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BY

WALTER C. RYDE, M.A.,

*Editor of "Reports of Rating Appeals, 1886-90 and 1891-93," and Joint Editor of
"The Local Government Act, 1888."*

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PREFACE.

IT is generally found that an Edition of a new Act, if wanted at all, is wanted immediately; and this must surely be true of the Local Government Act, 1894, which gives wide powers to, and lays onerous duties on the County Councils, and directs them to exercise such of their powers as may be requisite for bringing the Act into operation as soon as may be after the passing thereof.

The sections establishing parish councils and parish meetings, though they gave to the Bill the name by which it was popularly known, form but a part of the Act. Under the Act new powers and duties are given to County Councils; rural district councils are created; and to district councils (both urban and rural) new powers are given and existing powers are transferred. Great alterations are also made in the mode of election and the constitution of boards of guardians throughout the country, and of the vestries and district boards in the metropolis. This book contains information which, it is hoped, will be of service to the members, officers, and legal advisers of any of these bodies. The book is

not intended for lawyers only. The administration of those parts of the Local Government Act, 1894, which relate to parish meetings and parish councils will be mainly in the hands of laymen, and in writing the notes the object aimed at has been to omit nothing which may be necessary for the layman, and at the same time to insert nothing which must be useless to the lawyer.

Cross-references to the different sections of the Act have been multiplied at the risk of repetition, for it is not enough that the book should contain all the necessary information for those who look long enough for it. That information must be readily accessible, and an Edition of a new Act should not merely help the reader to go right, but should prevent his going wrong.

In the Introductory Chapter is given a short account of the several authorities administering local government business, and of the areas over which they have jurisdiction, together with a summary of the powers of the newly-created authorities. And in that Chapter it has been thought better not to hamper the reader with details, for which he must consult the Index and the Notes.

The value of an Index is not to be measured solely by the number of pages it occupies, and an

attempt has been made to render the Index to this book both complete and systematic.

In citing cases, the date of the decision has been given in every instance, and in the Table of Cases cited, the reference to contemporary reports will be found.

In the Appendix will be found those sections of other Acts which are either incorporated with the Local Government Act, 1894, or are absolutely necessary to make that Act intelligible, together with the regulations of the Local Government Board, as to the procedure to be followed by the County Councils in performing their duty of bringing the Act into operation.

Twelve months (all but a few days) elapsed between the date when the Bill of 42 pages was ordered by the House of Commons to be printed, and the date of the Royal Assent to the Act which occupied 72 pages. The delay has enabled the Editor to deal with a mass of amendments disproportionate to the length of the original Bill. The burden borne by the writer has (it is hoped) produced some benefit for the reader. Revision of the manuscript was possible, and has been undertaken, not once, nor twice, nor thrice. The length of time spent in revision is often in inverse proportion to the length of a book; it certainly is so in this instance.

I have too often found that lawyers can overlook the repeal of a Statute, to feel confident that in this book I have avoided all errors of that kind. They are errors which can be guarded against only by great labour. The reader may at least be sure that, whatever be the measure of success, that labour has been honestly and carefully undertaken.

Before taking leave of the work for the accuracy of which I am alone responsible, I desire to express my thanks to my friend, Mr. JOHN OGLE, of the Inner Temple, for undertaking the laborious task of compiling the Table of Statutes cited.

W. C. R.

1, BRICK COURT, TEMPLE.

April 6th, 1894.

CONTENTS.

	PAGE
TABLE OF CASES CITED	xiii
TABLE OF STATUTES CITED	xix
INTRODUCTORY CHAPTER	xxvii

THE LOCAL GOVERNMENT ACT, 1894:

PART I.—PARISH MEETINGS AND PARISH COUNCILS.

Constitution of Parish Meetings and Parish Councils.

SECT.

1. Constitution of parish meetings and establishment of parish councils	1
2. Parish meetings	5
3. Constitution of parish council	7
4. Use of schoolroom	13

Powers and Duties of Parish Councils and Parish Meetings.

5. Parish council to appoint overseers	16
6. Transfer of certain powers of vestry and other authorities to parish council	19
7. Transfer of powers under adoptive Acts	32
8. Additional powers of parish council	41
9. Powers for acquisition of land	44
10. Hiring of land for allotments	54
11. Restrictions on expenditure	59
12. Borrowing by parish council	62
13. Footpaths and roads	63
14. Public property and charities	66
15. Delegated powers of parish councils	72
16. Complaint by parish council of default of district council	72
17. Parish officers and parish documents	75
18. Parish wards	78
19. Provisions as to small parishes	79

THE LOCAL GOVERNMENT ACT, 1894—*continued.*

PART II.—GUARDIANS AND DISTRICT COUNCILS.

SECT.	PAGE
20. Election and qualification of guardians	84
21. Names of county districts and district councils	90
22. Chairman of council to be justice	91
23. Constitution of district councils in urban districts not being boroughs	93
24. Rural district councils	95
25. Powers of district council with respect to sanitary and highway matters	99
26. Duties and powers of district council as to rights of way, rights of common, and roadside wastes	104
27. Transfer of certain powers of justices to district councils	107
28. Expenses of urban district council	115
29. Expenses of rural district council	115
30. Guardians in London and county boroughs	118
31. Provisions as to London vestries and district boards	118
32. Application to county boroughs of provisions as to transfer of justices' powers	121
33. Power to apply certain provisions of Act to urban districts and London	122
34. Supplemental provisions as to control of overseers in urban districts	124
35. Restrictions on application of Act to London, &c.	125

PART III.—AREAS AND BOUNDARIES.

36. Duties and powers of county council with respect to areas and boundaries	125
37. Provision as to parishes having parts with defined boundaries	133
38. Orders for grouping parishes and dissolving groups	134
39. Provisions for increase and decrease of population	136
40. Certain orders of county council not to require confirmation	138
41. Reduction of time for appealing against county council orders	138
42. Validity of county council orders	138

PART IV.—SUPPLEMENTAL.

Parish Meetings and Elections.

43. Removal of disqualification of married women	139
44. Register of parochial electors	140
45. Supplemental provisions as to parish meetings	146
46. Disqualifications for parish or district council	147
47. Supplemental provisions as to parish councils	153
48. Supplemental provisions as to elections, polls, and tenure of office	155
49. Provision as to parish meeting for part of parish	162
50. Supplemental provisions as to overseers	163

THE LOCAL GOVERNMENT ACT, 1894—*continued.**Parish and District Councils.*

SECT.	PAGE
51. Public notices	163
52. Supplemental provisions as to transfer of powers	164
53. Supplemental provisions as to adoptive Acts	168
54. Effect on parish council of constitution of urban district	170
55. Power to change name of district or parish	172
56. Committees of parish or district councils	174
57. Joint committees	175
58. Audit of accounts of district and parish councils and inspection	177
59. Supplemental provisions as to district councils	179

Miscellaneous.

60. Supplemental provisions as to guardians	181
61. Place of meeting of parish or district council or board of guardians	184
62. Permissive transfer to urban district council of powers of other authorities	184
63. Provisions as to county council acquiring powers of district council	185
64. County council may act through district council	187
65. Saving for harbour powers	188
66. Saving for elementary schools	188
67. Transfer of property and debts and liabilities	188
68. Adjustment of property and liabilities	189
69. Power to deal with matters arising out of alteration of boundaries	192
70. Summary proceeding for determination of questions as to transfer of powers	192
71. Supplemental provisions as to county council orders	194
72. Provisions as to local inquiries	195
73. Provision as to Sundays and bank holidays	196
74. Provisions as to Scilly Islands	197
75. Construction of Act	198
76. Extent of Act	204
77. Short title	204

PART V.—TRANSITORY PROVISIONS.

78. First elections to parish councils	204
79. First elections of guardians and district councils	205
80. Power of county council to remove difficulties	209
81. Existing officers	210
82. Provision as to highways	213
83. Duty of county council to bring Act into operation	214
84. Appointed day	214
85. Current rates, &c.	218

THE LOCAL GOVERNMENT ACT, 1894—*continued.*

SECT.	PAGE
86. Saving for existing securities and discharge of debts	219
87. Saving for existing byelaws	220
88. Saving for pending contracts, &c.	220
89. Repeal of Acts	221
SCHEDULES	222

APPENDIX.

The Allotments Act, 1887	233
The Allotments Act, 1890	238
The Public Health Act, 1875	239
The Public Health Acts Amendment Act, 1890	253
The Local Government Act, 1888	253
Regulations of the Local Government Board	259

INDEX	265
-----------------	-----

CASES CITED.

A.

	PAGE
ANTHONY <i>v.</i> Brecon Markets Co. [1872], L. R. 7 Ex. 399; 41 L. J. Ex. 201; 26 L. T. N. S. 979; 21 W. R. 27	115
Arnold <i>v.</i> Blaker [1871], L. R. 6 Q. B. 433; 40 L. J. Q. B. 185; 19 W. R. 1090	66
Arnold <i>v.</i> Holbrook [1873], L. R. 8 Q. B. 96; 42 L. J. Q. B. 80; 28 L. T. N. S. 23; 21 W. R. 330	66
Aslatt <i>v.</i> Corporation of Southampton [1880], 16 Ch. D. 143; 50 L. J. Ch. 31; 43 L. T. 464; 29 W. R. 117	151
Atkinson <i>v.</i> Collard [1885], 16 Q. B. D. 254; 55 L. J. Q. B. 18; 53 L. T. 670; 34 W. R. 75	9

B.

Baker <i>v.</i> Greenhill [1842], 3 Q. B. 148	103
Barton <i>v.</i> Piggott [1874], L. R. 10 Q. B. 86; 44 L. J. M. C. 5; 31 L. T. N. S. 404; 23 W. R. 233	152
Beal <i>v.</i> Ford [1877], 3 C. P. D. 73; 47 L. J. C. P. 56; 37 L. T. 408; 26 W. R. 146	9
Beal <i>v.</i> Town Clerk of Exeter [1887], 20 Q. B. D. 300; 57 L. J. Q. B. 128; 58 L. T. 407; 36 W. R. 507	9
Beechey <i>v.</i> Quentery [1842], 10 M. & W. 65	35
Beresford-Hope <i>v.</i> Lady Sandhurst [1889], 23 Q. B. D. 79; 58 L. J. Q. B. 316; 61 L. T. 150; 37 W. R. 548	94
Bourke <i>v.</i> Nutt (C. A. March 8, 1894)	150
Bristol (Governor of Poor of) <i>v.</i> Mayor, &c. of Bristol [1887], 18 Q. B. D. 549; 56 L. J. Q. B. 320	45
Burgess, <i>In re</i> [1887], 4 Morrell, 186	150
Burgess <i>v.</i> Clark [1884], 14 Q. B. D. 735; 33 W. R. 269	152
Burnley <i>v.</i> Overseers of Methley [1859], 28 L. J. M. C. 152	164

C.

Campbell, <i>In re</i> Lord Colin [1888], 20 Q. B. D. 816; 59 L. T. 194; 36 W. R. 582	151
Church <i>v.</i> Imperial Gas Co. [1838], 6 A. & E. 846	13
Colvill <i>v.</i> Lewis [1846], 2 C. B. 60	197

	PAGE
Conybear v. School Board for London, [1891] 1 Q. B. 118; 60 L. J. Q. B. 44; 63 L. T. 651; 39 W. R. 288.....	150
Cowley (Lord) v. Byas [1877], 5 Ch. D. 944; 26 W. R. 1; 37 L. T. 238	37
Cox v. Ambrose [1890], 60 L. J. Q. B. 114	152
Curtis v. Kesteven County Council [1890], 45 Ch. D. 504; 60 L. J. Ch. 103; 63 L. T. 543; 39 W. R. 199	106

D.

Durant v. Carter [1873], L. R. 9 C. P. 261; 43 L. J. C. P. 17; 29 L. T. N. S. 681; 22 W. R. 158	9
---	---

E.

East London Ry. v. Whitechurch [1874], L. R. 7 H. L. 81; 43 L. J. M. C. 159; 22 W. R. 665; 30 L. T. N. S. 412	45
Etherley Grange Coal Co. v. Auckland Highway Board, [1894] 1 Q. B. 37; 42 W. R. 198; 69 L. T. 702	118
Eynsham, <i>In re</i> [1849], 12 Q. B. 398, n.	35
Eyre v. Corporation of Leicester, [1892] 1 Q. B. 136; 61 L. J. Q. B. 438; 65 L. T. 733; 40 W. R. 203	192

F.

Farmer v. L. & N. Western Ry. [1888], 20 Q. B. D. 788; 36 W. R. 590	46
Fletcher v. Hudson [1881], 7 Q. B. D. 611; 51 L. J. Q. B. 48; 30 W. R. 349; 46 L. T. 125	151, 152, 153
Ford v. Hart [1873], L. R. 9 C. P. 273; 43 L. J. C. P. 24; 29 L. T. N. S. 685; 22 W. R. 159	9
Ford v. Pye [1873], L. R. 9 C. P. 269; 43 L. J. C. P. 21; 29 L. T. N. S. 684; 22 W. R. 159	9
Freeman v. Read [1863], 4 B. & S. 174; 8 L. T. N. S. 458; 11 W. R. 802.....	66

G.

Glasgow (Lord Provost of) v. Farie [1888], 13 App. Cas. 657; 60 L. T. 274; 37 W. R. 627	51
Golding v. Fenn [1828], 7 B. & C. 765	203
Great Western Ry. v. Swindon and Cheltenham Ry. [1884], 9 App. Cas. 787; 32 W. R. 957	45

H.

Hackney Charities, <i>In re</i> [1865], 34 L. J. Ch. 169; 11 L. T. N. S. 758; 13 W. R. 398	70, 168
Hardwick v. Brown [1873], L. R. 8 C. P. 406; 28 L. T. N. S. 502; 21 W. R. 639	151

	PAGE
Hill <i>v.</i> Thomas, [1893] 2 Q. B. 333; 42 W. R. 85; 62 L. J. M. C. 161; 69 L. T. 310, 553	118
Honeybone <i>v.</i> Hambridge [1886], 18 Q. B. D. 418; 56 L. J. Q. B. 46; 56 L. T. 365; 35 W. R. 520.....	143
Hunnings <i>v.</i> Williamson [1883], 11 Q. B. D. 533; 52 L. J. Q. B. 416; 32 W. R. 267; 49 L. T. N. S. 361	152

I.

Isaacson <i>v.</i> Durant [1886], 17 Q. B. D. 54; 55 L. J. Q. B. 331; 54 L. T. 684; 34 W. R. 547	149
--	-----

J.

Jersey (Earl of) <i>v.</i> Neath Union [1889], 22 Q. B. D. 555; 37 W. R. 388	51
--	----

K.

Kent, <i>Ex parte</i> County Council of, [1891] 1 Q. B. 725; 60 L. J. Q. B. 435; 65 L. T. 213; 39 W. R. 465	193
Knill <i>v.</i> Towse [1890], 24 Q. B. D. 697; 59 L. J. Q. B. 455; 63 L. T. 47; 38 W. R. 521	158

L.

Leek Improvement Commissioners <i>v.</i> Staffordshire JJ. [1888], 20 Q. B. D. 794	103
Le Feuvre <i>v.</i> Lankester [1854], 3 E. & B. 530; 23 L. J. Q. B. 254..	151
Lewis <i>v.</i> Carr [1876], 1 Ex. D. 484; 34 L. T. N. S. 390; 24 W. R. 940	151, 153
London County Council, <i>Ex parte</i> , [1892] 1 Q. B. 33; 61 L. J. Q. B. 27	194
Loosemore <i>v.</i> Tiverton & N. Devon Ry. [1882], 22 Ch. D. 25; 51 L. J. Ch. 570; 47 L. T. 151; 30 W. R. 628	51

M.

Magarrill <i>v.</i> Overseers of Whitehaven [1885], 16 Q. B. D. 242; 55 L. J. Q. B. 38; 53 L. T. 667; 34 W. R. 275	150
Malling Union (Guardians of) <i>v.</i> Graham, [1870] L. R. 5 C. P. 201; 39 L. J. C. P. 74; 22 L. T. N. S. 789; 18 W. R. 674	17
Mashiter <i>v.</i> Dunn [1848], 6 C. B. 30; 18 L. J. C. P. 13	150
Melliss <i>v.</i> Shirley Local Board [1885], 14 Q. B. D. 911; 16 Q. B. D. 446; 55 L. J. Q. B. 143; 53 L. T. N. S. 810	152
Mercer <i>v.</i> Woodgate [1869], L. R. 5 Q. B. 26; 39 L. J. M. C. 21; 21 L. T. N. S. 458; 18 W. R. 116	66
Midland Ry. <i>v.</i> Haunchwood Brick and Tile Co. [1882], 20 Ch. D. 552; 51 L. J. Ch. 778; 30 W. R. 640; 46 L. T. N. S. 401	51

	PAGE
Midland Ry. <i>v.</i> Robinson [1889], 15 App. C. 19; 59 L. J. Ch. 442; 62 L. T. 194; 38 W. R. 577	51
Migotti <i>v.</i> Colvill [1879], 4 C. P. D. 233; 40 L. T. 747; 27 W. R. 744	66

N.

Newhaven Local Board <i>v.</i> Newhaven School Board [1885], 30 Ch. D. 350; 53 L. T. N. S. 571; 34 W. R. 172	226, 251, 252
Northcote <i>v.</i> Pulsford [1875], L. R. 10 C. P. 476; 44 L. J. C. P. 217; 32 L. T. N. S. 602; 23 W. R. 700	159, 203
Norwood (Overseers of) <i>v.</i> Salter, [1892] 2 Q. B. 118; 61 L. J. M. C. 193	125
Nutton <i>v.</i> Wilson [1889], 22 Q. B. D. 744; 37 W. R. 522	151

O.

Ormerod <i>v.</i> Chadwick [1847], 16 M. & W. 367	164
---	-----

P.

Peto <i>v.</i> West Ham [1859], 28 L. J. M. C. 240; 2 E. & E. 144; 7 W. R. 586	35
Pinchin <i>v.</i> London & Blackwall Ry. [1854], 5 De G. M. & G. 851; 24 L. J. Ch. 417; 3 W. R. 52, 125; 24 L. T. 125, 196.....	45
Portsmouth (Mayor, &c. of) <i>v.</i> Smith [1883], 13 Q. B. D. 184; 53 L. J. Q. B. 92	203
Pound <i>v.</i> Plumstead Board of Works [1871], L. R. 7 Q. B. 183	203
Powell <i>v.</i> Guest [1864], 34 L. J. C. P. 69; 18 C. B. N. S. 72	9
Prebble and Robinson, <i>In re</i> , [1892] 2 Q. B. 602; 67 L. T. 267; 41 W. R. 30	192
Pudding Norton (<i>In re</i> Overseers of) [1864], 33 L. J. M. C. 136; 10 L. T. N. S. 386; 12 W. R. 762	17
Pudney <i>v.</i> Eccles [1893], 1 Q. B. 52; 62 L. J. M. C. 27; 67 L. T. 713; 41 W. R. 125.....	110
Putney (Overseers of) <i>v.</i> L. & S. W. Ry., [1891] 1 Q. B. 440; 60 L. J. Q. B. 438; 64 L. T. 280; 39 W. R. 291	45

R.

R. <i>v.</i> Brain [1832], 3 B. & Ad. 614	203
R. <i>v.</i> Burial Board of Bishopwearmouth [1879], 5 Q. B. D. 67	22
R. <i>v.</i> Commissioners of Inland Revenue, [1891] 1 Q. B. 485; 60 L. J. Q. B. 376; 64 L. T. 57; 39 W. R. 317.....	109
R. <i>v.</i> Cooban [1886], 18 Q. B. D. 269; 56 L. J. M. C. 33	151
R. <i>v.</i> Dunn [1857], 7 E. & B. 220	35
R. <i>v.</i> Forrest [1789], 3 T. R. 38; 1 R. R. 628.....	17

	PAGE
<i>R. v. Gaskarth</i> [1880], 5 Q. B. D. 321; 49 L. J. Q. B. 509; 42 L. T. N. S. 688; 28 W. R. 596	152
<i>R. v. Greene</i> [1852], 17 Q. B. 793; 21 L. J. M. C. 137	17, 212
<i>R. v. Guyer</i> [1889], 23 Q. B. D. 100; 58 L. J. M. C. 81; 60 L. T. 824; 37 W. R. 586	110
<i>R. v. Harrald</i> [1872], L. R. 7 Q. B. 361; 41 L. J. Q. B. 173; 26 L. T. 616; 20 W. R. 328	10, 139
<i>R. v. Hereford JJ.</i> [1820], 3 B. & Ald. 581	222
<i>R. v. Kingswinford</i> [1854], 3 E. & B. 688	35, 36
<i>R. v. Midland Ry.</i> [1875], L. R. 10 Q. B. 389; 44 L. J. M. C. 137; 32 L. T. 753; 23 W. R. 921	35
<i>R. v. Morton</i> , [1892] 1 Q. B. 39; 61 L. J. Q. B. 39; 65 L. T. 611; 40 W. R. 109	147
<i>R. v. Neath Overseers</i> [1871], L. R. 6 Q. B. 707	35
<i>R. v. Owens</i> [1859], 28 L. J. Q. B. 316; 2 E. & E. 86	147
<i>R. v. Ramsden</i> [1858], E. B. & E. 949	118
<i>R. v. Ramsgate</i> (Mayor, &c. of) [1889], 23 Q. B. D. 66; 58 L. J. Q. B. 352; 37 W. R. 781	152
<i>R. v. Rawlins</i> [1885], 15 Q. B. D. 382	87
<i>R. v. Reynolds</i> [1893], 2 Q. B. 75; 62 L. J. M. C. 120; 42 W. R. 32; 69 L. T. 321	36
<i>R. v. St. Martin's-in-the-Fields</i> [1832], 3 B. & Ad. 907	203
<i>R. v. St. Mary, Islington</i> [1890], 25 Q. B. D. 523; 59 L. J. Q. B. 462; 63 L. T. 226; 39 W. R. 10	23
<i>R. v. Shepley</i> [1888], 22 Q. B. D. 96; 58 L. J. M. C. 6; 59 L. T. 696; 37 W. R. 27	17
<i>R. v. Shropshire JJ.</i> [1838], 8 A. & E. 173	222
<i>R. v. Somersetshire JJ.</i> [1858], 22 J. P. 431	35
<i>R. v. South-Eastern Ry.</i> [1884], L. J. Notes of Cases, p. 121	35
<i>R. v. Southwark & Vauxhall Water Co.</i> [1856], 6 E. & B. 1008	35
<i>R. v. Spurrell</i> [1865], L. R. 1 Q. B. 72; 36 L. J. M. C. 74; 13 L. T. N. S. 364; 14 W. R. 81	16
<i>R. v. Stubbs</i> [1788], 2 T. R. 395; 1 R. R. 503	16, 17
<i>R. v. Surrey JJ.</i> , [1892] 1 Q. B. 633, 867; 66 L. T. 578; 40 W. R. 500	65
<i>R. v. Tonbridge Overseers</i> [1884], 13 Q. B. D. 339; 53 L. J. Q. B. 488; 51 L. T. 179	37
<i>R. v. Vaile</i> [1889], 23 Q. B. D. 483; 58 L. J. M. C. 165; 61 L. T. 253	152
<i>R. v. White</i> [1867], L. R. 2 Q. B. 557; 16 L. T. N. S. 828; 36 L. J. Q. B. 267; 15 W. R. 988	147
<i>Radcliffe v. Bartholomew</i> , [1892] 1 Q. B. 161; 61 L. J. M. C. 63; 65 L. T. 677; 40 W. R. 63	66
<i>Railway Sleepers Supply Co., In re</i> [1885], 29 Ch. D. 204; 54 L. J. Ch. 720; 52 L. T. 731; 33 W. R. 595	12
<i>Rawlins v. West Derby Overseers</i> [1846], 2 C. B. 72; 15 L. J. C. P. 70	197
<i>Richardson v. Methley School Board</i> , [1893] 3 Ch. 510; 42 W. R. 27; 62 L. J. Ch. 943; 69 L. T. 308	153
<i>Robinson, In re</i> , [1892] 2 Q. B. 602; 67 L. T. 267; 41 W. R. 30 ..	192

	PAGE
Robinson <i>v.</i> Waddington [1849], 13 Q. B. 753; 18 L. J. Q. B. 250..	11
Ruabon Brick and Terra Cotta Co. <i>v.</i> G. W. Ry., [1893] 1 Ch. 427; 62 L. J. Ch. 483; 68 L. T. 110	51

S.

Shoolbred & Co. <i>v.</i> St. Pancras JJ. [1890], 24 Q. B. D. 346; 59 L. J. M. C. 63; 62 L. T. 287; 38 W. R. 399	110
Smith and Service <i>v.</i> Nelson and Sons [1890], 25 Q. B. D. 545; 59 L. J. Q. B. 533; 63 L. T. 475; 39 W. R. 117	191
Spittall <i>v.</i> Brook [1886], 18 Q. B. D. 426; 56 L. J. Q. B. 48; 56 L. T. 364; 35 W. R. 520	9
Story <i>v.</i> Sheard, [1892] 2 Q. B. 515; 61 L. J. M. C. 178; 67 L. T. 423; 41 W. R. 31	118
Stratton <i>v.</i> Metropolitan Board of Works [1874], L. R. 10 C. P. 76; 23 W. R. 447; 44 L. J. M. C. 33; 31 L. T. N. S. 689	45

T.

Thursby <i>v.</i> Briercliffe-cum-Entwistle, [1894] W. N. 34	35
Todd <i>v.</i> Robinson [1884], 14 Q. B. D. 739; 52 L. T. 120; 54 L. J. Q. B. 47	153

W.

Walker, <i>Ex parte</i> [1889], 22 Q. B. D. 384; 58 L. J. Q. B. 190; 60 L. T. 581; 37 W. R. 293	160
Westbury-upon-Severn Union, <i>In re</i> [1854], 4 E. & B. 314	197
Whitbread <i>v.</i> Sevenoaks Highway Board, [1892] 1 Q. B. 8; 61 L. J. M. C. 59; 65 L. T. 855	118
Whiteley <i>v.</i> Barley [1887], 20 Q. B. D. 196; [1888], 21 Q. B. D. 154; 36 W. R. 823	152
Whithorn <i>v.</i> Thomas [1844], 7 M. & G. 1; 14 L. J. C. P. 38	9
Wilson <i>v.</i> Eastern Counties Navigation Co., [1892] 1 Q. B. 81; 61 L. J. Q. B. 237; 65 L. T. 853	192
Wright <i>v.</i> Wallasey Local Board [1887], 18 Q. B. D. 783; 56 L. J. Q. B. 259	37

Y.

Young <i>v.</i> Mayor, &c. of Leamington Spa [1883], 8 App. Cas. 517; 52 L. J. Q. B. 713; 49 L. T. 1; 31 W. R. 925	13
---	----

STATUTES CITED.

	PAGE		PAGE
43 Eliz. c. 2,		2 & 3 Will. IV. c. 45 (Representa-	
s. 1	16	tion of the People Act, 1832),	
s. 5	17	s. 36	150
14 Car. II. c. 12, s. 21.....	16	3 & 4 Will. IV. c. 90 (Lighting	
17 Geo. II. c. 38,		and Watching Act, 1833),	
ss. 4, 6	23	ss. 5, 8, 9, 15—17, 24, 32, 33,	
s. 13	25	44, 45, 71, 73, 77....	27, 32, 35
26 Geo. III. c. 71 (Knackers Act,		4 & 5 Will. IV. c. 76 (Poor Law	
1786),		Amendment Act, 1834),	
ss. 1, 2.....	113	s. 1	29
s. 14	114	s. 12.....	52, 196
33 Geo. III. c. 13	2, 217	ss. 28, 29.....	61
41 Geo. III. c. 23 (Poor Rate Act,		s. 32	130
1801),		ss. 38, 39, 41..	86, 87, 98, 162, 181
s. 1	24	s. 40	162, 166
s. 4	23	s. 46.....	17
ss. 6, 8	24	s. 48.....	17, 150
52 Geo. III. c. 146, s. 5	25, 77	5 & 6 Will. IV.	
54 Geo. III.		c. 50 (Highway Act, 1835),	
c. 91.....	16	ss. 6, 13—15, 18	102
c. 170 (Poor Law Relief Act,		s. 46	152
1814), s. 11	150	s. 48	118, 167
58 Geo. III. c. 69 (Vestries Act,		ss. 50, 58	118
1818),		s. 62	103
s. 1	164	ss. 84—93	64
ss. 2, 6.....	25	s. 93	118
59 Geo. III. c. 12 (Poor Relief		c. 69 (Union and Parish Pro-	
Act, 1819),		perty Act, 1835),	
s. 6	16	s. 3	28, 29, 166
s. 7	17	c. 76 (Municipal Corporations	
s. 17	27, 83, 167	Act, 1835),	
10 Geo. IV. c. 44 (Metropolitan		s. 28	151
Police Act, 1829),		6 & 7 Will. IV.	
ss. 4, 34, Sched.....	114	c. 86	25
1 & 2 Will. IV.		ss. 1, 33	77
c. 32 (Game Act, 1831), ss. 18,		c. 96, ss. 6, 7	24
21, 26	110	7 Will. IV. & 1 Vict.	
c. 60 (Vestries Act, 1831),		c. 45 (Parish Notices Act,	
ss. 1, 5, 10, 23, 39, 43..	203	1837), s. 2	164
2 & 3 Will. IV. c. 42 (Allotments		c. 83.....	77
Act, 1832),		2 & 3 Vict.	
s. 1	28	c. 35, s. 4	110

	PAGE		PAGE
2 & 3 Vict.		10 & 11 Vict. c. 109 (Poor Law Board Act, 1847),	
c. 47 (Metropolitan Police Act, 1839), s. 2	114	s. 1	29
c. 84 (Poor Rate Act, 1839),		ss. 19—22	52, 196
s. 1	61	11 & 12 Vict.	
s. 2	17	c. 63 (Public Health Act, 1848)	120
3 & 4 Vict. c. 88 (County Police Act, 1840), s. 20	34	c. 91 (Poor Law Audit Act, 1848), s. 11	24
4 & 5 Vict. c. 38 (School Sites Act, 1840), s. 6	166	12 & 13 Vict.	
5 & 6 Vict.		c. 8, s. 1	16
c. 18 (Parish Property and Parish Debts Act, 1842),		c. 45 (Quarter Sessions Act, 1849), s. 1	23
s. 2	28	c. 49 (School Sites Act, 1849)	166
c. 57 (Poor Law Amendment Act, 1842),		c. 92 (Cruelty to Animals Act, 1849), ss. 7, 11	114
s. 11	161	c. 103 (Poor Law Amendment Act, 1849), s. 6	17
s. 14	87, 151	13 & 14 Vict.	
6 & 7 Vict. c. 18 (Parliamentary Voters Registration Act, 1843), s. 36	144	c. 57 (Vestries Act, 1850)....	21
7 & 8 Vict.		s. 1	25
c. 37 (School Sites Act, 1844)	166	ss. 2, 4, 5	26
c. 87, ss. 1, 2	114	ss. 6—9	77
c. 101 (Poor Law Amendment Act, 1844),		c. 101, s. 6	17
s. 14	29, 162	14 & 15 Vict.	
ss. 15, 16	162	c. 24 (School Sites Act, 1851)	166
s. 18	86, 98, 183	c. 51	35
s. 24	87	c. 105, s. 2	89
s. 61	17, 212	15 & 16 Vict.	
s. 62	17, 77	c. 38	16
s. 66	130	c. 49 (School Sites Act, 1852)	166
8 Vict.		c. 69, s. 4	120
c. 18 (Lands Clauses Consolidation Act, 1845),		c. 79, s. 14	27
ss. 3, 18, 133	45	c. 81 (County Rates Act, 1852), ss. 17, 22	24
c. 20 (Railway Clauses Consolidation Act, 1845),		c. 85 (Burial Act, 1852)	32
s. 9	77	ss. 10, 11	37
ss. 77—85	50	s. 15	38
8 & 9 Vict. c. 118 (Inclosure Act, 1845),		ss. 19—21	39
s. 15	27	ss. 23, 25—27	37
s. 72	118	ss. 29, 30, 33, 34, 38, 42, 44, 49	38
s. 73	27, 28	s. 52	37
s. 74	28	16 & 17 Vict.	
ss. 108, 109, 112	31	c. 134 (Burial Act, 1853),	
9 & 10 Vict. c. 74 (Baths and Washhouses Act, 1846)....	32, 36	s. 1	22
10 & 11 Vict.		s. 7	37, 38
c. 34 (Towns Improvement Clauses Act, 1847),		c. 137 (Charitable Trusts Act, 1853),	
ss. 125—131	115	ss. 21, 24	44
c. 61 (Baths and Washhouses Act, 1847),		s. 48	167
ss. 2, 4, 7	36	17 & 18 Vict.	
		c. 87 (Burial Act, 1854),	
		ss. 3, 4, 5, 9	39
		s. 12	37

	PAGE
17 & 18 Vict.	
c. 112 (Literary and Scientific Institution Act, 1854),	
s. 6.....	166
c. ccxix, ss. 2—4	184
18 & 19 Vict.	
c. 119 (Passenger Act, 1855),	
ss. 66, 67, 75—78.....	111
c. 120 (Metropolis Management Act, 1855),	
s. 1.....	203
s. 7	208
ss. 9, 10.....	120
ss. 11, 12	121
s. 13	120, 121
s. 22	121
s. 27	120, 121
s. 30	121
ss. 31, 32—34, 36	120
ss. 41	119, 121
s. 238.....	119
Sched. A.	119, 123
Sched. B.	120, 121
Sched. C.	124
c. 124 (Charitable Trusts Act, 1855),	
s. 15	167
s. 44.....	68, 71
c. 128 (Burial Act, 1855)....	20
s. 3.....	37
s. 6.....	39
s. 7.....	38
s. 9.....	37
s. 10	38
ss. 11, 12	37
s. 13	39
s. 14	38
s. 15	39
s. 16	38
s. 18	22
19 & 20 Vict. c. 69, ss. 18, 19....	34
20 & 21 Vict.	
c. 22	180, 181
c. 31, s. 12	28
c. 43.....	194
c. 81 (Burial Act, 1857),	
s. 3	38
s. 5	37
ss. 6, 7.....	38
s. 9	37
s. 17.....	38
ss. 18—22	39
22 Vict. c. 27.....	27
23 & 24 Vict.	
c. 30 (Public Improvements Act, 1860)	32
ss. 1—7	39

	PAGE
23 & 24 Vict.	
c. 64 (Burial Act, 1860),	
ss. 1, 2	39
s. 4	37
c. 90 (Game Licences Act, 1860),	
ss. 2, 13—16	110
s. 13	111
c. 136 (Charitable Trusts Act, 1860),	
s. 2.....	167
s. 6	68, 70
s. 8	70, 194
24 & 25 Vict.	
c. 55 (Poor Removal Act, 1861),	
ss. 9, 10	61
c. 91 (Revenue Act, 1861),	
s. 17.....	110
c. 125, s. 1	26
s. 2	25
25 & 26 Vict.	
c. 61 (Highway Act, 1862),	
s. 35.....	103, 118
s. 44	65
c. 102 (Metropolis Management Amendment Act, 1862),	
s. 37	121
s. 40	120
ss. 93, 94	113, 114
c. 103 (Union Assessment Committee Act, 1862),	
ss. 18—20	23
s. 30	61
ss. 32, 33	23
27 & 28 Vict.	
c. 101 (Highway Act, 1864),	
s. 21	65
s. 22	118
s. 24	103, 118
29 & 30 Vict.	
c. 113 (Poor Law Amendment Act, 1866),	
s. 10.....	16, 17
s. 11	16
30 & 31 Vict.	
c. 6 (Metropolitan Poor Act, 1867), s. 79.....	87
c. 72, ss. 2, 4, 5, 6	92
c. 84 (Vaccination Act, 1867),	
s. 26.....	143
c. 106 (Poor Law Amendment Act, 1867),	
s. 1.....	29
s. 3.....	4
s. 4.....	87
ss. 5, 6, 9, 10, 12	162
s. 17	28
s. 29	26

	PAGE		PAGE
30 & 31 Vict.		36 & 37 Vict.	
c. 130 (Agricultural Gangs Act, 1867),		c. 19 (Poor Allotments Management Act, 1873),	
ss. 3—10.....	108, 109	s. 3	28, 31
31 & 32 Vict.		s. 10	28
c. 122, s. 4	130	c. 37 (Fairs Act, 1873),	
s. 6	86, 98	s. 3	112
32 & 33 Vict.		s. 6	111
c. 14 (Revenue Act, 1869),		c. 86 (Elementary Education Act, 1873), s. 11....	167
s. 39.....	111	38 & 39 Vict.	
c. 41 (Poor Rate Assessment and Collection Act, 1869), ss. 3, 4	124	c. 13.....	197
c. 55 (Municipal Franchise Act, 1869), s. 9	139	c. 55 (Public Health Act, 1875),	
c. 63 (Metropolitan Poor Law Amendment Act, 1869), s. 5	28, 29	s. 4.....	114
s. 24.....	29	s. 6	3, 90, 188
c. 110 (Charitable Trusts Act, 1869), s. 10	70, 194	s. 7.....	173
s. 11.....	194	s. 8.....	94
33 & 34 Vict.		s. 9... 3, 91, 97, 101, 128,	178
c. 14 (Naturalization Act, 1870), ss. 2, 7	150	ss. 10	36
c. 23 (Forfeiture Act, 1870), s. 2	143, 150	ss. 13, 15, 51	73
c. 75 (Elementary Education Act, 1870),		s. 144	22, 82, 101
s. 12	165, 166, 167	ss. 144—148	99, 102
s. 17	143	s. 163.....	34
s. 20	166	s. 164	41, 44
s. 41	167	s. 169.....	115
s. 87	179	s. 170.....	114
Sched. I.	166	s. 178	44, 46
Sched. II. Pt. I. r. 14..	160, 153	ss. 183—186	41, 44
34 & 35 Vict.		s. 193.....	152
c. 12 (Fairs Act, 1871),		s. 197.....	184
ss. 2, 3	111	s. 199	175, 179, 180
c. 17	197	ss. 200—202	72, 175
c. 18, ss. 1, 2	92	ss. 209—211	115
c. 33 (Burial Act, 1871), s. 1	37	ss. 213—215	116, 117
c. 48, s. 2	92	s. 216	100, 103
c. 70, s. 2.....	29, 36	s. 229..46, 75, 102, 116, 117,	187
c. 105 (Petroleum Act, 1871),		s. 230	40, 116, 117
ss. 3, 7—11, 13, 14	112	s. 232.....	117
35 & 36 Vict.		s. 233.....	62
c. 33 (Ballot Act, 1872),		s. 234.....	62, 63
s. 6	156, 159	ss. 236—239.....	62
ss. 20, 21	159	ss. 245—250	178
c. 38 (Infant Life Protection Act, 1872),		s. 247 (3), (4), (10) ...	179
s. 2	112	s. 270	98, 172
ss. 3, 4, 7, 13, Sched. I.	113	s. 271	95, 171, 221
c. 73, s. 5	111	s. 272.....	171
c. 93 (Pawnbrokers Act, 1872),		s. 276	100, 102
ss. 39—42	109	s. 293.....	49
ss. 43, 52	110	s. 294	49, 51, 52
		s. 295.....	49
		s. 296.....	49, 52, 196
		s. 297 (1), (2)	49
		ss. 299—302	73, 74
		s. 311.....	173
		s. 312	94, 162
		ss. 339, 342	94

