \_\_\_\_\_ [*or* ward of the parish of \_\_\_\_\_] do hereby certify, that the above declaration, having been first read to the above-named *A.B.*, was signed by him in my presence with his mark.

Signed, *C.D.*,

Presiding officer for \_\_\_\_\_ polling station for the  
parish of \_\_\_\_\_ [*or* \_\_\_\_\_ ward  
of the parish of \_\_\_\_\_ ]  
\_\_\_\_\_ day of December, 1894.

## THIRD SCHEDULE.

*Sections 74 and 75 of the Municipal Corporations Act, 1882, as adapted and altered in their Application to the Election of Parish Councillors.*

74. (1) If any person forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the chairman of the parish meeting any forged nomination paper, knowing it to be forged, he shall be guilty of a misdemeanor, 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 any overseer of a parish neglects or refuses to convene the first parish meeting at the time fixed for the first election of parish councillors, he shall for every such offence be liable to a fine not exceeding one hundred pounds recoverable by action. (2) If a person who has undertaken to act as returning officer, or deputy returning officer, at an election of parish councillors, neglects or refuses to conduct or declare the election in manner provided by the Local Government Act, 1894, and the Parish Councillors Election Order, 1894, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action. (3) An action under this section shall not lie after three months from the neglect or refusal.

## APPENDIX

### III.

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## RURAL DISTRICT COUNCILLORS.

### RULES FOR THE ELECTIONS.

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#### RETURNING OFFICER.

1. (1) The returning officer shall be the clerk to the guardians of the poor law union in which the parish is situate or with which it is co-extensive. (2) If the clerk is unwilling to act as returning officer, or if the office of clerk is vacant at the time when any duty relative to the election has to be performed by the returning officer, or if the clerk, from illness or other sufficient cause, is unable to perform such duty, the guardians shall appoint some other person to act as returning officer or to perform such of the duties of the returning officer as then remain to be performed, as the case may be, but the same person shall in all cases be the returning officer at the election of the rural district councillors and of any parish councillors to be elected at the same date in the parish. (3) The returning officer shall appoint an office for the purposes of the election. (4) The returning officer may, in writing, appoint a fit person to be his deputy for all or any of the purposes relating to the election of rural district councillors, and shall appoint such a deputy in the case and for the purposes mentioned in rule 20 of this Order. A deputy returning officer shall have all the powers, duties, and liabilities of the returning officer in relation to the matters in respect of which he is appointed as deputy. (5) The same person shall act as deputy returning officer in respect of the election both of rural district councillors and of any parish councillors to be elected at the same date in the parish.

#### DAY OF ELECTION.

2. (1) The day of the election of rural district councillors in the parish in the year 1894 shall be Monday, the 17th day of December in that year, or such other day, not being earlier than Saturday, the 15th day of December, 1894, or later than Wednesday, the 19th day of that month, as may, for special reasons, be fixed by the county council. (2) Provided that the day of election of rural district councillors in the parish and the day of the poll for the election of any parish councillors to be elected at the same date in the parish shall be the same.

#### NOTICE OF ELECTION.

3. (1) Not later than Saturday, the 1st day of December, 1894, the

returning officer shall, for each rural district or part of a rural district comprised in the poor-law union in which the parish is situate or with which it is co-extensive, prepare and sign a notice of the election of rural district councillors in the parishes in the rural district or part of a rural district. (2) He shall cause printed copies of the notice to be affixed on or near to the principal door of each church and chapel in each such parish, and also to be posted in some conspicuous place or places within the parish. (3) The notice shall be in the Form No. 1 in the First Schedule to this Order or in a form to the like effect.

#### NOMINATION OF CANDIDATES.

4. (1) Each candidate for election as a rural district councillor shall be nominated in writing. (2) The nomination paper shall state the name of the parish or other area for which the candidate is nominated, the surname and other name or names in full of the candidate, and his place of abode and description, and whether he is qualified as a parochial elector of some parish within the poor-law union in which the rural district or the part of the rural district containing the parish or other area is situate is comprised, or by having during the whole of the twelve months preceding the election resided in the union, or by being qualified to be a councillor for a borough wholly or partly situate within the union. It shall be signed by two parochial electors of the parish or other area, as proposer and seconder, and no more, and shall state their respective places of abode. It shall be in the form set out in the notice in the Form No. 1 in the First Schedule to this Order, or in a form to the like effect. (3) The name of more than one candidate shall not be inserted in any one nomination paper. (4) A parochial elector shall not sign more nomination papers than there are rural district councillors to be elected for the parish or other area in the rural district for which the election is to be held. He shall not sign a nomination paper for any parish or other area unless he is registered as a parochial elector in respect of a qualification therein. Neither shall he sign nomination papers for more than one parish or area in the rural district. (5) If any parochial elector shall sign nomination papers for more than one parish or other area in the rural district or shall sign a larger number of nomination papers than the number of rural district councillors to be elected for the parish or other area, 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 shall alone be valid, and of the nomination papers signed by him which relate to that parish or other area such as are first received by the returning officer up to the number of rural district councillors to be so elected shall alone be valid. Provided that for the purposes of this paragraph nomination papers not properly filled up and signed shall be excluded.