38 & 39 Vict.	PAGE	42 & 43 Vict.	PAGE
c. 55, Sched. I. r. 1	208	c. 47 (Petroleum Act, 1879),	
r. 2	181	s. 2, Sched. I.	112
r. 3	180	c. 54 (Poor Law Act, 1879),	
r. 8	181	s. 7	5
r. 9	226	s. 8	131
r. 11	175, 180	43 & 44 Vict. c. 9 (Definition of	
r. 12	208	Time Act, 1880), s. 1.....	7, 121
Sched. II. Pt. I.		44 & 45 Vict. c. 67 (Petroleum	
r. 1.....	221	(Hawkers) Act, 1881), ss. 3, 4..	112
rr. 3—5, 64....	94, 151,	45 & 46 Vict.	
152, 153, 162		c. 27 (Highway Rate Assess-	
r. 6.....	95	ment and Expenditure	
rr. 55, 59	89, 95	Act, 1882), s. 9	104
c. clxviii. s. 2	184	c. 30 (Baths and Washhouses	
39 & 40 Vict.		Act, 1882).....	32, 36
c. 56 (Commons Act, 1876),		c. 38, s. 48	27, 43, 106
s. 8	104, 106	c. 50 (Municipal Corporations	
s. 9	41, 43	Act, 1882),	
s. 25	28	s. 5	159
s. 26	31	s. 8	91
s. 27	28, 31	s. 9	87
s. 29	28	s. 9 (3).....	149, 150
c. 61 (Divided Parishes and		s. 10	91
Poor Law Amend-		s. 10 (2).....	10
ment Act, 1876),		s. 11	87
ss. 1, 2, 4, 5	4, 128	s. 11 (2).....	149
s. 11	130	s. 11 (3).....	94
s. 14	143	s. 12	87, 149, 152
c. 79 (Elementary Education		s. 12 (1), (2)	151
Act, 1876),		s. 13	89, 208
s. 10	143	s. 14	10
s. 41	165	s. 14 (3).....	149
41 & 42 Vict.		s. 14 (4).....	10
c. 14 (Baths and Washhouses		s. 15	10, 180
Act, 1878),		s. 15 (1).....	149
ss. 3, 4	36	s. 16	180
s. 5	14, 36	s. 22.....	108, 174
ss. 6, 8, 14.....	36	ss. 26, 27, 28 (2)	178
c. 25 (Public Health (Water)		s. 30	144
Act, 1878), s. 3	74	s. 33 (4).....	149
c. 26 (Parliamentary and		s. 34	161
Municipal Registra-		s. 36	161
tion Act, 1878),		s. 36 (1).....	155
s. 15 (2)	145	s. 37	161
s. 28 (14).....	141, 144	s. 39	87, 149, 151
c. 77 (Highways and Loco-		s. 40	161
motives (Amendment)		s. 40 (3)	154, 224
Act, 1878),		s. 51 (2).....	158
ss. 3—5	101	s. 52.....	89, 159, 208, 216
s. 7	116, 117	s. 56.....	157, 161
s. 13	103	s. 58 (1).....	159
s. 23	118	ss. 60, 61	216
s. 24	65	s. 63	94
42 Vict.		s. 70	181
c. 6 (District Auditors Act,		ss. 74, 75.....	156, 159
1879), ss. 4, 5	178	s. 105	184
		s. 139	115
		s. 140	115, 160

45 & 46 Vict.	PAGE	50 & 51 Vict.	PAGE
c. 50 (Municipal Corporations Act, 1882),		c. 9	143
ss. 144, 149	115	c. 17	120
s. 155	91	c. 26	59
ss. 210—214	171	c. 48 (Allotments Act, 1887),	
s. 230	11	s. 2	15, 47, 48, 52, 55
s. 240	224	s. 2 (2)	47, 52
Sched. II. rr. 1, 2 ..	177, 180	s. 3 ..	15, 45, 48, 50—52, 55, 57—59
Sched. III. Pt. III. r. 1 ..	159	s. 3 (2)	50
r. 5 ..	160	s. 3 (4)	50, 56
Sched. V. Pt. II. (1) ..	160	s. 3 (5)	45, 52
c. 58 (Divided Parishes and Poor Law Amendment Act, 1882)	5	s. 3 (6), (7)	52
c. 80 (Allotments Extension Act, 1882)	28	s. 3 (8)	51, 52, 59
		ss. 5, 6	52, 57
46 & 47 Vict.		s. 6 (3)	30
c. 36 (City of London Parochial Charities Act, 1883),		s. 7	52, 57
s. 5	203	s. 7 (2)	46
c. 51 (Corrupt and Illegal Practices Prevention Act, 1883),		s. 7 (3), (4), (5)	57
ss. 3, 6 (3), 43 (4) ..	88, 142	s. 7 (6)	59
s. 10	142	s. 8	52, 57
s. 64	88	s. 9	30
c. 52 (Bankruptcy Act, 1883),		s. 11	52
s. 32	17, 88, 94, 150	s. 12	53
s. 34	17, 150	s. 16	54
c. 61 (Agricultural Holdings Act, 1883), ss. 3, 4 ..	59	s. 17	45
47 & 48 Vict.		c. 49 (Charitable Trusts Act, 1887), s. 5	167
c. 70 (Municipal Elections (Corrupt and Illegal Practices) Act, 1884),		c. 55 (Sheriffs Act, 1887), s. 17 ..	92
s. 2	88, 142	c. 61, s. 5	133
s. 5	160	51 Vict.	
s. 7	142	c. 10 (County Electors Act, 1888),	
ss. 8, 13 (3)	143	ss. 1, 4	145
s. 36	160	s. 7	140, 144
s. 37	156, 160	51 & 52 Vict.	
48 Vict. c. 10 (Elections (Hours of Poll) Act, 1885)	119, 121, 159	c. 41 (Local Government Act, 1888),	
48 & 49 Vict.		s. 2 (5)	91
c. 15 (Registration Act, 1885),		s. 3	24, 25, 187
s. 4	140	s. 3 (viii)	118
s. 4 (9)	144, 145	s. 8 (i)	24, 25
s. 5	141, 144	s. 11 (1)	103, 105
c. 21 (Burial Act, 1885) ..	32	s. 11 (6)	106
c. 33 (Metropolis Management Amendment Act, 1885) ..	120	s. 11 (10)	100, 103
c. 46 (Medical Relief Disqualification Removal Act, 1885), ss. 2, 4	143	s. 29	193, 194
c. 53 (Public Health (Members and Officers) Act, 1885),		s. 31	125, 204
s. 2	151, 153	s. 34 (7)	54
ss. 3, 4	151	s. 40 (1)	118
		s. 49	197, 198
		s. 53	133
		s. 54	129, 171, 172
		s. 54 (1), (3)	130
		s. 56	171
		s. 57	4, 15, 95, 98, 126, 127, 130, 131, 132, 133, 135, 137, 138, 139, 171, 196, 209, 210, 221

51 & 52 Vict.	PAGE
c. 41 (Local Government Act, 1888),	
s. 57 (1)	172, 210
s. 57 (3)	172
s. 58	129, 130
s. 59	192, 213
s. 60	127
s. 68	196
s. 69 (2)	63
s. 73	60
s. 75	143, 155, 160
s. 75 (16)	161
s. 75 (17), (18)	160
s. 78 (2)	109
s. 79 (1)	12, 99
s. 81	132, 184, 187, 214
s. 81 (2)	133
s. 81 (3)	176
s. 82	132, 184, 187, 214
s. 82 (2)	184
s. 100 ..	3, 21, 91, 118, 131, 188, 191, 198, 199, 200, 203, 204
s. 109	199, 217
s. 109 (2)	2
s. 110	219
s. 120	211, 213
s. 122	219
s. 123	220
s. 124 (1), (2)	220, 221
Sched. III.	125
52 & 53 Vict.	
c. 30, s. 2	27, 43, 106
c. 49 (Arbitration Act, 1889),	
s. 2	191
c. 56 (Poor Law Act, 1889),	
s. 8	29
c. 63 (Interpretation Act, 1889),	
s. 3	45, 66, 133
s. 4	203
s. 5	198
s. 17 (3)	5
s. 20	164
s. 23	45
s. 26	225
s. 34	9
c. 69 (Public Bodies Corrupt Practices Act, 1889),	
ss. 2, 7	88

53 & 54 Vict.	PAGE
c. 59 (Public Health Acts Amendment Act, 1890),	
s. 5	102
s. 44	41, 44
s. 45	44
c. 65 (Allotments Act, 1890) 13, 30	
s. 2	48, 49, 53, 54
s. 3	47, 52, 59
s. 5	15
c. 70 (Housing of the Working Classes Act, 1890),	
s. 29	30
s. 31—33, 35, 38	29
s. 38 (8)	30
c. 71 (Bankruptcy Act, 1890),	
s. 9	17, 150
c. clxxvi	198
54 & 55 Vict.	
c. 11 (Electoral Disabilities, Removal Act, 1891)	9
c. 56 (Elementary Education Act, 1891), s. 8	143
c. 63 (Highways and Bridges Act, 1891) ..s. 5	152
s. 6	103
c. 68 (County Councils (Elections) Act, 1891),	
ss. 1 (4), 7	161
c. 76 (Public Health (London) Act, 1891),	
ss. 19, 20	113
s. 99	124
ss. 102, 140	120
s. 142	113, 114
55 & 56 Vict.	
c. 31 (Small Holdings Act, 1892),	
s. 1 (2)	59
s. 16	31, 32
c. 53 (Public Libraries Act, 1892)	32
ss. 2—4, 9—13, 15—19, 27	40
56 & 57 Vict.	
c. 6 (Police Disabilities Removal Act, 1893) ..	143
c. 11 (Public Libraries Amendment Act, 1893),	
ss. 2, 4	41
c. 55	120

INTRODUCTORY CHAPTER.

Local government areas before 1888.—By the Public Health Act, 1875, the whole of England and Wales (with the exception of the metropolis) was divided into urban and rural sanitary districts. The metropolis comprised the City of London, and the parishes and districts mentioned in the schedules to the Metropolis Management Act, 1855, and was under the jurisdiction of the Metropolitan Board of Works.

Urban districts consisted of—(1) Boroughs; (2) Local Government districts, under the jurisdiction of local boards; and (3) Improvement Act districts under Improvement Commissioners.

Such portions of England and Wales (excluding the metropolis) as were not within any urban sanitary districts, were divided into rural sanitary districts, the boundaries being the boundaries of the poor-law unions. In other words, if on a map of England and Wales (the metropolis being first obliterated) the areas of urban sanitary districts were coloured red, and the uncoloured parts (representing the rural districts) were divided by black lines marking the boundaries of the poor law unions, the areas of urban and rural sanitary districts would be correctly shown.

Underlying these divisions there was the division of the country into poor-law parishes, the boundaries of which frequently cut the boundaries of urban and rural sanitary districts, and sometimes overlapped the county boundary.

In considering the division of the country into counties, it must be remembered that there were, in addition to the counties in the ordinary sense of the term, counties of cities,

and of towns, and ridings, parts, divisions, and liberties, which for some purposes were treated as separate counties.

The poor-law unions, consisting either of a collection of parishes, or of a single parish which might be regarded as a union of itself, frequently cut the boundaries of other local government areas, except, of course, the boundary of the poor-law parish.

The areas for the purposes of highways were either parishes or districts. The highway "parish" was not necessarily coterminous with the poor-law parish. Highway parishes might be combined for highway purposes, and formed into "districts" under the Highway Acts of 1862 and 1864. Under the Public Health Act, 1875, within the area of urban sanitary districts, the urban sanitary authority were the exclusive highway authority, and under the Highways and Locomotives Amendment Act, 1878, where a "highway district" formed under the earlier Acts became coterminous with a rural sanitary district, the rural sanitary authority might be made the highway authority by an order of Quarter Sessions.

Local government areas since 1888.—The Local Government Act, 1888, divided England and Wales, including the metropolis, into 122 areas, consisting of 61 administrative counties and 61 county boroughs. Of the administrative counties 46 were geographical counties, 14 were ridings or divisions of counties, and one consisted of the metropolis, under the name of "the administrative county of London."

The county boroughs consisted of the boroughs named in the third schedule to the Act, each of which either had a population of not less than 50,000, or was a county of itself. Three other county boroughs have been since created—viz., Grimsby, Oxford, and Newport (Monmouth).

The effect of the Local Government Act, 1888, was either to convert the existing divisions of counties into separate administrative counties, or to merge them in larger administrative counties. So, too, each county of a city, or of a town,

either became a county borough or was made part of an administrative county.

The Act of 1888 contained provisions for further alteration of boundaries, and directed that in every such alteration care should be taken that, so far as practicable, the boundaries of an area of local government should not intersect the boundaries of any other area of local government (s. 60). The Act, however, left untouched the existing division of the country under the Public Health Act, 1875, into urban and rural sanitary districts; it also left untouched the division into poor law unions.

Areas under the Local Government Act, 1894.—
This Act adopts, with modifications, the division into urban and rural sanitary districts, which are to be called henceforth "county districts," and are to be under the jurisdiction of district councils. It also adopts the poor-law parish as an area of local government. But every parish which is partly within and partly without a rural sanitary district is divided by the Act (s. 1): and every parish which is in more than one urban district is similarly divided (s. 36 (2)),: and every rural sanitary district which is situate in more than one administrative county is divided: s. 24. Further, the county councils are directed forthwith to take into consideration cases of overlapping boundaries, and to provide by alterations of boundaries, &c., that (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:" (iii) rural districts which will have less than five elected councillors shall (unless for special reasons the county council otherwise direct) be united to other districts: s. 36.

The county council have also power to make "grouping orders" under which neighbouring rural parishes may be grouped together under a common parish council; but the

whole group (unless the county council for special reasons otherwise direct) must be within the same administrative county and county district.

The effect of these provisions will be that there will be a threefold division of the country; (1) into administrative counties or county boroughs; (2) into urban and rural "county districts;" and (3) into poor law parishes or groups of parishes, and, under this threefold division (if the principle of the Acts of 1888 and 1894 is fully carried out), the boundary of any area will not intersect the boundary of any other area.

The division of the country into poor law unions remains, but the county council have power to alter the boundaries if necessary.

It must be remembered that the administrative County of London and the county boroughs are not included among "county districts," either urban or rural, in the Local Government Act, 1894.

The Metropolis.—The Act makes no alteration of any area of local government in the metropolis. It applies the provisions relating to the qualification of electors of urban district councillors, and of the persons to be elected, and relating to the mode of election to the members of the local board of Woolwich, and the vestries, and to the auditors; and it applies the same provisions as to qualification of persons to be elected to the members of the district boards: s. 31. The Act does not of itself alter the powers of any of the local authorities in the metropolis, but it enables the Local Government Board to confer on authorities within the metropolis, powers of a parish council: s. 33. The provisions of Part II. as to guardians apply to the metropolis: s. 30.

Authorities under the Local Government Act, 1894.—The parish meeting.—In every rural parish (which is defined in s. 1) there will be a parish meeting consisting of the parochial electors, *i.e.*, of the persons (male or female) entitled to vote at parliamentary or county council

elections: ss. 1, 2; and women are not disqualified by marriage: s. 43.

The parish meeting is for some purposes merely a substitute for the vestry meeting, but plural voting is abolished:—one man (or woman) one vote. If a poll is demanded it will be taken by ballot: ss. 2, 48. The parish meeting must be held at least once in every year, and the proceedings must not begin earlier than six o'clock in the evening: s. 2.

What parishes will have a parish council.—There will be no parish councils in any parish or part of a parish which is included in any urban district. Every rural parish will come under one or other of the following descriptions:—

(1.) A rural parish having a parish council of its own: s. 1.

(2.) A rural parish co-extensive with a rural sanitary district, in which there will be no separate election of a parish council, but the district council will have the powers of, and be deemed to be, the parish council: s. 36 (4).

(3.) A rural parish having no separate parish council, but grouped with some neighbouring parish or parishes, under a common parish council: ss. 1, 38.

(4.) A rural parish having no parish council, and not grouped with any other parish or parishes: s. 19.

Every rural parish (not included under class 2), if it has a population of 300 or upwards, will in any event have a parish council; if it has a population of 100 or upwards, and the parish meeting so resolve, the county council *shall* establish a parish council; and if it has a population of less than 100, the county council (with the consent of the parish meeting) *may* establish a parish council: s. 1.

Whether a rural parish has or has not a parish council, and whether it is or is not grouped with other parishes, it will in any case have a separate parish meeting. Where parishes are grouped, the "grouping order" made by the county council will provide for application, and adaptation, of the Act to the parish meetings for the several parishes and the parish council for the group.

The parish council.—The councillors will be elected every year at a parish meeting, or by a poll of the “parochial electors” [*vide supra*, p. xxx], which will be taken by ballot; and each “parochial elector” may give one vote and no more for each of any number of persons not exceeding the number to be elected: ss. 2, 3, 48. The first elections will be held in November, 1894 (see s. 84); but in 1896 and subsequent years, the parish councillors will come into office on April 15, and will elect their chairman at their first meeting: s. 3. The parish councillors must either be parochial electors of the 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 the county council may fix the number of the parish councillors at not less than five, nor more than fifteen: s. 3. The same disqualifications apply as in the case of district councillors: *vide infra*. Women, whether married or not, are not disqualified: s. 3.

The district council.—In every county district, whether urban or rural, there will be a district council. In those urban districts which are boroughs, the municipal council will be the district council, and the Act of 1894 makes no change in the constitution or mode of election: ss. 21, 23.

In other urban districts, the district councillors will be elected for three years, one-third of the number going out of office in every year; or, if the county council so order, all the members may retire together in every third year: s. 23. The first elections under the Act will be held in November, 1894 (s. 84); but in 1896 and subsequent years, the ordinary day of coming into office will be April 15: ss. 23, 79. The urban district councillors must either be “parochial electors” [*vide supra*, p. xxx] of some parish within the district, or persons who have, during the whole of the twelve months preceding the election, resided in the district; and women, whether married or not, are not disqualified: s. 23. Persons may be disqualified, *e. g.*, by receipt of parochial relief, bankruptcy, imprisonment for crime, tenure of a paid office under the

council, or pecuniary interest, &c. : ss. 23, 46. The councillors will be elected by ballot by the parochial electors of the parishes in the district; and each voter may give one vote and no more for each of any number of persons not exceeding the number to be elected : ss. 23, 48.

In every rural district the district councillors will be elected for three years, and the provisions of the Act with respect to the qualification, election, and term of office, and retirement of guardians, apply to district councillors : ss. 20, 24, 48.

The chairman of every district council (urban or rural) will be *ex-officio* a justice of the peace for the county : s. 22.

The guardians.—In all parishes *ex-officio* and nominated guardians are abolished; and no property qualification is necessary : s. 20.

In parishes within a rural district, no guardians will be elected, but the district councillors will act as the representatives of their parish on the board of guardians : s. 24.

In all parishes not within a rural district (including the metropolis and the county boroughs), the guardians will be elected by ballot by the parochial electors of the parish; and each voter may give one vote and no more for each of any number of persons not exceeding the number to be elected : ss. 20, 48. A guardian must either be a parochial elector of some parish within the union, or a person who 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) is qualified to be elected a councillor for that borough; and women, whether married or unmarried, are not disqualified : s. 20. The same disqualifications apply as in the case of district councillors : s. 46; *vide supra*, p. xxxii. The guardians may elect a chairman and vice-chairman, and not more than two other persons as additional guardians, from outside their own body, but from persons qualified to be guardians of the union : s. 20 (7).

The guardians will hold office for three years from April 15; and either one-third of their number will go out of office every

year, or, if the county council so direct, they will retire together in every third year: s. 20. The first elections under the Act will take place in November, 1894: and special provision is made for the retirement of the first elected guardians: ss. 79, 84.

Save that the mode of electing guardians is changed, and that the boundaries of unions may be altered under the Local Government Act, 1894, the administration of the Poor Law is not affected by the Act.

The powers of the parish meeting.—The parish meeting will exclusively have the power of adopting any of the “adoptive Acts,” which relate to (a) lighting, (b) baths and washhouses, (c) burial grounds, (d) recreation grounds, (e) public libraries: s. 7.

Where there is a parish council, the consent of the parish meeting will be required for (1) the sale or exchange of parish property, (2) expenditure involving either a loan or a rate exceeding threepence in the pound: ss. 8, 11. The consent of the parish meeting will also be required for the stopping of a public right of way: s. 13.

In a parish which has no parish council, and is not included in a group, the parish meeting will have some of the powers of the parish council, *e. g.*, the power of appointing overseers and assistant overseers, of appointing trustees of parochial charities, and of making complaint to the county council of default by a district council: s. 19. In such a parish the rate levied by the parish meeting (when added to expenses under the “adoptive Acts”) may not exceed sixpence in the pound.

The powers of the parish council.—The parish council will at their annual meeting appoint the overseers, and the churchwardens will no longer be overseers: s. 5. There will be transferred to the parish council the existing powers of the vestry (except those which relate to affairs of the church, or which are transferred to the parish meeting or the district council); certain powers of the churchwardens; powers of the overseers with regard to (1) appeals against valuation

lists, county rate, &c., (2) the provision of parish books, rooms, offices, and fire-engines, (3) the holding of parish property, recreation grounds, &c. There will also be transferred the powers of the guardians as to the sale or exchange of parish property, and certain powers for the management of allotments and small holdings: s. 6.

When any of the "adoptive Acts" are adopted by the parish meeting (*vide supra*, p. xxxiv), the parish council will be the authority for the execution of that Act: s. 7.

The parish council will also have new powers to purchase land and buildings, for offices, meetings, recreation grounds, &c., to acquire rights of way, and to deal with drainage and water supply: s. 8.

If the parish council cannot by agreement obtain suitable land, or if they consider that allotments are required, they may petition the county council, and the county council, after holding a public inquiry, may make an order putting in force compulsory powers, which order will become final unless a memorial against it is presented. In that case the Local Government Board must hold a local inquiry, and may confirm or disallow the order; if the order is confirmed it will have the effect of an Act of Parliament: s. 9. The parish council may also hire land for allotments by agreement, or may obtain an order for compulsory hiring, the procedure being similar to that for compulsory purchase: s. 10. The parish council will also have power to borrow money: s. 12. The expenses of the parish council (other than expenses under the adoptive Acts) may not exceed a rate 6*d.* in the £: s. 11.

The consent of the parish council (as well as of the parish meeting) will be required for the stopping of a public right of way: s. 13. The parish council will have certain powers to appoint trustees of parochial charities in place of the overseers and churchwardens: s. 14. And the district council may delegate powers to a parish council: s. 15.

The powers of the district council.—Urban district councils will have all their existing powers as urban authorities under the Public Health Acts.

To rural district councils will be transferred all the existing powers of the rural sanitary authority and of every highway authority within the district; but the county council may postpone the transfer of powers as to highways: s. 25. There will be conferred upon every district council new powers and duties with regard to public rights of way, footpaths, and roadside wastes: s. 26. There will also be transferred to district councils certain powers of justices with regard to (1) licensing of agricultural gang-masters, of dealers in game, of passage brokers and emigrant runners, and of knackers' yards: (2) the grant of pawnbrokers' certificates: (3) the abolition or alteration of fairs: (4) the execution of Acts relating to petroleum, and infant life protection: s. 27.

Powers and duties of the county council.—The most important duties of the county council are the consideration of cases of overlapping boundaries within their county, the holding of inquiries, and the making of the necessary orders relating thereto: s. 36. The county council will also determine the number of parish councillors, and of guardians and rural district councillors (ss. 3, 60); the scale of expenses at elections of parish and district councillors and guardians (s. 48); will determine (if necessary) the name of the parish council (s. 3); and may divide large parishes into wards: s. 18. The county council have wide powers for the removal of difficulties which may arise at the first elections (s. 80), and are directed 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 thereof: s. 83.

The county council will also have power to make orders relating to (*inter alia*) (1) the exercise of compulsory powers for the purchase or hiring of allotments (ss. 9, 10); (2) the maintenance or provision of sewers or water supply (s. 16); and (3) the prevention of obstruction to rights of way: s. 26. They will also exercise rights of supervision and control over district councils, parish councils, and parish meetings, in matters too numerous to be mentioned in this chapter.

THE

LOCAL GOVERNMENT ACT, 1894.

56 & 57 VICT. c. 73.

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

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

PART I.—PARISH MEETINGS AND PARISH COUNCILS.

Constitution of Parish Meetings and Parish Councils.

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

Constitution
of parish
meetings and
establish-
ment of
parish
councils.

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

Sect. 1.

council, but with a separate parish meeting for every parish so grouped, so, however, that no parish shall be grouped without the consent of the parish meeting for that parish.

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

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

39 & 40 Vict.
c. 61.

Extent of the Act.—By s. 75, the Act does not extend to Scotland or Ireland. Special provisions are contained in s. 9 (18), s. 26 (7), and ss. 30—35 as to county boroughs and the administrative county of London. But apart from those provisions, and any transfer of powers, &c. which may be made thereunder, the Act does not apply to the administrative county of London, or to county boroughs.

As to the Scilly Islands, see s. 74.

Short title.—This is “The Local Government Act, 1894:” see s. 77.

Commencement of the Act.—Some of the provisions of the Act do not come into force until “the appointed day” mentioned in s. 84. The fixing of an “appointed day” follows the scheme of L. G. A. 1888; but it must be noted that there are in this Act no such general words delaying its operation until “the appointed day” as are to be found in s. 109 (2) of L. G. A. 1888. All the provisions of this Act therefore (unless there be an express enactment to the contrary), come into operation on March 5th, 1894, the date of the Royal assent: see 33 Geo. 3, c. 13.

Parish meeting.—For its constitution, see s. 2; for provision as to the chairman, &c., see s. 45; and for rules as to procedure, &c., see Sched. I. Pts. 1 and 3. As to a parish meeting in a parish not having a parish council, see s. 19.

A parish meeting may be held for a parish-ward for the purpose

of elections: see ss. 18, 49. And see s. 37 as to a part of a parish having a defined boundary.

Sect. 1.

As to the first parish meeting, see s. 78. The county council have power to remove difficulties, under s. 80.

Parish council.—For its constitution, see s. 3; for its powers generally, see ss. 5—16; for disqualifications and elections, see ss. 43—48; for the first elections, see ss. 78, 80; and for rules as to procedure, &c., see Sched. I. Pts. 2 and 3.

Rural parish.—The definition of “parish” is expressly excepted from the definitions in L. G. A. 1888, s. 100, which are applied to this Act: see s. 75 (1) and the note thereon. There are no parish meetings or parish councils in urban parishes. But by s. 33 the Local Government Board may confer the powers of parish councils upon the council or some other representative body in a municipal borough, an urban district, or the district of a sanitary authority in the administrative county of London.

By P. H. A. 1875, s. 6, urban sanitary districts consist of boroughs, Improvement Act districts, and local government districts (under local boards); and, by s. 9, “The area of any union which is not coincident in area with an urban district, nor wholly included in an urban district, with the exception of those portions, if any, of the area which are included in any urban district,” is made a rural sanitary district. This definition is adopted in L. G. A. 1888, s. 100, and applied to this Act by s. 75 (1).

A parish coming within s. 1 (3) will be divided by the Act itself, without the necessity of any order of the county council or other authority. By s. 36 (1) the county council are directed to hold inquiries, &c. in the case of every such parish; see also s. 36 (3).

The division of the parish by s. 1 (3) will not alter the poor-law union: see s. 36 (6), (9). If the rural sanitary district is situated in more than one county, the county councils may appoint a joint committee, under s. 36 (11).

As to existing officers of a parish divided by s. 1 (3), see s. 81 (5); as to the overseers, see s. 79 (11); as to the valuation list, see s. 85 (4); and as to the name of the parish, see s. 55 (2).

There will be no parish council in a parish co-extensive with a rural sanitary district, and the district council will have the powers of the parish council: s. 36 (4); see also s. 36 (1) (e).

The division of a parish partly within and partly without a rural sanitary district into separate parishes by s. 1 (3), must be distinguished from a division of a large parish into parish-wards for the purposes of elections, by an order of the county council under s. 18 (1).

Sect. 1.

A rural parish situated in more than one county, but wholly within the same rural sanitary district, is not divided by the Act; but the county councils are directed to take every such case into consideration, and to make orders for carrying the Act into effect: see s. 36 (1), (8), (11).

As to a parish situated in more than one urban district, see s. 36 (2).

Population.—This will be determined by the Census of 1891: see s. 75 (2); but provision is made for increase or decrease of population: s. 39. For the position of a rural parish with a population of between 200 and 300, see note to s. 36 (1) (c), *infra*, p. 127.

Order of the county council.—See ss. 36—42. It will not require submission to or confirmation by the Local Government Board: s. 40. As to the application for grouping, or the constitution of a parish council, see s. 38 (4), and the note thereon. As to the provisions to be made by the grouping order, see s. 38 (1)—(3). As to the dissolution of a group, see s. 38 (5) and s. 39 (1). As to the name of a group, see s. 55 (1). For provisions as to small parishes which are not grouped, see s. 19.

A grouping order must be distinguished from an order for the union of parishes under s. 36 (8).

Consent of parish meeting.—If the parish meeting once consents to a grouping order, it seems that the parish cannot withdraw from the group without the approval of the county council: see s. 38 (5), s. 39 (1).

Appointed day: see s. 84 (4).

Alteration of area.—The provisions of this Act for this purpose are contained in s. 36 (1), (5), (6), (8), (11). The county council have, by the L. G. A. 1888, s. 57, power to make orders for alteration of the boundary of a parish, or for its division or union with other parishes, &c. (*vide infra*, p. 254), and the procedure under that section is expedited in the year 1894: see s. 80 (2) of this Act. The Local Government Board have power to adjust intermingled parishes, or divide extensive parishes, by a Provisional Order, to be confirmed by Parliament: see 30 & 31 Vict. c. 106, s. 3.

By the Divided Parishes and Poor Law Amendment Act, 1876, s. 1, the Local Government Board, in the case of isolated or detached parts of parishes, may make an order for constituting them separate parishes, or for amalgamating them with other parishes. By s. 2, if one-tenth in number and value of the ratepayers object, the order is provisional only. By s. 4, ecclesiastical divisions and municipal boundaries are not to be affected by the order. By s. 5 (as ex-

plained and amended by 42 & 43 Vict. c. 54, s. 7), the order may deal with the parish for highway as well as for poor-law purposes, and may provide for the appointment of a waywarden. The Divided Parishes, &c. Act, 1876, is further extended and explained by the Poor Law Act, 1879 (42 & 43 Vict. c. 54), and the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58).

Sect. 1.

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

(2.) Each parochial elector may, at any parish meeting, or at any poll consequent thereon, give one vote and no more on any question, or, in the case of an election, for each of any number of persons not exceeding the number to be elected.

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

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

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

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

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

Rural parish.—This is defined by s. 1 (2), (3).

Local government register of electors.—By s. 17 (3) of the Interpretation Act, 1889, this phrase means “as respects an administrative county other than a county borough, the county register, and as respects a county borough or other municipal borough, the burghess roll.” And by the same section, “parlia-

Sect. 2.

mentary register of electors" means "a register of persons entitled to vote at any parliamentary election."

Although there will be parish meetings in rural parishes only, the term "parochial electors" is also used with reference to parishes in an urban district, or in a county borough, or in the county of London: see s. 75 (2), *infra*, p. 200. As to the parliamentary register of electors in a parliamentary borough, see s. 44 (2).

A person registered in respect of a qualification in a parish, though entered to vote elsewhere at parliamentary elections, will be entitled to vote as a parochial elector for that parish: s. 44 (5). A person may be registered as a parochial elector in more than one parish, though he may not vote at an election in more than one ward in the same parish, if the parish is divided into wards: s. 44 (4), (7); and s. 48 (2) (iii).

Parish meeting.—Only those can attend and vote who are registered as parochial electors: s. 44 (1). A candidate may attend and speak at a meeting held for election of parish councillors, but, if not a parochial elector, may not vote: Sched. I. Pt. I. r. 9.

The county council have power to divide a large parish into "parish-wards" for the election of councillors, and there must then be a separate election for each ward: see s. 18.

The persons entitled to attend and vote will be the parochial electors registered in respect of qualifications in the ward: see s. 49, and s. 48 (2) (iii).

Public notice must be given of each parish meeting: see s. 51, and Sched. I. Pt. I. rr. 2, 3.

Provisions as to the time and place for parish meetings, &c., are contained in s. 45: see also Sched. I. Pt. I. r. 7 (i). As to the use of a schoolroom for meetings, see s. 4.

As to the first parish meeting, see s. 78 (1), and s. 80.

The annual meeting must be held on or within seven days of March 25th: Sched. I. Pt. I. r. 1. Special provision is made as to the parish meeting in a small parish not having a parish council, in s. 19.

Standing orders as to proceedings at parish meetings may be made by the parish council; and where there is no council, the parish meeting may regulate their own proceedings: Sched. I. Pt. III. rr. 5, 6.

Election.—For the mode of electing parish councillors, see s. 3 (6), and s. 48 (1)—(3).

The number of councillors to be elected will be fixed by the county council: s. 3 (1).

Time for proceedings of meeting.—This will be Greenwich

mean time, and not the mean astronomical time in each parish: see the Statutes (Definition of Time) Act, 1880 (43 & 44 Vict. c. 9), s. 1.

Chairman of parish meeting.—If the chairman of the parish council is present, and is not a candidate for election at the meeting, he will be chairman of the parish meeting: s. 45 (2); but see the note on that section.

As to the vice-chairman of the parish council, see Sched. I. Pt. II. r. 11.

In the case of a parish not having a parish council, the parish meeting must annually choose a chairman for the year: s. 19 (1); and see s. 19 (6) as to his position. See also Sched. I. Pt. I. r. 10.

The Act contains no directions as to the mode of electing the chairman of the parish meeting.

If there is no parish council, the chairman of the parish meeting will fix the time and place of meeting, subject to the provisions of the Act: s. 45 (1). The chairman of the parish meeting has a second or casting vote: Sched. I. Pt. I. r. 8.

Poll consequent on a parish meeting.—See as to the method of taking the poll, s. 48 (1)—(3); and s. 48 (8). As to the returning officer, see s. 48 (2) (vi).

Expenses of meeting and poll.—These will be paid out of the poor rate: s. 11 (4); and may not exceed the scale fixed by the county council: s. 48 (7), (8).

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

Constitution
of parish
council.

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

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

(4.) On the fifteenth day of April in each year (in this Act referred to as the ordinary day of coming into office of councillors) the parish councillors shall go out of office,

Sect. 3.

and their places shall be filled by the newly elected councillors.

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

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

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

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

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

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

Rural parish.—See s. 1 (2), (3).

Parochial electors.—This term is defined in s. 2 (1). It seems doubtful whether, in the case of a parish divided into "parish-wards" under s. 18, a person qualified by residence or as a parochial elector in one ward would be qualified for election in another ward: see s. 49 (b).

A candidate who is not a parochial elector may attend a meeting

for election of parish councillors, but may not vote: Sched. I. Pt. I. r. 9.

Sect. 3.

Within three miles.—The distance must be measured in a straight line, on a horizontal plane: see the Interpretation Act, 1889, s. 34.

Residence during twelve months.—The word “election” includes the nomination, see s. 75 (2); and therefore, it seems, the residence must be for twelve months preceding the nomination. The word “reside” may be construed differently according to the intention of the statute in which it is used: *Powell v. Guest* [1864], 34 L. J. C. P. 69; 18 C. B. N. S. 72. Members of the parish council will be required to attend meetings of that council in person; and it is submitted that this fact throws some light on the meaning to be attached to the word as used in this section; and that mere occupation (which may be by a servant or agent), without the personal presence of the occupier, will not be a sufficient qualification. Upon the Reform Act, 1832, it has been held that, in order to constitute residence, a party must possess, at the least, a sleeping apartment, but an uninterrupted abiding at such dwelling is not requisite. Absence, if there be liberty of returning, and an intention to do so, whenever it is convenient, will not prevent a constructive legal residence. But if a person has deprived himself of the liberty of returning to his dwelling by letting it for however short a period, or has abandoned the intention of returning, he cannot any longer be said to have a legal residence there: see *Powell v. Guest* [1864], 34 L. J. C. P. 69; 18 C. B. N. S. 72. Compare also, as to what amounts to residence, or a break of residence, *Beal v. Ford* [1877], 3 C. P. D. 73; *Whithorn v. Thomas* [1844], 7 M. & G. 1; *Beal v. Town Clerk of Exeter* [1887], 20 Q. B. D. 300; *Durant v. Carter* [1873], L. R. 9 C. P. 261; *Ford v. Pye* [1873], *Ib.* p. 269; *Ford v. Hart* [1873], *Ib.* p. 273; *Atkinson v. Col-lard* [1885], 16 Q. B. D. 254; *Spittall v. Brooks* [1886], 18 Q. B. D. 426. See also the Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11).

Chairman of parish council.—His election will be the first business at the annual meeting of the council: Sched. I. Pt. II. r. 3. The Act contains no directions as to the manner in which he is to be elected.

It seems that if elected from among the councillors, he does not vacate his office of councillor: see the next note. As to a casual vacancy in the office of chairman, see s. 47 (4); he has a second or casting vote: Sched. I. Pt. II. r. 10; he may resign his chairmanship, and a retiring chairman is re-eligible: s. 47 (2), (3).

Sect. 3.

The chairman of the parish council, if he is present at a parish meeting, and is not a candidate for election at that meeting, will be chairman of that meeting: s. 45 (2); but see the note on that section.

The chairman of the parish council may at any time convene a parish meeting: s. 45 (3).

The parish council may appoint a vice-chairman: Sched. I. Pt. II. r. 11.

The disqualifications for the office of chairman of the parish council are specified in s. 46 and the notes thereto. See also the note on "Disqualification by sex or marriage," *infra*.

The chairman does not go out of office on April 15, but continues in office until his successor is elected, *i. e.*, until the annual meeting, which may be held as late as April 22: see s. 3 (4), (7), (8).

The first chairman of the parish council must apparently be elected at the first meeting of the council; and it seems that he will (unless re-elected) go out of office at the date of the annual meeting in 1895: see s. 78 (2), (3).

Parish councillors.—The fixing of the number will be one of the duties to be performed, before the appointed day, by the county council under s. 83. The county council may divide a parish, for the purpose of elections, into wards, and fix the number of councillors for each ward: s. 18 (1).

By s. 3 (1), the "council shall consist of a *chairman and councillors*"; and as the chairman, under s. 3 (8), may be elected by the council "from their own body or from other persons"; and as there is no provision in the Act that a councillor elected as chairman shall vacate his office of councillor, it seems that the full number of the members of the council will be one more than, or identical with, the number fixed by the county council, according as the chairman is, or is not, elected from outside the council: compare the analogous provisions as to a borough council, contained in the Municipal Corporations Act, 1882, ss. 10 (2), 14, and 15, and note especially s. 14 (4).

No penalty is imposed by the Act for refusal to accept office, and a parish councillor may resign: s. 47 (3). A retiring parish councillor may be re-elected: s. 47 (2).

The disqualifications for the office of parish councillor are specified in s. 46 and the notes thereto.

Disqualification by sex or marriage.—But for the express removal of disqualification by marriage, it might have been contended that *married* women were disqualified: compare *R. v. Harrald* [1872], L. R. 7 Q. B. 361, in which disability by reason of sex and by reason of the status of coverture were distinguished.

The removal of the disqualification under s. 3 (2) applies to any "member of a parish council," which term includes the chairman and councillors: see sub-s. (1). A woman, whether married or single, may therefore be chairman [*sic*].

Ordinary day of coming into office.—See note to s. 20 (6), *infra*, p. 89; and as to the first elections, see s. 84 (1); see also s. 73, as to days falling on Sunday, Good Friday, &c. As to the retirement of the first elected councillors, see s. 78 (3).

Election of parish councillors.—For provisions as to elections, and the rules relating thereto, see s. 48 (1)—(3), and (5)—(7).

"Election" includes the nomination and poll: s. 75 (2).

The election will be by ballot: s. 48 (3). The candidates must be nominated in writing: s. 48 (2) (i); and each parochial elector may give one vote and no more for each of any number of persons not exceeding the number to be elected: s. 2 (2).

If the parish is divided into parish wards, an elector may not nominate a candidate or vote in more than one ward: s. 48 (2) (iii); and there will be a separate election for each ward: s. 18 (4).

Every parish councillor must sign a declaration that he accepts office, or his office becomes void: Sched. I. Pt. II. r. 1.

As to the date of the first election, see ss. 78, 84. If any difficulty arises as to the first election, the county council have power to make orders under s. 80, and it is their duty to exercise such powers as are necessary for bringing the Act into operation: s. 83. See also s. 47 (5) and s. 48 (5).

Casual vacancies must be filled by the parish council forthwith: s. 47 (4); Sched. I. Pt. II. r. 2.

If at the annual election any vacancies are not filled, some of the retiring councillors will, if willing, continue to hold office: s. 47 (1).

Where parishes are grouped, the grouping order must make provision for the election of a parish council for the group: s. 38.

Annual meeting of parish council.—As to the notice to be given of the meeting, see Sched. I. Pt. II. r. 5. As to the use of a school-room, &c., for a meeting, see s. 4, and the note.

It seems that, in computing the seven days, the 15th of April must be excluded, so that the meeting may be held, at the latest, on April 22nd: see *Robinson v. Waddington* [1849], 13 Q. B. 753; but, as to the extension of time, if that day happens to be Sunday, Good Friday, or Bank holiday, see s. 73.

In the Municipal Corporations Act, 1882, s. 230, Sunday, Good Friday, &c., are not to be reckoned in the computation of time not

Sect. 3. exceeding seven days; but there is no corresponding provision in this Act.

As to the computation of time generally, see *In re Railway Sleepers Supply Co.* [1885], 29 Ch. D. 204.

By Sched. I. Pt. II. r. 3, the first business to be done at the annual meeting is to elect the chairman, and appoint the overseers. See as to the appointment of overseers, s. 5 (1). As to the declaration of acceptance of office, to be made by parish councillors, see Sched. I. Pt. II. r. 1.

There must be at least four meetings of the parish council in each year: Sched. I. Pt. II. r. 13.

As to the first meeting of the parish council, see s. 78.

Name of parish council.—Compare the provisions as to the name of the county council in L. G. A. 1888, s. 79 (1). See also s. 19 (6) of this Act. The determination of the name of the parish council will be necessary in the case of every parish divided by the Act, under s. 1 (3); and in the case of every parish divided, or united, or grouped with another parish, by an order in pursuance of this Act: see s. 55 (1), (2), and s. 38 (1). In the case of a parish divided by the Act, it is perhaps intended that the county council should consult with a public body representing each part, which will, as from the appointed day, be a separate parish: see s. 1 (3). There will, however, be no parish meeting for that part (if any) of a parish which is within an urban district, and the Act contains no express provision for consultation with any authority representing that part.

Execution of instrument at meeting.—Not only must there be a quorum of the council present, but the meeting must have been duly summoned: see Sched. I. Pt. II. rr. 5, 7. As to evidence of due execution of the instrument, see Sched. I. Pt. III. r. 4.

The "chairman presiding at the meeting" need not necessarily be the chairman of the council.

Cheques and orders for payment of money must be signed by two members of the council: Sched. I. Pt. II. r. 14.

The parish council may appear in legal proceedings by their clerk, or an authorized officer or member: Sched. I. Pt. II. r. 16.

Seal.—It seems clear, from a comparison with s. 24 (7), which incorporates the district council, and s. 79 (1) of L. G. A. 1888, which incorporates the county council, that the parish council will not have a common seal: see also s. 19 (11) of this Act. The general rule of law is, that a corporation can contract, or do any

act, only under its common seal. But that rule is subject to exceptions, which appear to establish the principle that in cases of convenience amounting almost to necessity, the seal may be dispensed with. The retainer by parol of an inferior servant, the doing of acts very frequently recurring, or too insignificant to be worth the trouble of affixing the common seal, are established exceptions: per Lord Blackburn, *Young & Co. v. Mayor, &c. of Royal Leamington Spa* [1883], 8 App. Cas. at p. 524, citing *Church v. Imperial Gas Co.* [1838], 6 A. & E. at p. 861.

Sect. 3.

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

53 & 54 Vict.
c. 65.

any suitable room in the schoolhouse of any public elementary school receiving a grant out of moneys pro-

Sect. 4.

vided by Parliament, and any suitable room the expense of maintaining which is payable out of any local rate :

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

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

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

Rural parish.—See s. 1 (2), (3).

Public room vested in parish council, &c.—See s. 8 (1), and the notes to s. 6 (1) (c), *infra*, p. 25. In a parish, not having a parish council, parish property will be vested in the chairman of the parish meeting and the overseers, under s. 19 (7).

By the Baths and Washhouses Act, 1878 (41 & 42 Vict. c. 14), s. 5, the commissioners under that Act may allow any portion of a public bath, not required by them, to be used for holding vestry meetings, or other parochial purposes.

With the provisions of s. 4 compare s. 59 (3), as to the use of rooms by a district council. As to licensed premises, see s. 61.

Inquiry for parochial purposes.—Inquiries may be held by the

county council under ss. 9 (3), 16, and 36. Inquiries as to allotments may be held under ss. 2 and 3 of the Allotments Act, 1887: see note to s. 9, *infra*, p. 47. There is no definition of "local authority" in this Act, or the Interpretation Act, 1889.

Inquiries may be held by the county council and by the Local Government Board under L. G. A. 1888, s. 57, *infra*, p. 254: see s. 36 (10) of this Act.

Allotments.—Compare the provisions of s. 5 of the Allotments Act, 1890, as to the use of a schoolroom for meetings and inquiries.

That section gives no right to hold a public meeting in a schoolroom (a) unless not less than six days before the meeting a notice of the intention to hold the meeting at the day and time specified in the notice, signed by the persons calling the meeting, being not less than six in number, and being persons qualified to make a representation [see note to s. 9, *infra*, p. 47] to the local authority under the Allotments Act, 1887, be given, if the school is under a school board, to the clerk of the board, and in any other case to one of the managers of the school; or (b) if the use of the schoolroom at that day and time has, previously to the receipt of the notice, been granted for some other purpose; but in that case the clerk or manager, or some one on his behalf, must forthwith inform in writing one of the persons signing the notice, that the use of the school has been so granted, and name some other day on which the schoolroom can be used for the meeting.

Candidature of any person.—The section does not apply to candidates at county council or parliamentary elections.

Where a meeting is called in support of a candidate without his knowledge or consent, it seems doubtful whether under sub-s. (2) he would be liable for the expenses or damage. But it seems clear that the parish council or meeting will be primarily liable in every case.

Committee.—In a parish not having a parish council, the parish meeting may appoint a committee under s. 19 (3).

Elementary school.—This means an elementary school within the meaning of the Elementary Education Act, 1870: see s. 75 (2), *infra*, p. 202.

Expenses of parish meeting or council.—These will be paid out of the poor-rate: see s. 11 (4). As to the costs of inquiries held by the Local Government Board or the county council, see s. 72.

Sect. 5.

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.

Overseers.—Before this Act the overseers for every parish were to be “substantial householders there,” appointed by the justices (43 Eliz. c. 2, s. 1) on (or within fourteen days from) March 25 (54 Geo. 3, c. 91). As to the appointment for townships and villages, in the case of large parishes, in certain counties, see 14 Ch. 2, c. 12, s. 21. As to cities and boroughs, see 12 & 13 Vict. c. 8, s. 1; 15 & 16 Vict. c. 38. By 59 Geo. 3, c. 12, s. 6, upon the nomination and at the request of the vestry, the justices might appoint any non-resident ratepayer, who was a householder resident within two miles from the parish church, or, where there was no church, within one mile from the boundary of the parish; but no person so appointed could be compelled to serve without his consent. By 43 Eliz. c. 2, the number of overseers was two, three, or four; but by the Poor Law Amendment Act of 1866 (29 & 30 Vict. c. 113), s. 11, one overseer only might be appointed for small parishes; and if it appeared to the justices that there was no inhabitant householder liable or fit to be appointed, they might appoint an inhabitant householder of an adjoining parish, willing to serve, with or without an annual salary.

The same person may be both churchwarden and overseer, but may not be overseer and assistant overseer: 29 & 30 Vict. c. 113, ss. 10, 11.

By 43 Eliz. c. 2, the overseers must be substantial householders; and a servant whose occupation is subservient to and necessary to his service, is not eligible: *R. v. Spurrell* (1865), L. R. 1 Q. B. 72. A woman may be appointed: *R. v. Stubbs* (1788), 2 T. R. 395; 1 R. R. 503. A master of a workhouse, a relieving officer, and all persons directly or indirectly concerned in contracts for the supply of goods, &c. for the workhouse or for the relief of the poor are

disqualified: see 12 & 13 Vict. c. 103, s. 6; 13 & 14 Vict. c. 101, s. 6. Bankruptcy disqualifies: see the Bankruptcy Act, 1883, ss. 32, 34; and the Bankruptcy Act, 1890, s. 9. For disqualification on conviction for offences connected with elections, see note to s. 20, *infra*, p. 88. Conviction for felony, fraud, or perjury disqualifies: 4 & 5 Will. 4, c. 76, s. 48.

An appeal lay from the appointment of overseers by the justices to quarter sessions under 43 Eliz. c. 2, s. 5: see *R. v. Stubbs, ubi supra*; *R. v. Forrest* [1789], 3 T. R. 38; 1 R. R. 628; *In re Overseers of Pudding Norton* [1864], 33 L. J. M. C. 136. There is no express provision in the L. G. A. 1894, preserving or abolishing the right of appeal.

As to the construction of Acts relating to the powers, &c. transferred to the parish council, see s. 52 (5).

Assistant overseer.—By 59 Geo. 3, c. 12, s. 7, the vestry of a parish might elect one or more paid assistant overseers to execute all or any of the duties of overseers, and the person elected was appointed by the justices, who had no power to inquire whether he was duly elected: *R. v. Shepley* [1888], 22 Q. B. D. 96. The person appointed continued in office until he resigned, or his appointment was revoked by the vestry: 59 Geo. 3, c. 12, s. 7. The same person cannot be overseer and assistant overseer: 29 & 30 Vict. c. 113, s. 10; and where a collector has been appointed by the guardians of the union, the power of the vestry to elect an assistant overseer ceases: see 7 & 8 Vict. c. 101, ss. 61, 62; and *Guardians of Malling Union v. Graham* [1870], L. R. 5 C. P. 201.

See also 4 & 5 Will. 4, c. 76, s. 46; 2 & 3 Vict. c. 84, s. 2, as to appointments of paid officers by guardians and overseers on the direction of the Poor Law Commissioners (now the Local Government Board), and *R. v. Greene* [1852], 17 Q. B. 793.

No assistant overseer can be appointed by the guardians after the appointed day: s. 81 (6).

An assistant overseer will, in certain cases, be the first clerk of the parish council: s. 17 (2), and s. 81 (2): and, unless appointed by a board of guardians, will become an officer of the parish council: s. 81 (3), (4).

Rural parish having a parish council.—See s. 1 (1). As to a parish co-extensive with a rural sanitary district, see s. 36 (4). In other rural parishes not having a parish council the power of appointing overseers and assistant overseers will be vested in the parish meeting: s. 19 (5); and in such parishes the overseers and the chairman of the parish meeting are made a body corporate: s. 19 (6).

Sect. 5.

The Local Government Board may confer the power of appointing overseers and assistant overseers on the council (or some other representative body) in a municipal borough or other urban district, or on the sanitary authority of any sanitary district in the administrative county of London : s. 33.

Annual meeting.—This will be held within seven days of the 15th April : s. 3 (4), (7) ; and the appointment of overseers is to be the first business : Sched. I. Pt. II. r. 3.

If notice of the appointment is not received by the guardians within three weeks after the 15th April (or the occurrence of a casual vacancy), the guardians will make the appointment or fill the vacancy : see s. 50, which makes the receipt of the notice by the guardians essential to the appointment.

Although it is not expressly so provided in the Act, it seems that the overseers holding office at the appointed day will continue in office until the annual meeting of the parish council in April, 1895 : cf. s. 79 (11).

Prescribed form of notice.—This will be prescribed by the Local Government Board : s. 75 (2).

Casual vacancy.—This term is used in this Act, in the Municipal Corporations Act, 1882, and in the L. G. A. 1888, but no definition of the term is given in any of the three Acts. It seems that if there is a failure of appointment of overseers at the annual meeting of the parish council, or a failure to give notice of an appointment, the vacancy so created will not be a "casual vacancy," but the right of appointment will at once pass to the guardians : see s. 50.

(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.

Appointed day.—This seems to mean in this section, as to parishes having a parish council, the day on which the first parish councillors come into office, and as to parishes, not having a parish council, the day fixed for elections: see s. 84 (2), (4).

It seems that additional overseers to replace the churchwardens may be appointed under s. 5 (2), immediately after the “appointed day.”

Rural parish.—Clauses (a) and (b) of s. 5 (2), apply to every rural parish, whether with or without a parish council; but clause (c) applies only “if there is a parish council.” The corresponding provision as to parishes not having a parish council is contained in s. 19 (7): and see also s. 36 (4).

Reference in any Act to overseers.—Note that some of the powers of overseers are transferred to the parish council by s. 6 (1) (c). For general provisions as to transfer of powers, see s. 52.

Legal interest in property.—As to the appointment of trustees in lieu of churchwardens and overseers, see s. 14 (2); and in the case of a parish not having a parish council, s. 19 (5). See also as to the transfer of property generally, s. 67. As to the meaning of the word “property,” see note to s. 75 (1), *infra*, p. 199. A summary mode of determining any question as to transfer is given in s. 70.

Affairs of the church: ecclesiastical charity.—For the meaning of these terms, see s. 75 (2), *infra*, pp. 201, 203.

A saving for elementary schools is to be found in s. 66.

6.—(1) Upon the parish council of a rural parish Transfer of
certain

Sect. 6.
powers of
vestry and
other autho-
rities to
parish
council.

coming into office, there shall be transferred to that council:—

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

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

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

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

(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

See note, p. 22.

18 & 19 Vict.
c. 128.

See pp. 23, 24.

See pp. 25, 26.

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 ;

Sect. 6.

See pp. 27, 28.

- (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.

See note, p. 28.

Parish council of a rural parish.—For the definition of “rural parish,” see s. 1 (2), (3). In the case of a parish which has no parish council, the powers, &c., transferred by s. 6 (1) (a) will be exercisable by the parish meeting, see s. 19 (4); but there is no corresponding provision as to the powers, &c. transferred by s. 6 (1) (b) and (c): but see s. 19 (10). If, however, the parish is co-extensive with a rural sanitary district, the district council will have all the powers of the parish council: s. 36 (4).

For general provisions as to transfer of powers, see ss. 52, 67. A summary method of determining questions as to transfer of powers is given in s. 70.

For the date when the parish council will come into office, see s. 84 (2).

The Local Government Board may confer the powers, duties and liabilities of a parish council on the council (or some other representative body) in a municipal borough, or any other urban district; and may confer the like powers on a sanitary authority in the administrative county of London: s. 33.

Powers, duties and liabilities.—These terms are defined by the L. G. A. 1888, s. 100; and the definitions are adopted by this Act: see s. 75 (1), and the note *infra*, p. 200.

The power of the vestry to appoint a vestry clerk, under 13 & 14 Vict. c. 57, will not be exercisable by the parish council: see s. 17 (4).

Vestry.—This means the inhabitants of the parish, whether in vestry assembled or not, and includes any select vestry, either by statute or at common law: see notes to s. 75 (2), *infra*, p. 203.

Affairs of the church.—Compare s. 5 (2) (b). For the mean-

Sect. 6. ing of the phrase, and of "Ecclesiastical Charities," see s. 75 (2), *infra*, pp. 201—203.

Power transferred from vestry to any other authority.—By s. 7 (1), the parish meeting will exclusively have the power of *adopting* the Acts therein mentioned: but note that by s. 7 (7), after the adoption of any of those Acts, the parish council will be the authority for the *execution* of it. By s. 7 (3), certain powers under those Acts are transferred from the vestry to the parish meeting.

By s. 52 (1), powers of the ratepayers and owners under the poor law, &c., as respects dealing with parish property, spending money or raising a rate, may be exercised by the parish meeting.

By s. 13 (1), special powers are given to the parish meeting with regard to rights of way, &c.

By s. 25 (1), the rural district council will have the powers of an urban sanitary authority under P. H. A. 1875, s. 144, *infra*, p. 240; by which section the urban sanitary authority has all the powers, &c., which under the Highway Acts were vested in the vestry. These powers are therefore under this Act transferred not to the parish council, but to the district council. See also s. 36 (4).

Powers and duties of churchwardens.—So far as these are powers and duties of overseers they will remain vested in the overseers, including the additional overseers (if any) appointed to replace the churchwardens: s. 5 (2).

Closed churchyards.—By the Burials Act, 1853, s. 1, burials may, by Order in Council, be ordered to be discontinued in any burial grounds, &c., either wholly or subject to exceptions and qualifications: and by the Burials Act, 1855, s. 18, after the issue of any such order, the burial board, or churchwardens, as the case may be, shall maintain such churchyard or burial ground of any parish in decent order, and also do the necessary repair of the walls and other fences thereof, and the costs and expenses shall be repaid by the overseers upon the certificate of the burial board or churchwardens, as the case may be, out of the poor rate of the parish, &c., in which such churchyard, &c., is situate, unless there should be some other fund legally chargeable with such costs and expenses.

As to the effect of this section see *R. v. Burial Board of Bishopwearmouth* [1879], 5 Q. B. D. 67.

As to the Burial Acts generally, see also notes to s. 7 (1), *infra*, p. 36.

The churchwardens, &c., before they have actually paid expenses under this section, may call upon the overseers for payment: see

R. v. St. Mary, Islington [1890], 25 Q. B. D. 523, in which case the matters to be stated in the certificate were considered. No particular form of certificate is prescribed by the Act.

Appeals or objections in respect of the valuation list.—By the Union Assessment Committee Act, 1862, ss. 18—20, any overseer of any parish in any union who shall have reason to think that such parish is aggrieved by the valuation list of any parish within such union may give notice in writing of his objection to the assessment committee, and the overseers, and to the person (if any) liable to be rated for any hereditament which is omitted or objected to: and the assessment committee must hold meetings to hear objections, and may make alterations in the list objected to.

By ss. 32, 33, of the same Act the overseers of any parish in any union might with the consent of the vestry of the parish, appeal to quarter sessions against the valuation list for that parish or any other parish in the union: and the sessions may confirm or correct the list, or may order a survey or valuation of any parish in respect of which the appeal is made, and may appoint a person to make such survey, &c.

Appeals in respect of the poor rate.—The Act does not transfer to the parish council the powers and duties of overseers with respect to the making or correction of the valuation list, or the making or collection of the poor rate. But some of these matters are so closely connected with powers and duties with respect to “appeals in respect of the poor rate,” which are transferred, that it is difficult to determine the precise effect of the transfer.

It may have been intended (and it is consistent with the general scheme of the Act) that there should be no transfer of the ministerial duties of the overseers, but that matters involving the exercise of discretion, and (possibly) the expenditure of the parish funds, should be under the control of the parish council. But it is difficult to draw this distinction from the mere words of s. 6.

By 17 Geo. 2, c. 38, s. 4 (as amended by 12 & 13 Vict. c. 45, s. 1), fourteen clear days’ notice of appeal to quarter sessions against a poor rate was to be given to the churchwardens or overseers of the poor of the parish, township or place; and the justices might award to the party for whom such appeal should be determined reasonable costs; and by 41 Geo. 3, c. 23, s. 4, notices of appeal were to be in writing, and to be delivered to or left at the places of abode of the churchwardens and overseers or any two of them.

By 17 Geo. 2, c. 38, s. 6, on appeals against rates, the quarter sessions were empowered either to amend the rate, or, if necessary, to quash it, and direct the overseers to make a new equal rate.

Sect. 6.

By 41 Geo. 3 (U. K.), c. 23, ss. 1, 6, further power of amendment was given; and by s. 8 the quarter sessions might order any sums, already paid in excess, to be repaid by the churchwardens and overseers.

By 11 & 12 Vict. c. 91, s. 11, where several appeals involving the same common principle were brought at the same time against the rates of several parishes, the overseers, with the consent of the vestries of such parishes (and the approval of the Local Government Board), might agree mutually to bear the costs, and such agreement was binding on succeeding overseers until the appeals were finally determined.

By 6 & 7 Will. 4, c. 96, ss. 6, 7, a right of appeal was given against a rate to special sessions (but only on the ground of unfair valuation), of which appeal notice was to be given to the overseers seven days at least before the session, and the justices had power to award costs to be paid by any of the parties. Any person impugning the decision of the special sessions might appeal therefrom to quarter sessions.

Appeals in respect of county rate, or basis.—Formerly, by the County Rates Act, 1852 (15 & 16 Vict. c. 81), the “basis or standard for the county rate” was fixed by the quarter sessions, after having been prepared by a committee of justices appointed by the quarter sessions. But now, by L. G. A. 1888, s. 3, “all business done by the quarter sessions, or any committee appointed by the quarter sessions in respect of the preparation and revision of the basis or standard for the county rate,” is transferred to the county council.

By s. 17 of the County Rates Act, 1852, if any overseers in any parish or place have reason to think that such parish, &c. is aggrieved by any basis or standard, whether on account of the omission of a parish or the over-rating or under-rating of any parish, they may appeal to the quarter sessions.

And by s. 22, if the overseers of any parish, &c. are aggrieved by any county rate, on account of the proportions assessed upon the several parishes being unequal, or on account of the omission of some parish without sufficient cause from the rate, or on account of some parish being rated too high or too low, or on account of the altered state of the value of the property assessed, or have any other just cause of complaint whatsoever, they may appeal to the next quarter sessions.

It will be noticed that the appeal under s. 17 is against the basis, and under s. 22 against the rate made upon that basis. And L. G. A. 1888, s. 8 (1), enacts as follows:—“Nothing in this Act

shall transfer to a county council any business of the quarter sessions or justices in relation to appeals by any overseers or persons against the basis or standard for the county rate, or against that or any other rate." Consequently, while the county council fix the basis and make the rates thereon under L. G. A. 1888, s. 3, appeals are heard by the quarter sessions under s. 8.

Parish book and parish chest.—As to the custody of books, documents, registers, &c. under this Act, see s. 17 (7)—(9).

By 17 Geo. 2, c. 38, s. 13, copies of all poor rates are to be entered in books to be provided for that purpose by the churchwardens and overseers, and such books are to be carefully preserved by them in some public or other place in the parish, whereto all persons assessed may freely resort.

By 52 Geo. 3, c. 146 (repealed, so far as relates to registration of marriages, by 6 & 7 Will. 4, c. 86), registers of baptisms and burials are to be kept in books to be furnished from time to time by the churchwardens or chapelwardens of every parish or chapelry at the expense of the parish or chapelry: and (by s. 5) such books are to be kept by and remain in the power and custody of the rector, vicar, &c., and are to be by him kept in a dry, well-painted iron chest, to be provided and repaired as occasion may require at the expense of the parish or chapelry.

By 58 Geo. 3, c. 69, s. 2, minutes of the proceedings and resolutions of every vestry are to be entered in a book to be provided for that purpose by the churchwardens and overseers; which book (by s. 6), together with all rates and assessments, accounts and vouchers of the churchwardens, overseers, surveyors of highways, and other parish officers, and all certificates, orders of courts and of justices, and other parish books, documents, writings, and public papers of every parish (except the registry of marriages, baptisms, and burials), must be kept by such person, and deposited in such place and manner as the inhabitants in vestry assembled direct.

By 24 & 25 Vict. c. 125, s. 2, the overseers of any parish might, with the consent of the vestry, provide proper depositories of all the documents, books, and papers belonging to such parish for which no provision was otherwise made by law, and charge the cost thereof upon the poor rate.

Vestry room or parochial office.—By 13 & 14 Vict. c. 57, s. 1, the Local Government Board, upon the application of the churchwardens, or (where there were no churchwardens) of the overseers, made pursuant to a resolution of the vestry of any parish in England where the population, according to the last preceding census, exceeded 2,000, might make an order putting the Act in

Sect. 6.

force in such parish. By s. 2, after twelve months from the publishing of such order vestry meetings were prohibited from being held in the church or vestry. And, by s. 4, the churchwardens and overseers, with the sanction of the Local Government Board and the vestry, might by agreement hire any room, or purchase or take upon lease, or exchange any lands or buildings, or sell lands and invest the proceeds in the purchase of lands and buildings, or erect suitable buildings for the purpose of holding *any vestry and other meeting* for the transaction of any business of or relating to the parish; and, by s. 5, on the like sanction being obtained, the churchwardens and overseers might borrow for the purposes of the Act, charging the poor rate with repayment of the sum borrowed and of the interest; so that *the sum so borrowed* should be repaid by equal annual instalments not exceeding ten.

By 24 & 25 Vict. c. 125, s. 1, the overseers of any parish in England with a population exceeding 4,000 persons, according to the census for the time being, with the consent of the vestry and of the Local Government Board, might hire any room, or purchase or take upon lease or exchange any land or building, or sell land belonging to such parish and invest the proceeds in the purchase of other land and building, or erect a suitable building on land so acquired for the purpose of *an office for the transaction of the business of the parish*. And the overseers might provide the requisite furniture and fittings of such room or building, and appoint and pay out of the poor rate such persons to take care thereof, or of any vestry room provided under 13 & 14 Vict. c. 57 [*vide supra*], and to aid in the ordinary business of the parish, as the vestry and the Local Government Board should authorize. And every such building and vestry room must be warmed and lighted, and, with its furniture, kept in good condition and repair at the cost of the poor rate.

It seems clear that the powers under the Acts here cited will be vested in the parish council only where the population of the parish exceeds the limits specified in those Acts.

As to the construction of the references to the vestry, &c. in the Acts above referred to, see s. 52 (5).

As to the use of schoolrooms and other buildings for meetings under L. G. A. 1894, see s. 4 (1); as to the additional powers of the parish council for providing buildings for public offices, meetings, &c., see s. 8 (1), and s. 9; and as to the sale of land and buildings vested in the parish council, see s. 8 (2). As to the borrowing powers of that council, see s. 12.

Fire engine and fire escape.—By 30 & 31 Vict. c. 106, s. 29,

the overseers of any parish might (on a resolution of the vestry) provide any fire engine, ladder, or fire escape for general use in the parish, and pay the cost out of the poor rate, and also the cost of procuring a place to keep it, of repairing it (with any engine, &c. acquired by the parish in any other manner for such use), and the charges of such persons as might be necessary for the use, and the cost of suitable implements and accoutrements.

As to the power to provide a fire engine under the Lighting and Watching Act, 1833, see note to s. 7 (1), *infra*, p. 35.

Parish property or village greens.—This Act gives the parish council additional powers for acquiring and managing recreation grounds, &c.: see s. 8 (1) (b) (d), and s. 7 (1) (d).

In certain cases it will be necessary, and in many cases it will probably be convenient, to appoint a committee for these purposes: see s. 56 (2).

By the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 17, all buildings lands, &c. purchased or hired by the churchwardens and overseers for any of the purposes of that Act, were to be conveyed, &c. to the churchwardens and overseers, and their successors, in trust for the parish; and the churchwardens and overseers were incorporated for this purpose.

As to the future vesting of parish property, see s. 5 (2) (c), and s. 52 (4) of this Act.

By 8 & 9 Vict. c. 118, s. 15, a village green was not to be inclosed, but might be allotted by the Inclosure Commissioners to the churchwardens and overseers, in trust to allow it to be used for the purposes of exercise and recreation: and provision was made for fencing it, and preserving the surface. And by 15 & 16 Vict. c. 79, s. 14, the Inclosure Commissioners might order that the green should be distinguished by metes and bounds, and that fencing should be dispensed with.

The powers of the Inclosure Commissioners are now vested in the Board of Agriculture. See 45 & 46 Vict. c. 38, s. 48; 52 & 53 Vict. c. 30, s. 2.

See also 22 Vict. c. 27, by which lands belonging to parishes may (with the consent of the vestry and the approval of the Local Government Board) be conveyed by the overseers, &c., or private lands may be conveyed to trustees to be held as public recreation grounds.

Allotments for recreation grounds, gardens, &c.—By the Inclosure Act, 1845 (8 & 9 Vict. c. 118), s. 73, part of the lands inclosed under that Act might be appropriated as a place of exercise and recreation, and allotted to the churchwardens and overseers,

Sect. 6.

whose duty was to maintain the fences and the surface; and the grass and herbage might be let by them, the rents after paying the expenses of fencing, &c. being applied in improving the recreation grounds, or maintaining the drainage or fencing, or in hiring or purchasing additional land for recreation grounds. See the Commons Act, 1876 (39 & 40 Vict. c. 56), s. 27, and note that s. 25 of that Act, in effect, repeals s. 74 of the Inclosure Act, 1845.

By s. 73 of the Inclosure Act, 1845, part of the land inclosed might be appropriated as an allotment for the labouring poor, and was to be allotted to the churchwardens and overseers; and might also be appropriated for other public purposes. And all allotments made to the churchwardens and overseers were to be held by them in the same manner, and with the same legal powers, &c., as if the allotments were land belonging to the parish in trust.

As to the management of allotments for the labouring poor, see note on "Wardens, Committee, or Managers for Allotments," *infra*, p. 31.

By the Allotments Act, 1832 (2 & 3 Will. 4, c. 42), s. 1, in the case of allotments made under various Acts "for the benefit of the poor, chiefly with a view to fuel," the trustees, "together with the churchwardens and overseers of the poor, in parish vestry assembled," might let portions (at such rent as land of the same quality was usually let in the same parish) to industrious cottagers of good character, being day labourers or journeymen legally settled in the parish, and dwelling within or near its bounds. Not more than one acre might be let to any one individual; see the Poor Allotments Management Act, 1873 (36 & 37 Vict. c. 19), s. 10. See further the Allotments Extension Act, 1882 (45 & 46 Vict. c. 80), as to the management of allotments.

By s. 3 of the Poor Allotments Management Act, 1873, a committee might be appointed by the allotment trustees and the vestry, and could exercise all the powers of the body appointing it.

Injuries to the fences of greens, &c., and interruptions of their use, are offences punishable summarily. See 20 & 21 Vict. c. 31, s. 12; 39 & 40 Vict. c. 56, s. 29.

Sale, exchange, or letting of parish property.—The powers of the guardians with respect to these matters are to be found in the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 3, as explained by the Parish Property and Parish Debts Act, 1842 (5 & 6 Vict. c. 18), s. 2. Note that the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 17, which extended the application of s. 3 of the Act of 1835, has been repealed by s. 5 of the

Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63); but see also s. 24 of that Act.

Sect. 6.

The consent of the ratepayers and owners of property was required by s. 3 of the Act of 1835, but was made unnecessary in the case of a sale, &c. by the guardians of any separate parish: see the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 8.

In ascertaining the consent of the owners and ratepayers, multiple voting was allowed: see 5 & 6 Will. 4, c. 69, s. 3; 7 & 8 Vict. c. 101, s. 14. But now, by L. G. A. 1894, s. 52 (1), the consent of the parish meeting, with single voting, is substituted.

The powers of the Poor Law Commissioners, and of the Poor Law Board (see 4 & 5 Will. 4, c. 76, s. 1; 10 & 11 Vict. c. 109, s. 1; and 30 & 31 Vict. c. 106, s. 1), are now vested in the Local Government Board: see 34 & 35 Vict. c. 70, s. 2.

(2.) A parish council shall have the same power of making any complaint or representation as to unhealthy dwellings or obstructive buildings as is conferred on inhabitant householders by the Housing of the Working Classes Act, 1890, but without prejudice to the powers of such householders. 53 & 54 Vict. c. 70.

Housing of the Working Classes Act, 1890.—By s. 31, if in any rural sanitary district any four or more householders living in or near to any street complain to the medical officer of health of that district that any dwelling-house in or near that street is so dangerous or injurious to health as to be unfit for human habitation, he must inspect it, and transmit the complaint, with his opinion thereon, to the sanitary authority. And by ss. 32 and 33, the sanitary authority may make an order for the closing or demolition of any house unfit for human habitation; subject to a right of appeal, by any person aggrieved, to quarter sessions: s. 35.

By s. 38, any four or more inhabitant householders of a district may make to the sanitary authority a representation that any building, though not in itself unfit for human habitation, is so situated that by reason of its proximity to, or contact with, any other buildings, it either (a) stops ventilation, or otherwise makes, or conduces to make, such other buildings to be unfit for human habitation, or dangerous or injurious to health; or (b) prevents proper measures for remedying any nuisance injurious to health, or other evils complained of in respect of such other buildings. The sanitary authority must thereupon cause a report to be made, and after hearing objections by the owner of the lands on which

Sect. 6.

the "obstructive building" stands, may make an order that it shall be pulled down, subject to a right of appeal as above stated. And by s. 38 (8), part of the compensation payable for demolition may be charged as "private improvement expenses" upon the other houses the value of which is increased by such demolition.

And in construing these sections, it must be noted that by s. 29, unless the context otherwise requires, the expression "street" includes any court, alley, street, square, or row of houses; and the expression "dwelling-house" means any inhabited building, and includes any yard, garden, outhouses, and appurtenances belonging thereto, or usually enjoyed therewith, and includes the site of the dwelling-house as so defined. The term "owner" is also specially defined in the same 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.

Representation with respect to allotments.—See note to s. 9 (2).

Election of allotment managers.—By s. 6 (3) of the Allotments Act, 1887, the sanitary authority may from time to time appoint (and remove) allotment managers, who shall consist either partly of members of such authority and partly of other persons, or wholly of other persons, so that in either case such other persons be persons residing in the locality and contributing to the rate out of which the expenses under the Act are paid. And, by s. 9, where allotments under the Act have been provided in any rural district, a petition may be presented to the sanitary authority by not less than one-sixth of the parliamentary electors in the parish [not the parochial electors], and thereupon the sanitary authority *shall* order the election of allotment managers in lieu of those appointed by the sanitary authority. The number of managers (not less than three, nor more than five) may be fixed by the sanitary authority. The managers retire triennially, and the Local Government Board have power to make regulations as to elections, &c. A poll, if demanded, must be taken by ballot.

As to the powers of allotment managers with respect to allotments hired by the parish council, see s. 10 (6) of this Act, and the note thereon.

Sect. 6.

(4.) Where any Act constitutes any persons wardens for allotments, or authorises or requires the appointment or election of any wardens committee or managers for the purpose of allotments, then, after a parish council for the parish interested in such allotments comes into office, the powers and duties of the wardens, committee, or managers shall be exercised and performed by the parish council, and it shall not be necessary to make the said appointment or to hold the said election, and for the purpose of section sixteen of the Small Holdings Act, 1892, two members of the parish council shall be substituted for allotment managers or persons appointed as allotment managers.

55 & 56 Vict.
c. 31.

Wardens, committee or managers for allotments.—The opening words of sub-s. (4) of s. 6 must, it seems, be read as applying to “any Act *other than the Allotments Act, 1887.*” A contrary construction involves an inconsistency between sub-ss. (3) and (4), because, by sub-s. (3), the parish council have power to apply for an election of allotment managers under the Act of 1887, and by sub-s. (4)—on the construction supposed—“after a parish council comes into office it shall not be necessary to hold the said election.”

By the Inclosure Act, 1845 (8 & 9 Vict. c. 118), s. 108, allotments made under that Act for the labouring poor were to be managed by allotment wardens, viz., the incumbent of the parish, one of the churchwardens for the time being, and two other ratepayers; and the churchwarden and such two other persons were to be yearly appointed at the same time and by the same persons as the overseers. By s. 109, the wardens might let the allotments in gardens not exceeding a quarter of an acre. But by s. 26 of the Commons Act, 1876 (39 & 40 Vict. c. 56), if the wardens could not so let the gardens, they might be let in gardens not exceeding an acre, and other restrictions as to letting were removed. And by s. 27 (repealing in part s. 112 of the Act of 1845) the surplus rents were to be applied in improving, draining, or fencing the gardens, or in hiring or purchasing additional lands.

See, also, as to other duties of churchwardens, trustees, &c. with respect to allotments, the notes to s. 6 (1) (c) iii, *supra*, p. 27. A committee might be appointed by the allotment trustees and the vestry under the Poor Allotments Management Act, 1873, s. 3.

Small Holdings Act, 1892.—By s. 16 of this Act, “Where a

Sect. 6.

county council provide small holdings they may delegate, with or without restrictions, the powers of the county council under this Act, with respect to the adaptation of land for any holdings, and the sale, letting and management of any holdings, to a committee consisting of—

The county councillor representing the electoral division in which the holdings are situate; and

Two other members of the county council; and

Two of the allotment managers (if any) under the Allotments Act, 1887, for the parish or area in which the holdings are situate, selected by those managers, or, if there are no allotment managers, two persons appointed in manner provided by that Act for the appointment of allotment managers; and in the construction of this Act, references to the county council shall, in their application to the powers so delegated, include any such committee. Provided that a county council shall not, under this section, delegate any powers of making or levying a rate or of borrowing money."

Note, that this section gives the county council power to delegate not the whole of their powers under the Act of 1892, but only certain specified powers.

The mode of appointment or election of allotment managers is stated in the note thereon, *supra*, p. 30.

Transfer of powers under adoptive Acts.

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.

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.

(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 ascer-

tained by voting papers, the opinion of the parochial electors shall be ascertained by a poll taken in manner provided by this Act.

(3.) Where under any of the said Acts the consent or approval of, or other act on the part of, the vestry of a rural parish is required in relation to any expense or rate, the parish meeting shall be substituted for the vestry, and for this purpose the expression "vestry" shall include any meeting of ratepayers or voters.

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

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

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

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

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

Appointed day.—This seems to mean, in this section, in the case of a parish not having a parish council, the day fixed for the first elections under this Act, and in the case of a parish having a parish council, the day when the council comes into office. See s. 84 (4).

Adoption by parish meeting.—The term rural parish is explained in s. 1 (2), (3). The parish meeting will have the power of adopting any of the adoptive Acts, but, by s. 7 (7), the parish council

Sect. 7.

will be the authority for their *execution* when adopted. Where there is no parish council, it seems that the authority for their execution will be the same as before the passing of this Act, except in cases coming under s. 53 (2), and s. 36 (4).

Any one parochial elector can demand a poll on the adoption of any of the adoptive Acts. Sch. I., Pt. I., r. 7 (e).

As to the mode of taking the poll, see s. 2 (5), and s. 48 (2), (3), (8).

As to the holding of a meeting for part of a parish, see s. 44 (3), and s. 49. It will, in some cases, be necessary to appoint a committee for the execution of the adoptive Acts: see s. 56 (2). The Acts are cited by the titles given by the Short Titles Act, 1892 (55 & 56 Vict. c. 10).

Existing authority.—As to the meaning of “existing,” see note to s. 75 (1), *infra*, p. 199. Where the area is co-extensive with a rural parish, the powers, &c., *must* be transferred to the parish council, if there be one: s. 7 (5). Where the area is part of a rural parish they *may* be so transferred: s. 53 (1). Where the area is in more than one parish, they *must* be transferred to a joint committee: s. 53 (2). See also s. 56 (2) as to powers of a parish council to be exercised in part of the parish; and cf. s. 37. As to areas within an urban district, see s. 62. Existing officers are transferred by s. 81.

In a rural parish, not having a parish council, the powers, &c. of an existing authority under the adoptive Acts are not transferred by this Act, for s. 7 (5) takes effect only “on the parish council coming into office.”

Powers, duties, liabilities.—See note to s. 75 (1), *infra*, p. 200.

Incidence of rates.—See further s. 53 (3), and, as to loans, s. 11 (1)—(3), and s. 12 (3). These sections qualify the provisions of s. 11 (4) as to the payment of the expenses of the parish council out of the poor rate.

The restrictions on expenditure contained in s. 11 (1) apply to expenses under the adoptive Acts.

For restrictions on expenditure in the case of a parish not having a parish council, see s. 19 (9).

Lighting and Watching Act, 1833.—This Act, so far as regards watching, has practically been rendered obsolete by the Police Acts: see 3 & 4 Vict. c. 88, s. 20; 19 & 20 Vict. c. 69, ss. 18, 19; and it is superseded, as to both lighting and watching in urban districts, by the Public Health Act, 1875: see s. 163.

The Act of 1833 might be adopted, as to lighting only (s. 71), for a parish or part of a parish (ss. 5, 73, 77), by a two-thirds majority

of the ratepayers present at a meeting summoned by the churchwardens on the application of three ratepayers: ss. 5, 8. And a two-thirds majority will still be necessary: see s. 7 (2) of this Act. Five ratepayers might, at the meeting, demand a poll, to be taken by the churchwardens: ss. 9, 10. (Under L. G. A., 1894, Sch. I., Pt. I., rr. 6, 7, any one parochial elector may demand a poll.) If adopted, the Act of 1833 might be abandoned after the expiration of three years: s. 15. If not adopted, another meeting might not be held within a year: s. 16. Inspectors were to be elected by the ratepayers (s. 17), and might appoint paid officers, hire offices (s. 24), and provide fire engines (s. 44), and lamps to be lighted with gas, oil, or otherwise: s. 45. Expenses were to be raised by an order given by the inspectors to the overseers, who were to collect the rate in the same manner as the poor rate (ss. 32, 33); the maximum expenditure in each year having been fixed beforehand by the ratepayers: ss. 9, 33. Houses, buildings, and property, other than land, were to be rated at a rate "three times greater" than that at which land was rated (s. 33); and tithes, tithe rent-charge, &c., were to be assessed as land: 14 & 15 Vict. c. 51.

"Three times greater" means three times as great: *R. v. S. E. Ry.* [1884], L. J. Notes of Cases, p. 121, following *R. v. Somersetshire JJ.* [1858], 22 J. P. 431.

A coal mine has been held to be "property other than land:" *Thursby v. Churchwardens of Briercliffe cum Entwistle* [1894], W. N. 34, Q. B. D.: the appeal to C. A. had been argued, but not decided, at the date of going to press.

A line of railway, with signal boxes, huts for signalmen, &c., is to be rated as "land:" *R. v. Midland Ry.* [1875], L. R. 10 Q. B. 389. Also a canal and towing-path, with its accessories (*R. v. Neath Overseers* [1871], L. R. 6 Q. B. 707); but a dock is to be rated at the higher rate: *Peto v. West Ham* [1859], 28 L. J. M. C. 240.

Water-pipes under the surface of the soil should be rated at the lower rate: see *R. v. Southwark and Vauxhall Water Co.* [1856], 6 E. & B. 1008, decided on identical words in a different Act.

The majority required for the adoption of the Act is a two-thirds majority of those present, whether they vote or not (*In re Eynsham* [1849], 12 Q. B. 398 n.); but, after the adoption, a simple majority only is required to fix the maximum expenditure: *Beechey v. Quentery* [1842], 10 M. & W. 65.

As to the possibility of holding a meeting for part of a parish within a year after a meeting for the whole parish, see *R. v. Dunn* [1857], 7 E. & B. 220.

If the meeting at which the Act is adopted be improperly summoned, the adoption is void, and rates cannot be enforced (*R. v.*

Sect. 7.