#### NOMINATION PAPERS TO BE PROVIDED.

5. The returning officer shall provide nomination papers, and shall furnish the overseers of the parish with a supply thereof. Any parochial elector may obtain nomination papers from either the returning officer or the overseers free of charge.

#### TIME FOR SENDING IN NOMINATION PAPERS.

6. Every nomination paper shall be sent to the returning officer, so that it shall be received at his office not later than two o'clock in the afternoon of Wednesday, the 5th day of December, 1894. A nomination paper received

after that time shall not be valid. The returning officer shall note on each nomination paper whether it was received before or after that time.

#### DEALING WITH NOMINATIONS BY RETURNING OFFICER.

7. (1) The returning officer shall number the nomination papers in the order in which they are received by him; and the first valid nomination paper received for a candidate shall be deemed to be the nomination of that candidate.—(2) The returning officer shall, as soon as practicable after the receipt of any nomination paper, examine and decide whether it has or has not been properly filled up and signed by two parochial electors of the parish or other area, and whether it is or is not invalid under Rule 4 (5) or Rule 6. His decision that a nomination paper has been so filled up and signed, and is not invalid as aforesaid, shall be final, and shall not be questioned in any proceeding whatever. (3) If the returning officer shall decide that a nomination paper is invalid, he shall put a note on it to this effect, stating the grounds of his decision, and he shall sign such note. (4) After deciding that the nomination of any candidate is valid, or (except where a nomination of any candidate has been decided to be valid) that a nomination paper for the candidate is invalid, the returning officer shall, as soon as practicable, send, by post or otherwise, notice of his decision to the candidate.

#### STATEMENT AS TO PERSONS NOMINATED.

8. Not later than Friday, the 7th day of December, 1894, the returning officer shall make out a statement in the Form No. 2 in the First Schedule to this Order, or in a form to the like effect, for each rural district, or part of a rural district, comprised in the poor-law union, containing the names, places of abode, and descriptions of the persons nominated as rural district councillors for the several parishes in the rural district or part of a rural district, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not. He shall forthwith cause a copy thereof, to be suspended in the board-room of the guardians of the poor-law union in which these parishes are situate, and another to be affixed on the principal external gate or door of every workhouse of the union, and, if the board-room of the guardians is not situate at any such workhouse, on the external gate or door of the building in which the board-room is comprised.

#### RELATION OF NOMINATION TO ELECTION.

9. Section 56 of the Municipal Corporations Act, 1882, shall be altered and adapted in its application to the election of rural district councillors in the parish so as to provide as follows, and not otherwise:—(1) If the number of valid nominations exceeds that of the persons to be elected, as rural district councillors, the councillors shall be elected from amongst the persons nominated. (2) If the number of valid nominations does not exceed the number of rural district councillors to be elected, the returning officer shall on Friday, the 7th day of December, 1894, send, by post, or otherwise, notice to each candidate who has not withdrawn his candidature under Rule 10, stating that he will be returned as elected. He shall also, as early as practicable, send, by post or otherwise, notice to the overseers of the parish of the names, places of abode, and descriptions of the persons who will be declared to be elected, and the overseers shall give public notice thereof in the parish.

### WITHDRAWAL OF CANDIDATE.

10. Any candidate may withdraw his candidature by delivering, or causing to be delivered at the office of the returning officer, before four o'clock in the afternoon of Friday, the 7th day of December, a notice in writing of such withdrawal, signed by him.

### IF NUMBER OF CANDIDATES IS REDUCED TO NUMBER OF PERSONS TO BE ELECTED.

11. (1) If by the withdrawal of any candidates, as provided by Rule 10, the number of candidates for the parish is reduced to a number not exceeding the number of persons to be elected, or, if the number of candidates is otherwise so reduced the returning officer shall give public notice in the parish to this effect, stating that no poll will be taken, and that the remaining candidates will be declared to be elected. (2) He shall forthwith send, by post or otherwise, a copy of such notice to each of such last-mentioned candidates. (3) The notice shall be in the Form No. 3 in the First Schedule to this Order, or in a form to the like effect.

### DAY AND HOURS OF POLL.

12. (1) The poll, if any, shall be held on the day of election as fixed by or under Rule 2 of this Order, and the hours during which the poll shall be open shall be such as shall be fixed by the county council by any general or special order, so, however, that the poll shall always be open between the hours of six and eight in the evening. (2) Provided that the hours during which any poll shall be open for the election of rural district councillors and of any parish councillors for the parish shall be the same.