Overseers of Kingswinford [1854], 3 E. & B. 688); but upon a summons for non-payment, the overseers are not bound to prove that the Act was properly adopted: *R. v. Reynolds*, [1893] 2 Q. B. 75.

Baths and Wash-houses Acts.—These are 9 & 10 Vict. c. 74; 10 & 11 Vict. c. 61; 41 & 42 Vict. c. 14; 45 & 46 Vict. c. 30.

By P. H. A. 1875, s. 10, the powers, &c., under these Acts, in urban sanitary districts, were vested in the urban authority; and if they were not in force, the urban authority might adopt them.

In rural parishes the following provisions applied: The Acts might, with the approval of the Local Government Board, be adopted for a parish by a *two-thirds majority of the number of votes given* according to the usual manner of voting, at a vestry meeting summoned by the churchwardens, &c., on the requisition of ten ratepayers: [the like majority will still be necessary: see s. 7 (2) of this Act]: “parish” meant every place having separate overseers, and separately maintaining its own poor, and also every place maintaining its own poor and having a vestry: 9 & 10 Vict. c. 74, ss. 2, 5; 10 & 11 Vict. c. 61, s. 2; 34 & 35 Vict. c. 70, s. 2. On the adoption of the Acts, commissioners were appointed by the vestry: 9 & 10 Vict. c. 74, s. 6. Expenses, to such amount as the vestry might sanction from time to time, were charged on the poor rate: ss. 16, 17. The vestries of two or more parishes might combine: s. 19. With the sanction of the vestry, money might be borrowed: ss. 20, 21. Lands belonging to the parish might be appropriated, or lands in or near the parish might be bought or rented, and buildings might be erected for baths, wash-houses (with or without open drying-grounds), and open or covered swimming baths (which last might be used at any time for vestry meetings, &c., and, from the beginning of November to the end of March, as a gymnasium): 9 & 10 Vict. c. 74, ss. 24, 25; 41 & 42 Vict. c. 14, ss. 3—5; 45 & 46 Vict. c. 30, s. 3. Bye-laws might be made, with the approval of the Local Government Board, under 9 & 10 Vict. c. 74, s. 34; 41 & 42 Vict. c. 14, s. 6; 34 & 35 Vict. c. 70, s. 2. For the scales of charges to be made, see 10 & 11 Vict. c. 61, s. 7; 41 & 42 Vict. c. 14, ss. 4, 8, 14.

The Lands Clauses Consolidation Act, 1845, was incorporated by 10 & 11 Vict. c. 61, s. 4, “provided that the commissioners shall not purchase or take any lands otherwise than by agreement.” But see now s. 9 (2), (4) of this Act.

Burial Acts, 1852 to 1885.—Twelve Acts are included under this “collective title:” see the Short Titles Act, 1892.

The Burial Act, 1852 (15 & 16 Vict. c. 85), was limited to the

metropolis, but was afterwards extended to all parishes: see 16 & 17 Vict. c. 134, s. 7; 18 & 19 Vict. c. 128, s. 3.

The churchwardens, &c., with or without a requisition of ten or more ratepayers, might summon a special vestry meeting; and if an order in council was made for closing a burial ground, must immediately do so. The vestry might resolve that a burial ground should be provided; and in that case a copy of the resolution was to be sent to the Secretary of State, and a board was to be appointed by the vestry: see 15 & 16 Vict. c. 85, ss. 10, 11; 18 & 19 Vict. c. 128, s. 3. The passing of such a resolution is equivalent, under L. G. A. 1894, to an "adoption" of the Burial Acts: see s. 7 (8). A board might be appointed for a parish separately maintaining its own poor, or for any township or other district: see 15 & 16 Vict. c. 85, ss. 11, 52; 18 & 19 Vict. c. 128, s. 12; 20 & 21 Vict. c. 81, s. 5; 23 & 24 Vict. c. 64, s. 4. See *R. v. Tonbridge Overseers* [1884], 13 Q. B. D. 339. In some cases the approval of the Secretary of State was necessary; and, in such cases, must be given before the appointment of the board: 34 & 35 Vict. c. 33; s. 1.

Several parishes might concur in providing a burial ground, upon terms to be agreed upon as to the apportionment of expenses, &c.: 15 & 16 Vict. c. 85, s. 23; or a burial ground might be provided for places united for all or any ecclesiastical purposes, or having a common church, burial ground, or vestry, subject, in certain cases, to the approval of the Secretary of State, the expenses being divided in proportion to rateable value: 18 & 19 Vict. c. 128, s. 11; 20 & 21 Vict. c. 81, s. 9.

The board were to provide a burial ground, within or without the parish, district, &c.; but no ground not already used as, or appropriated for, a cemetery, might be used for burials within 100 yards of a dwelling-house without the consent of the owner, lessee, and occupier: 15 & 16 Vict. c. 85, s. 25; 17 & 18 Vict. c. 87, s. 12; 18 & 19 Vict. c. 128, s. 9. Actual burial may not take place within the limit, though the boundaries of a cemetery may come within it: *Lord Cowley v. Byas* [1877], 5 Ch. D. 944; and the limit must be measured from the wall of the dwelling-house, and not from that of the curtilage: *Wright v. Wallasey Local Board* [1887], 18 Q. B. D. 783. The board might purchase land, or contract with any cemetery company, &c., for interment in any cemetery; and parts of the Lands Clauses Consolidation Act, 1845 (not including the provisions as to compulsory purchase), were incorporated: 15 & 16 Vict. c. 85, ss. 26, 27. [But see now as to the compulsory powers of the parish council, s. 9 of this Act.]

Lands belonging to the parish might be appropriated by the

Sect. 7.

board with the approval of the vestry, &c., and of the Local Government Board: 15 & 16 Vict. c. 85, s. 29.

Subject to the exceptions mentioned below, every new burial ground must be divided into consecrated and unconsecrated parts, in proportions, &c. approved by the Secretary of State; and if a chapel was built for services of the Church of England, a chapel must also be built on the unconsecrated part for the accommodation of persons not members of the church, unless the Secretary of State, on the representation of a majority of the vestry, consisting of not less than three-fourths of the members, declared such chapel to be unnecessary: 15 & 16 Vict. c. 85, s. 30; 16 & 17 Vict. c. 134, s. 7; 18 & 19 Vict. c. 128, s. 14.

But if the ratepayers unanimously so resolved, a new burial ground might be held and used subject to the same laws and regulations as the existing burial ground or churchyard of the parish; and in that case it was not necessary to set apart any unconsecrated portion; but within ten years the vestry might determine that an unconsecrated burial ground should be provided: 18 & 19 Vict. c. 128, s. 10.

Separate boards, whose burial grounds adjoined each other, might contract (*inter alia*) for the building or joint user of chapels belonging to either burial ground, on terms to be agreed upon as to expenses, &c.: 18 & 19 Vict. c. 128, s. 16.

A board might, with the approval of the Secretary of State, provide separate burial grounds to be used as consecrated and unconsecrated grounds respectively: 20 & 21 Vict. c. 81, s. 3. Provision was also made for the transfer to a board of a burial ground provided under the Church Building Acts, to be used as a consecrated portion, and for the addition thereto of an unconsecrated portion: *Ib.*, s. 7. See also s. 6, as to the consecration of land belonging to guardians for the burial of poor persons.

Mortuaries might be provided: 15 & 16 Vict. c. 85, s. 42.

The general management of burial grounds was vested in the board, subject to the control of the bishop as to the fitness of inscriptions in consecrated grounds, and subject to the regulations of the Secretary of State for protection of health and decency: 15 & 16 Vict. c. 85, ss. 38, 44. The board might also sell exclusive rights of burial, vaults, &c., and fix fees, subject to approval of the Secretary of State: 15 & 16 Vict. c. 85, ss. 33, 34, 49; 18 & 19 Vict. c. 128, s. 7. Fees charged in the consecrated and unconsecrated portions must be identical, less the amount of fees payable to any incumbent, churchwarden, clerk, or sexton: 20 & 21 Vict. c. 81, s. 17. The board might appoint a clerk and other paid officers, and might hire an office: 15 & 16 Vict. c. 85, s. 15.

Land acquired under the Burial Acts (together with any buildings thereon) may not, while used for a burial ground, be assessed to any county, parochial or other local rates, at a value higher than the value at which it was assessed at the time of such acquisition: 18 & 19 Vict. c. 128, s. 15.

The expenses of a burial board (not exceeding the sum authorized by the vestry) were charged on the poor rate upon a certificate of the board. If the vestry refused to sanction the necessary expenditure, the Secretary of State might authorize the board to make it without such sanction. In the case of part of a parish, the expenses were to be charged by way of addition to the ordinary rate on that part, or by a separate rate: 15 & 16 Vict. c. 85, s. 19; 18 & 19 Vict. c. 128, ss. 6, 13. And see note on "Incidence of rates," *supra*, p. 34; and s. 7 (6) of this Act.

See also 17 & 18 Vict. c. 87, ss. 3, 9, and 20 & 21 Vict. c. 81, s. 22, as to expenses in boroughs; and 23 & 24 Vict. c. 64, ss. 1, 2, as to expenses where a local board or improvement commissioners act as a burial board.

The board had power to borrow: 15 & 16 Vict. c. 85, ss. 20, 21; 17 & 18 Vict. c. 87, ss. 4, 5; 18 & 19 Vict. c. 128, s. 6; 20 & 21 Vict. c. 81, ss. 18—21. But see now, as to borrowing, s. 11 (1)—(3), and s. 12 (3) of this Act.

The Public Improvement Act, 1860.—This Act, by s. 2, might be adopted by the ratepayers of any parish with a population exceeding 500, in the same manner as the Baths and Washhouses Act, 1846, might be adopted: *vide supra*, p. 36. The ratepayers might purchase or lease land, or accept gifts of land, for forming or improving any public walk, exercise or play ground, might remove obstructions, &c., and place seats, or shelters from rain, &c.: s. 1. Commissioners were to be appointed (s. 3) with the powers of commissioners under the Baths and Washhouses Act, 1846, except the power of borrowing money. A special improvement rate, not exceeding 6*d.* in the pound, might be made by a majority of at least "two-thirds in value" of the ratepayers assembled at a meeting, provided that not less than half of the estimated cost had been previously raised by private subscription: ss. 4, 5, 6, 7. The words "in value" are now repealed by s. 89 of this Act; and a two-thirds majority of the parish meeting will be necessary: see L. G. A. 1894, s. 7 (2), (3).

See further as to recreation grounds, s. 6 (1) (c), and s. 8 (1) (b) (d); and note that under those sections it will not be necessary to raise part of the expenses by private subscription as is required by the Act of 1860.

Sect. 7.

Public Libraries Act, 1892.—This Act, which repealed seven earlier Acts, consolidated and amended the law. (As to urban districts, see the end of this note.) Its provisions, so far as they relate to a rural parish, may be summarized as follows:—

The Act might be adopted for any parish by a majority of the persons registered as county electors in respect of occupation of property in the parish, in accordance with the regulations in the schedule, their opinion being ascertained on a requisition of ten such persons: ss. 3, 27. [As to the mode of ascertaining the opinion of the parochial electors, see s. 7 (2) of this Act, and note that s. 89 repeals sched. 1 of the Act of 1892, so far as it applies to rural parishes.] The maximum rate is one penny, but it might, on the adoption of the Act, be limited to a halfpenny or three farthings in the pound: s. 2 of the Act of 1892. Neighbouring parishes, which had adopted the Act, might combine and agree as to the apportionment of expenses, or a parish might be annexed to an adjoining library district: ss. 9, 10, 16.

The library authority (*i.e.*, the commissioners appointed by the vestry under the Act) might provide public libraries or museums, schools for science, or for art, or art galleries, and might purchase and hire land and erect buildings, and the Lands Clauses Acts (except the provisions relating to purchase otherwise than by agreement) were incorporated: ss. 4, 11, 12. [But see now as to compulsory powers, s. 9 of this Act.]

By s. 11 (3) of the Act of 1892, no charge may be made for admission to a public library or museum; a charge for the use of a lending library may be made to persons outside the parish, but not to inhabitants. Charity land may be granted for the purposes of the Act: s. 13. The general management was vested in the library authority, who might appoint paid officers and make regulations, &c.: s. 15. A parliamentary grant for schools might be made by the Department of Science and Art: s. 17.

By s. 18 (1) the expenses are to be defrayed out of a rate to be raised with and as part of the poor rate, but persons rated for lands used as arable, meadow, or pasture ground only, or as woodlands or market gardens, or nursery grounds, are entitled to an allowance of two-thirds of the sum assessed upon them. [With these exemptions compare those contained in P. H. A. 1875, s. 230, set out *infra*, p. 245.] Where the parish was not combined with any other parish, only such sum could be raised as the vestry [now the parish meeting] sanction from time to time: s. 18 (2). By s. 19 the library authority had power to borrow with the sanction of the Local Government Board, and the same sections of P. H. A. 1875, were

made applicable as are applied by s. 12 (1) of this Act. See also s. 12 (3).

Sect. 7.

By the Public Libraries Amendment Act, 1893 (56 & 57 Vict. c. 11), s. 2, the Act of 1892 may be adopted, and the limitation of the rate to be levied may be fixed, raised, or removed by the urban authority; and s. 3 of the Act of 1892 is repealed as to urban districts. Provisions as to combination of library authorities in urban districts are contained in s. 4 of the Act of 1893.

- 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; and
- (d) to exercise with respect to any recreation ground, village green, open space, or public walk, which is for the time being under their control, or to the expense of which they have contributed, such powers as may be exercised by an urban authority under section one hundred and sixty-four of the Public Health Act, 1875, or section forty-four of the Public Health Acts Amendment Act, 1890, in relation to recreation grounds or public walks, and sections one hundred and eighty-three to one hundred and eighty-six of the Public Health Act, 1875, shall apply accordingly as if the parish council were a local authority within the meaning of those sections; and
- (e) to utilise any well, spring, or stream within their parish and provide facilities for obtaining water therefrom, but so as not to interfere with the rights of any corporation or person; and
- (f) to deal with any pond, pool, open ditch, drain, or

Additional powers of parish council.

39 & 40 Vict. c. 56.

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

Sect. 8.

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

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

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

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

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

Additional powers.—These are subject to the limitations as to expenditure, &c. contained in s. 11. The parish council will not have compulsory powers for the purposes of this section, but the county council may obtain such powers for the acquisition of land, but not for the purpose of any supply of water or right of way: see s. 9 (1), (3), (4), (15); and see note on “Land,” *infra*, p. 44.

Expenses under this section will be paid out of the poor rate: s. 11 (4); but for purchasing land or erecting buildings the parish council may borrow, under s. 12.

Where a rural parish is co-extensive with a rural sanitary district, the district council will have the powers of the parish council under this section: see s. 36 (4).

The county council may confer the powers of the parish council on the parish meeting, in a small parish not having a parish council, under s. 19 (10).

Buildings for public offices, &c.—As to the use of school-rooms for meetings, see s. 4. As to the powers of the overseers, before this Act, to provide a vestry room or parochial office, see note to s. 6 (1) (c), *supra*, p. 25.

The Commons Act, 1876.—By s. 9 of that Act, the Inclosure Commissioners [now the Board of Agriculture: see 45 & 46 Vict. c. 38, s. 48; 52 & 53 Vict. c. 30, s. 2] shall from time to time, upon application made by the persons interested in any common, issue information and directions as to the mode in which applications for the regulation or inclosure of commons under the Inclosure Acts, 1845 to 1868, are to be made to the [Board], with explanations with respect to the law for the regulation and inclosure of commons, and the persons so interested may apply accordingly in manner directed by the [Board]. As to service of notice of the application, see ss. 8 (4), 26 (2) of this Act.

Sect. 8.

Recreation grounds and public walks.—See also the notes to s. 6 (1) (c), *supra*, p. 27; and s. 7 (1) (d), *supra*, p. 39. Section 164 of the Public Health Act, 1875, and s. 44 of the Public Health Act, 1890, are set out *infra*, pp. 242, 253. Note that s. 45 of the latter Act, which extends the powers of an urban authority under s. 164 of the Act of 1875, is not applied to parish councils.

By Public Health Act, 1875, ss. 183—186, power is given to a “local authority” to impose penalties on breach of bye-laws. All bye-laws require confirmation by the Local Government Board; they must be printed, and a copy is to be delivered to any rate-payer on application; and provision is made for the mode of proving bye-laws in legal proceedings.

Supply of water, drainage, &c.—Sub-section (3) must be read with sub-section (1) (e) (f); see also s. 16, and the notes thereon.

Land cannot be acquired by the parish council for the purpose of any supply of water, or of any right of way, otherwise than by agreement: s. 9 (15).

Right of way.—As to the stopping of existing rights of way, see s. 13; and as to the duty of the district council to protect public rights of way and prevent obstruction, see s. 26.

Sale or exchange of land or buildings.—See also s. 52. When the consent of the parish meeting is sought, any one parochial elector can demand a poll: Sched. I., Part 1, r. 7 (g). The Charity Commissioners have power to authorize leases, and the sale or exchange of charity lands, under ss. 21 and 24 of the Charitable Trusts Act, 1853. For the list of Acts known under the “collective title” of the Charitable Trusts Acts, 1853 to 1891, see the Short Titles Act, 1892.

As to the letting of allotments, see note to s. 6 (1) (c), *supra*, p. 27.

Application to Board of Agriculture.—See the Commons Act, 1876, and the note thereon, *supra*.

Powers for
acquisition of
land.

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.

38 & 39 Vict.
c. 55.

“**Land.**”—There is a difficulty as to the meaning of this term.

By the Lands Clauses Consolidation Act, 1845, s. 3, unless there be something either in the subject or context repugnant to such construction, the word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure. On this section, and s. 18 of the same Act, it has been held that "lands" do not include easements: *Pinchin v. London and Blackwall Ry. Co.* [1854], 5 De G. M. & G. 851, 862; compare *Great Western Ry. Co. v. Swindon and Cheltenham Ry. Co.* [1884], 9 App. Cas. 787. And by the Interpretation Act, 1889, s. 3, "unless the contrary intention appears, the expression 'land' shall include messuages, tenements, hereditaments, and houses and buildings of any tenure." In the Allotments Act, 1887, by s. 17, unless the context otherwise requires, the expression "land" includes pasture, arable, and other land, and any right of way or easement; and see also s. 3 (5), *infra*, p. 234. There is no definition of "land" in L. G. A. 1894, but it seems that in construing s. 9, so far as it relates to the exercise of powers to acquire land created by the Allotments Act, 1887, the word "land" will receive the interpretation given by s. 17 and s. 3 (5) of that Act; but that, having regard to s. 9 (15) of L. G. A. 1894, in relation to the exercise of powers created by that Act, the word "land" will not receive the interpretation given by the Allotments Act, 1887.

Sect. 9 (1).

There is nothing to prevent the acquisition of land by, or for, the parish council, outside the parish. The parish council have power to acquire land under s. 6 (1) (c), s. 8 (1) (a), (b), and under the Adoptive Acts: see s. 7.

Lands Clauses Acts.—For the Acts included in this term, see the Interpretation Act, 1889, s. 23. As s. 133 of the Act of 1845 is incorporated, the parish council will be liable to make good any deficiency in the assessments for land tax and poor-rate on land taken, until the works are completed and assessed. This liability becomes important in case the parish council acquire land outside their own parish. As to the duration and measure of the liability, see *Stratton v. Metropolitan Board of Works* [1874], L. R. 10 C. P. 76; *Governor of Poor of Bristol v. Mayor, &c. of Bristol* [1887], 18 Q. B. D. 549; and cf. *East London Ry. v. Whitechurch* [1874], L. R. 7 H. L. 81. There is no liability to make good a deficiency in respect of property not rateable at the time of taking (*e.g.*, as being in the occupation of the Crown): *Stratton v. Metropolitan Board of Works*, *ubi supra*; but there is a liability in respect of property which was rateable, but not in fact rated, as being unoccupied: *Overseers of Putney v. London and S. Western Ry.*, [1891] 1 Q. B.

Sect. 9 (1). 440. The section also creates a liability to make good a deficiency in county and borough rate: *Farmer v. L. & N. W. Ry.* [1888], 20 Q. B. D. 788; and the reasoning of this decision is equally applicable to the rate for the general expenses of a rural sanitary authority under P. H. A. 1875, s. 229: *vide infra*, p. 243.

As to the liability for rates, &c., in respect of allotments, see the Allotments Act, 1887, s. 7 (2), *infra*, p. 236, which is applied by s. 9 (14) of this Act.

Public Health Act, 1875, s. 178.—This section authorizes the sale of lands belonging to the Duchy of Lancaster to a local authority.

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

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

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

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

Proceedings by county council.—Sub-section (2) does not apply to urban parishes. But a "proceeding under the Allot-

ments Acts, 1887 and 1890," may be carried on by an urban or rural sanitary authority. The amendment of those Acts by sub-sections (3) and (4) will therefore apply in the case of both urban and rural sanitary authorities (now district councils, see ss. 21, 25), and will also apply in the case of county boroughs: see s. 9 (18). Sect. 9 (2—4).

As to the contents of the county council's order, the proceedings on the inquiry, and the costs, see s. 9 (9)—(12), (19), and s. 72 (4). As to the appointment of a committee for holding inquiries, see s. 9 (13), which incorporates s. 3 of the Allotments Act, 1890, set out *infra*, p. 238. The notices to be given under s. 9 (3) will be "prescribed" by order of the Local Government Board: see s. 75 (2), *infra*, p. 202.

The Act seems to draw a distinction between a "public inquiry" and a "local inquiry" held by the county council: see s. 9 (3), (19), and s. 72 (4).

The provisions of s. 9 are applied to compulsory hiring by s. 10 (1).

Allotments.—This term in this section includes "common pasture": s. 9 (16).

Allotments Acts, 1887 and 1890.—The incorporated sections of these Acts are set out *infra*, pp. 233, 238. By s. 2 of the Act of 1887, a representation may be made to the urban or rural sanitary authority by six parliamentary electors or ratepayers resident, in the case of an urban district, in that district, and in the case of a rural district, in some parish in that district, and the sanitary authority, if satisfied (either after inquiry or otherwise) that allotments cannot be obtained at a *reasonable rent* by voluntary arrangement, may by purchase or hire acquire land for allotments, whether within or without the district or parish. And by s. 2 (2), "Reasonable rent" is defined as meaning "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 allotment, to the expenses of adapting the land to the purposes of the allotment, and to the repairs and other outgoings payable by the landlord, and to the cost and risk of collecting the rents of and otherwise managing allotments." And a sanitary authority shall not, under the Act, acquire land for allotments, save at such price or rent that in their opinion all expenses (except those incurred in making roads to be used by the public) incurred in acquiring land and otherwise in relation to the allotments, may reasonably be expected to be recouped out of the rents.

Sect. 9 (2—4).

By the Allotments Act, 1890, s. 2, in any parish or district not within a borough, in the event of the sanitary authority failing to acquire sufficient suitable land under s. 2 of the Allotments Act, 1887, six persons entitled to make the representation may appeal to the county council, and if the county council, after holding an inquiry, resolve that allotments should be acquired, the powers of the sanitary authority are transferred to the county council.

A representation under these sections may in future be made by the parish council: see L. G. A. 1894, s. 6 (3), *supra*, p. 30, and s. 9 (17), *infra*.

With these provisions compare L. G. A. 1894, s. 9 (5)—(7). Under s. 3 of the Allotments Act, 1887, it was necessary for the county council, on the petition of the sanitary authority, to make a Provisional Order, to be confirmed by a Bill in Parliament, introduced by the Local Government Board. Under s. 9 of the L. G. A. 1894, the order of the county council has the effect of an Act, unless a memorial is presented against it, and no confirmation by Parliament is required in any event.

Note that under s. 2 of the Allotments Act, 1887, the *district* council can purchase or hire land; under L. G. A. 1894, s. 9, the *county* council have compulsory powers to purchase land; and under L. G. A. 1894, s. 10, the *parish* council can hire land, by agreement or compulsorily.

Special provision for the holding of meetings in school-rooms, to discuss questions relating to allotments, is made by s. 4 (1).

(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 sub-section overruling the decision of the county council shall be laid before Parliament by the Local Government Board.

(6.) A copy of any order made under this section shall be served in the prescribed manner, together with a statement that the order will become final and have the effect of an Act of Parliament, unless within the prescribed period a memorial by some person interested is presented

to the Local Government Board praying that the order shall not become law without further inquiry. Sect. 9 (5-9).

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

(a.) If no memorial has been presented, or if every such memorial has been withdrawn, the Board shall, without further inquiry, confirm the order :

(b.) If a memorial has been presented, the Local Government Board shall proceed to hold a local inquiry, and shall, after such inquiry, either confirm, with or without amendment, or disallow the order :

(c.) Upon any such confirmation the order, and if amended as so amended, shall become final and have the effect of an Act of Parliament, and the confirmation by the Local Government Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made, and is within the powers of this Act.

(8.) Sections two hundred and ninety-three to two hundred and ninety-six, and subsections (1) and (2) of section two hundred and ninety-seven of the Public Health Act, 1875, shall apply to a local inquiry held by the Local Government Board for the purposes of this section, as if those sections and subsections were herein re-enacted, and in terms made applicable to such inquiry.

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

Petition by parish or district council.—A parish council may petition the county council under s. 2 of the Allotments Act, 1890, as amended by s. 9 (17) of this Act ; and a sanitary authority (*i.e.*

Sect. 9 (5-9). a district council) may petition under the Allotments Act, 1887, s. 3 (2), *infra*, p. 233. Where the parish council petition, and the county council refuse the order, if the Local Government Board make it, it will be carried out by the county council, notwithstanding their refusal: see s. 9 (9) of this Act.

The Local Government Board must annually lay before Parliament a report of proceedings under this section: see s. 10 (11).

Prescribed.—This means prescribed by order of the Local Government Board: see s. 75 (2).¹

Local Inquiry.—As to the costs, and the powers of inspectors, see s. 72.

Public Health Act, 1875.—The incorporated sections are set out *infra*, p. 250. See also s. 72 of this Act.

(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.

Railways Clauses Consolidation Act.—By s. 77, the company are not entitled to any mines of coal, ironstone, slate or other minerals under any land purchased by them, except only such parts as shall be necessary to be dug or carried away or used in the construction of the works, unless the same shall have been expressly purchased. By ss. 78—85, provision is made as to the working of mines near the railway, for compensation to the mine-owner for interference with the working of the mines, &c., and for compensation to the company for damage to the railway.

The “mines” mentioned in s. 77 include beds and seams of minerals, whether worked by underground or by open or surface

operations: *Midland Ry. Co. v. Robinson* [1889], 15 App. Cas. 19. Sed cf. *Lord Provost of Glasgow v. Farie* [1888], 13 App. Cas. 657 (in which it was held that common clay forming the surface or subsoil of land was not included in the reservation): and *Midland Ry. Co. v. Haunchwood Brick and Tile Co.* [1882], 20 Ch. D. 552. See also *Ruabon Brick and Terra Cotta Co. v. Gt. W. Ry.*, [1893] 1 Ch. 427; and *Loosemore v. Tiverton and N. Devon Ry. Co.* [1882], 22 Ch. D. 25. Compare also *Earl of Jersey v. Neath Union* [1889], 22 Q. B. D. 555.

Sect. 9 (10).

Compare also s. 3 (8) of the Allotments Act, 1887, which is applied by s. 9 (13) of this Act.

Disputed compensation.—Compare s. 10 (2) as to compulsory hiring. The allowance of an additional 10 per cent. by way of compensation for compulsory purchase is based solely upon custom, and not on any statutory provision. Section 3 of the Allotments Act, 1887, is set out *infra*, p. 233.

(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.

Inquiry or arbitration.—This will include a “public inquiry” held by the county council under s. 9 (3): a “local inquiry” held by the Local Government Board under s. 9 (7), and an arbitration under s. 9 (10). “Prescribed” means prescribed by order of the Local Government Board: see s. 75 (2).

Public inquiry.—This is directed by s. 9 (3). The county council are required to appoint a standing committee for holding

s. 9 (11, 12). inquiries, &c. under the Allotments Act, 1890, s. 3, which section is applied to this Act by s. 9 (13). For the powers of inspectors of the Local Government Board, see P. H. A. 1875, s. 296, and 4 & 5 Will. 4, c. 76, s. 12; 10 & 11 Vict. c. 109, ss. 19—22. By the last-mentioned Act the inspectors have power to summon witnesses, and examine them upon oath, and to call for production of documents. Sections 294 and 296 of P. H. A. 1875, are set out *infra*, p. 250. See also as to costs, s. 9 (19), and s. 72 (4) of this Act.

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

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

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

Allotments Acts.—The “prescribed adaptations” will be prescribed by order of the Local Government Board: s. 75 (2). The effect of s. 2 (2) of the Act of 1887 is stated in the note to s. 9 (2) of this Act. Sect. 3 and ss. 5—8 of the Act of 1887, and s. 3 of the Act of 1890, are set out *infra*, pp. 233, 238. By s. 11 of the Act of 1887, the sanitary authority may, with the sanction of the county authority, sell, let, or exchange superfluous or unsuitable land, acquired for allotments under the Act.

Land purchased by county council for allotments.—Where proceedings are taken under this Act, land for allotments will be purchased by the *county* council; but if proceedings are taken under the Allotments Act, 1887, s. 2, the land will be purchased by the *district* council.

(15.) Nothing in this section shall authorize 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. s. 9 (15, 16).

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

Supply of water: right of way.—Compare s. 8 (1), (e), (g).

Common pasture.—By s. 12 of the Allotments Act, 1887, where it appeared to a sanitary authority that land could be acquired for common pasture at such price or rent that all expenses might reasonably be expected to be recouped out of the charges paid in respect thereof, and that the acquisition of such land was desirable in view of the wants and circumstances of the labouring population, the sanitary authority might submit to the “county authority” a scheme for providing common pasture, which the “county authority” might, if they approved, authorize the sanitary authority to carry into effect. And regulations might be made by the sanitary authority regulating the number of animals, the charges to be made, &c. [As to the “county authority,” see note to s. 9 (18), *infra*.]

(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.

Under the Act of 1887, the sanitary authority had to apply to the “county authority” for a provisional order, authorizing the sanitary authority to acquire land compulsorily, which order was to be confirmed by a Bill in Parliament introduced by the Local Government Board: under the Act of 1890, if the sanitary authority failed to take proceedings, their powers under the Act of 1887 were transferred to the county council, and the county council in substitution for the sanitary authority could proceed to acquire land in accordance with the Act of 1887.

The effect of L. G. A. 1894, s. 9 (17), is that where the county council so proceed to acquire land, they shall do so in the way indicated by s. 9 (3)—(7) of this Act, and confirmation by a Bill in Parliament is rendered unnecessary.

The effect of s. 2 of the Allotments Act, 1890, is stated in the note to s. 9 (2), *supra*, p. 47. See also s. 6 (3), *supra*, p. 30.

Sect. 9 (17).

(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.

County borough.—The Allotments Act, 1887, s. 16, provides that, “for the purposes of this Act, ‘county authority’ shall be any representative body elected by the inhabitants of the county, which may be established under any Act of any future session of parliament, and until such representative body is established the powers and duties of the county authority under this Act shall be exercised and performed by the Local Government Board, and the provisions of this Act, and of the enactments incorporated with this Act, shall accordingly be construed with the necessary modification.”

In 1888, county councils were created, but by L. G. A. 1888, s. 34 (7), the powers and duties of the county authority under the Allotments Act, 1887, as respects any county borough, are to continue to be exercised and performed by the Local Government Board.

Although the council of a county borough was an urban sanitary authority under the Allotments Act, 1887, it is not made a district council under this Act: see note to s. 21.

Expenses of county council.—See s. 72 (4).

Hiring of
land for allot-
ments.

10.—(1.) The parish council shall have power to hire land for allotments, and if they are satisfied that allotments are required, and are unable to hire by agreement on reasonable terms suitable land for allotments, they shall represent the case to the county council, and the county council may make an order authorizing 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.

Parish council.—In a parish co-extensive with a rural sanitary authority the district council will have the powers of the parish council: s. 36 (4). In other rural parishes not having a separate parish council, the county council may confer the powers of the parish council on the parish meeting: s. 19 (10).

The Local Government Board may confer the powers of a parish council on the council (or some other representative body) of a municipal borough or other urban district, or on a sanitary authority in the county of London: s. 33.

The expenses of the parish council under this section will be paid out of the poor rate: s. 11 (4).

Note that under s. 10, the *parish* council have power to hire land, whereas under the Allotments Act, 1887, s. 2, the sanitary authority (now the *district* council) have power to purchase or hire land. And under s. 9 of this Act, the *county* council have power to buy land.

Allotments.—It seems that the effect of the incorporation of s. 9 by s. 10 (1) is to give the parish council power to hire land for common pasture under s. 9 (16).

Order of county council.—As to the mode of obtaining the order, see s. 9 (2)—(4). If the county council refuse the order, a petition may be presented to the Local Government Board: s. 9 (5). If the land is hired compulsorily by the county council, it seems that the lease will be in the name of the parish council: see s. 9 (14). As to provisions to be contained in the order, see s. 10 (8).

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

- (a) as to the terms and conditions of the hiring; or
- (b) as to the amount of compensation for severance; or
- (c) as to the compensation to any tenant upon the determination of his tenancy; or
- (d) as to the apportionment of the rent between the land taken by the parish council and the land not taken from the tenant; or

Sect. 10 (2-5).

(e) as to any other matter incidental to the hiring of the land by the council, or the surrender thereof at the end of their tenancy ;

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

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

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

(5.) The award of the arbitrator or a copy thereof, together with a report signed by him as to the condition of the land taken by the parish council, shall be deposited and preserved with the public books, writings, and papers of the parish, and the owner for the time being of the land shall at all reasonable times be at liberty to inspect the same and to take copies thereof.

Appointment of arbitrator.—See the Allotments Act, 1887, s. 3 (4), *infra*, p. 233.

Additional compensation for compulsory hiring.—Compare s. 9 (10) as to compulsory purchase.

Public books of the parish.—As to their custody, see s. 17 (8). as to inspection by parochial electors, see s. 58 (4). Under s. 10 (5) the owner will have a right to inspect, &c., even if he be not a parochial elector.

(6.) Save as herein-after 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 : Sect. 10 (6).

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.

Allotment hired by parish council.—Note that sub-s. (6) applies whether the land is hired compulsorily or not, and that by s. 9 (13), other sections of the Allotments Acts are incorporated. The sections which are applied are set out *infra*, p. 233. For the limitation of the acreage of an allotment, and as to the erection of buildings, see the Allotments Act, 1887, s. 7 (3)—(5).

Allotment managers.—See note to s. 6 (3), *supra*, p. 30. It seems clear that managers will not be elected or appointed for allotments hired by the parish council under s. 10 ; and that if they are appointed by the district council, or elected, for allotments purchased or hired by the district council under the Allotments Act, 1887, or purchased by the county council under s. 9 of this Act, those managers will not control the management of allotments hired under s. 10 of this Act, which will be managed by the parish council.

(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,

s. 10 (7-11). but such compensation shall be assessed in accordance with
 46 & 47 Vict. the provisions of the Agricultural Holdings (England) Act,
 c. 61. 1883.

(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 authorize the compulsory hiring of any mines or minerals, or confer any right to take, sell, or carry away any gravel, sand, or clay, or authorize the hiring of any land which is already owned or occupied as a small holding within the meaning of the

55 & 56 Vict.
 c. 31.

Small Holdings Act, 1892.
 (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 sub-section means the

person for the time being entitled to receive the rent of the land hired by the parish council. s. 10 (7-11).

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

Compensation for improvements.—It seems clear that sub-s. (7) applies only to the compensation payable by, or to, the landlord, and that a tenant holding under the parish council (whose tenancy is determined during the continuance of the lease to the council) will be entitled to compensation under the Allotments and Cottage Gardens (Compensation for Crops) Act, 1887 (50 & 51 Vict. c. 26). See further, s. 7 (6) of the Allotments Act, 1887, which is among the sections applied by s. 10 (6) of this Act.

Under the Agricultural Holdings (England) Act, 1883, ss. 3, 4, certain improvements require either the written consent of, or previous notice in writing to, the landlord.

Section 3 of the Allotments Act, 1887, is set out *infra*, p. 233.

Order for compulsory hiring.—This may be made by the county council, or, if they refuse, by the Local Government Board, under s. 9 (4), (5), as applied by s. 10 (1). With s. 10 (8) compare s. 9 (10). The “prescribed adaptations” of the Lands Clauses Acts will be prescribed by the Local Government Board: see s. 75 (2).

Mines and minerals.—These words will apparently receive the same interpretation as in the sections applied to allotments purchased compulsorily under s. 9 (10). Compare also s. 3 (8) of the Allotments Act, 1887, *infra*, p. 235.

It is probably intended by the words “to the satisfaction of the county council,” in s. 10 (10), that if the landlord desires to resume possession, the matter is to be referred to the standing committee of the county council, appointed under s. 3 of the Allotments Act, 1890, *infra*, p. 238, which is applied by s. 9 (13) of this Act.

Small Holdings Act, 1892.—By s. 1 (2) of that Act, the expression “small holding” for the purposes of that Act means land acquired by a [county] council under the powers and for the purposes of that Act, and which exceeds one acre and either does not exceed fifty acres, or, if exceeding fifty acres, is of an annual value for the purposes of the income tax not exceeding 50*l.*

11.—(1.) A parish council shall not, without the consent of a parish meeting, incur expenses or liabilities which Restrictions on expenditure.

Sect. 11.

will involve a rate exceeding threepence in the pound for any local financial year, or which will involve a loan.

(2.) A parish council shall not, without the approval of the county council, incur any expense or liability which will involve a loan.

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

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

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

Restriction on expenditure.—For the corresponding restrictions on expenditure by a parish meeting where there is no parish council, see s. 19 (9).

If the parish council wish to borrow they must also obtain the consent of the Local Government Board: s. 12 (1).

On a motion to give the consent of the parish meeting, any one parochial elector may demand a poll: Sch. 1, Pt. I., r. 7.

The "local financial year" seems to mean the year ending March 31: see L. G. A. 1888, s. 73; and s. 58 of this Act.

The rateable value of the parish means the rateable value stated in the valuation list in force, or, if there is no such list, in the last poor rate : s. 75 (2).

As to a parish divided by this Act, see s. 85 (4).

Adoptive Acts.—These are the Acts enumerated in s. 7. The expenses under these Acts will be included in the computation under sub-s. (1) of s. 11, but excluded from the computation under sub-s. (3).

Expenses of parish council.—Cheques must be signed by two members of the council : Sched. I. Pt. II. r. 14.

As to accounts and audit, see s. 58. Where any of the adoptive Acts have been, before this Act, adopted for an area not co-extensive with a parish, or are after the Act adopted for part of a parish, the expenses will be charged upon that particular area : see s. 7 (4), (6), s. 53 (3); and see, as to loans, s. 12 (3).

The expenses of a poll consequent on a parish meeting may not exceed the scale fixed under s. 48 (7), (8) : see also s. 2 (6). As to the expenses of an election of parish councillors, see s. 3 (6), s. 48 (1), (7).

Where the county council postpone the transfer of the maintenance of highways to the district council, under s. 25 (1), the highway expenses will not be deemed to be expenses of the parish council : see s. 82 (2).

Chairman of parish meeting.—The reference in sub-s. (4) is to the chairman for the year elected under s. 19 (1). In a parish coming under s. 36 (4) the district council will have the powers of the parish council under s. 11 (4).

Contributions to common fund of union.—These are charged upon the several parishes in the union in proportion to their rateable value as determined by the last valuation list : see 4 & 5 Will. 4, c. 76, ss. 28, 29; 24 & 25 Vict. c. 55, ss. 9, 10; 25 & 26 Vict. c. 103, s. 30.

If contributions are in arrear, the overseers may be summoned before a special sessions, and the justices may issue a warrant to cause the amount of the contributions in arrear, together with the costs occasioned by such arrear, to be levied and recovered from the overseers or any of them in the same manner as poor rates may be levied and recovered : see 2 & 3 Vict. c. 84, s. 1.

Prescribed form of rate.—This means prescribed by order of the Local Government Board : s. 75 (2).

Sect. 12.

Borrowing
by parish
council.

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

- (a) for purchasing any land, or building any buildings, which the council are authorized to purchase or build; and
- (b) for any purpose for which the council are authorized to borrow under any of the adoptive Acts; and
- (c) for any permanent work or other thing which the council are authorized 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.

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

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

adoptive Acts shall ultimately be on the rate applicable to the purposes of that Act.

Sect. 12.

Borrowing by the parish council.—The consent of the parish meeting must be obtained: s. 11 (1).

The restrictions on expenditure contained in s. 11 (3) apply to the annual charge in respect of any loan.

Land or buildings.—The additional powers given by this Act to the parish council are contained in s. 8 (1) (a) (b): and compulsory powers may be put in force under s. 9 (2), (3): and see note on "Land," *supra*, p. 45. See also s. 6 (1) (c).

Adoptive Acts.—These are enumerated in s. 7. The provisions of s. 12 (1) and s. 12 (3) must be read together. The area over which a rate is levied for the purposes of the adoptive Acts may not be the same as the area of the poor rate: compare s. 7 (4) (6), and s. 53 (3).

Permanent work.—This is apparently intended to include matters in respect of which powers are given to the parish council by s. 6 or s. 8 (1), other than the purchase of land and the building of buildings which are already provided for by s. 12 (1) (a).

Limit of borrowing.—See L. G. A. 1888, s. 69 (2), for limitations of the power of the county council to borrow. Note that s. 12 (1) of this Act limits the amount which the parish council may borrow, while s. 12 (2) removes the limit of the amount which a county council may borrow in order to lend to the parish council.

Public Health Act, 1875.—The sections of that Act, which are applied to borrowing by the parish council, regulate the objects for which, and the amounts which, a local authority may borrow, and the period for repayment. By s. 234 (2), the sum borrowed shall not at any time exceed, with the balances of all outstanding loans, in the whole the assessable value for two years of the premises assessable within the district in respect of which such sum may be borrowed. By s. 234 (4), the money may be borrowed for such time, not exceeding sixty years, as the local authority, with the sanction of the Local Government Board, determine; and the money shall be paid off either by equal annual instalments of principal or of principal and interest, or in every year a sinking fund may be set apart.

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

Footpaths
and roads.

Sect. 13.

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

- (a) unless it is confirmed by the parish council at a meeting held not less than two months after the public notice is given; nor
- (b) if a parish meeting held before the confirmation resolve that the consent ought not to be given.

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

Consent of parish and district council.—In a parish not having a separate parish council, the parish meeting is substituted for the parish council: s. 19 (8); but in a parish co-extensive with a rural sanitary district, the district council will have the powers of the parish council: s. 36 (4).

The district council will be the highway authority in every rural district (s. 25); unless the operation of that section is postponed under sub-s. (1). See also s. 26.

Note that the powers of the parish council, under s. 13, are limited to rights of way, &c., within the parish; those given by s. 26 (4) are not so limited.

Stopping of public right of way.—Note that there is a distinction between stopping a highway, and declaring it not repairable at the public expense. The liability to repair may be extinguished while the rights of the public remain.

By the Highway Act, 1835, ss. 84—93, when the vestry deemed it expedient that a highway should be stopped up, diverted, or turned, either entirely or reserving a bridleway or footway, along the whole or any part thereof, they might direct the surveyor to apply to two justices to view. Notices were to be affixed “at

the place and by the side of each end of the highway from whence the same is proposed to be turned, diverted, or stopped up," to be inserted in a newspaper circulating in the county for four successive weeks, and to be affixed to the door of the parish church on four successive Sundays. (As to these notices, see *R. v. Justices of Surrey*, [1892] 1 Q. B. 633, 867.) The justices might then give a certificate for the diversion, stopping up, &c., which certificate was to be lodged with the clerk of the peace, read at the next quarter sessions, and enrolled among the records. Persons aggrieved might appeal to quarter sessions. If no appeal was brought, or was brought and dismissed, the quarter sessions were required to make an order for the diversion, stopping up, &c.

The effect of these proceedings was to extinguish the public right of way over the highway stopped up. The provisions above cited were extended to roads repairable under local Acts by the Highway Act, 1862, s. 44.

By the Highway Act, 1864, s. 21, if a highway board considered any highway unnecessary for public use they might direct their surveyor to make an application to two justices; and similar proceedings might be taken as under the Highway Act, 1835, save that the order, instead of directing the highway to be stopped up, was to direct that it should cease to be a highway which the parish was liable to repair. At any time thereafter, on a change of circumstances rendering the highway of public use, the quarter sessions might direct that the liability of the parish to repair should revive.

By the Highways and Locomotives (Amendment) Act, 1878, s. 24, if any authority liable to keep any highway in repair thought that so much of a highway as lay within a parish in a petty sessional division was unnecessary for public use, and therefore ought not to be maintained at the public expense, they might apply to the court of summary jurisdiction for that division to view by two justices. That court (after the view) might appoint a time for hearing objections, of which notices were to be given; and, after hearing objections, might make an order declaring the highway unnecessary for public use, and not repairable at the public expense. But at any time after the order had been made the quarter sessions might (as under the Highway Act, 1864) direct that the liability to maintain the highway should revive.

Note that under the Act of 1864 the order terminating the liability to repair might be made by the quarter sessions; and, under the Act of 1878, by a court of summary jurisdiction; that neither order extinguished the public right of way; and that the

Sect. 13.

order reviving the liability to repair must be made under either Act, by the quarter sessions.

Public notice by parish council.—For the manner of giving such notice, see s. 51.

Resolution by parish meeting.—Any one parochial elector may demand a poll: Sched. I. Pt. I. r. 7 (g).

Two months.—This means calendar months: see the Interpretation Act, 1889, s. 3. As to the mode of computing a calendar month, see *Freeman v. Read* [1863], 4 B. & S. 174; *Migotti v. Colvill* [1879], 4 C. P. D. 233; *Rudcliffe v. Bartholomew*, [1892] 1 Q. B. 161; 61 L. J. M. C. 63.

Restrictions on expenditure.—See s. 11 (1)—(3).

Footpaths.—Footpaths by the side of public roads will be under the control of the district council as highway authority: see s. 25.

By s. 8 (1), (g), the parish council have power to acquire a right of way within their parish or an adjoining parish.

Though s. 13 (2) enables the parish council legally to incur expenditure in the maintenance of footpaths, it does not of itself, apparently, enable them to maintain a footpath against the will of the owner of land subject to a mere right of passage. There may, in law, be a dedication to the public of a right of way, such as a footpath across a field, subject to the right of the owner of the soil to plough it up periodically in due course of husbandry: *Mercer v. Woodgate* [1869], L. R. 5 Q. B. 26. And in the case of such a footpath, where the surveyors of highways in order to repair it, placed materials thereon making it a hard causeway, so as to prevent the occupier from ploughing it up, they were held liable in an action of trespass brought by the occupier: *Arnold v. Blaker* [1871], L. R. 6 Q. B. 433. And see also *Arnold v. Holbrook* [1873], L. R. 8 Q. B. 96 (an action relating to the same footpath as the former case), in which it was held that, the path having become muddy after being ploughed up, the public had no right, in the absence of evidence of such a prescriptive right, to pass over the land adjoining the footpath.

Public property and charities.

See note, p. 69.

14.—(1.) Where trustees hold any property for the purposes of a public recreation ground or of public meetings, or of allotments, whether under Inclosure Acts or otherwise, for the benefit of the inhabitants of a rural parish, or any of them, or for any public purpose connected with a

rural parish, except for an ecclesiastical charity, they may, with the approval of the Charity Commissioners, transfer the property to the parish council of the parish, or to persons appointed by that council, and the parish council, if they accept the transfer, or their appointees, shall hold the property on the trusts and subject to the conditions on which the trustees held the same.

(2.) Where overseers of a rural parish as such are, either alone or jointly with any other persons, trustees of any parochial charity, such number of the councillors of the parish or other persons, not exceeding the number of the overseer trustees, as the council may appoint, shall be trustees in their place, and, when the charity is not an ecclesiastical charity, this enactment shall apply as if the churchwardens as such were specified therein as well as the overseers. *See pp. 69, 70.*

(3.) Where the governing body of a parochial charity other than an ecclesiastical charity does not include any persons elected by the ratepayers or parochial electors or inhabitants of the parish, or appointed by the parish council or parish meeting, the parish council may appoint additional members of that governing body not exceeding the number allowed by the Charity Commissioners in each case; and if the management of any such charity is vested in a sole trustee, the number of trustees may, with the approval of the Charity Commissioners, be increased to three, one of whom may be nominated by such sole trustee and one by the parish council or parish meeting. Nothing in this subsection shall prejudicially affect the power or authority of the Charity Commissioners, under any of the Acts relating to charities, to settle or alter schemes for the better administration of any charity. *See note, p. 70.*

(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 *See note, p. 70.*

Sect. 14. council of the parish, or in the case of beneficiaries, by persons appointed by the parish council.

See note, p. 71. (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.

See note, p. 71. (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.

See note, p. 71. (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.

See pp. 71, 72. (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. *See note, p. 72.*

Trustees.—See the definition in s. 75 (2), *infra*, p. 201. The term seems to be used in s. 14 (1) as meaning trustees other than churchwardens and overseers; as to which, see s. 5 (2), s. 6 (1).

The first sub-section of s. 14 applies to parish property; sub-section (2) applies to parochial charities, whether ecclesiastical charities or not; sub-section (3) applies only to charities which are not ecclesiastical.

There is a saving clause for elementary schools: s. 66.

A summary mode of determining questions as to the appointment of trustees or beneficiaries of any charity, or as to the vesting of property, is given by s. 70 (2).

Property.—For the definition, see note to s. 75 (1), *infra*, p. 199.

Public recreation ground, allotments, &c.—See notes to s. 6 (1) (c), *supra*, pp. 27, 28.

Ecclesiastical charity—Parochial charity.—See the definition in s. 75 (2), *infra*, p. 201.

Rural parish.—The Local Government Board may confer the power of the parish council, under s. 14, upon the council (or some other representative body) of a municipal borough or any other urban district, or upon the sanitary authority of a district in the metropolis: s. 33.

As to a parish co-extensive with a rural sanitary district, see s. 36 (4).

There is no provision in the Act, corresponding to s. 14 (1), applicable to a rural parish not having a parish council.

For provisions as to charities applicable to rural parishes not having a separate parish council, see s. 19 (5), (10). As to parishes which are grouped, see s. 38. As to parishes “divided by this Act,” see s. 36 (3).

It is difficult to determine, as to some of the provisions of s. 14, whether they apply to every rural parish, whether it has a parish council or not. Sub-sections (1), (2), and (4) apply only to a parish

Sect. 14.

having a parish council; sub-sections (5), (6), and (9) (and, perhaps sub-section (3) also) apply whether there is a parish council or not. Sub-sections (7) and (8) apply where there is a parish council; whether they also apply where there is no parish council is not so clear.

Overseers.—See s. 5 (2) as to the transfer of the legal interest in property vested in the overseers. The effect of the last sentence of s. 14 (2) is that, where the charity is not an ecclesiastical charity, the number of persons to be appointed by the parish council is to be equal to the number of the churchwardens and overseers together, who were trustees before this Act.

Appointment of additional trustees.—Sub-section (3) is the result of several amendments introduced in Committee of the House of Commons, no part of the sub-section being in the original Bill.

It seems difficult to regard the additional trustees appointed under sub-section (3) as appointed “in the place of overseers and churchwardens”; and it is therefore doubtful whether the appointment which is given to the parish council under that sub-section, is vested in the parish meeting where there is no parish council under s. 19 (5). It must, however, be noticed that the first clause of s. 14 (3) speaks of trustees “appointed by the parish council *or parish meeting.*” Trustees can be appointed by the parish meeting only where there is no parish council: see s. 19 (5). It may therefore perhaps be inferred that s. 14 (3) applies (with the substitution of parish meeting for parish council) to a parish not having a separate parish council.

Appointment of beneficiaries by vestry.—Sub-section (4) applies only where there is a parish council. In parishes within s. 36 (4) the appointment will be made by the district council; and in other rural parishes by the parish meeting: s. 19 (4). But as to parishes which are grouped, see s. 38 (3).

Scheme relating to a charity.—Note that the power given to two inhabitants to appeal against a scheme of the Charity Commissioners by s. 8 of the Charitable Trusts Act, 1860, was taken away by s. 10 of the Charitable Trusts Act, 1869. See as to the effect of the former section, *In re Hackney Charities* [1865], 34 L. J. Ch. 169.

By s. 6 of the Charitable Trusts Act, 1860, no order establishing a scheme for the administration of any charity shall be made by the Charity Commissioners, before the expiration of one calendar month after public notice of the proposal to make such order

has been given, in each parish or district in which the charity, if of a local character, shall be applicable, or among all persons interested therein; and every notice must contain (so far as conveniently may be) sufficient particulars of the objects of the proposed order, and must prescribe a reasonable time within which objections or suggestions may be made or transmitted to the Commissioners, who are to consider all such objections and suggestions, and may withhold, suspend, or modify the proposed order.

Restrictions on expenditure.—See s. 11 (1)—(3).

Chairman of parish meeting.—In sub-section (5) this means the chairman for the year: see s. 19 (1); but there is a difficulty as to the use of the term in sub-section (6), for, in a parish having a parish council, there will be no permanent chairman of the parish meeting: cf. s. 19 (1) with s. 2 (4), and s. 45 (2).

Consent of parish meeting.—On the motion to give such consent, any one parochial elector may demand a poll: Sched. I. Pt. I. r. 7 (g).

Accounts.—By s. 44 of the Charitable Trusts Amendment Act, 1855, the trustees or administrators of every charity shall on or before March 25, in every year, or such other day as may be fixed by the Charity Commissioners, prepare (1) an account of the gross income arising from the endowment, or which ought to have arisen during the year ending on December 31 then last, or such other day as the Commissioners appoint; (2) an account of balances in hand at the commencement of the year, and of all moneys received during the same year; (3) an account for the same period of all payments; (4) an account of all moneys owing to or from the charity so far as conveniently may be. In the case of parochial charities, one copy of these accounts is to be delivered to the churchwardens of the parishes with which the objects of such charities are identified, who are to present the same to the next general vestry meeting, and insert a copy in the minutes of the vestry book; which copy is to be open to inspection.

For the definition of “parochial charity” and “ecclesiastical charity,” see s. 75 (2), *infra*, p. 201.

Term of office.—It is probably intended that the words “trustee appointed under this section,” in s. 14 (7), are meant to include a trustee appointed under s. 19 (5), which applies the provisions of s. 14 as to the appointment of trustees. For if the words in s. 14 (7) do not include such a trustee, then there is no provision in the Act as to his term of office.

Charities excepted from the operation of the Act.—The

Sect. 14.

words "*the provisions of this section*," in s. 14 (8), must, it seems, be construed so as to exclude the excepted charities from the operation of s. 19 (5). It would be an unintelligible anomaly that the appointment should be transferred in the case of a parish having only a parish meeting, but should not be transferred in the case of a parish having both a parish meeting and a parish council.

Trustee not to receive any benefit from charity.—There is no penalty provided by the Act for any contravention of subsection (9), nor any provision that the office of the trustee shall be vacated.

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.

Parochial committee.—This may be appointed under P. H. A. 1875, s. 202; set out *infra*, p. 242. The parochial committee are merely the agents of the appointing body, and have no authority of their own to spend money or levy a rate.

If the district council appoint a parochial committee, it seems that such committee will be subject to the provisions of s. 56, and Sched. I. Pts. III. and IV., to this Act. Note that s. 89 repeals ss. 200 and 201, and so much of Sched. I. to the Public Health Act, 1875, as relates to committees.

As to the clerk of the parish council when acting as a parochial committee, see s. 17 (5).

Complaint by parish council of default of district council.

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, 1875, and may appoint a person to perform the duty mentioned in the order, and upon such appointment sections two hundred and ninety-nine to three hundred and two of the Public Health Act, 1875, shall apply with the substitution of the county council for the Local Government Board.

38 & 39 Vict.
c. 55.

(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.

Sewers and water supply.—By P. H. A. 1875, s. 15, every local authority [whether urban or rural] shall keep in repair all sewers belonging to them, and shall cause to be made such sewers as may be necessary for draining their district; and by s. 13 all existing and future sewers are vested in the local authority.

By s. 51, any rural authority may provide their district or any "contributory place" (*vide infra*, p. 244), or any part of such contributory place with a supply of water, and for this purpose may (1) construct and maintain waterworks; (2) hire and (with the sanction of the Local Government Board) purchase waterworks, or

Sect. 16.

any rights &c., of any water company; and (3) contract with any person for the supply of water. And by s. 299, on default of the local authority in providing or maintaining sewers, or in providing water supply (where danger to health arises, and a proper supply can be got at a reasonable cost), complaint may be made to the Local Government Board, who may, after inquiry, make an order for the performance of the duty; and that order may be enforced either by mandamus or by appointment of some person to perform the duty. And the costs of performing the duty, together with the remuneration of the person appointed and the costs of the proceedings, are to be paid by the authority in default. By s. 300, if the defaulting authority refuse to pay the expenses, &c., the Local Government Board may appoint a person with power to levy the necessary sum out of the local rate. By ss. 301, 302, the Board may borrow to defray the expenses, &c., and may charge the local rate with the repayment of the loan and interest, and the loan and interest are made a debt due from the defaulting authority.

By the Public Health (Water) Act, 1878, s. 3, it is the duty of every rural sanitary authority to see that every occupied dwelling-house within their district, has within a reasonable distance an available supply of wholesome water, sufficient for the consumption and use for domestic purposes of the inmates. And the rural authority have powers in certain cases to require the owners to provide a supply.

The right of complaint to the county council given by this Act, constitutes an alternative remedy, on the default of the sanitary authority.

As to the powers of the parish council with regard to a supply of water, see s. 8 (1) (e): see also s. 8 (3). They have no compulsory powers to acquire land for the purpose of water supply: s. 9 (15). As to open ditches, drains, &c., see s. 8 (1) (f).

Complaint to county council, and inquiry.—Where the district council have the powers of a parish council, under s. 36 (4), there can be no complaint under this section; for it is impossible that the council, acting in one capacity, should complain of its own default when acting in another capacity. In a rural parish not having a separate parish council, the parish meeting may make the complaint: s. 19 (8).

No provision is to be found in the Act as to the manner of making the complaint, or holding the inquiry (whether by the appointment of a committee or otherwise); but see s. 83.

Special provision is made for the case of a rural district situated in two or more counties by s. 63 (2).

Public Health Acts.—For the group of Acts included under this “collective title,” see Sched. II. to the Short Titles Act, 1892.

Sect. 16.

Highways.—The powers of highway authorities are given to rural district councils by s. 25 (1).

Transfer of powers to county council.—The powers will be exercised subject to the provisions of s. 63, as to expenses, &c.

Contributory place.—For the parishes, drainage districts, or other areas, included under this term, see P. H. A. 1875, s. 229, *infra*, p. 243.

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

Parish officers and parish documents.

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

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

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

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

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

(7.) All documents required by statute or by standing orders of Parliament to be deposited with the parish clerk of a rural parish shall, after the election of a parish council, be deposited with the clerk, or, if there is none, with the

Sect. 17.

chairman, of the parish council, and the enactments with respect to the inspection of, and taking copies of, and extracts from, any such documents shall apply as if the clerk, or chairman, as the case may be, were mentioned therein.

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

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

Remuneration.—Any person holding any paid office under the council is disqualified for being a member or chairman of the council: s. 46 (1) (d).

Clerk of the parish council.—The parish council may appear before any Court, or in any legal proceeding by their clerk, or any authorized officer: Sched. I. Pt. II. r. 16.

Assistant overseer.—As to his appointment, see s. 5 (1), and the notes. If there is an existing vestry clerk, while he holds

office, the assistant overseer will not be clerk of the parish council : Sect. 17.
s. 81 (2).

Collector of poor rates.—He may be appointed by the guardians of the union on obtaining an order of the Local Government Board under 7 & 8 Vict. c. 101, s. 62.

Vestry clerk.—He might be appointed by the vestry under s. 6 of the Vestries Act, 1850. That Act applied only to parishes which had a population of more than 2,000, and in which it had been put in force by an order of the Local Government Board. Sections 6—9 of the Vestries Act, 1850, so far as they relate to parish meetings under this Act, are repealed by s. 89.

Parochial committee.—See s. 15.

Treasurer.—As to the signature of cheques, &c., see Sched. I. Pt. II. r. 14 ; as to audit of accounts, &c., see s. 58.

The making of regulations as to the security will be one of the duties to be performed by the county council under s. 83.

Documents.—Special provision may be made in the case of a parish “divided by this Act” : s. 36 (3). As to parishes which are grouped, see s. 38 (3).

As to inspection by parochial electors, see s. 58 (4). As to the provision of parish books, &c., see s. 6 (1) (c).

Note that s. 17 (7) applies only to a parish having a parish council ; in every other case the Act introduces no change.

By Standing Orders of Parliament, in the case of railway and other bills, copies of the plans and sections relating to each parish in which works are to be made, or lands are to be taken, are to be deposited with the parish clerk. As to the custody and inspection of such documents, see 7 Will. 4 and 1 Vict. c. 83 ; et cf. 8 & 9 Vict. c. 20, s. 9.

Registers.—Registers of baptisms and burials are to be kept by the rector, vicar, &c., in a dry, well-painted iron chest, to be provided at the expense of the parish, and to be kept constantly locked in some dry, safe, and secure place, within the residence of such rector, &c., if resident within the parish, or in the parish church or chapel : see 52 Geo. 3, c. 146, s. 5. Registers of marriages are to be kept by the rector, vicar, &c., with the registers of burials : see 6 & 7 Will. 4, c. 86, s. 33 ; which Act by s. 1 repeals so much of 52 Geo. 3, c. 146, as relates to marriages.

Inquiry by county council.—The Act contains no further directions as to the mode, or time, for inquiring into the custody of books, &c. : provides no penalty for disobeying the orders of the

Sect. 17.

county council, and prescribes no method of enforcing those orders.

A copy of every order must be sent to the Local Government Board : s. 71.

Parish wards.

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 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.

Division of parish into parish wards.—The division under this section is for the purpose of election of parish councillors only, and for all other purposes there will be one parish meeting in a parish so divided. A copy of the order must be sent to the Local Government Board, and perhaps also to the Board of Agriculture, under s. 71. An order for the division, if it is to affect the first election, should be made, if practicable, before July 1, 1894, and may be made on an application by the vestry, or one-tenth of the ratepayers : s. 84 (3). See also s. 83.

As to division of a parish into wards for the election of guardians and rural district councillors, see s. 60, and note to s. 24, *infra*, p. 97.

Sect. 18.

Election of councillors.—The term “election” includes both the nomination and the poll: s. 75 (2). The number of councillors for the whole parish may not be more than fifteen, nor less than five: s. 3 (1). As to elections generally, see s. 48. The persons entitled to attend the parish meeting for a parish ward will be the parochial electors registered in respect of qualifications in that ward: s. 49. As to the making of the register in parts for the parish wards, see s. 44 (3). A person may not subscribe a nomination paper or vote in more than one ward: s. 48 (2) (iii).

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:—

Provisions as to small parishes.

- (1.) At the annual assembly the parish meeting shall choose a chairman for the year;
- (2.) The parish meeting shall assemble not less than twice in each year;
- (3.) The parish meeting may appoint a committee of their own number for any purposes which, in the opinion of the parish meeting, would be better regulated and managed by means of such a committee, and all the acts of the committee shall be submitted to the parish meeting for their approval;
- (4.) All powers, duties, and liabilities of the vestry shall, except so far as they relate to the affairs of the church or to ecclesiastical charities, or are transferred by this Act to any other authority, be transferred to the parish meeting;
- (5.) The power and the duty of appointing the overseers, and of notifying the appointment, and the power of appointing and revoking the appointment of an assistant overseer, shall be transferred to and vest in the parish meeting, and the power

Sect. 19.

- given by this Act to a parish council of appointing trustees of a charity in the place of overseers or churchwardens, shall vest in the parish meeting;
- (6.) The chairman of the parish meeting and the overseers of the parish shall be a body corporate by the name of the chairman and overseers of the parish, and shall have perpetual succession, and may hold land for the purposes of the parish without licence in mortmain; but shall in all respects act in manner directed by the parish meeting, and any act of such body corporate shall be executed under the hands, or if an instrument under seal is required under the hands and seals, of the said chairman and overseers;
 - (7.) The legal interest in all property which under this Act would, if there were a parish council, be vested on the appointed day in the parish council shall vest in the said body corporate of the chairman and overseers of the parish, subject to all trusts and liabilities affecting the same, and all persons concerned shall make or concur in making such transfers (if any) as are requisite to give effect to this enactment;
 - (8.) The provisions of this Act with respect to the stopping or diversion of a public right of way, or the declaring of a highway to be unnecessary and not repairable at the public expense, and with respect to a complaint to a county council of a default by a district council, shall apply, with the substitution of the parish meeting for the parish council;
 - (9.) A rate levied for defraying the expenses of the parish meeting (when added to expenses under any of the adoptive Acts) shall not exceed sixpence in the pound in any local financial year;
 - (10.) On the application of the parish meeting the

county council may confer on that meeting any of the powers conferred on a parish council by this Act;

- (11.) Any act of the parish meeting may be signified by an instrument executed at the meeting under the hands, or, if an instrument under seal is required under the hands and seals, of the chairman presiding at the meeting and two other parochial electors present at the meeting.

Rural parish not having a separate parish council.—For the meaning of “rural parish,” see s. 1 (2), (3). In a rural parish co-extensive with a rural sanitary district there will be no parish council, but the district council will have the powers of the parish council, under s. 36 (4); and to such a parish s. 19 will not apply.

There will be a parish council in every rural parish with a population of 300 and upwards: as to the smaller parishes, see s. 1 (1), and the note to s. 38 (4). No parish can be grouped without the consent of the parish meeting: s. 1 (1) (b).

The “grouping order” may be made by the county council under s. 1 (1) and ss. 38, 40. As to the provisions to be contained in the grouping order, see s. 38.

In the case of a parish not having a separate parish council, s. 19 will apply until the parish is grouped, and, subject to the provisions of the grouping order, will apply *after* the grouping order is made. It seems that the order might direct that some of the powers given to a parish council by this Act might be given to the parish meeting of any parish grouped, and some to the council of the entire group: see s. 19 (10).

As to the proceedings of parish meetings, see Sched. I. Pts. I. and III.

Appointed day.—This will be, for the purpose of parish meetings in parishes not having a parish council, the day fixed for the first elections under this Act: see s. 84 (1), (4).

Annual assembly.—The proceedings may begin not earlier than 6 p.m.: see s. 2 (3). As to the use of a schoolroom, &c., see s. 4. As to the notice to be given of the meeting, see s. 51, and Sched. I. Pt. I. rr. 2, 3. The overseers will convene the first parish meeting: s. 78 (1); as to subsequent meetings, see s. 45.

No date is fixed for meetings other than the annual assembly.

Where there is a parish council, it will meet not less than four times in each year: Sched. I. Pt. II. r. 13.

Sect. 19.

Chairman for the year.—The Act contains no directions as to the mode of election; and there seems to be nothing to prevent the parish meeting from choosing as their chairman for the year a person not present at the annual assembly. Any one parochial elector may demand a poll: Sched. I. Pt. I. r. 7 (b).

If at any subsequent parish meeting the chairman for the year be absent, the meeting will choose their own chairman: s. 2 (4); see also Sched. I. Pt. I. r. 10.

A chairman may resign, and a retiring chairman is re-eligible: s. 47 (2), (3). As to casual vacancies, see s. 47 (4).

The chairman has a second or casting vote: Sched. I. Pt. I. r. 8.

As to the retirement of the first chairman, see s. 78 (3).

It seems to be intended, but is not expressly provided, that the chairman shall be chosen from among the parochial electors entitled to be present at the parish meeting: cf. s. 3 (8) as to the election of the chairman of the parish council.

Committee of parish meeting.—Except in cases coming under this section, the parish meeting have no power to appoint a committee.

On a motion as to delegation of powers to a committee, or as to the approval of the acts of the committee, any one parochial elector may demand a poll: Sched. I. Pt. I. r. 7 (b).

Powers exerciseable by vestry.—These are transferred to the parish council in larger parishes: s. 6 (1). For the meaning of the expression “affairs of the church” and of “ecclesiastical charity,” see s. 75 (2), *infra*, p. 201.

Certain powers of the vestry under the Highway Acts in *all* rural parishes are transferred to the district council: see s. 25 (1), which applies P. H. Act, 1875, s. 144, *infra*, p. 240.

Overseers and assistant overseers.—As to their appointment generally, see s. 5 (1) and the notes thereon. At the appointment by the parish meeting any one parochial elector may demand a poll: Sched. I. Pt. I. r. 7 (c).

If notice of the appointment of the overseers is not received by the guardians within three weeks after April 15, the guardians will make the appointment: s. 50.

In parishes which have a parish council, certain powers, &c. of overseers are transferred to the council: s. 6 (1) (c). There is no corresponding transfer in the case of parishes without a parish council: consequently the powers, &c. will remain vested in the overseers, subject to the alteration which may be made in their number under s. 5 (2) (a).

Appointment of trustees of a charity.—See s. 14 (2), (3), (8), and the notes. The appointment of trustees *by the vestry* is transferred to the parish meeting by s. 19 (4); cf. s. 14 (4). As to the demand of a poll, see Sched. I. Pt. I. r. 7 (d).

Incorporation of chairman and overseers.—Compare s. 3 (9), which incorporates the parish council; and s. 24 (7), which incorporates the district council.

For the purpose of the vesting of parish property, the churchwardens and overseers were incorporated by 59 Geo. 3, c. 12, s. 17.

As to the execution of instruments, compare sub-sections (6) and (11) of s. 19.

For the vesting of property in the parish council, see s. 5 (2).

Stopping of a public right of way, &c.—See s. 13 (1). It seems doubtful whether there is also a reference to s. 26 (4).

Complaint of default by district council.—See s. 16 (1). The word “complaint” is not used in s. 26 (4), though the proceedings by way of “petition” under that section are similar to the “complaint” under sect. 16 (1); but see also s. 63 (2). As to the demand of a poll, see Sched. I. Pt. I. r. 7 (a).

Expenses of parish meeting.—These will be payable out of the poor-rate, but must be distinguished on the demand-note: see s. 11 (4), (5). As to accounts and audit, see s. 58.

Where the county council, under s. 25 (1), postpone the transfer of the maintenance of highways to the district council, highway expenses will not be deemed to be expenses of the parish meeting: see s. 82 (2).

The “adoptive Acts” are enumerated in s. 7 (1). Note that in the limit of the rate levied by a parish council to sixpence in the pound, expenses under the adoptive Acts are excluded: see s. 11 (3). As to expenses where the area of the authority under any of the adoptive Acts extends into more than one parish, see s. 53 (2), (3).

The “financial year” in s. 19 (9), seems to mean the year ending March 31: see s. 58.

Application of parish meeting to county council.—As to the demand of a poll, see Sched. I. Pt. I. r. 7 (a).

The powers of the parish council, as to which an application by the parish meeting is most likely to be made, are to be found in s. 6 (1), (b), (c), (d), and ss. 8, 9, 10.

Execution of instrument.—Compare sub-sections (6) and (11); and the provisions of s. 3 (9), as to execution of instruments at a meeting of the parish council.

Sect. 19.

Note that under s. 19 (11), the instrument must be executed by "the chairman presiding at the meeting," and not necessarily by the "chairman for the year" appointed under s. 19 (1); and that it must be executed not merely by the persons specified, but also "at the meeting." If, therefore, the instrument cannot conveniently be drawn up at, or before, the meeting, the meeting must be adjourned for the purpose.

As to evidence of due execution of the instrument, see Sched. I. Pt. III. r. 4.

PART II.—GUARDIANS AND DISTRICT COUNCILS.

Election and qualification of guardians.

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

(1.) There shall be no ex-officio or nominated guardians:

See pp. 87, 88.

(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:

See note, p. 89.

(3.) The parochial electors of a parish shall be the electors of the guardians for the parish, and, if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward:

- (4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected : Sect. 20.
- (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 : *See note, p. 89.*
- (6.) The term of office of a guardian shall be three years, and one third, as nearly as may be, of every board of guardians shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected guardians. Provided as follows :—
- (a.) Where the county council on the application of the board of guardians of any union in their county consider that it would be expedient to provide for the simultaneous retirement of the whole of the board of guardians for the union, they may direct that the members of the board of guardians for that union shall retire together on the fifteenth day of April in every third year, and such order shall have full effect, and where a union is in more than one county, an order may be made by a joint committee of the councils of those counties ;
- (b.) Where at the passing of this Act the whole of the guardians of any union, in pursuance of an order of the Local Government Board, retire together at the end of every third year, they shall continue so to retire, unless the county council, or a joint committee of the county councils, on the application of the board of guardians or of any district council of a district wholly or partially within the union, otherwise direct :
- (7.) A board of guardians may elect a chairman or vice-chairman or both, and not more than two other persons, from outside their own body, but from *See note, p. 90.*

Sect. 20.

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.

Appointed day.—This seems to mean, in this section, the day fixed for the first elections under this Act: see s. 84 (1), (4). Note that until the guardians elected under this Act come into office, the persons who were guardians at the passing of the Act will continue in office, and, except for the purpose of filling casual vacancies, or electing additional guardians, no further elections will be held: s. 79 (8).

Guardians.—See the definition, cited in the note to s. 75 (1), *infra*, p. 199. The provisions of this part of the Act respecting guardians will apply to the administrative county of London, and to county boroughs: s. 30.

They will also apply to all urban districts, but in rural districts the district councillors will take the place of the guardians, and guardians, as such, will not be elected; all provisions of the Act as to qualification, election and term of office of guardians will apply to district councillors of a rural district: see s. 24 (3), (4).

The effect is that in urban districts and county boroughs there will be both guardians and district (or borough) councillors, and the same persons may or may not be elected to both offices: while in rural districts there will be no guardians, but the district councillors will act as such.

The Act does not of itself alter the existing number of guardians in each union; but an order for altering the boundary of a union may be made under s. 36 (6); and the county council may fix or alter the number of guardians or rural district councillors under s. 60 (1).

The Local Government Board had power to determine the number of guardians under 4 & 5 Will. 4, c. 76, ss. 38, 39 and 41, and 7 & 8 Vict. c. 101, s. 18; and to unite small parishes for the election of guardians, under 31 & 32 Vict. c. 122, s. 6.

Where a parish is "divided by this Act" into two or more

parishes, there must be one guardian (or district councillor) in each new parish: s. 79 (2).

Sect. 20.

Ex officio or nominated guardians.—By 4 & 5 Will. 4, c. 76, ss. 38, 39, and 7 & 8 Vict. c. 101, s. 24, justices resident in the union, and acting for the county in which the union, or any part of it, was situated, were *ex officio* guardians.

By s. 79 of the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), which Act applied only to the Metropolis, the Local Government Board had power to nominate as guardians persons selected from the justices for any county or place, resident in the union or parish, or from resident ratepayers assessed on a rateable value of not less than 40*l.* This section is now repealed by s. 89 of this Act. A special saving, for the constitution of the guardians in the city of Oxford, is contained in s. 60 (6).

Qualification and disqualification.—The Local Government Board had power to fix the qualification of guardians, which might not exceed 40*l.* rating: see 4 & 5 Will. 4, c. 76, s. 38; 30 & 31 Vict. c. 106, s. 4.

Compare the provisions of L. G. A. 1894, s. 23 (2), as to district councillors in urban districts, not being boroughs; and see as to district councillors in rural districts, s. 24 (4).

The repeal by s. 20 (2) applies to *qualifications* only; and the *disqualifications* created by other Acts remain in force. The disqualifications created by this Act are to be found in s. 46.

As to qualification by residence, and disqualification by marriage, see the notes on the corresponding clause as to the qualification of parish councillors, in s. 3 (1), (2).

As to the qualifications of a councillor of a borough, see Municipal Corporations Act, 1882, ss. 9, 11, 12, 39.

By 5 & 6 Vict. c. 57, s. 14, no person while holding the office of assistant overseer, nor any paid officer engaged in the administration of the laws for the relief of the poor, nor any person who, having been a paid officer, shall have been dismissed within five years previously from such office (under the provisions of 4 & 5 Will. 4, c. 76), shall be capable of serving as a guardian; and no person receiving any fixed salary or emolument from the poor rates in any parish or union shall be capable of serving as a guardian in such parish or union. It has been held that this section does not disqualify the clerk of a highway board or of a school board whose salary is paid out of the highway or school board fund: *R. v. Rawlins* [1885], 15 Q. B. D. 382.

See further, as to disqualification by holding a paid office, or being concerned in a contract with the board, s. 46 (1), *infra*.

Sect. 20.

By the Corrupt and Illegal Practices Prevention Act, 1883, ss. 3, 6 (3), and 43 (4), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 2, a person convicted of certain offences at a parliamentary, municipal, [or county council] election, is not capable during seven years from his conviction of holding any "public or judicial office;" and, by s. 64 of the Act of 1883, "public office" means "any office under the Crown, or under the charter of a city or municipal borough, or under the Acts relating to municipal corporations, or to the poor law, or under the Elementary Education Act, 1870, or under the Public Health Act, 1875, or under any Acts amending the above-mentioned Acts, or under any other Acts for the time being in force (whether passed before or after the commencement of this Act) relating to local government, whether the office is that of mayor, chairman, alderman, councillor, guardian, member of a board, commission, or other local authority in any county, city, borough, union, sanitary district, or other area, or is the office of clerk of the peace, town clerk, &c. . . . or is any other office to which a person is elected or appointed under any such charter or Act as above mentioned, and includes any other municipal or parochial office." And by the same section "judicial office" includes the office of justice of the peace and revising barrister. It seems clear that the disqualifications created by these Acts as to offences at elections will apply to the offices of parish councillor and district councillor.

As to the disqualification created by the Bankruptcy Act, 1883, s. 32, see note to s. 46 (1), *infra*, p. 150.

By the Public Bodies Corrupt Practices Act, 1889 (52 & 53 Vict. c. 69), s. 2, persons convicted of offences under that Act (which relates to the bribery, &c., of officers of public bodies) may be adjudged incapable of being elected or appointed to any "public office" for seven years, and on a second conviction may be adjudged to be for ever incapable of holding any "public office," and to be incapable for seven years of being registered as an elector, or voting at an election of members of parliament, or of members of any "public body." And by s. 7, "public body" means any county or borough council, "also any board, commissioners, select vestry, or other body which has power to act under and for the purposes of any Act relating to local government, or the public health, or to poor law, or otherwise to administer money raised by rates in pursuance of any public general Act," and "public office" means "any office or employment of a person as a member, officer, or servant of such public body."

Parochial electors.—The provisions of s. 20 apply to guardians in both urban and rural districts, in county boroughs, and in the administrative county of London: s. 30. The definition of “parochial electors” in *rural* parishes is given by s. 2 (1); and by s. 75 (2), 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. Note that the parochial electors in a rural parish will elect not guardians as such, but district councillors: s. 24 (3). As to the parochial electors in a parliamentary borough, see s. 44 (2).

Parish divided into wards.—See note to s. 24 (3), *infra*, p. 97.

Election of guardians.—For provisions as to elections, see s. 48; and as to rules relating to elections to be made by the Local Government Board, see s. 48 (2). If any difficulty arises as to elections, the county council may order a new election: s. 48 (5); see also as to the first elections, ss. 79, 80.

The provisions of 4 & 5 Will. 4, c. 76, as to the mode of electing guardians are repealed by s. 89 of this Act.

Term of office and retirement.—The parish councillors, by s. 3 (4); the councillors of rural districts, by s. 24 (4); and the councillors of urban districts other than boroughs, by s. 23 (6), will, like the guardians, go out of office on April 15th. This was the date fixed by P. H. A. 1875, Sched. II. Pt. I. rr. 55, 59, as to members of local boards, and by 14 & 15 Vict. c. 105, s. 2, as to guardians.

The parish councillors will be elected for one year only: s. 3 (3); but guardians and urban and rural district councillors will be elected for three years: see ss. 23 (6), 24 (4). The councillors of a municipal borough hold office for a like term, save that they retire on a different day: see Municipal Corporations Act, 1882, ss. 13, 52. There is a difference in the system of retirement to be noticed. Guardians (and rural district councillors) either retire simultaneously in every third year, or one-third of their number retire every year, in which case *all* the guardians (or councillors) for one-third of the number of the parishes or other areas in the union or district retire in each year, so that there is an election in each year in one-third only of the parishes, &c.: see s. 24 (6), s. 60 (2), (3). But in a municipal borough, one-third of the councillors elected for each ward (or for the whole borough if it is not divided into wards) retire each year; and there is consequently an election in every ward in each year: Municipal Corporations Act, 1882, s. 13 (2), (3).

Sect. 20. Urban district councillors are in a very similar position to borough councillors: see s. 23 (6) of this Act.

As to the first elections, and entry into office and retirement of guardians and district councillors, see ss. 79, 84 (1), (2).

Chairman and vice-chairman of guardians.—See also s. 59 (1), (2), and as to the chairman and vice-chairman of a rural district council, s. 24 (4). The Act does not prescribe any particular mode of election. For the qualification of guardians, see s. 20 (2). It seems that the additional guardians elected from outside the board, in rural districts, do not become members of the rural district council.

Names of
county dis-
tricts and dis-
trict councils.

21. As from the appointed day,—

- (1.) Urban sanitary authorities shall be called urban district councils, and their districts shall be called urban districts; but nothing in this section shall alter the style or title of the corporation or council of a borough:
- (2.) For every rural sanitary district there shall be a rural district council whose district shall be called a rural district:
- (3.) In this and every other Act of Parliament, unless the context otherwise requires, the expression “district council” shall include the council of every urban district, whether a borough or not, and of every rural district, and the expression “county district” shall include every urban and rural district whether a borough or not.