### POLLING DISTRICTS.

13. (1) (a) If the parish is divided into polling districts for the election of county councillors or of parish councillors, the whole of each such district being comprised in the parish, and the lists of parochial electors are made out in separate parts for such districts, each district shall be a polling district for the election of rural district councillors. (b) If the parish is not so divided, but is divided into wards for the election of parish councillors, each ward shall be a polling district for the election of rural district councillors. (c) If neither paragraph (a) nor paragraph (b) of this rule applies to the parish, the returning officer may, if he thinks fit, divide the parish into polling districts for the election of rural district councillors, but each district shall consist of an area for which separate lists of parochial electors will be available. (d) The polling districts for the election of rural district councillors and of any parish councillors elected at the same date in the parish shall be the same. (2) If the parish is divided into polling districts, each parochial elector shall give his vote in the polling district in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one polling district, he may vote in any one (but in one only) of the polling districts in which it is situate.

### POLLING PLACES AND STATIONS.

14. The returning officer shall determine the number and situation of the polling places. Provided as follows:—(a) That no premises licensed for the sale of intoxicating liquor shall be used for a polling place. (b) That the same polling stations shall be used for the election of rural district

councillors and of any parish councillors to be elected at the same date in the parish. (c) That, unless the county council otherwise direct, where the number of parochial electors in the parish, or (if the parish is divided into polling districts) in any polling district, is not more than five hundred, only one polling station shall be provided for the parish or polling district; and so on for each additional five hundred parochial electors, or for any less number of parochial electors over and above the last five hundred.

#### NOTICE OF THE POLL.

15. (1) If a poll has to be taken, the returning officer shall, five clear days at least before the day fixed for the same, give public notice thereof. The notice shall specify—(a) the day and hours fixed for the poll; (b) the number of rural district councillors to be elected for the parish; (c) the names, place of abode, and description of each candidate for the parish whom he has decided to have been nominated by a valid nomination paper, and who has not withdrawn his candidature; (d) the names of the proposer and seconder who signed the nomination paper of each candidate; (e) a description of the polling districts, if any; and (f) the situation and allotment of the polling places, and the description of the persons entitled to vote thereat and at the several polling stations. (2) The notice shall be in the Form No. 4 in the First Schedule to this Order, or in a form to the like effect. (3) If polls are to be taken in the parish as to the election of both rural district councillors and parish councillors, the returning officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the Form No. 5 in the First Schedule to this Order, or in a form to the like effect.

#### PRESIDING OFFICERS.

16. The returning officer, or some person appointed by him for the purpose, shall preside at each polling-station. The person presiding at any polling-station shall be called the presiding officer. Provided as follows:—(a) At any polling-station the same person shall act as presiding officer for the election of rural district councillors and of any parish councillors to be elected at the same date in the parish. (b) In making appointments under this rule the returning officer shall, as far as practicable, secure the services of suitable persons resident in the parish, so as to diminish expense.

#### COMPARTMENTS OF POLLING STATIONS.—BALLOT PAPERS.

17. The returning officer shall furnish every polling-station with such number of compartments in which the voters can mark their votes screened from observation, and shall furnish each presiding officer with such number of ballot papers as may be necessary for effectually taking the poll at the election.

#### POLLING AGENTS.

18. 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 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.

## QUESTIONS TO ELECTORS.

19. (1) The presiding officer may, and if required by any parochial elector of the parish, or any polling agent appointed under Rule 18, shall put to any elector at the time of his applying for a ballot paper, but not afterwards, the following questions, or one of them, and no other:—(a) Are you the person entered in the parochial register for this parish (or ward) as follows (read the whole entry from the register)? (b) Have you already voted at the present election of rural district councillors in this or any other parish or ward in the rural district of \_\_\_\_\_? (2) A person required to answer either of these questions shall not receive a ballot paper or be permitted to vote until he has answered it.

## COUNTING THE VOTES.

20. (1) The returning officer, when he does not act as a presiding officer at any polling-station for the parish, shall appoint the presiding officer or some one of the presiding officers to act as deputy returning officer for the parish, as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate, and of the election of the candidate or candidates to whom the largest number of votes has been given. The person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the returning officer in relation to the decision of any question as to any ballot paper and otherwise as to the ballot papers. Provided that, if the parish is divided into wards for the election either of rural district councillors or of parish councillors, but not for both elections, or, if the parish is so divided for both elections, and the wards are not the same for both elections, one deputy returning officer shall act under this rule for the whole of the parish. (2) The same person shall act as deputy returning officer in respect of the election both of rural district councillors and of any parish councillors to be elected at the same date for the parish. (3) The votes shall be counted in the parish or in some place near thereto as soon as practicable after the close of the poll.

## EQUALITY OF VOTES.

21. If an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer or deputy returning officer, as the case may be, may, if a parochial elector of the parish, give such additional vote in writing, but shall not otherwise be entitled to vote.

## DECLARATION OF RESULT OF POLL.

22. (1) The declaration of the result of the poll shall be in the Form No. 6 in the First Schedule to this Order, or in a form to the like effect. (2) The returning officer or deputy returning officer, as the case may be, making the declaration shall forthwith cause a copy of it to be affixed on the front of the building in which the votes have been counted. If the declaration is made by a deputy returning officer, he shall forthwith send it to the returning officer.

## WHEN RURAL DISTRICT COUNCILLORS COME INTO OFFICE.

27. (1) The rural district councillors elected shall come into office on Friday, the 28th day of December, 1894.

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