Appointed day.—See s. 84 (4).

Urban sanitary districts.—By P. H. A. 1875, s. 6, these include boroughs, and districts under improvement commissioners, or local boards.

But note that by s. 35 of this Act, save as specially provided, Pt. II. of this Act (which includes s. 21) shall not apply to county boroughs: consequently the council of a county borough will not be a district council, and a county borough will not be an urban district, within the meaning of this Act: cf. the language used in s. 32.

Special provision is made by s. 65 for the case of an improvement commission having any harbour powers, &c.

As to the effect of the change of name of the urban sanitary authority, see s. 85 (5). Sect. 21.

As to the style and title of boroughs, see Municipal Corporations Act, 1882, ss. 8, 10. For the definition of the term "borough," see the note *infra*, p. 198.

Rural sanitary district.—For the definition, see P. H. A. 1875, s. 9, set out *infra*, p. 239.

District councils and county districts.—The definitions of these terms follow out s. 100 of L. G. A. 1888, by which the terms "mean respectively any district council established for purposes of local government under an Act of any future Session of Parliament, and the district under the management of such council; and until such council is established mean respectively—

(a) As regards the provisions of this Act relating to highways and main roads, a highway authority, and highway area; and

(b) Save as aforesaid an urban or rural sanitary authority within the meaning of the Public Health Act, 1875, and the district of such authority." As to the adoption of these definitions in this Act, see s. 75 (1). As to the transfer of powers of highway authorities to rural district councils, see s. 25 (1), and the note.

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.

District council.—This includes the councils of all boroughs except county boroughs: see s. 21 (3), and s. 35. As applied to boroughs (not being county boroughs), it seems that the phrase "chairman of a district council" must be construed as meaning the mayor. By s. 155 of the Municipal Corporations Act, 1882, the mayor is *ex officio* a justice *for the borough*, and continues to be so, unless disqualified to be mayor, during the year next after he ceases to be mayor. The chairmen of the metropolitan vestries (other than those electing district boards), and of the district boards and the local board for Woolwich will also be *ex officio* justices: s. 31 (2).

The chairman of the county council is, during his tenure of office, a justice for the county: see L. G. A. 1888, s. 2 (5).

Sect. 22.

Personal disqualification.—By 50 & 51 Vict. c. 55, s. 17, a sheriff of a county cannot act as a justice of the peace for that county during his year of office. By 34 & 35 Vict. c. 18, s. 1, no person can be a justice for any county (not being a county of a city or of a town) in which he carries on the business of a solicitor or proctor: and where he carries on such business in a city or town being a county of itself, he is to be deemed to carry it on in the county within which such city or town or any part thereof is situate. By s. 2, a person shall be deemed to carry on business in the county, &c., in which he maintains an office or place of business: and “county” means and includes a riding or division having a separate commission.

Bankruptcy and conviction of certain offences at elections disqualify for the office of justice of the peace; but they also disqualify for the office of chairman of a district council, and need not be further noticed here: see s. 20 (2), s. 46 (1) (c), and the notes.

It must be remembered that by various statutes persons engaged in particular trades, &c., though not disqualified for being justices, are prohibited from hearing particular cases (*e. g.*, under the Truck Act and the Licensing Acts) in which they may be personally interested.

Justice of the peace for the county.—As to the meaning of the word “county,” see s. 75 (2), and the note, *infra*, p. 203.

Oaths to be taken by a justice.—These are the oath of allegiance, and the judicial oath: see 30 & 31 Vict. c. 72, s. 6. By s. 2, the form of the oath of allegiance is as follows:—

“I, ——, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors, according to law. So help me God.”

And by s. 4, the form of the judicial oath is:—

“I, ——, do swear that I will well and truly serve our Sovereign Lady Queen Victoria in the office of ——, and I will do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or ill-will. So help me God.”

These oaths must be taken (by s. 5 of the same Act) as soon as may be after acceptance of office, and may be taken before such officer as her Majesty may from time to time appoint, or before the Lord Chancellor, or in the Chancery or Queen’s Bench Division of the High Court, in open Court before one or more of the judges of such Court, or in open Court at the general or quarter sessions for the county, borough, or place in which the person taking the oaths acts as justice: see 34 & 35 Vict. c. 48, s. 2.

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

Sect. 23.

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 :
- (3.) The parochial electors of the parishes in the district shall be the electors of the councillors of the district, and, if the district is divided into wards, the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :
- (4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :
- (5.) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board :
- (6.) The term of office of a councillor shall be three years, and one-third, as nearly as may be, of the council, and if the district is divided into wards one-third, as nearly as may be, of the councillors for each ward, shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected councillors. Provided that a county council may on request made by a resolution of an urban district council, passed by two-thirds of the members

Sect. 23.

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.

Urban district.—This is defined in s. 21 (1).

Ex officio or nominated members.—The Public Health Act, 1875, s. 312, preserved the enactments in certain local Acts relating to the qualifications, &c. of *ex officio* members of urban authorities; but that section is repealed by s. 89 of this Act.

Sect. 342 of the Act of 1875 also contained special provisions as to the constitution of the local board of the Oxford district; but that board was abolished, and the area of the city extended, and constituted a county borough by 52 & 53 Vict. c. xv. As to Aldershot, see s. 59 (6). See also P. H. A. 1875, s. 339.

Qualification of urban district councillors.—This section does not apply to boroughs, so that a woman will still be disqualified for being a councillor in a borough: see Municipal Corporations Act, 1882, ss. 11 (3), 63; and *Beresford-Hope v. Lady Sandhurst* [1889], 23 Q. B. D. 79. A woman may be a rural district councillor: s. 24 (4). As to the qualification formerly required by members of local boards, see P. H. A. 1875, s. 8, and Sched. II. Pt. I. rr. 3, 4, 5, 64; and note that the whole of that schedule is repealed by L. G. A. 1894, s. 89.

The repeal effected by s. 23 (2) applies only to qualifications, and disqualifications created by any other Act remain in force. The disqualifications contained in this Act are to be found in s. 46. As to disqualifications consequent on conviction of corrupt practices at elections, &c., see note to s. 20 (2), *supra*, p. 88. As to disqualifications under s. 32 of the Bankruptcy Act, 1883, see note to s. 46 (1), *infra*, p. 150. As to qualification by residence, and as to disqualification by marriage, see notes to s. 3 (1), (2).

Parochial elector.—For the definition of this term as to rural parishes, see s. 2 (1). By s. 75 (2), when used with reference to a parish in an urban district, or in the county of London, or any county borough, it means any person who would be a parochial elector of the parish if it were a rural parish.

As to the register of electors in a parliamentary borough, see s. 44 (2).

District divided into wards.—The Local Government Board might, by the Provisional Order constituting a local government district, divide that district into wards; and they might divide a

district already formed, or alter the wards from time to time: see P. H. A. 1875, s. 271, and Sched. II. Pt. I. r. 6. Note that Sched. II. is now repealed by s. 89 of this Act.

A county council have also power to divide an urban district into wards, under L. G. A. 1888, s. 57, set out *infra*, p. 254. A saving for the existing division into wards and number of members is contained in s. 89 of this Act. As to divisions into wards for the first elections under this Act, see s. 84 (3), (4). As to the framing of the register in parts for wards, see s. 44 (3).

Election of councillors.—As to elections generally, see s. 48; and as to rules, relating to elections, to be made by the Local Government Board, see s. 48 (2).

If difficulty arises, the county council may order a new election: s. 48 (5). See also s. 59 (5); and as to the first elections, ss. 79, 80, and s. 84 (1), (2); and as to the retirement of persons who are members of sanitary authorities at the passing of the Act, see s. 79 (8).

As to the election of the chairman and vice-chairman, see s. 59 (1), (2). The chairman will be *ex officio* a justice of the peace for the county: s. 22. Special provision is made by s. 65 for the election of improvement commissioners having harbour powers.

Term of office.—The provisions of the first clause of sub-s. (6) are practically identical with those in P. H. A. 1875, Sched. II. Pt. I. rr. 55, 59, which are repealed by s. 89 of this Act. With the proviso in s. 23 (6) compare s. 20 (6) (a), which relates to guardians, and see the note on “Term of office,” *supra*, p. 89.

24.—(1.) The district council of every rural district shall consist of a chairman and councillors, and the councillors shall be elected by the parishes or other areas for the election of guardians in the district. Rural district councils.

(2.) The number of councillors for each parish or other area in a rural district shall be the same as the number of guardians for that parish or area.

(3.) The district councillors for any parish or other area in a rural district shall be the representatives of that parish or area on the board of guardians, and when acting in that capacity shall be deemed to be guardians of the poor, and guardians as such shall not be elected for that parish or area.

(4.) The provisions of this Act with respect to the

Sect. 24.

qualification, election, and term of office and retirement of guardians, and to the qualification of the chairman of the board of guardians, shall apply to district councillors and to the chairman of the district council of a rural district, and any person qualified to be a guardian for a union comprising the district shall be qualified to be a district councillor for the district.

(5.) Where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall, save as otherwise provided by or in pursuance of this or any other Act, be as from the appointed day a rural district;

Provided that where the number of councillors of any such district will be less than five, the provisions, so far as unrepealed, of section nine of the Public Health Act, 1875, with respect to the nomination of persons to make up the members of a rural authority to five, shall apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day, and, if they so direct, the councillors of the district shall be entitled, so far as regards those affairs, to sit and act as members of that district council, but a separate account shall be kept of receipts and expenses in respect of the district, and the same shall be credited or charged separately to the district.

(6.) The said provisions of section nine of the Public Health Act, 1875, shall apply to the district council of a rural district to which they apply at the passing of this Act.

(7.) Every district council for a rural district shall be a body corporate by the name of the district council, with the addition of the name of the district, or if there is any doubt as to the latter name, of such name as the county council direct, and shall have perpetual succession and a

common seal, and may hold land for the purposes of their powers and duties without licence in mortmain.

Rural district council.—See s. 21 (2), (3), and P. H. A. 1875, s. 9, set out *infra*, p. 239. For the powers of rural district councils, see ss. 25—27; and as to expenses, see s. 29. As to meetings and proceedings, see s. 59. As to transfer of existing officers, see s. 81.

Chairman.—The chairman will be elected by the councillors, and may be elected from outside the councillors: s. 59 (1). As to the appointment of a vice-chairman, see s. 59 (2). The chairman will be *ex-officio* a justice of the peace for the county: s. 22. If the chairman is elected “from outside the councillors,” under s. 59 (1), it seems that he will not be one of the representatives on the board of guardians under s. 24 (3). For there is nothing in s. 59 (1) to make a chairman of a district council so elected one of the councillors; and the express provision in s. 20 (7) that a chairman, &c., of a board of guardians elected from outside the board shall be an additional guardian and member of the board implies that the chairman of a district council elected from outside the councillors will *not* be one of the councillors, who are to be deemed to be guardians of the poor under s. 24 (3). Moreover, the rural district council consists of “a chairman and councillors,” and the councillors alone are to be deemed to be guardians: s. 24 (1), (3); and a chairman elected by the council from outside the councillors cannot be said to be the representative of any particular “parish or other area” in the rural district in the sense in which those words are used in s. 24 (3), and the effect of giving him a seat on the board of guardians would be to negative the provisions of s. 24 (2) as to the number of guardians.

Councillors elected by parishes.—The county council have power to fix or alter the number of rural district councillors, and for that purpose may add parishes together, or divide parishes into wards: s. 60 (1); and it will be the duty of the county council to exercise such powers as are requisite for bringing the Act into operation: s. 83.

The Local Government Board have power to divide a parish into wards for the election of guardians, and to alter such division from time to time, under the Divided Parishes and Poor Law Amendment Acts, 1876 and 1882; and had formerly power to divide a parish situated partly within an urban district, under P. H. A. 1875, s. 9, but that part of that section is now repealed by s. 89 of this Act. And see, as to such a parish, s. 36 (1).

Sect. 24.

They have also power to unite small parishes for the election of guardians, under 31 & 32 Vict. c. 122, s. 6. This power must be distinguished from the "grouping" of parishes for the purposes of parish councils, under L. G. A. 1894, s. 1.

The division of a parish into parish wards for the election of parish councillors under s. 18 must be distinguished from the division into wards for the election of guardians.

As to division into wards for the first elections under this Act, see s. 84 (3), (4).

Number of guardians.—It seems that the number of rural district councillors at the first election will be the same as the *existing* number of guardians, subject to any alteration that may be made by the county council under s. 60 (1). As to the determination of the number of guardians by the Local Government Board, see 4 & 5 Will. 4, c. 76, ss. 38, 39 and 41; and 7 & 8 Vict. c. 101, s. 18; and note the repeals of parts of the former Act by s. 89 of this Act.

Qualification, election and term of office.—See notes to s. 20; and as to the qualification of a guardian, see s. 20 (2). As to the election and retirement of the first rural district councillors, see s. 79 (1)—(5); and as to the continuance in office of the existing members of rural sanitary authorities, see s. 79 (8).

The county council have power to remove difficulties at the first election: s. 80; and in certain cases may order a new election: s. 48 (5); see also s. 59 (5).

Qualification of chairman of guardians.—See s. 20 (2) (7).

Appointed day.—This will be, for the purpose of elections, the day fixed for the first elections under this Act; and, for the purpose of the powers, &c., of the district councils, the day on which the first elected councillors come into office: see s. 84 (1), (2), (4).

Rural sanitary district in more than one county.—This case is specially directed to be considered by a joint committee of the county councils, who may make an order for the division or alteration of the boundary of the district or the union with other districts: see s. 36 (1), (11), (13); and L. G. A. 1888, s. 57, *infra*, p. 254. Whether such an order be made or not, it seems that the division effected by s. 24 (5) will operate in any event as from the appointed day; but the division will not, apparently, operate as a division of the union for poor law purposes. The county councils have power to divide the union, by s. 36 (6); and see also s. 60 (3).

As to the powers of the Local Government Board in relation to alteration of rural sanitary districts, see P. H. A. 1875, s. 270.

As to the transfer of existing officers in the case of a rural sanitary district divided by L. G. A. 1894, see s. 81 (5).

Sect. 24.

Nomination of members of rural authority.—Part of P. H. A. 1875, s. 9, is repealed by s. 89 of this Act; the part remaining in force is set out *infra*, p. 239. The repealed provisoes prohibited a guardian representing a parish in an urban district from acting or voting as a member of the rural authority.

Incorporation of rural district council.—With s. 24 (7) compare s. 3 (9), which incorporates the parish council; and L. G. A. 1888, s. 79 (1), which incorporates the county council.

A doubt as to the name of the rural district council might arise in the case of a rural sanitary district situate in more than one county: see s. 24 (5). The fixing of the name will be one of the duties to be performed by the county council before the appointed day under s. 83. A district council may, with the sanction of the county council, change their name: s. 55 (3).

Common seal.—As to the cases in which the use of a seal is necessary, see note to s. 3 (9), *supra*, p. 12.

25.—(1.) As from the appointed day, there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of the rural sanitary authority in the district, and of any highway authority in the district, and highway boards shall cease to exist, and rural district councils shall be the successors of the rural sanitary authority and highway authority, and shall also have as respects highways all the powers, duties, and liabilities of an urban sanitary authority under sections one hundred and forty-four to one hundred and forty-eight of the Public Health Act, 1875, and those sections shall apply in the case of a rural district and of the council thereof in like manner, as in the case of an urban district and an urban authority. Provided that the council of any county may by order postpone within their county or any part thereof the operation of this section, so far as it relates to highways, for a term not exceeding three years from the appointed day or such further period as the Local Government Board may on the application of such council allow.

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

See p. 101, 102

38 & 39 Vict.
c. 55.

Sect. 25.*See note, p. 102*

(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.

*See note, p. 103*51 & 52 Vict.
c. 41.

(3.) Where a highway authority receives any contribution from the county council towards the cost of any highway under section eleven, sub-section (10), of the Local Government Act, 1888, such contribution may be made, subject to any such conditions for the proper maintenance and repair of such highways, as may be agreed on between the county council and the highway authority.

See note, p. 103

(4.) Where the council of a rural district become the highway authority for that district, any excluded part of a parish under section two hundred and sixteen of the Public Health Act, 1875, which is situate in that district, shall cease to be part of any urban district for the purpose of highways, but until the council become the highway authority such excluded part of a parish shall continue subject to the said section.

(5.) Rural district councils shall also have such powers, duties, and liabilities of urban sanitary authorities under the Public Health Acts or any other Act, and such provisions of any of those Acts relating to urban districts shall apply to rural districts, as the Local Government Board by general order direct.

See note, p. 102

(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.

Sect. 25.

Appointed day.—This will be the day on which the district council comes into office: s. 84 (2), (4).

Powers, duties, and liabilities.—These terms are defined by L. G. A. 1888, and the definitions are adopted by this Act: see s. 75 (1) and notes thereon, *infra*, p. 200. General provisions as to powers and duties transferred are contained in s. 67. See also, as to current rates, s. 85; as to existing securities and discharge of liabilities, s. 86; as to existing bye-laws, orders, and regulations, s. 87; and as to pending actions and contracts, s. 88. As to a rural sanitary district situated in more than one county, see s. 24 (5). Existing officers are transferred by s. 81, and special provision is made for the case of a rural sanitary district divided by the Act: see s. 81 (5).

Rural sanitary authorities.—These are defined in P. H. A. 1875, s. 9, set out *infra*, p. 239.

Highway authority.—The definition of this term in L. G. A. 1888, s. 100, which is adopted by s. 75 of this Act, is as follows:—“The expression ‘highway authority’ means, as respects an urban sanitary district, the urban sanitary authority, and 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.”

In every urban sanitary district the urban authority were, to the exclusion of all other persons, the highway authority, by P. H. A. 1875, s. 144. Consequently, there is in this Act no transfer, relating to urban districts, corresponding to the transfer, under s. 25 (1), of the powers of the highway authority in *rural* districts.

Highway districts might be constituted under the Highway Acts, 1862 and 1864, and in that case consisted of way-wardens elected in each parish in the district, and of county justices resident in the district.

By the Highways and Locomotives (Amendment) Act, 1878, ss. 3—5, the rural sanitary authority of a district coincident with a highway district, formed under the Acts of 1862 and 1864, might be authorized by the quarter sessions to exercise all the powers of the highway board.

Sect. 25.

Under the Highway Act, 1835, s. 6, a highway surveyor was to be appointed by the vestry for every parish maintaining its own highways; but by s. 18, in a parish with a population of over 5,000, a board might be formed for the parish, elected by the vestry. The powers of the surveyor became vested in the board if one was elected under that section, or if the parish was included in a district formed under the Acts of 1862 and 1864.

Under the Highway Act, 1835, ss. 13—15, parishes might be combined in districts under a joint surveyor.

A paid surveyor of highways will be an "existing officer," who will be transferred under L. G. A. 1894, s. 81 (1), and may be entitled to compensation under s. 81 (7). Special provision is made for highways not in a proper state of repair at the time of transfer by s. 82 (1). Highway expenses are made general expenses of the rural district council: s. 29. For provision as to expenses, in case the operation of s. 25 is postponed, see s. 82 (2). A copy of the order for postponement must be sent to the Local Government Board: s. 71. As to the appointment by the district council of committees for the purposes of Highway Acts, see s. 56 (1). As to the retirement of persons who were members of highway boards at the passing of the Act, see s. 79 (8).

Powers of an urban sanitary authority.—Sections 144—148 of P. H. A. 1875, are set out *infra*, p. 240. Note that the effect of applying s. 144 to rural district councils is (*inter alia*) to transfer certain powers of the vestry under the Highway Acts to the district council, and not to the parish council. Cf. the exceptions in s. 6 (1) (a) (ii), and s. 19 (4) of this Act.

By P. H. A. 1875, s. 276, the Local Government Board have power, on the application of the authority of any rural district, or of the ratepayers representing one-tenth of the rateable value of such district, or of any contributory place therein, to declare any provisions of that Act in force in urban districts, to be in force in such rural district or contributory place, and may invest such authority with all or any of the powers, rights, duties, capacities, liabilities, and obligations of an urban authority under that Act. (For the meaning of "contributory place," see P. H. A. 1875, s. 229, *infra*, p. 243.) And by the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), s. 5, power is given to the Local Government Board to extend any of the provisions of that Act to rural districts, in like manner as under P. H. A. 1875, s. 276.

Highway repairable *ratione tenuræ*.—It seems that, apart from this section, the obligation to repair is enforceable in the first instance against the occupier, who has a remedy over against the

owner: *Baker v. Greenhill* [1842], 3 Q. B. 148. For proceedings by which highways repairable *ratione tenuræ* may become repairable by the parish, see 5 & 6 Will. 4, c. 50, s. 62; 25 & 26 Vict. c. 61, s. 35; 27 & 28 Vict. c. 101, s. 24.

Contribution from county council.—Under L. G. A. 1888, s. 11 (10), the county council may, if they think fit, contribute towards the costs of the maintenance, repair, enlargement and improvement of any highway or public footpath in the county, although the same is not a main road. With this section, relating to *ordinary highways*, compare the provision as to main roads in the Highways and Locomotives Amendment Act, 1878, s. 13, by which “one-half of the expenses incurred . . . by the highway authority in the *maintenance*” of a main road were to be paid to the highway authority by the county council. On that section it was held that “*maintenance*” did not include the cost of converting a macadamized road into a paved road: *Leek Improvement Commissioners v. Justices of Stafford* [1888], 20 Q. B. D. 794. It was, apparently, in consequence of this decision that the words “*improvement, and enlargement,*” &c., were inserted in L. G. A. 1888, s. 11 (1), which related to main roads, and in s. 11 (10), which related to other highways. But the decision would seem to be applicable to the last words of s. 25 (3) of this Act.

By the Highways and Bridges Act, 1891 (54 & 55 Vict. c. 63), further power was given to county councils and highway authorities to make agreements in relation to the construction, reconstruction, alteration or improvement, or the freeing from tolls, of any main road or other highway, or of any bridge (including the approaches thereto) within the jurisdiction of any of the parties to the agreement; and in that Act, by s. 6, “*highway*” includes any public bridle-path or footway.

Excluded part of parish.—By P. H. A. 1875, s. 216, it is enacted as follows:—“Where part of a parish is included within an urban district, and the excluded part was before the constitution of that district liable to contribute to the highway rates for such parish, such excluded part shall (unless in the case of an urban district constituted before the passing of this Act, a resolution deciding that such excluded part should be formed into a separate highway district has been passed in pursuance of the Local Government Act (1858) Amendment Act, 1861, or unless such excluded part has been included in a highway district under the Highway Acts), for all purposes connected with the repairs of highways and the payment of highway rates, be considered to be and be treated as forming part of such district.”

Sect. 25.

And by the same section, and 45 & 46 Vict. c. 27, s. 9, on a resolution of the owners and ratepayers of the excluded part, that part might be made a separate highway parish.

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

26.—(1.) It shall be the duty of every district council to protect all public rights of way, and to prevent as far as possible the stopping or obstruction of any such right of way, whether within their district or in an adjoining district in the county or counties in which the district is situate, where the stoppage or obstruction thereof would in their opinion be prejudicial to the interests of their district, and to prevent any unlawful encroachment on any roadside waste within their district.

(2.) A district council may with the consent of the county council for the county within which any common land is situate aid persons in maintaining rights of common where, in the opinion of the council, the extinction of such rights would be prejudicial to the inhabitants of the district; and may with the like consent exercise in relation to any common within their district all such powers as may, under section eight of the Commons Act, 1876, be exercised by an urban sanitary authority in relation to any common referred to in that section; and notice of any application to the Board of Agriculture in relation to any common within their district shall be served upon the district council.

39 & 40 Vict.
c. 56.

(3.) A district council may, for the purpose of carrying into effect this section, institute or defend any legal proceedings, and generally take such steps as they deem expedient.

(4.) Where a parish council have represented to the district council that any public right of way within the district or an adjoining district in the county or counties in which the district is situate has been unlawfully stopped or obstructed, or that an unlawful encroachment has taken place on any roadside waste within the district, it shall be the duty of the district council, unless satisfied that the

allegations of such representation are incorrect, to take proper proceedings accordingly; and if the district council refuse or fail to take any proceedings in consequence of such representation, the parish council may petition the county council for the county within which the way or waste is situate, and if that council so resolve the powers and duties of the district council under this section shall be transferred to the county council.

(5.) Any proceedings or steps taken by a district council or county council in relation to any alleged right of way shall not be deemed to be unauthorized by reason only of such right of way not being found to exist.

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

(7.) Nothing in this section shall prejudice any powers exercisable by an urban sanitary authority at the passing of this Act, and the council of every county borough shall have the additional powers conferred on a district council by this section.

District council.—Note that this term, by s. 21 (3), includes the council of every rural district, and of every urban district, whether a borough or not, unless it be a county borough: see s. 35; hence the special reference to county boroughs in s. 26 (7).

Right of way.—As to the powers of the parish council to acquire a right of way, see s. 8 (1) (g). For their powers with regard to the stopping of a public right of way and the repair of footpaths, see s. 13.

The effect of sub-sections (1) and (4) of s. 26 appears to be that where the urban, or rural, district is situated in one county, neither the district council under sub-section (1), nor the parish council under sub-section (4), can take proceedings as to a right of way in another county. But where the district is in two counties, proceedings can be taken under either sub-section as to a right of way in an adjoining district in either county.

Roadside wastes.—By the L. G. A. 1888, s. 11 (1), the entire maintenance of main roads is vested in the county council, and the county council have the same power as a highway board for asserting the rights of the public to the use and enjoyment of the roadside wastes.

Sect. 26.

Roadside wastes adjoining a main road do not vest in the county council under L. G. A. 1888, s. 11 (6): see *Curtis v. Kesteven County Council* [1890], 45 Ch. D. 504, in which case it was held that the county council had no power to dispose of the herbage.

Note that under s. 26 (1) and (4) proceedings can be taken as to roadside wastes which are “*within the district*” only.

Rights of common.—It seems that a district council may assist in maintaining rights of common over land which is not within its own district, or which is not within the county of which the district forms part.

Under s. 8 of the Commons Act, 1876, notice of any application under that Act in relation to a common situated wholly or partly in, or within six miles of, any “town” [*i.e.*, an urban district with not less than 5,000 inhabitants], is to be served on the urban sanitary authority of the town; and that authority may appear on the holding of any local inquiry; may undertake to contribute towards the maintenance of recreation grounds, paths or roads, &c., or to pay compensation in respect to rights of commoners for the purpose of securing greater privileges for their town; may purchase rights of common, &c.; may make an application for the regulation of the common, and may be invested with powers of management. (The powers of the Inclosure Commissioners are now vested in the Board of Agriculture: see 45 & 46 Vict. c. 38, s. 48; 52 & 53 Vict. c. 30, s. 2.)

Notices of application to the Board of Agriculture in relation to a common must also be served on the parish council: see s. 8 (4) of this Act.

Legal proceedings.—The Act is silent as to the liability or power of the district council to pay costs of the other parties to the legal proceedings, in the event of a decision against the district council.

As to the payment of expenses incurred under this section by urban district councils, see s. 28; and as to expenses incurred by rural district councils, see s. 29.

Representation by parish council.—It seems doubtful whether in a rural parish not having a separate parish council, the parish meeting will have the powers of the parish council for this purpose: see s. 19 (8).

It seems to be intended that the representation made by the parish council under s. 26 (4), as to rights of way, should be made to the council of the district in which the parish is included. But if the district council take no proceedings, the petition of the parish council must be presented, not necessarily to the council of their own county, but to the council of the county in which the way is

situate. And it seems clear that s. 63 (2) does not apply to a "petition" under s. 26 (4).

Sect. 26.

Transfer of powers to county council.—The expenses incurred by the county council in the exercise of the powers transferred will be charged against the district council under s. 63 (1).

Right of way not found to exist.—The expenses incurred by the district, or county, council will be deemed to have been legally incurred, though the legal proceedings be ill founded.

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 licences for passage brokers and emigrant runners ;
- (e) the abolition of fairs and alteration of days for holding fairs ;

(f) the execution as the local authority of the Acts relating to petroleum and infant life protection ; when arising within a county district, shall be transferred to the district council of the district.

(2.) As from the appointed day, the powers, duties, and liabilities of quarter sessions in relation to the licensing of knackers' yards within a county district shall be transferred to the district council of the district.

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

Appointed day.—This will be, in the case of boroughs, November 1, 1894 ; and, in the case of other district councils, the day on which the first elected councillors come into office : s. 84 (2), (4).

Transfer of powers, duties, and liabilities.—For the meaning of these words, see note to s. 75 (1), *infra*, p. 200.

This section applies to a county borough as if it were an urban district : and the powers, &c., are transferred to the borough council : s. 32.

Sect. 27.

Expenses incurred under s. 27, by urban or rural district councils, are provided for by ss. 28, 29. And in a county borough they will be defrayed out of the borough rate: see ss. 28, 32.

It will probably be convenient, in many cases, to exercise the powers transferred, under s. 27, by a committee appointed under s. 56; or (in the case of boroughs) under the Municipal Corporations Act, 1882, s. 22.

County district.—See s. 21 (3), and the note.

Licensing of gangmasters.—By the Agricultural Gangs Act, 1867 (30 & 31 Vict. c. 130), s. 3, a “gangmaster” means “any person, whether male or female, who hires children, young persons, or women, with a view to their being employed in agricultural labour on lands not in his own occupation: and, until the contrary is proved, any children, &c. employed in agricultural labour on lands not in the occupation of the person who hired them shall be deemed to have been hired with the aforesaid view.” And “child” means a child under the age of thirteen; “young person” means a person of the age of thirteen and under the age of eighteen; and “woman” means a female of the age of eighteen or upwards.

By s. 4 of the same Act (as amended by 36 & 37 Vict. c. 67, s. 16) no child under the age of ten may be employed in any “agricultural gang”: no females may be employed in the same gang with males: and no females may be employed under a male gangmaster unless a female licensed to act as gangmaster is also present with that gang.

By ss. 5 and 6 of the Act of 1867, no person shall act as gangmaster until he has obtained a licence, and no licence may be granted to any persons licensed to sell beer, spirits, or any other exciseable liquor. By s. 7, licences might be granted on due proof to the satisfaction of the justices in petty sessions that the applicant was “of good character, and a fit person to be entrusted with the management of an agricultural gang.” The justices might annex to the licence conditions limiting the distances within which children employed were to be allowed to travel on foot to their work. By s. 8, a licence is in force for six months only, and may be renewed on similar proof to that on which an original licence is granted; and by s. 9, a fee of one shilling shall be charged in respect of each grant or renewal. (These fees will now be paid to the district council: see s. 27 (3) of this Act.)

By s. 10 of the Agricultural Gangs Act, 1867, it is provided that on the conviction of a gangmaster of any offence against the Act, the justices “shall” endorse the licence: on a second conviction, the licence may (in addition to any other penalty) be withheld for

three months: and, on a third conviction, for two years: after a fourth conviction, the gangmaster shall be disqualified for holding or receiving a licence.

Sect. 27.

It seems to be intended by the L. G. A. 1894, that the judicial powers of the justices under s. 10 of the Act of 1867 should not be transferred to the district council: compare the express reservation of "judicial business" to the justices under L. G. A. 1888, s. 78 (2). But it seems also to be intended that the district council should not grant a licence to any person whose licence has been ordered by the justices to be withheld.

By s. 7 of the Agricultural Gangs Act, 1867, any person aggrieved by the *refusal* of a licence might appeal to the next practicable general or quarter sessions; and that court might grant a licence of the same validity as if granted by the justices in petty sessions.

There is no express enactment in L. G. A. 1894, either preserving or abolishing this right of appeal.

Pawnbrokers' certificates.—By the Pawnbrokers Act, 1872 (35 & 36 Vict. c. 93), s. 39, a pawnbroker's excise licence shall not be granted except on production of a certificate; but it is not necessary for any person being at the commencement of the Act a licensed pawnbroker, or for his executors, administrators, assigns, or successors, to obtain such a certificate. (This exemption extends to a new business established by such a licensed pawnbroker, or his successors, &c.: see *R. v. Commissioners of Inland Revenue*, [1891] 1 Q. B. 485.)

By s. 40, certificates were to be granted in the metropolitan police district by a magistrate sitting in a police court: in any place within the jurisdiction of a stipendiary magistrate, by that magistrate: and in other places by justices at petty sessions specially convened for the purpose.

It seems that the granting of certificates within the metropolitan police district, or the jurisdiction of any stipendiary magistrate, is unaffected by L. G. A. 1894, which transfers only the powers of "justices out of session."

By s. 41 of the Pawnbrokers Act, 1872, a certificate was to be in force for one year from its date.

By sect. 42, a person applying for the first time for a certificate must give twenty-one days' notice by post, by registered letter, to the overseers, and to the superintendent of police; and must also, within twenty-eight days before the application, affix a notice on the church doors for two consecutive Sundays. [It seems that L. G. A. 1894, has made no change as to the notice to be given to the overseers: see s. 5 (2), s. 6 (1).]

Sect. 27.

By s. 43 of the Pawnbrokers Act, 1872, a certificate shall not be refused except on the following grounds:—

- (1) That the applicant has failed to produce satisfactory evidence of good character :
- (2) That the shop in which he intends to carry on the business of a pawnbroker, or any adjacent house or place owned or occupied by him, is frequented by thieves or persons of bad character :
- (3) That he has not complied with s. 42 (as to notices).

By s. 52, an appeal lies from the *refusal* of a certificate to quarter sessions.

Licensing of dealers in game.—By the Game Act, 1831 (1 & 2 Will. 4, c. 32), s. 18, the justices were directed to hold a special session every year in July (of which seven days' notice was to be given to each justice), and might grant to any householder or keeper of a shop or stall in their district, not being an innkeeper or victualler, or licensed to sell beer by retail, nor being the owner, guard, or driver of any mail coach or other vehicle employed in the conveyance of the mails of letters, or of any stage coach, stage waggon, van, or other public conveyance, nor being a carrier or higgler, nor being in the employment of any of the above-mentioned persons, a licence (according to the form in the schedule to that Act) empowering the licensed person to buy game at any place from any person who may lawfully sell game, and also to sell the same at one house, shop or stall only kept by him. Dealers were required to put up a board outside their shop, &c., and the licence continued in force for one year from the granting. (The holder of a "grocer's licence" to sell beer under 26 & 27 Vict. c. 33, s. 1, is disqualified from holding a licence to deal in game: *Shoolbred & Co. v. Justices of St. Pancras* [1890], 24 Q. B. D. 346.)

By s. 21 of the Game Act, 1831, one licence only was required by partners carrying on business at the same shop. By s. 26, innkeepers may sell game for consumption in their own houses if bought from a licensed dealer.

Besides the justices' licence, an excise licence was necessary: see 23 & 24 Vict. c. 90, ss. 2, 13—16; and see, as to penalties, 24 & 25 Vict. c. 91, s. 17.

It has been held expressly that an excise licence (and therefore impliedly that the justices' licence) is not required to enable a person to deal here in game which has been killed abroad: *Pudney v. Eccles*, [1893] 1 Q. B. 52; approving *R. v. Guyer* [1889], 23 Q. B. D. 101.

Note that 2 & 3 Vict. c. 35, which, by s. 4, enabled the justices

to hold sessions for granting game-dealers' licences at any period of the year, was repealed by 32 & 33 Vict. c. 14, s. 39: but see also 23 & 24 Vict. c. 90, s. 13.

Sect. 27.

Passage brokers and emigrant runners.—By the Passengers Act, 1855 (18 & 19 Vict. c. 119), ss. 66, 67, as amended by 35 & 36 Vict. c. 73, s. 5, no person (except the Board of Trade, and persons contracting with, or acting under the authority of the board, and persons acting as duly appointed agents of passage brokers) might act as a passage broker without a licence. The justices at petty sessions for the district within which the applicant had his place of business, might grant a licence in the statutory form, which was to be in force till December 31 in the same year, and for 31 days after. The justices were to send notice, on granting a licence, to the Board of Trade, to whom also notice of an intended application for a licence was to be given. Applicants, other than sworn brokers of the City of London, were required to enter into a bond with two sureties, in the sum of 1,000*l.* Justices might order licences to be forfeited for offences against the Act.

By the Passengers Act, 1855, ss. 75—78, no person may act as "emigrant runner" [*i.e.*, secure emigrants as passengers for any passage broker, shipowner, &c.: see definition in s. 3] without being licensed and registered, and every emigrant runner must, while acting, wear a badge. The justices at petty sessions for the district within which the emigrant runner wished to act, might grant licences only on the written recommendation of an emigration officer, or of the chief constable, or head officer of police. These licences must be registered by the nearest emigration officer; they expire on December 31 in the year in which they are granted, and must be renewed annually.

Abolition of fairs, &c.—By the Fairs Act, 1871 (34 & 35 Vict. c. 12), s. 3, the justices of any petty sessional district within which a fair was held might make a representation to the Home Secretary, that it would be for the convenience and advantage of the public that the fair should be abolished. Public notice of such representation, and of the time when the Home Secretary would consider it, must be given. The Home Secretary might, with the previous consent in writing of the "owner," of the fair or of the tolls, &c., order the fair to be abolished. By s. 2, "owner" means "any person, body corporate, &c., entitled to hold any fair, whether in respect of the ownership of any lands or tenements, or under any charter, letters patent, or Act of Parliament, or otherwise howsoever."

By the Fairs Act, 1873 (36 & 37 Vict. c. 37), s. 6, the justices

Sect. 27.

had similar power to make a representation that it would be for the convenience and advantage of the public that any fair should be held on some different days, or on a greater or less number of days. Justices were required to give notice to the "owner" of the fair; and public notices were to be given. The Secretary of State might make an order for the alteration, and the consent of the "owner" was not required. The word "owner" was, by s. 3, defined in the same terms as in the Fairs Act, 1871, save that the words "*or Act of Parliament*" were omitted.

Acts relating to petroleum.—These are the Petroleum Acts, 1871 and 1879 (34 & 35 Vict. c. 105; 42 & 43 Vict. c. 47), and the Petroleum (Hawkers) Act, 1881 (44 & 45 Vict. c. 67).

By s. 8 of the Petroleum Act, 1871, the justices in petty sessions were the local authority only in places where there was no other local authority as defined by that section; *i.e.*, only in places not within the metropolis, or any urban sanitary district, or the jurisdiction of any harbour authority.

By s. 7, the storage of petroleum is regulated by the granting of licences by the local authority. By s. 9, licences might be granted for a limited time, and subject to such conditions, as to mode of storage, and safe keeping, &c. of petroleum, as might seem expedient to the local authority; but such conditions must not be inconsistent with the Act of 1881: see s. 3 of that Act. By s. 9 of the Act of 1871, such sum, not exceeding 5*s.*, as the local authority thought fit, might be charged for each licence. By s. 10, in case of refusal of a licence, or the grant upon conditions only, the local authority must, if required by the applicant, state the grounds of their refusal, &c. in writing; and the applicant might memorialise the Secretary of State.

An officer of the local authority had power to test petroleum: see s. 11 of the Act of 1871, and the Petroleum Act, 1879, s. 2, and Sched. 1.

Powers to search for and seize petroleum, &c., are given to officers of the local authority, by s. 4 of the Act of 1881, and s. 13 of the Act of 1871.

The term "petroleum, to which this Act applies," means petroleum giving off inflammable vapour when tested in a specified manner at a given temperature: see s. 3 of the Petroleum Act, 1871, and the Petroleum Act, 1879, s. 2, Sched. I.; and, by s. 14 of the Act of 1871, the application of the Acts may be extended by Orders in Council to other substances.

Infant Life Protection Act, 1872.—By s. 2 of this Act (35 & 36 Vict. c. 38), persons retaining, or receiving for hire, two or more

infants under the age of one year, for the purpose of nursing, are to be registered; but the Act does not extend to the relatives or guardians of any such infant, nor to institutions established for the protection or care of infants, nor to persons receiving any infant under the poor law: s. 13.

The local authority must keep a register of the names of applicants, and of houses; and must make bye-laws fixing the number of infants which may be received in each registered house. Registration is in force for one year, and no fee may be charged: s. 3. The local authority may refuse to register unsuitable houses, or persons not of good character, or not able to maintain infants (s. 4), and may strike names and houses off the register if the persons registered have been guilty of serious neglect, or are incapable of properly caring for infants, or if the houses have become unfit: s. 7. Persons registered are to keep a register of infants, with dates and names and addresses of persons from whom the infants were received, and by whom they were removed; and the local authority must provide gratuitously books of forms for such registration, and may require production of the register.

By s. 1, and Sched. 1, the "local authority" were, in the City of London and the liberties thereof, the common council; in the rest of the metropolis, the Metropolitan Board of Works (now the London County Council); in boroughs, the council; and elsewhere, the justices in each petty sessional division.

Licensing of knackers' yards.—See 12 & 13 Vict. c. 92; 26 Geo. 3, c. 71; 7 & 8 Vict. c. 87; 25 & 26 Vict. c. 102, ss. 93, 94, all of which (except the Act first cited) are repealed, so far as they apply to London, by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142: see as to the granting of licences in London by the County Council, ss. 19, 20 of that Act.

By 26 Geo. 3, c. 71, s. 1, no person might keep or use any house or place for the purpose of slaughtering or killing any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle, which should not be killed for butchers' meat, without taking out a licence, to be granted by the quarter sessions upon a certificate under the hands and seals of the minister and churchwardens or overseers, or of the minister and two or more substantial householders of the parish in which the applicant dwelt, that such person was fit and proper to be trusted with the management and carrying on such business. In case of the death of the licensee, his widow or personal representative might carry on the business till the next general quarter sessions.

By s. 2, licences were to be signed by a majority of the justices,

Sect. 27.

and copies to be entered in a book to be kept for the purpose by the clerk of the peace; which book was to be open to inspection. Persons licensed were required to affix to their houses their names, &c., in large legible characters; and a penalty of 5*l.* a day was imposed for offences against this section: see 12 & 13 Vict. c. 92, s. 7. And see also, as to premises within an urban district, P. H. A. 1875, ss. 4, 170.

By 26 Geo. 3, c. 71, s. 14, that Act does not extend to any currier, felt maker, tanner, or dealer in hides, who shall kill any distempered or aged horse, mare, &c., or purchase any dead horse, mare, &c., for the *bonâ fide* purpose of selling, using, or curing the hides in the course of their respective trades; nor to any farrier employed to kill aged and distempered cattle; nor to any persons who shall kill any horse, mare, &c., of their own, or other cattle, or purchasing [*sic*] any dead horse or other cattle to feed their own hounds or dogs, or giving away the flesh thereof for the like purpose.

By 7 & 8 Vict. c. 87, s. 1, new licences were to be in force for one year only, but in case of renewal the certificate required by 26 Geo. 3, c. 71, was not necessary. By s. 2, the quarter sessions might cancel licences on proof of offences.

By 12 & 13 Vict. c. 92, s. 11 (as amended by the Statute Law Revision Act, 1878), no person licensed to slaughter horses, during the time the licence is in force, may exercise or use the trade or business of a dealer in horses.

By 25 & 26 Vict. c. 102, s. 94, before any licence might be granted under 26 Geo. 3, c. 71, or 7 & 8 Vict. c. 87, for a house or place within the metropolitan police district, one month's previous notice of the intention to apply must be given to the vestry or district board of the parish or district in which the house or place was situate, so that such vestry or district board, if they thought fit, might show cause against the grant of such licence.

It seems that this notice must still be given as to places within the metropolitan police district, but outside the metropolis, notwithstanding the repeal of this section, so far as it applies to London, [*i.e.*, the metropolis] by the Public Health (London) Act, 1891, s. 142; unless it be held that the words "vestry or district board" apply only to vestries and boards established under the Metropolis Management Acts within the metropolis.

As to the boundaries of the metropolitan police district, see 10 Geo. 4, c. 44, ss. 4, 34, and Sched.; 2 & 3 Vict. c. 47, s. 2.

It must also be noticed that by P. H. A. 1875, s. 4, "slaughter house" includes the buildings and places commonly called slaughter houses and knackers' yards, and any building or place used for

slaughtering cattle, horses, or animals of any description for sale; and by s. 169, urban authorities may provide "slaughter houses," and, for the purpose of regulating "slaughter houses" within their district, ss. 125—131 of the Towns Improvement Clauses Act, 1847, are incorporated. It seems doubtful whether, under those sections, it was necessary to obtain a licence from the urban authority, as well as from the quarter sessions, for a knacker's yard within an urban district: see *Anthony v. Brecon Markets Co.* [1872], L. R. 7 Ex. 399.

Sect. 27.

In future the powers of the urban authority and of the quarter sessions to grant such licences will be vested in the urban district council, under L. G. A. 1894, ss. 21, 27.

28. The expenses incurred by the council of an urban district in the execution of the additional powers conferred on the council by this Act shall, subject to the provisions of this Act, be defrayed in a borough out of the borough fund or rate, and in any other case out of the district fund and general district rate or other fund applicable towards defraying the expenses of the execution of the Public Health Act, 1875.

Expenses of urban district council.

38 & 39 Vict. c. 55.

Urban district.—For the meaning of this term, see ss. 21, 35.

Additional powers.—Powers as to rights of way, &c. are conferred by s. 26; powers of justices are transferred by s. 27: powers under the adoptive Acts may be transferred under s. 62: and powers of overseers, and of the parish council, &c. may be conferred under s. 33. Special provision is made for charging on a particular area expenses incurred under the adoptive Acts, under s. 53 (2), (3): and see also s. 7 (6). Special provision is also made by s. 65 as to adjustment of property, &c., in the case of improvement commissioners having harbour powers. As to expenses incurred by the county council in the exercise of powers transferred to them from a district council, see s. 63.

Borough fund and rate.—See Municipal Corporations Act, 1882, ss. 139, 140, 144, 149.

District fund and general district rate.—See P. H. A. 1875, ss. 209—211.

29. The expenses incurred by the council of a rural district shall, subject to the provisions of this Act, be defrayed

Expenses of rural district council.

Sect. 29.

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

(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.

Rural district.—Every rural sanitary district is to be called a rural district: s. 21 (2); see also s. 24 (5).

Expenses.—The provisions as to expenses of a rural sanitary authority are contained in P. H. A. 1875, ss. 229, 230, set out *infra*, pp. 243, 245. See also as to “private improvement rate,” ss. 213—

38 & 39 Vict.
c. 55.

41 & 42 Vict
c. 77.

215, and s. 232 of that Act. See s. 63 of this Act, as to expenses incurred by a county council in the exercise of powers transferred from a district council.

SECT. 22.

Highway expenses.—This term is not defined in this Act, or in L. G. A. 1888. It seems to include the expenses of the district council as highway authority under s. 25; whether it is meant to include expenses (as to rights of way, &c.) incurred under s. 26 is not clear. As the highway expenses of the district council are made general expenses, care must be taken, if any order is made under s. 25 (1) suspending the operation of that section, that no parish or other area shall bear the cost of maintaining its own highways, and also contribute to the cost of the highways in the remainder of the rural district. As to expenses, if such an order is made, see s. 82 (2). As to highways not in proper repair at the appointed day, see s. 82 (1).

Contributory place: general and special expenses.—These terms are defined in P. H. A. 1875, s. 229, *infra*, p. 243. If the Local Government Board determine any expenses to be special expenses, the effect of that section is that they are raised by a rate which is (1) levied only within the area of the contributory place; and which is (2) subject to a three-fourths exemption conferred by s. 230 on the occupiers of certain classes of property therein mentioned. The effect of L. G. A. 1894, s. 29 (b), is that special expenses will be raised as before by a rate levied only within the area of the contributory place, but the three-fourths exemption, above referred to, *may* be taken away by order of the Local Government Board. Payments by way of compensation to existing officers are made general expenses: s. 81 (7).

Highways and Locomotives (Amendment) Act, 1878.—This Act, by s. 7, after directing that the expenses of a highway board are to be charged on the district fund, provides that “if a highway board think it just, by reason of natural differences of soil or locality, or other exceptional circumstances, that any parish or parishes within their district should bear the expenses of maintaining its or their own highways, they may (with the approval of the county authority, or authorities of the county or counties within which their district, or any part thereof, is situate) divide their district into two or more parts, and charge exclusively on each of such parts the expenses payable by such highway board in respect of maintaining and keeping in repair the highways situate in each such part; so, nevertheless, that each such part shall consist of one or more highway parish or highway parishes.” The powers of the

Sect. 29.

“county authority” under the Highways and Locomotives (Amendment) Act, 1878, are now vested in the county council: see L. G. A. 1888, s. 3 (viii.).

Funds other than rates.—In some parishes lands have been given for the maintenance of highways, and such lands must be let at a rack rent, and with the consent of justices in special sessions: see the Highway Act, 1835, s. 50. A corporation may be bound to repair by prescription: Coke, Rep. XIII., 33; or an individual, or a corporation, may be bound to repair *ratione tenuræ*; and the liability may be discharged by payment of a sum of money, which may be invested under the Highway Act, 1862, s. 35. See also the Highway Act, 1835, ss. 58, 62, 93; the Highway Act, 1864, ss. 22, 24. The occupier of land may also be liable to repair, *ratione clausuræ*: *R. v. Ramsden* [1858], E. B. & E. 949. As to allotments of land for materials for repairs, see 8 & 9 Vict. c. 118, s. 72; and the Highway Act, 1835, s. 48.

The expenses caused by extraordinary traffic may be recovered from the person by whose order such traffic has been conducted: see the Highways and Locomotives (Amendment) Act, 1878, s. 23. As to what traffic is within the section, see *Whitbread v. Sevenoaks Highway Board*, [1892] 1 Q. B. 8; *Hill v. Thomas*, [1893] 2 Q. B. 333; *Etherley Grange Coal Co. v. Auckland Highway Board*, [1894] 1 Q. B. 37. Proceedings under the section cannot be taken against the executor of the person liable: *Story v. Sheard*, [1892] 2 Q. B. 515.

Guardians in London and county boroughs.

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.—The provisions of this Part relating to guardians are contained in s. 20.

Administrative county of London.—This means the City of London and the parishes and places mentioned in Scheds. A., B., and C., to the Metropolis Management Act, 1855, as amended by subsequent Acts: see L. G. A. 1888, s. 40 (1), and s. 100; see, also, note to s. 31, *infra*, p. 120.

County borough.—See note to s. 35.

Provisions as to London vestries and

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.

Sect. 31.

district
boards.

48 Vict. c. 10.

(2.) Each of the said vestries, except those electing district boards, and each of the said district boards and the local board of Woolwich, shall at their first meeting after the annual election of members elect a chairman for the year, and section forty-one of the Metropolis Management Act, 1855, shall apply only in case of the absence of such chairman, and the provisions of this Act with respect to chairmen of urban district councils being justices shall apply as if the said vestries and boards were urban district councils.

18 & 19 Vict.
c. 120.

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

Urban district councillors.—They will be elected by the parochial electors: see s. 23 (3), and, as to the qualification of parochial electors, s. 2 (1) and s. 75 (2), *infra*, p. 200. For the qualification of persons to be elected, see s. 23 (2); and for disqualifications, see s. 46, and especially s. 46 (9). The mode of conducting the election will be regulated by rules framed by the Local Government Board: see s. 23 (5) and s. 48 (2)—(7). The term “election” includes both the nomination and the poll: s. 75 (2).

Local board of Woolwich.—Woolwich is included in the Metropolis (or the administrative county of London): see Sched. A. to the Metropolis Management Act, 1855; but the application of that Act to Woolwich was restricted by s. 238. The local board

Sect. 31.

was originally elected under the Public Health Act, 1848 (11 & 12 Vict. c. 63); see also 15 & 16 Vict. c. 69, s. 4. But the Public Health (London) Act, 1891, ss. 102 and 140, extended to Woolwich certain provisions of P. H. A. 1875, including Sched. II., which contains rules for elections of local boards. This schedule is now repealed by L. G. A. 1894, s. 89. As to the first elections under this Act, see s. 84 (1), (2); and as to the continuance in office of persons who were members of the local board at the passing of the Act, see s. 79 (8), (10).

Vestries and district boards in Metropolis.—By the Metropolis Management Act, 1855, vestries were elected for the parishes in both Scheds. A. and B. to that Act: see ss. 13—27. And by s. 6, a rating qualification for vestrymen was prescribed. The parishes in Sched. B. were grouped together in districts, and for each district a district board was to be elected by the vestries of the several parishes in the district, the members of the district board being persons qualified to be vestrymen: see ss. 31, 32—34, 36 of the Act of 1855; and 25 & 26 Vict. c. 102, s. 40. (By subsequent statutes some of the districts mentioned in Sched. B. have been dissolved, and some of the parishes included in those districts have in effect been transferred to Sched. A.: see 48 & 49 Vict. c. 33; 50 & 51 Vict. c. 17; 56 & 57 Vict. c. 55.) The term of office for both vestrymen and members of district boards was three years, one-third of the representatives of each parish going out in each year: see ss. 9, 10, 34 of the Act of 1855. The date for the election of vestrymen was such day in the month of May as the vestry should appoint (see s. 7 of the Act of 1855); and for the election of members of district boards, the first Wednesday in June: see 25 & 26 Vict. c. 102, s. 40.

From a comparison of L. G. A. 1894, ss. 31 and 79 (10) with the partial repeal of the Acts above referred to, as shown in the second schedule to this Act, it will appear that the effect of this Act is to alter the qualification of vestrymen, and of members of district boards; to alter the *mode* of electing vestrymen, but not the *mode* of electing members of district boards; not to alter the *time* for electing either vestrymen or members of district boards (except as to the date of the first elections under this Act): see s. 84 (1), (2); as to continuance in office of persons who were at the passing of the Act members of the vestries and district boards, see s. 79 (8), (10).

It seems that the incumbent and churchwardens of each parish will continue to be *ex officio* members of the vestries under s. 2 of the Act of 1855.

Auditors.—In every parish mentioned in Scheds. A. and B. to the Metropolis Management Act, 1855, auditors were elected from among the ratepayers at the same time and in the same manner as vestrymen, and their term of office was one year: see ss. 11—27.

Chairmen of vestries and district boards.—The incumbent of the parish was *ex officio* chairman of the vestry. By s. 30 of the Metropolis Management Act, 1855, “at every meeting of any vestry under this Act, in the absence of the persons authorized by law or custom to take the chair, the members present shall elect a chairman for the occasion, &c.” The words “or custom” are repealed by s. 89 of this Act.

By s. 41 of the Act of 1855, every district board “shall at every meeting of such board, before proceeding to business, elect a chairman of such meeting, and such chairman, in case of an equality of votes on any question, shall have a second or casting vote.”

The chairman of the metropolitan vestries (except those electing district boards), and of the district boards, and the local board of Woolwich, will be *ex officio* justices for the county of London: s. 22; but it seems that the chairmen of vestries electing district boards will not be *ex officio* justices.

Elections (Hours of Poll) Act, 1885.—By this Act the poll at every parliamentary and municipal election must commence at eight a.m. and be kept open till eight p.m. [Greenwich mean time: see 43 & 44 Vict. c. 9]. The Act does not apply to the elections of parish or district councils, or guardians; but the hours during which the poll is to be open for those elections are to be fixed by rules: see s. 48 (2) (iv).

Time for holding meeting of vestry.—By 25 & 26 Vict. c. 102, s. 37, every vestry and district board in the Metropolis may hold their meetings on such days of the week, except Sundays, as they may from time to time determine, notwithstanding any provision to the contrary contained in any local Act; and any business required by any local or other Act to be done on a certain day may be done at a meeting held within seven days before or after such day: provided that where the hour or time for holding such meetings is fixed by the local Act, they shall continue to be held at the same hour or time.

32. The provisions of this Part of this Act respecting the powers, duties, and liabilities of justices out of session, or of quarter sessions, which are transferred to a district council, shall apply to a county borough as if it were an

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

Sect. 32.

urban district, and the county borough council were a district council.

Powers of justices or of quarter sessions.—The transfer to district councils is effected by s. 27. As to the position of county boroughs, see note to s. 35.

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

33.—(1.) The Local Government Board may, on the application of the council of any municipal borough, including a county borough, or of any other urban district, make an order conferring on that council or some other representative body within the borough or district all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties, or liabilities of overseers, and any powers, duties, or liabilities of a parish council, and applying with the necessary modifications the provisions of this Act with reference thereto.

(2.) Where it appears to the Local Government Board that, by reason of the circumstances connected with any parish in a municipal borough (including a county borough) or other urban district divided into wards, or with the parochial charities of that parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the council of the borough or district, be properly represented on that body, they may, by their order, provide that such of those trustees as are appointed by the council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of the parish.

(3.) Any order under this section may provide for its operation extending either to the whole or to specified parts of the area of the borough or urban district, and may make such provisions as seem necessary for carrying the order into effect.

(4.) The order shall not alter the incidence of any rate, and shall make such provisions as may seem necessary and

just for the preservation of the existing interests of paid officers.

(5.) An order under this section may also be made on the application of any representative body within a borough or district.

(6.) The provisions of this section respecting councils of urban districts shall apply to the administrative county of London in like manner as if the district of each sanitary authority in that county were an urban district, and the sanitary authority were the council of that district.

(7.) The Local Government Board shall consult the Charity Commissioners before making any order under this section with respect to any charity.

Representative body.—There is no definition of this term. It seems that under sub-section (5), on the application of one representative body within a borough or district, the Local Government Board might make an order conferring powers on some other representative body.

Urban district.—This term does not include a county borough: see ss. 21, 35.

Overseers.—As to the appointment of overseers and assistant overseers, see notes to s. 5; and s. 50. Some of the powers, &c. of overseers are transferred in rural parishes to the parish council: see s. 6 (1) (c). The principal powers, &c. of the parish council are to be found in ss. 6—10, and (as to public property and charities) in s. 14. For the meaning of “powers, duties and liabilities,” see note to s. 75 (1), *infra*, p. 200. Where an order as to overseers, &c. is made under s. 33, an order may be made as to the powers of the vestry under the Poor Rate Assessment and Collection Act, 1869: see s. 34, and the note thereon.

Trustees of charity.—The terms “parochial charities” and “trustees” are defined in s. 75 (2), *infra*, pp. 201, 202. The provisions of this Act as to charities are contained in s. 14: see especially sub-sections (2)—(4), as to the appointment of trustees.

Existing interests of paid officers.—Compare the provisions for compensation in s. 81 (7).

Sanitary authorities in London.—These are as follows:—

- (a) In the City of London, the Commissioners of Sewers:
- (b) In the parishes (except Woolwich) in Sched. A. to the Metro-

Sect. 33. polis Management Act, 1855, as amended by subsequent Acts (see note to s. 31, on "vestries and district boards"), the vestry of the parish :

(c) In the districts in Sched. B. to the Act of 1855, as so amended, the district board :

(d) In Woolwich, the local board of health :

(e) In places mentioned in Sched. C. to the same Act, the guardians or overseers. (See the Public Health (London) Act, 1891, s. 99.)

The "administrative county of London" includes the City of London : see note to s. 30.

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.

Appointment of overseers, &c.—See s. 33; and note that an order under that section may apply to county boroughs, and the administrative county of London, as well as to an urban district; but, having regard to s. 35, it seems that an order relating to the matters mentioned in s. 34 can apply only to an urban district.

Poor Rate Assessment and Collection Act, 1869.—By s. 3 of that Act, where the rateable value of a hereditament does not exceed 20*l.* in the metropolis, or 13*l.* in Liverpool, or 10*l.* in Manchester or Birmingham, or 8*l.* elsewhere, and the owner is willing to *agree* with the overseers to be liable for the poor rates (for any term not less than one year), and to pay them whether the hereditament is occupied or not, the overseers may (subject to the control of the vestry) *agree* with the owner to receive the rates from him, and to allow him a commission not exceeding 25 per cent.

By s. 4, the vestry of any parish may from time to time *order* that the owners of all hereditaments to which s. 3 extends, within the parish, shall be rated instead of the occupiers; and so long as the order is in force, the overseers are to rate the owners and allow them a deduction of 15 per cent.; and if the owner of any hereditaments gives notice that he is willing to be rated, for any term not less than one year, in respect of all hereditaments of which he

is the owner, whether the same be occupied or not, the overseers shall rate such owner, and allow him a further abatement or deduction not exceeding 15 per cent. The vestry may rescind any such order by resolution.

Sect. 34.

But it is provided that “this clause [*i. e.*, s. 4] shall not extend to any rateable hereditament in which a dwelling-house shall not be included.”

The effect of these two sections was considered in *Overseers of Norwood v. Salter*, [1892] 2 Q. B. 118.

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.

County borough.—By L. G. A. 1888, s. 31, each of the boroughs in Sched. III. to that Act was made, for the purposes of that Act, an administrative county of itself, and was called a county borough. By L. G. A. 1894, s. 75 (2), “county” includes a county borough, and the expression “county council” includes the council of a county borough: see the note, *infra*, p. 203. Since by s. 35 (save as specially provided by this Act), Part II. does not apply to a county borough, it follows that in s. 21 (which is included in Part II.) the term “urban sanitary district” does not include a county borough: consequently a county borough will not be included in the term “urban district” or “county district,” nor will the council of a county borough be a district council: note the words “*as if it were, &c.*,” in s. 32.

The special provisions relating to county boroughs are to be found in s. 30 (as to guardians), in s. 32 (as to powers transferred from justices), in s. 33 (as to powers of overseers, parish councils, &c.), and in s. 26 (7), (as to rights of way, &c.).

Administrative county of London.—See note to s. 30. The special provisions relating to London are s. 30 (as to guardians), s. 31 (as to vestries and district boards), and s. 33 (1), (6) (as to powers of overseers, parish councils, &c.).

PART III.—AREAS AND BOUNDARIES.

36.—(1.) For the purpose of carrying this Act into effect in the case of—

(a) every parish and rural sanitary district which at the

Duties and powers of county council with respect

Sect. 36.
to areas and
boundaries.

- 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;

51 & 52 Vict.
c. 41.

every county council shall forthwith take into consideration every such case within their county, and whether any proposal has or has not been made as mentioned in section fifty-seven of the Local Government Act, 1888, shall as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect this Act in accordance with the following provisions, namely:—

- (i) the whole of each parish, and, unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;
- (ii) the whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district; and
- (iii) every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

Duty of county council.—Under this section the county council are to begin their duties before the “appointed day”: see s. 83 and s. 84 (3). As to the expenses of inquiries held by the county council, see s. 72 (4). A copy of every order made by the county

council must be sent to the Local Government Board, and (if it alters any local area or name) to the Board of Agriculture: s. 71. In some cases two or more county councils must appoint a joint committee: s. 36 (11). Section 57 of L. G. A. 1888, is set out *infra*, p. 254. And for amendments of that section by this Act, see ss. 41, 80 (2). By L. G. A. 1888, s. 60, in every alteration of boundaries effected under the authority of this Act, care shall be taken that, so far as practicable, the boundaries of an area of local government shall not intersect the boundaries of any other area of local government. For powers to deal with matters arising out of alteration of boundaries, see s. 69 of this Act.

Parish or district partly within a county.—For the meaning of “administrative county,” see note on “county,” s. 75 (2), *infra*, p. 203. Unless an order is made under s. 36, a rural sanitary district situate in more than one administrative county will be divided as from the appointed day: s. 24 (5). A parish partly within an administrative county will not be divided unless an order is made under s. 36.

Parish partly within a rural sanitary district.—Such a parish is divided as from the appointed day: see s. 1 (3), and note on s. 36 (3), *infra*, p. 128. But it will be included in the same poor law union as before: s. 36 (9). As to the alteration of boundaries of counties, unions, and parishes, see s. 36 (5)—(8). For the meaning of “county district,” see s. 21.

Rural parish with population under 200.—There is a mistake in the language of sub-s. (1) (c), caused by the amendments made in both Houses of Parliament. In the Bill as originally introduced, every parish with a population of 300 and upwards was by s. 1 (1) to have a parish council; the Commons in Committee reduced the limit to a population of 200, in s. 1 (1), and consequential amendments were made throughout the Bill. The Lords raised the limit to 500, and made consequential amendments. With these amendments the Commons disagreed, and restored the limit of 200, and made the amendments consequential thereon. The Lords did not insist on their amendment, but proposed an amendment in s. 1 (1), substituting 300 for 200, yet failed to propose consequential amendments to the same effect in s. 36 (1) (c), s. 38 (4), and s. 39 (2). The Commons agreed with the proposed amendment of s. 1 (1), and the discrepancy between that section and the others here cited was apparently not noticed.

Having regard to the mandatory provisions of s. 1 (1), it may, perhaps, be held that a parish council may be established in a

Sect. 36.

parish with a population of over 200, and under 300, even though the county council may not be bound, under s. 36 (1), to "forthwith take into consideration every such case." As to grouping orders, see ss. 38—40. For the position of a parish without a parish council, see s. 19. The population will be determined by the Census of 1891: see s. 75 (2).

Less than five elective guardians capable of acting.—See P. H. A. 1875, s. 9. The clauses of that section which are repealed by this Act, prohibited guardians elected for parishes included in an urban district from acting as members of the rural sanitary authority. Provision is made for a district having less than five rural district councillors by s. 24 (5) of this Act.

(2.) Where a parish is at the passing of this Act situate in more than one urban district, the parts of the parish in each such district shall, as from the appointed day, unless the county council for special reasons otherwise direct, and subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

39 & 40 Vict.
c. 61.

Parish in more than one urban district.—For the meaning of "urban district," see s. 21. As to a parish partly within a rural district, see s. 1 (3); and see the note on p. 4, as to the Divided Parishes and Poor Law Amendment Act, 1876. As to alteration of areas, see s. 36 (5)—(8) of this Act. As to the appointed day, see s. 84 (4).

(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.

Parish divided by this Act.—There is a distinction observed

throughout the Act between the division of a parish "by this Act," and a division under, or in pursuance of, this Act, by an order of the county council. A parish partly within and partly without a rural sanitary district, will be divided "by the Act" as from the appointed day: see s. 1 (1); and a parish in more than one urban district is similarly divided: s. 36 (2); and no order of the county council is necessary in either case. As to alterations of boundaries of parishes by order of the county council, see s. 36 (7). An order under s. 36 (3) will not require the approval of the Local Government Board: see s. 40. Provisions as to charities are contained in s. 14; and cf. s. 33 (2). As to parish documents, see s. 17 (7), (8); and cf. s. 38 (3). As to the name of a parish divided by this Act, see s. 55 (2).

(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.

Parish co-extensive with rural sanitary district.—In this case there will neither be a parish council under s. 1 (1), nor will s. 19 apply. The district councillors will act as parish councillors, and also as representatives of the parish on the board of guardians: see s. 24 (3). The parish council and the district council being one and the same body, no complaint can be made by the former, under s. 16, of any default by the latter body.

(5.) Where an alteration of the boundary of any county or borough seems expedient for any of the purposes mentioned in this section, application shall be made to the Local Government Board for an order under section fifty-four of the Local Government Act, 1888.

(6.) Where the alteration of a poor law union seems expedient by reason of any of the provisions of this Act, the county council may, by their order, provide for such alteration in accordance with section fifty-eight of the Local Government Act, 1888, or otherwise, but this pro-

Sect. 36.

vision shall not affect the powers of the Local Government Board with respect to the alteration of unions.

(7.) Where an order for the alteration of the boundary of any parish or the division thereof, or the union thereof or of any part thereof, with another parish is proposed to be made after the appointed day, notice thereof shall, a reasonable time before it is made, be given to the parish council of that parish, or if there is no parish council, to the parish meeting, and that parish council or parish meeting, as the case may be, shall have the right to appear at any inquiry held by the county council with reference to the order, and shall be at liberty to petition the Local Government Board against the confirmation of the order.

(8.) Where the alteration of the boundary of any parish, or the division thereof or the union thereof or of part thereof with another parish, seems expedient for any of the purposes of this Act, provision for such alteration, division, or union may be made by an order of the county council confirmed by the Local Government Board under section fifty-seven of the Local Government Act, 1888.

51 & 52 Vict.
c. 41.

(9.) Where a parish is by this Act divided into two or more parishes, those parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included.

Alteration of boundary of county or borough.—The county council have no power to make these alterations, which can be made only by an order of the Local Government Board, confirmed by Parliament: see L. G. A. 1888, s. 54 (1), (3), *infra*, p. 253.

Alteration of poor law union.—Under L. G. A. 1888, s. 58, *infra*, p. 256, the Local Government Board have power to divide a union for the purpose of outdoor relief only. This power is now given to the county council: s. 36 (6). See also s. 36 (10), and note on "Orders made by county council," *infra*, p. 132.

The Local Government Board have power to dissolve a union, or to add or take away parishes: see 4 & 5 Will. 4, c. 76, s. 32; 7 & 8 Vict. c. 101, s. 66; 31 & 32 Vict. c. 122, s. 4; 39 & 40 Vict. c. 61, s. 11. They have also power to combine unions, for any purpose

connected with the administration of poor relief, under 42 & 43 Vict. c. 54, s. 8.

Sect. 36.

The expression "poor law union," by L. G. A. 1888, s. 100, means "any parish or union of parishes for which there is a separate board of guardians," and this definition will apply to this Act: see s. 75 (1). A parish divided "by this Act" will continue in the same union: see s. 36 (9). See further s. 60, as to the power of the county council to fix the number of guardians, and divide parishes into wards.

Alteration of boundary of parish.—The union of parishes under s. 36 (8), and L. G. A. 1888, s. 57, *infra*, p. 254, must be distinguished from the grouping of parishes under s. 38 of this Act. For it seems that where an order for union is made, the parishes will become one parish for all purposes, with only one parish meeting. A parish divided by order of the county council must be distinguished from a parish "divided by this Act": see note on s. 36 (3).

(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

Sect. 36.

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.

50 & 51 Vict.
c. 61.

(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.

(13.) Every county council shall, within two years after the passing of this Act, or within such further period as the Local Government Board may allow either generally or with reference to any particular matter, make such orders under this section as they deem necessary for the purpose of bringing this Act into operation, and after the expiration of the said two years or further period the powers of the county council for that purpose shall be transferred to the Local Government Board, who may exercise those powers.

Orders made by county council.—The application of L. G. A. 1888, s. 57 (set out *infra*, p. 254) to every order made under Part III. of this Act enables the county council to hold a local inquiry under that section. With certain exceptions, every order made thereunder required to be submitted to the Local Government Board, and within three months the council of any district affected might petition the Board to disallow the order, and thereupon the Board were to hold a local inquiry before confirming the order. But by s. 41 of this Act the period for petitioning is reduced to six weeks, and by s. 40 certain orders do not require submission to or confirmation by the Local Government Board. See also s. 80 (2) as to procedure in 1894.

Joint committee.—See L. G. A. 1888, ss. 81, 82. By the former section any county councils may join in appointing out of *their respective bodies* a joint committee for any purpose in respect of which they are jointly interested. It is not clear whether under

s. 36 (11) the joint committee must be similarly constituted. The provision that the joint committee "shall be deemed to have and to have always had power" under L. G. A. 1888, s. 57, is apparently inserted to render valid any orders made under that section which does not in terms refer to a joint committee: but see also L. G. A. 1888, s. 81 (2).

The words "areas situate in two or more counties," at the beginning of s. 36 (11) of this Act, must be read as referring to "administrative counties," since the words which follow speak of "the councils of those counties," and there is no council for a county unless it be an administrative county: compare sub-s. (1) (a) and (i). The two months within which the committee is to be appointed are calendar months: see the Interpretation Act, 1889, s. 3, and note to s. 13 (1).

A joint committee may also be appointed under s. 60 (3) for fixing the number of guardians, &c. in the case of a union in more than one county.

Boundary commissioners.—Compare L. G. A. 1888, s. 53. The commissioners were appointed to inquire—(a) as to the best mode of so adjusting the boundaries of counties and other areas of local government that no union, borough, sanitary district, or parish should be in more than one county; (b) as to the best mode of dealing with parts of a county wholly or nearly detached; (c) as to the best mode of dealing with cases where a borough was not an urban sanitary district; (d) as to alterations of boundaries, &c., which they recommended.

Under the Local Government (Boundaries) Act, 1887, s. 5, the powers of the commissioners ceased on December 31, 1888.

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.

Provision as to parishes having parts with defined boundaries.

Part of parish.—Compare s. 56 (2) and s. 57 (5). Similar provisions as to parishes which are grouped may be made under s. 38. As to the holding of a parish meeting for part of a parish, see

Sect. 37.

s. 49. As to the consent of the parish meeting in relation to the dealing with parish property, &c., see s. 52.

Order of county council.—A copy must be sent to the Local Government Board: s. 71; see also s. 36 (10).

Orders for grouping parishes and dissolving groups.

38.—(1.) Where parishes are grouped, the grouping order shall make the necessary provisions for the name of the group, for the parish meetings in each of the grouped parishes, and for the election in manner provided by this Act of separate representatives of each parish on the parish council, and may provide for the consent of the parish meeting of a parish to any particular act of the parish council, and for any other adaptations of this Act to the group of parishes, or to the parish meetings in the group.

(2.) Where parishes are grouped the whole area under each parish council shall, unless the county council for special reasons otherwise direct, be within the same administrative county and county district.

(3.) Where parishes are grouped, the grouping order shall provide for the application of the provisions of this Act with respect to the appointment of trustees and beneficiaries of a charity, and the custody of documents, so as to preserve the separate rights of each parish.

(4.) The parish meeting of any parish may apply to the county council for a grouping order respecting that parish, and, if the parish has a less population than two hundred, for a parish council, and any such application shall be forthwith taken into consideration by the county council.

(5.) The county council may, on the application of the council for any group of parishes or of the parish meeting for any parish included in a group of parishes, make an order dissolving the group, and shall by the order make such provision as appears necessary for the election of parish councils of the parishes in the group and for the adjustment of property, rights, and liabilities as between separate parishes and the group.

Grouping order.—By s. 36 (10), the order will be deemed to be

made under L. G. A. 1888, s. 57, save that it will not require confirmation by the Local Government Board: see s. 40 of this Act. A copy of the order must be sent to that Board and the Board of Agriculture: s. 71. Under L. G. A. 1888, s. 57, *infra*, p. 254, the county council may hold a local inquiry. As to the expenses of the county council, see s. 72 (4) of this Act. As to procedure in 1894, see s. 80 (2). A grouping order must be distinguished from an order for the union of parishes under s. 36 (8). No parish can be grouped without the consent of the parish meeting: s. 1 (1). As to notice of the meeting and demand of a poll thereat, see Sched. I. Pt. I. rr. 3, 7. Subject to the provisions of the grouping order, s. 19 will apply to a parish not having a separate parish council.

As to the meaning of "county district," see s. 21: and as to "administrative county," see note to s. 75 (2), on "county."

Elections of parish councillors.—See s. 3 (5), (6), and s. 48.

Particular act of parish council.—Compare s. 37, s. 56 (2), and s. 57 (5).

Trustees of charity.—See s. 14, and especially sub-ss. (2)—(4.)

Custody of documents.—See s. 17 (7)—(9).

Less population than two hundred.—In sub-s. (4), Parliament appears to have left the words "two hundred" by mistake for "three hundred": see note on s. 36 (1). Under s. 1 (1), "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 under Part III. of this Act [which includes s. 38], 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." A rural parish with a population of over 200 and under 300 has therefore an absolute right to a parish council under s. 1 (1), but has no power to apply for the grant of the right under s. 38 (4). It may, perhaps, be held that, having regard to the language of s. 1 (1), the county council may make an order establishing a parish council in such a parish, even though no application can be made under s. 38 (4).

By s. 75 (2), unless the context otherwise requires, any reference to population means the population according to the Census of 1891.

Application to county council.—Any one parochial elector may demand a poll on a resolution for an application to the county council: Sched. I. Pt. I. r. 7. And see r. 3 as to notice to be given of the parish meeting. Neither under s. 38 (4), nor under s. 1 (1) is any time limited for making the application either for

Sect. 38.

grouping, or for a parish council. Under s. 1 (1), if the parish meeting so resolve, in the case of a parish with a population of 100 and upwards, the order of the county council *shall* provide for establishing a parish council. But if the parish meeting “petition” the county council under s. 39, the council “*if they think proper, may* order the election of a parish council.” No time is limited for making a “petition” under s. 39. The Act, therefore, creates this anomaly—that if the population of a parish increases, the county council “*if they think proper, may*” dismiss a petition brought under s. 39, but “*shall*” make an order for a parish council if the population, according to the Census of 1891, be over 100, and the application be made under s. 38—which application may, it seems, be made whether the actual population has increased or not.

It seems that under s. 38 (4), a parish having a parish council may apply for a grouping order. Under s. 38 (5) the county council may refuse an order dissolving a group (note the use of the words “*may*” and “*shall*” in lines 1 and 4 of that sub-section). Consequently, although under s. 1 (1), no parish shall be grouped without the consent of the parish meeting, if a grouping order is once made the parish cannot withdraw from the group without an order of the county council.

Provisions for
increase and
decrease of
population.

39.—(1.) Where the population of a parish not having a separate parish council increases so as to justify the election of such council, the parish meeting may petition the county council, and the county council, if they think proper, may order the election of a parish council in that parish, and shall by the order make such provision as appears necessary for separating the parish from any group of parishes in which it is included, and for the alteration of the parish 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.

Parish meeting.—Fourteen days' notice must be given of the meeting, and any one parochial elector may demand a poll: Sched. I. Pt. I. rr. 3, 7.

Petition for election of parish council.—It seems that s. 39 (1) applies whether the parish be included in a group or not. In their scope, s. 39 (1), and s. 38 (4), overlap each other: see note on "application to county council," *supra*, p. 135. There is no limitation of the time within which a petition under s. 39 (1) must be presented, nor is there any limitation of the number of times which an unsuccessful petition under that sub-section may be presented.

Under s. 39 (1) the county council have a discretion; under s. 1 (1) they have in some cases none as to the creation of a parish council.

It is difficult to understand what is meant by an increase of population "so as to justify the election" of a parish council, whether it means an increase over 100, or over 300: see s. 1 (1). Provided the parish meeting consent and the county council make an order, any population, however small, is sufficient in law to justify an election.

Property—liabilities.—For the definition of these terms, see note to s. 75 (1), *infra*, p. 199.

Dissolution of parish council.—On the order being made, the provisions of s. 19 will apply to the parish.

Population less than two hundred.—These words in sub-s. (2) appear to be a mistake; for "two" read "three": see note to s. 36 (1), and cf. s. 1 (1), s. 38 (4). But as the words are not meaningless, Parliament must be taken to have intended that if a parish council is once established, it shall not be dissolved unless the population has become less than 200.

Order of county council.—An order under s. 39 will be deemed to be an order under L. G. A. 1888, s. 57, *infra*, p. 254; and consequently the county council may hold a local inquiry: see s. 36 (10), *supra*, p. 131, and the note thereon. But an order under s. 39 will not require submission to or confirmation by the Local Government

Sect. 39. Board: s. 40; although a copy of the order must be sent to the Board: s. 71. As to the expense of holding the local inquiry, see s. 72 (4).

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.

This section and s. 41 create a modification of L. G. A. 1888, s. 57 (*infra*, p. 254), in its application to orders made by the county council under Part III. of this Act: see s. 36 (10). Under L. G. A. 1888, s. 57 (3), the orders therein mentioned were to be submitted to and confirmed by the Local Government Board, and within three months the council of any district might petition the Board to disallow the order, and thereupon the Board were required to hold a local inquiry.

By s. 40, the necessity for submission to the Local Government Board is removed as to certain orders, and as to all other orders the time for petitioning is reduced by s. 41.

A copy of all orders mentioned in s. 40 must be sent to the Local Government Board: s. 71. Note that an order which, under s. 40, is not confirmed by the Local Government Board is not within s. 42.

A grouping order, and an order establishing a parish council, or a group, may be made under ss. 38, 39; an order as to parish documents, or requiring the approval of the Charity Commissioners, under s. 36 (3); and an order as to consent of the parish meeting for part of a parish, under s. 37.

Reduction of time for appealing against county council orders.

41. The time for petitioning against an order under section fifty-seven of the Local Government Act, 1888, shall be six weeks instead of three months after the notice referred to in sub-section three of that section.

See note to s. 40. Sect. 57 of L. G. A. 1888, is set out *infra*, p. 254.

Validity of county council orders.

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.

By s. 36 (10), all orders under Part III. of the Act are to be deemed to be under L. G. A. 1888, s. 57; but see also, ss. 40, 41, *supra*, p. 138.

As to the mode of computing the six months, see note to s. 13, *supra*, p. 66.

PART IV.—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
disqualifica-
tion of
married
women.

For the purposes of this Act.—It seems that although a woman, whether married or single, may be on the local government register, she will *not* be able to vote at an election of the council of a county or a municipal borough. She will be able to vote as a parochial elector at elections of parish or rural district councillors and guardians (including guardians in the administrative county of London, and the county boroughs): ss. 3 (5), 20 (3); 24 (4), 30; and of urban district councillors, except in boroughs: s. 23 (3); and of the local board of Woolwich, and the metropolitan vestries: s. 31.

It seems to be intended that married women should be entered in the “separate list of parochial electors”: see s. 44 (6) (8).

Disqualification of marriage.—The express mention of marriage is due to the decision in *R. v. Harrald* [1872], L. R. 7 Q. B. 361, that 32 & 33 Vict. c. 55, s. 9, which gave women the right to vote at municipal elections, had reference only to disability by reason of sex, and not to disability by reason of the status of coverture.

Local government register.—See note to s. 2 (1). There is no definition in this Act of the term “local authority.”

Local government and parliamentary register.—See note to s. 2 (1).

Sect. 44.

Register of
parochial
electors.
See p. 142, 143.

44.—(1.) The local government register of electors and the parliamentary register of electors, so far as they relate to a parish shall, together, form the register of the parochial electors of the parish; and any person whose name is not in that register shall not be entitled to attend a meeting or vote as a parochial elector, and any person whose name is in that register shall be entitled to attend a meeting and vote as a parochial elector unless prohibited from voting by this or any other Act of Parliament.

(2.) Where the parish is in a parliamentary borough, such portion of the parliamentary register of electors for the county as contains the names of persons registered in respect of the ownership of any property in the parish shall be deemed to form part of the parliamentary register of electors for the parish within the meaning of this section.

See p. 143, 144.

(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.

See note, p. 144

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

See note, p. 144

(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.

See p. 144, 145.

(6.) Where the revising barrister in any list of voters for a parish would—

51 Vict. c. 10.

(a) In pursuance of section seven of the County Electors Act, 1888, place an asterisk or other mark against the name of any person; or

(b) In pursuance of section four of the Registration Act, 1885, erase the name of any person other-

wise than by reason of that name appearing more than once in the lists for the same parish; or

Sect. 44.

- (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.

See note, p. 145

(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.

Sect. 44.

(9.) Any person may claim for the purpose of having his name entered in the parochial electors list, and the law relating to claims to be entered in lists of voters shall apply.

(10.) The clerk of the county council or town clerk, as the case may be, shall, in printing the lists returned to him by the revising barrister, do everything that is necessary for carrying into effect the provisions of this section with respect to the persons whose names are marked by the revising barrister in pursuance of this section.

Parochial electors.—This expression is applied to the electors in a rural parish by s. 2 (1); and when used with reference to a parish in an urban district, or in the county of London or any county borough, means the persons who would be parochial electors of the parish if it were a rural parish: s. 75 (2), *infra*, p. 200. For the elections at which parochial electors will be entitled to vote, see note to s. 43.

Persons entitled to attend parish meeting.—A candidate for the office of parish councillor need not necessarily be a parochial elector: see s. 3 (1); and such a candidate may attend and speak at a meeting held for the election, but may not vote: Sched. I., Pt. I., r. 9. See also as to the chairman of the parish council when not a parochial elector: s. 45 (2). No special provision is made by the Act as to the presence of reporters at a parish meeting: cf. Sched. I., Pt. II., r. 13, as to meetings of the parish council.

Person prohibited from voting.—See the prohibitions against voting in more than one parish or ward in s. 48 (2). By s. 48 (3), (8), the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, is to apply to every election regulated by rules framed under this Act, and to “a poll consequent on a parish meeting.”

By ss. 6 (3) and 43 (4) of the Corrupt and Illegal Practices Prevention Act, 1883, any person convicted of any “corrupt practice” (as defined by s. 3) is incapable during seven years from his conviction of being registered as an elector or voting at . . . an election for any “public office.” [The meaning of “public office” is stated in the note to s. 20, *supra*, p. 88.] And by ss. 10 and 43 (4), a person guilty of an “illegal practice” is incapable during five years of being registered, or voting at . . . an election for a public office, held for or within the county or borough in which the illegal practice was committed. By the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, ss. 2 and 7, the like incapa-

cities are created by offences at municipal elections [and county council elections: see L. G. A. 1888, s. 75]; and see also s. 8 of the Act of 1884. As to incapacity created by offences against the Public Bodies Corrupt Practices Act, 1889, see note to s. 20, *supra*, p. 88. As to incapacity caused by felony, see the Forfeiture Act, 1870 (33 & 34 Vict. c. 23), s. 2. By 39 & 40 Vict. c. 61, s. 14, "no person shall be entitled to vote in the election of a guardian, or in the election to an office under the provisions of any statute, who shall be in receipt of relief given to himself or his wife or child, or who shall have been in receipt of such relief on any day during the year last preceding such election." By 48 & 49 Vict. c. 46, s. 2, "Where any person has received for himself, or for any member of his family, any medical or surgical assistance, or any medicine at the expense of any poor rate, such person shall not by reason thereof be deprived of any right to be registered, or to vote as a parliamentary voter; or as a voter at any municipal election; or as a burgess; or as a voter at any election to an office under the provisions of any statute; but nothing in this section shall apply to the election of any guardian of the poor, or . . . of any body acting in the distribution of relief to the poor from the poor rate."

And by s. 4, "Medical or surgical assistance" includes all medical and surgical attendance, and all matters and things supplied by, or on the recommendation of, the medical officer having authority to give such attendance and recommendation at the expense of any poor rate. The services of an uncertificated midwife have been held to be "medical assistance" within the Act: *Honeybone v. Hambridge* [1886], 18 Q. B. D. 418.

By 30 & 31 Vict. c. 84, s. 26, vaccination, or surgical or medical assistance incidental thereto, is not to be considered to be "parochial relief, alms, or charitable allowance," and creates no disability or disqualification. The remission of school fees, or payment thereof by guardians, did not disqualify: see 33 & 34 Vict. c. 75, s. 17; 39 & 40 Vict. c. 79, s. 10; and see also 54 & 55 Vict. c. 56, and especially s. 8 of that Act.

A paid agent, legally employed by the candidate at an election, may not vote: see Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 13 (3); and L. G. A. 1894, s. 48 (3), (8).

The police may now vote at all parliamentary, municipal, and other elections: see 50 & 51 Vict. c. 9; 56 & 57 Vict. c. 6, which enable a constable on duty to claim to vote at any polling station.

Wards of urban districts and parishes.—See, as to the division of parishes into wards, (a) for the election of parish councillors, s. 18; and (b) for the election of guardians, s. 20 and the notes,

Sect. 44.

supra, p. 97. As to the division of urban districts (other than boroughs) into wards, see note to s. 23. As to the division of boroughs into wards, see the Municipal Corporations Act, 1882, s. 30.

As to the making of the registers in parts for the first elections under this Act, see s. 84 (3), (4). As to the holding of a parish meeting for a ward of a parish, see s. 49. As to a parish meeting for the area under the authority executing any of the "adoptive Acts," see s. 7 (4), s. 53 (1).

Registered in more than one register of parochial electors.—The object of s. 44 (4) is to ensure that every duly qualified person shall be able to vote at elections of parish councillors in every parish in which he is qualified. But at an election of guardians or district councillors (other than borough councillors) no person may vote in more than one parish or other area in the union or district; and at an election for a parish divided into parish wards, no person may vote in more than one ward: s. 48 (2) (ii), (iii).

Voting in different polling district.—As to the right of voters residing out of the polling district to which the parish wherein their qualification is situate belongs, to vote in another polling district, after making a claim before the revising barrister, see 6 Vict. c. 18, s. 36.

Erasing or placing asterisk against name.—Under the Parliamentary and Municipal Registration Act, 1878, s. 28 (14), in the case of double entries in a parliamentary or municipal borough, the revising barrister was to retain one entry for voting, and to place against the other a note that the voter was not entitled to vote in respect of that qualification for the parliamentary or municipal borough. And s. 5 of the Registration Act, 1885, determined which of the entries was to be retained for voting.

By the Registration Act, 1885, s. 4 (9), the above provisions of the Act of 1878 did not apply to parliamentary counties, and in lieu thereof the revising barrister was directed to retain one entry and *erase* the others. It must be noticed that under this provision entries might be erased (subject to the directions contained in the section) either in the owners' or occupiers' list.

But by the County Electors Act, 1888, s. 7 (6), where, in pursuance of s. 4 of the Registration Act, 1885, the revising barrister had power to erase the name of a parliamentary voter from division one of the *occupiers' list*, he was directed, in lieu of erasing the name, to place an asterisk or other mark against it; the name was to be numbered with the other names, and the voter was not to be entitled to vote in respect of such entry at a

parliamentary election, but was to have the same right of voting at a county council election as he would have if no such mark were placed against his name.

The object of this provision was to prevent the voter from losing (by the *erasure* of his name from the occupiers' list) his right to vote at a county council election, which would be the case if his name were retained only on the owners' list.

Under the County Electors Act, 1888, in the case of double entries in the *owners' list* for a parliamentary county, it was still the duty of the revising barrister, as before, under the Registration Act, 1885, s. 4 (9), to *erase* all entries but one.

But now, under L. G. A. 1894, s. 44 (6) (b), where the revising barrister would (but for that Act) erase the entries, he is directed, *unless the entries occur more than once in the ownership lists for the same parish*, instead of erasing the name to place a mark against it.

The object of this provision may be seen from the following example: if the name of a voter having the ownership qualification (and therefore entitled to vote as a parochial elector) appeared twice in the ownership list for one parish, and once also in the ownership list for a second parish; and if all the entries except one were erased, he would lose his right to vote as a parochial elector in one of the two parishes. But the intention of L. G. A. 1894, s. 44 (4), (6), is to insure that he shall have a right to vote once, and only once, in every parish in which he possesses the necessary qualification. One only of the two entries in the first parish will be erased, and one entry in each parish will be retained.

But where the name is entered in the ownership list and in the occupation list in the same parish, the name being retained in both lists, under s. 44 (6) (a), the voter would, *but for the provisions of s. 44 (7)*, be registered twice as a parochial elector in the same parish: once in the ownership list, which would give him a vote at parliamentary elections, and would also qualify him as a parochial elector: and once in division three of the occupiers' list, which would give him a vote at county council (or municipal) elections, and again qualify him as a parochial elector. To prevent this double qualification as a parochial elector, sub-s. (7) is inserted.

“Division three” of the occupiers' list.—This contains the names of persons entitled to vote as burgesses [or county electors], but not as parliamentary voters: see the Parliamentary and Municipal Registration Act, 1878, s. 15 (2); and the County Electors Act, 1888, ss. 1, 4.

Separate list of parochial electors.—This will, it seems, contain not only the names which appear twice in the list of voters,

Sect. 44.

and are to be retained under s. 44 (6), but also the names of married women who are qualified to be registered "for the purposes of this Act," but not for other purposes: see s. 43.

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.

Parish meeting.—It must assemble at least once (or, where there is no parish council, not less than twice) in every year, and proceedings must begin not earlier than 6 p.m.: see ss. 2 (3), 19 (2). The annual meeting must be held within seven days of March 25: Sched. I. Pt. I. r. I. As to the notice to be given of the meeting, see s. 51, and Sched. I. Pt. I. rr. 2, 3. As to the use of a school-room, &c., see s. 4; see also Sched. I. Pt. I. r. 7 (i). As to holding a parish meeting for a ward of a parish, see s. 49.

Chairman of the parish meeting.—In a parish not having a separate parish council, a chairman for the year will be chosen at the annual meeting: s. 19 (1). If the chairman for the year be absent, or unwilling, or unable, to take the chair, the meeting may appoint a chairman: Sched. I. Pt. I. r. 10; see also s. 2 (4). The chairman of the meeting at which the first parish councillors are nominated must convene the first meeting of the parish council: s. 78 (2).

Chairman of the parish council.—He need not necessarily be a parochial elector, but may be qualified by residence only: s. 3 (1), (8): and in that case will not be entitled to be present; for a person not registered as a parochial elector is not entitled to attend a parish meeting, or vote: s. 44 (1). But if the chairman be a candidate for election, though not a parochial elector, he may attend and speak, but not vote: Sched. I. Pt. I. r. 9. The chairman of the parish council for a group of parishes will not be *ex officio* chairman of the parish meetings for the parishes in that group: see s. 19 (1), s. 38 (1).

Candidate for election.—No man can preside as returning officer at his own election and return himself, upon the principle that no man shall be judge in his own cause: *R. v. Owens* [1859], 28 L. J. Q. B. 316; 2 E. & E. 86; *R. v. White* [1867], L. R. 2 Q. B. 557; *R. v. Morton*, [1892] 1 Q. B. 39.

Parish councillors will be elected at a parish meeting, or at a poll consequent thereon: s. 48 (1). If the chairman of the parish council is a candidate, or is absent, and there is a vice-chairman (appointed under Sched. I. Pt. II. r. 11), it seems doubtful whether the vice-chairman ought to preside at the parish meeting, if present thereat. All question will be avoided, if, being present, he is appointed by that meeting to be chairman: see s. 2 (4).

Power to convene a parish meeting.—The provisions of s. 45 will apply, in the case of a parish divided into wards, as if the ward were the whole parish: see s. 49. The overseers will convene the first parish meeting: s. 78; and if any difficulty arises, an order may be made by the county council, under s. 80.

Parochial electors.—For the meaning of this term, see s. 2 (1).

46.—(1.) A person shall be disqualified for being elected or being a member or chairman of a council of a parish or of a district other than a borough or of a board of guardians if he—

Disqualifications for parish or district council.

- (a) is an infant or an alien; or
- (b) has within twelve months before his election, or since his election, received union or parochial relief; or *See note, p. 150*
- (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 *See note, p. 150*
- (d) holds any paid office under the parish council or district council or board of guardians, as the case may be; or *See note, p. 151*
- (e) is concerned in any bargain or contract entered into *See p. 151, 152.*

Sect. 46.

with the council or board, or participates in the profit of 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—

See note, p. 152

- (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; or
- (c) in any contract with the council or board as a shareholder in any joint stock company; but he shall not vote at any meeting of the council or board on any question in which such company are interested, except that in the case of a water company or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council.

(3.) Where a person who is a parish councillor, or is a candidate for election as a parish councillor, is concerned in any such bargain or contract, or participates in any such profit, as would disqualify him for being a parish councillor, the disqualification may be removed by the county council if they are of opinion that such removal will be beneficial to the parish.

See note, p. 150

(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. Sect. 46.

(5.) A person disqualified for being a guardian shall also be disqualified for being a rural district councillor. *See note, p. 153*

(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. *See note, p. 153*

(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. *See note, p. 153*

(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. *See note, p. 153*

District other than a borough.—For the definition of urban and rural districts, see s. 21. As to disqualifications for holding office in a borough, see the Municipal Corporations Act, 1882, ss. 9 (3), 11 (2), 12, 14 (3), 15 (1), 33 (4), and 39.

The application of s. 46 of this Act is extended by sub-s. (9) to members of the local board of Woolwich, and of the metropolitan vestries and district boards, and to auditors under the Metropolitan Management Acts: see s. 31.

Alien.—See *Isaacson v. Durant* [1886], 17 Q. B. D. 54. The

Sect. 46.

Naturalization Act, 1870 (33 & 34 Vict. c. 14), s. 2, which enables an alien to hold property, provides that "this section shall not qualify an alien for any office, or for any municipal, parliamentary, or other franchise." But an alien, on obtaining a certificate of naturalization, under s. 7, is entitled to all political and other rights, &c., to which a natural-born British subject is entitled.

Union or parochial relief.—By the Municipal Corporations Act, 1882, s. 9 (3), a person is disqualified for being enrolled as a burgess who has received within twelve months "union or parochial relief or other alms." Compare the disqualification, under 2 Will. IV. c. 45, s. 36, by receipt of "parochial relief or other alms which by the common law of Parliament now disqualify from voting." Under that section it was held that a person excused from payment of rates on the ground of poverty, under 54 Geo. III. c. 170, s. 11, was not disqualified: *Mashiter v. Dunn* [1848], 6 C. B. 30; 18 L. J. C. P. 13. Employment by way of relief in stone-breaking amounts to parochial relief: *Magarrill v. Overseers of Whitehaven* [1885], 16 Q. B. D. 242.

Twelve months before election.—Note that by s. 75 (2) "election" includes the nomination. The twelve months must be reckoned accordingly.

Conviction on indictment or summarily of any crime.—By the Elementary Education Act, 1870, Sched. II. Pt. I. r. 14, if a member of a school board "is punished with imprisonment for any crime," he ceases to be a member. It was held in *Conybeare v. School Board for London*, [1891] 1 Q. B. 118, that a member imprisoned in Ireland by a Court of Summary Jurisdiction for conspiracy was within the rule, and that the seat was vacated.

As to the effect of a conviction for felony, see also 33 & 34 Vict. c. 23, s. 2; and as to conviction for offences connected with elections, see note to s. 20. The disqualification created by 4 & 5 Will. IV. c. 76, s. 48, on conviction for felony, fraud, or perjury is repealed by s. 89 of this Act, so far as relates to parish or district councillors or guardians.

Bankruptcy or composition with creditors.—Note that s. 46 (1), (c) must be read with sub-s. (4); and compare the very similar provisions of the Bankruptcy Act, 1883, ss. 32, 34, and the Bankruptcy Act, 1890, s. 9. In *Bourke v. Nutt*, C. A., March 8, 1894, it was held that s. 32 of the Bankruptcy Act, 1883, was not retrospective, so as to disqualify a person adjudicated bankrupt before the commencement of that Act. As to what is "misfortune without any misconduct," see *In re Burgess* [1887], 4 Morrell, 186;

and *In re Lord Colin Campbell* [1888], 20 Q. B. D. 816. Compare also Municipal Corporations Act, 1882, s. 39; *Aslatt v. Corporation of Southampton* [1880], 16 Ch. D. 143; *Hardwick v. Brown* [1873], L. R. 8 C. P. 406. As to disqualification by bankruptcy, &c., for being member of a local board, see *R. v. Cooban* [1886], 18 Q. B. D. 269, and P. H. A. 1875, Sched. II. Pt. I. rr. 5, 64; and note that that schedule is repealed by L. G. A. 1894, s. 89.

Paid office.—Compare 5 & 6 Vict. c. 57, s. 14, which disqualifies certain paid officers from being guardians: see note to s. 20, *supra*, p. 87. It is specially provided that a member of a parish council, if appointed as clerk or treasurer, may not receive remuneration: s. 17 (1), (6).

Bargain or contract with the council or board.—Note that sub-s. (2) and (3) must be read with s. 46 (1) (e). The clauses are based on Municipal Corporations Act, 1882, s. 12 (1) and (2); and on P. H. A. 1875, Sched. II. Pt. I. r. 64, as amended by 48 & 49 Vict. c. 53, s. 4, relating to disqualifications of *members* of a local board. [Compare also s. 193 of the Act of 1875, which prohibited *officers and servants* of a local authority from being “concerned or interested in any bargain or contract made with such authority for the purposes of the Act,” and the amendment of that section by 47 & 48 Vict. c. 74, and 48 & 49 Vict. c. 53, s. 2.] Note that P. H. A. 1875, Sched. II., and 48 & 49 Vict. c. 53, ss. 3, 4, are repealed by s. 89 of this Act.

Provisions of this kind are intended to prevent the members of boards which may have occasion to enter into contracts, from being exposed to temptation, or even to the semblance of temptation: *per* Lord Esher, M. R., *Nutton v. Wilson* [1889], 22 Q. B. D. 744. In that case, a member of a local board who was employed to do certain work for persons who had contracts with the board, was held to be “concerned in a contract” with the board, and therefore disqualified, under P. H. A. 1875, Sched. II. Pt. I. r. 64, the terms of which are almost identical with L. G. A. 1894, s. 46 (1) (e). But compare *Le Feuvre v. Lankester* [1854], 3 E. & B. 530, decided on the Municipal Corporations Act, 1835, s. 28.

Payments to a member of a board for the use of men and horses, required by the surveyor of the board, were held evidence of a contract with the board in *Fletcher v. Hudson* [1881], 7 Q. B. D. 611; but see the proviso in s. 46 (2) (a) of this Act. It has been doubted whether “a trifling dealing over the counter” of a shop was within similar words in the Municipal Corporations Act, 1835, s. 28: *Lewis v. Carr* [1876], 1 Ex. D. 484; *et vide per* Lopes, L.J., *Nutton v. Wilson* [1889], 22 Q. B. D. at p. 749.

Sect. 46.

A candidate, who had ceased to be a partner in a firm which had a contract with the council of a borough, was held to be disqualified, where the contract was at the date of the election unfulfilled, and the candidate remained liable on bonds given to secure the due performance of the contract: *Cox v. Ambrose* [1890], 60 L. J. Q. B. 114; decided on the Municipal Corporations Act, 1882, s. 12.

The payment to a surveyor (in respect of bills of quantities) of percentages on amounts certified by him to be due to persons who had contracted with a board, was held to make the recipient "concerned or interested in" the contract, within P. H. A. 1875, s. 193, in *Whiteley v. Barley* [1887], 20 Q. B. D. 196; affirmed [1888], 21 Q. B. D. 154.

It seems clear that a person concerned in a contract with a board or council made before he became a member of that board or council would be disqualified: compare *Hunnings v. Williamson* [1883], 11 Q. B. D. 533.

It seems doubtful whether, if a councillor or guardian is "concerned in a contract," which would disqualify him under L. G. A. 1894, s. 46 (1) (e), the contract is void: see *Melliss v. Shirley Local Board* [1885], 16 Q. B. D. 446, (C. A.); reversing the decision of Cave, J. [1885], 14 Q. B. D. 911. Note that that case was decided on different words in P. H. A. 1875, s. 193, and compare *Barton v. Piggott* [1874], L. R. 10 Q. B. 86, decided on the Highway Act, 1835, s. 46. See also *R. v. Mayor, &c. of Ramsgate* [1889], 23 Q. B. D. 66, and *R. v. Vaile*, *Ib.* p. 483.

Sale or lease of any lands.—The terms of the first clause of sub-s. (2) (a) are (so far as is material) identical with the words used in r. 64 of P. H. A. 1875, Sched. II. Pt. I., on which it was held that the exception included a sale or lease *by*, or *to*, the local board; and that the words "to the board" applied only to a "loan of money:" *R. v. Gaskarth* [1880], 5 Q. B. D. 321. A demise of rooms to a local board was held to be a "bargain or contract" within P. H. A. 1875, s. 193: *Burgess v. Clark* [1884], 14 Q. B. D. 735; but see now 48 & 49 Vict. c. 53, s. 2.

Contract for supply of stone, gravel, &c.—Proviso (a), so far as it relates to such a contract, is taken from s. 5 of the Highways and Bridges Act, 1891, which prevents such a contract from disqualifying for election to a county council.

Transport of materials.—Compare *Fletcher v. Hudson*, cited *supra*, p. 151.

Shareholder in joint-stock company.—Compare P. H. A. 1875,

s. 193, Sched. II. Pt. I. r. 64; 48 & 49 Vict. c. 53, s. 2, and *Todd v. Robinson* [1884], 14 Q. B. D. 739. Sect. 46.

Disqualification for being rural district councillor.—Compare s. 24 (4) as to qualification.

Absence from meetings.—The provisions of sub-s. (6) are very similar to those of the Elementary Education Act, 1870, Sched. II. Pt. I., r. 14 (relating to absence from meetings of a school board), on which it has been held that the board, before declaring the seat vacant, should give the member an opportunity of defending himself: *Richardson v. Methley School Board*, [1893] 3 Ch. 510.

Acting when disqualified.—It seems doubtful whether a person who has become disqualified by being interested in a contract, and has, after the contract is at an end, acted as a councillor or guardian, would be liable to a fine, unless the office had been declared vacant in the manner prescribed by s. 46 (7). Compare *Lewis v. Carr* [1876], 1 Ex. D. 484, with *Fletcher v. Hudson* [1881], 7 Q. B. D. 611; decided on P. H. A. 1875, Sched. II. r. 64.

Elections in accordance with this Act.—These are (in addition to the elections of officers mentioned in s. 46 (1)) those mentioned in s. 31 (1).

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 chairman of a parish council or parish meeting may resign his chairmanship by notice in writing to the council or meeting.

(4.) A casual vacancy among parish councillors or in the office of chairman of the council shall be filled by the parish council, and where there is no parish council, a casual

Sect. 47.

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 authorizing any person to act temporarily in the place of the parish council and of the chairman thereof.

Annual election.—The number of parish councillors will be fixed by the county council: s. 3 (1). As to the date of the meeting for the election of parish councillors, and the procedure thereat, see s. 48 (2); and as to the first elections, s. 78 (1). If there is any failure to elect a sufficient number of parish councillors at the first election, the county council may make an order for a new election: s. 80; see also s. 48 (5).

The Act makes no provision as to the time within which, or the manner in which, a retiring councillor may state whether he is willing to continue to hold office.

It is not clear whether the election of a person who either refuses to serve, or fails to make the declaration of acceptance of office required by Sched. I. Pt. II. r. 1, is intended to be met by subsection (1) or (4) of s. 47. In either case vacancies have been filled by election, so far as the electors can fill them; and in Sched. I. Pt. II. r. 1, the person elected is called a "councillor." It may also be suggested that on the analogy of the Municipal Corporations Act, 1882, s. 40 (3), "non-acceptance of office creates a casual vacancy." The term casual vacancy is used in that Act, in L. G. A. 1888, and in this Act, without definition. A meeting must be forthwith convened to fill any casual vacancy in the parish council: Sched. I. Pt. II. r. 2.

It is also not clear whether in s. 47 (1), by "the chairman," who is (in certain events) to determine which of the retiring councillors is to continue to hold office, is meant the new or the old chairman. By s. 3 (8), the old chairman will continue to hold office until his successor is elected at the annual meeting of the newly elected council; and by Sched. I. Pt. II. r. 3, the first business at that meeting is to elect the chairman. The determination of the question as to the retiring councillors, may affect and be affected by the election of the new chairman.

Resignation.—Compare s. 48 (4), as to resignation of guardians and district councillors; and Municipal Corporations Act, 1882, s. 36 (1), and L. G. A. 1888, s. 75, as to borough and county councillors.

Note that in s. 47, and throughout L. G. A. 1894, the chairman of the parish council is expressly mentioned by name, and the term “councillors” does not necessarily include the chairman: see, for example, s. 3 (1), (6), (8). It seems that, if elected from outside, under s. 3 (8), the chairman does not become one of the councillors, and if he resigns his chairmanship, he will vacate his seat at the council; but that if the chairman be elected from among the councillors, he does not cease to be a councillor, and if he resigns the chairmanship will continue to be a councillor.

No precise form of notice of resignation is prescribed by the Act. As to the mode of giving notice to the parish council and the chairman, see Sched. I. Pt. II. rr. 6, 15.

Chairman of parish meeting.—This means the chairman for the year elected under s. 19 (1), in a parish not having a separate parish council. The Act contains no provision as to the form of notice of resignation, nor as to the manner of giving notice to the parish meeting, except the somewhat inappropriate directions in Sched. I. Pt. I. r. 11.

Want of councillors.—The quorum may not be less than three: Sched. I. Pt. II. r. 7. A sufficient number may be elected, but may become disqualified under s. 46.

Order for new election.—See also, as to the first election, s. 80. A copy of the order must be sent to the Local Government Board: s. 75.

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

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

See note, p. 158

- Sect. 48.**
 a nomination paper or voting in more than one parish or other area in the union or district ;
- See note, p. 158* (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 ;
- See note, p. 159* (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 ;
- See note, p. 159* (v) for the polls at elections held at the same date and in the same area being taken together, except where this is impracticable ;
- (vi) for the appointment of returning officers for the elections.
- (3.) At every election regulated by rules framed under this Act, the poll shall be taken by ballot, and the Ballot Act, 1872, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and sections seventy-four and seventy-five and Part IV. of the Municipal Corporations Act, 1882, as amended by the last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—
- (a) section six of the Ballot Act, 1872, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes ; and
- (b) section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the First Schedule to that Act.

35 & 36 Vict.
 c. 33.
 47 & 48 Vict.
 c. 70.
 45 & 46 Vict.
 c. 50.
See p. 159, 160.

(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—

Sect. 48.

See note, p. 161

(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 authorize or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election; and

(c) the rules may provide for the incidence of the charge for the expenses of the elections of guardians being the same as heretofore.

(5.) If any difficulty arises as respects the election of any individual councillor or guardian, or member of any such local board or vestry as aforesaid, or auditor, and there is no provision for holding another election, the county council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election. *See note, p. 162*

(6.) Any ballot boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipi-

Sect. 48.

pal, 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.

See note, p. 162

Calendar Month (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.

Election of parish councillors.—See s. 3 (5), (6).

Rules in relation to elections.—By s. 75 (2), “election” includes both the nomination and the poll. The rules will apply to elections of parish councillors, s. 3 (6); of guardians, s. 20 (5); of district councillors in urban districts other than boroughs, s. 23 (5); of rural district councillors, s. 24 (4); and of members of the local board of Woolwich, and the vestries under the Metropolis Management Acts, and of the auditors elected under those Acts, s. 31.

Voting in more than one parish or ward, &c.—A person may be registered in more than one parochial register, and may vote in more than one parish at elections of parish councillors: see s. 44 (4), (6), and the notes thereon.

At an election in a municipal borough, no person may subscribe a nomination paper or vote in more than one ward: see Municipal Corporations Act, 1882, s. 51 (2). For county council elections, a person may be registered, but may not vote, in more than one electoral division: see *Knill v. Towse* [1890], 24 Q. B. D. 697.

As to the division of a parish into wards for the election of guardians (and rural district councillors), see note to s. 24 (3). As to the division of urban districts (other than boroughs) into wards,

see note to s. 23. As to the division of a parish into parish wards for the election of parish councillors, see s. 18.

Sect. 48.

Day and hours of polling.—As to the first election, see s. 78. The Elections (Hours of Poll) Act, 1885, will apply to elections of the metropolitan vestries, but not to any other elections under this Act: see s. 31.

Polls taken together.—There will be parish councils in rural parishes only: s. 1 (1); and in such parishes guardians will not be elected: s. 24 (3). Consequently it will in no case be necessary to take more than two polls together: viz., in rural parishes for elections of parish councillors and rural district councillors; and in parishes in an urban district not being a borough for elections of guardians and urban district councillors. In the case of a borough, the ordinary day of election for councillors is November 1st: see Municipal Corporations Act, 1882, s. 52. That date will prevent the poll for elections of borough councillors and of guardians from being taken together: see s. 20 (6) of this Act; but see, as to the first elections, s. 84 (1).

Returning officer.—For the appointment at the first elections of guardians and district councillors and of members of the local board for Woolwich and the metropolitan vestries, see s. 79 (1), (10).

Ballot Act, 1872.—The Municipal Corporations Act, 1882, s. 58 (1) (subject to the modifications contained in Part III. of the Third Schedule to that Act), applies the provisions of the Ballot Act, 1872, relating to a poll [not a nomination] at a parliamentary election, to a poll at a municipal election: see *Northcote v. Pulsford* [1875], L. R. 10 C. P. 476. Note that s. 5 of the Act of 1882 repeals ss. 20, 21 of the Ballot Act, 1872.

By Sched. III. Part III. r. 1, of the Act of 1882, the provisions of the Ballot Act, 1872, with respect to the use of a room for taking a poll do not apply in the case of a municipal election. Those provisions are contained in s. 6 of the Ballot Act, which will apply in the case of elections held under L. G. A. 1894: see s. 48 (3) (a). Under s. 6, the returning officer may use free of charge for taking the poll 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. Compare s. 4 of this Act.

Municipal Elections (Corrupt Practices) Act, 1884.—That Act repeals some of the sections in Part IV. of the Municipal Corporations Act, 1882, which Part relates to corrupt practices and election petitions. Sections 74, 75, of the Act of 1882 relate to

Sect. 48.

offences (forging, effacing or destroying nomination papers, neglect or refusal to conduct an election, or to prepare burgess lists, &c.).

Part of s. 36 of the Act of 1884 is repealed by s. 89 of this Act.

The Act of 1884, by s. 5, fixed a maximum of expenses to be incurred by or on behalf of a candidate; by s. 36, the Act applied to the elections (other than municipal elections) mentioned in the First Schedule thereto; but, by s. 37, the provisions which related to (*inter alia*) the maximum of expenses did not apply to the elections mentioned in that Schedule.

By s. 48 (3) (b) of this Act, the same provisions will also not apply to "elections regulated by rules framed under this Act."

The expenses incurred by or on behalf of a candidate must be distinguished from the "Expenses of elections": see the note thereon, *infra*.

Penal provisions of the Ballot Act, &c.—The express mention of the "penal provisions" is apparently due to the remarks made by the Court of Appeal upon the introduction of "the penal provisions of other Acts by means of a section so obscurely worded as" s. 75 of L. G. A. 1888: vide per Lord Esher, M. R., *Ex parte Walker* [1889], 22 Q. B. D. at p. 389. It may be inferred from that case that relief from penalties incurred by inadvertent transgression of the Acts incorporated by this section will be very seldom granted.

Expenses of elections.—The Municipal Corporations Act, 1882, contains no provisions as to expenses incurred by, or on behalf of, a candidate, and it seems that the "expenses of elections" referred to in L. G. A. 1894, s. 48 (4), (7), are the expenses incurred in holding the election and taking the poll, as to which see s. 140, Sched. III. Pt. III. r. 5, and Sched. V. Pt. II. (1) of the Act of 1882. The candidate's expenses in municipal elections are regulated by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 5: see the note thereon, *supra*.

Compare the provisions as to expenses of county council elections, in L. G. A. 1888, s. 75 (17), (18), which section applies the provisions of the Act of 1884.

Note that the provisions of L. G. A. 1894, s. 48 (4), do not apply to the election of parish councillors, or of a poll consequent on a parish meeting, as to which see s. 11 (4), and s. 48 (8).

By Articles 32—35 of the General Order (Consolidated) made by the Local Government Board (dated February 14th, 1877), part of the expenses of the election and of the payment made to the returning officer was to be charged to the common fund of the union, and part to the parish in respect of which, or of any wards in which, the expenses were incurred; and in the case of united

parishes, the latter part was to be charged in proportion to the number of separate assessments to the current poor rate in each parish.

Sect. 48.

Acceptance of office and resignation.—By the Municipal Corporations Act, 1882, s. 34, every person elected to a corporate office (unless exempt) is required either to accept office by making the declaration required by the Act, or to pay a fine; by s. 37, a person ceasing to hold a corporate office is re-eligible. By s. 36, a person elected to a corporate office may resign on payment of a fine.

By 5 & 6 Vict. c. 57, s. 11, the Local Government Board may accept the resignation of any guardian, tendered for any cause which the Board deem reasonable.

See as to rural district councillors, s. 24 (4) of this Act. Note that s. 48 (4) does *not* apply to the chairman of a parish council or meeting, or to the parish councillors, any of whom may resign: s. 47 (3).

Casual vacancy.—By the Municipal Corporations Act, 1882, s. 40, on a casual vacancy in a corporate office, an election is to be held by the same persons and in the same manner as an election to fill an ordinary vacancy.

The provisions of L. G. A. 1894, s. 48 (5) (b), are an adaptation of a similar enactment as to county councils, in L. G. A. 1888, s. 75 (16); repealed and re-enacted with amendments by 54 & 55 Vict. c. 68, s. 1 (4), and s. 7.

The term “casual vacancy” is used in the Municipal Corporations Act, 1882, in L. G. A. 1888, and in this Act, without any definition.

Note that s. 48 (5), does not apply to casual vacancies in the office of parish councillor, or chairman of the parish council or parish meeting, as to which see s. 47 (4).

Municipal Corporations Act, 1882, s. 56.—This section is as follows:—

“(1.) If the number of valid nominations exceeds that of the vacancies, the councillors shall be elected from among the persons nominated.

“(2.) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected.

“(3.) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected, and such of the retiring councillors for the borough or ward as were highest on the poll at their election, or if the poll was equal, or there was no poll, as are selected for that purpose by the mayor,

Sect. 48. shall be deemed to be re-elected to make up the required number.

“(4.) If there is no valid nomination, the retiring councillors shall be deemed to be re-elected.”

County district.—See s. 21 (3).

Election of guardians and district councillors, &c.—For provisions as to first elections, see s. 79. The elections of local boards were before this Act regulated by s. 312, and Sched. II. of P. H. A. 1875. Elections of guardians were formerly regulated by 4 & 5 Will. 4, c. 76, ss. 38, 40; 7 & 8 Vict. c. 101, ss. 14—16; 30 & 31 Vict. c. 106, ss. 5, 6, 9, 10, 12.

As to the local board of Woolwich and the metropolitan vestries, see note to s. 31.

Order for new election.—A copy of the order must be sent to the Local Government Board: s. 71. The county council have also power to remove difficulties, &c., at the *first* elections under this Act, by s. 80. See, also, as to subsequent elections of parish councillors, s. 47 (5); and of district councillors, s. 59 (5).

Prescribed.—This means prescribed by order of the Local Government Board: s. 75 (2).

One month before the first election.—This means a calendar month; see note to s. 13 (1). “Election” apparently means the day of nomination; see s. 75 (2). As to the meaning of “expenses of any election,” see note thereon, *supra*, p. 160.

Poll consequent on a parish meeting.—This is directed to be taken by ballot: s. 2 (5). As to the persons who may demand a poll, see Sched. I. Pt. I. r. 7.

Provision as to parish meeting for part of parish.

49. Where a parish meeting is required or authorized in pursuance of this Act to be held for a ward or other part of a parish, then—

- (a) the persons entitled to attend and vote at the meeting, or at any poll consequent thereon, shall be the parochial electors registered in respect of qualifications in that ward or part; and
- (b) the provisions of this Act with respect to parish meetings for the whole of a parish, including the provisions with respect to the convening of a

parish meeting by parochial electors, shall apply as if the ward or part were the whole parish.

Sect. 49.

Ward or other part of parish.—A parish may be divided into parish wards for the election of parish councillors, under s. 18; see also s. 1 (2), (3). Some of the “adoptive Acts” may be adopted by the parish meeting for part of a parish: s. 7 (4). See also ss. 56 (2), 57 (5), and s. 37. As to making up the register in parts, see s. 44 (3); and for definition of “parochial electors,” see s. 2 (1).

Convening of parish meeting.—See s. 45 (3). For rules applicable to parish meetings generally, see s. 2, and Sched. I., Pts. I. and III.

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.

Supplemental provisions as to overseers.

Rural parish.—This term is defined in s. 1 (2), (3). In a parish not having a parish council, the parish meeting will appoint the overseers: s. 19 (5); except in cases coming under s. 36 (4). Where there is a parish council, the overseers are to be appointed by the council (s. 5) at the annual meeting, held within seven days after April 15: s. 3 (4), (7); Sched. I. Pt. II. r. 3. Where the parish meeting make the appointment, it seems that it ought to be made at the annual assembly held within seven days of March 25: see Sched. I. Pt. I. r. 1.

For the power of the Local Government Board to transfer the appointment of overseers in urban districts, &c., see s. 33 (1).

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.

Sect. 51.

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.

Notice of vestry meetings.—Public notice must be given, specifying the place, hour, and special purpose of the vestry meeting, “three days at the least” before the day appointed. The notice must be reduced into writing, and copies must, previously to the commencement of divine service on Sunday, either in the morning or the evening, be affixed on or near to the principal or most usual door of all the churches and chapels of the Established Church within the parish, in which divine service is performed: see 58 Geo. 3, c. 69, s. 1; amended, and in part repealed, by 7 Will. 4 & 1 Vict. c. 45, s. 2: *Burnley v. Overseers of Methley* [1859], 28 L. J. M. C. 152; *Ormerod v. Chadwick* [1847], 16 M. & W. 367; and note the repeal of the section first cited by s. 89 of this Act. “Writing” includes printing, lithography, photography, and other modes of representing or reproducing words in a visible form: see the Interpretation Act, 1889, s. 20.

Note, also, that s. 51 relates to the *manner* of giving notice, but not to the length of notice; and by Sched. I. Pt. I. rr. 2, 3, seven (and, for some purposes, fourteen) clear days’ notice of a parish meeting must be given.

Persons convening the meeting.—See s. 45 (3).

Supplemental provisions as to transfer of powers.
17 & 18 Vict. c. 112.

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.

(2.) In a rural parish the power of making an applica-

tion 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 exerciseable 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.

(3.) The consent of justices shall not be required for the sale of land belonging to a parish which has been used for materials for the repair of highways or for the purchase of land with the proceeds of any such sale.

(4.) Where the legal estate in any property is vested in the churchwardens and overseers of any parish by virtue of the Poor Relief Act, 1819, nothing in the Charitable Trusts Acts, 1853 to 1891, shall be deemed to require the consent of such churchwardens and overseers in their capacity as a corporation under that Act, or of the parish council as their successors, to a vesting order under those Acts dealing with the said legal estate. Provided that nothing in this section shall affect any rights, powers, or duties of the churchwardens and overseers or the parish council, in cases where they have active powers of management.

(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 con-

Sect. 52.

33 & 34 Vict.

c. 75.

39 & 40 Vict.

c. 79.

59 Geo. III.

c. 12.

Sect. 52.

strued with such modifications as may be necessary for carrying this Act into effect.

Powers of owners and ratepayers.—As to their consent (required in certain parishes) to the sale, &c. of parish property by the guardians, see note to s. 6 (1) (*d*), *supra*, p. 28. By s. 8 (2) the parish council may, with the consent of the parish meeting, sell or exchange parish property. Special provision is made by s. 37 as to the consent of the parish meeting for part of a parish to acts of the parish council affecting the property of that part.

The School Sites Acts.—These are 4 & 5 Vict. c. 38; 7 & 8 Vict. c. 37; 12 & 13 Vict. c. 49; 14 & 15 Vict. c. 24; 15 & 16 Vict. c. 49: see the Short Titles Act, 1892 (55 & 56 Vict. c. 10). The object of the Acts is to introduce an exception to the Mortmain Act, and to afford facilities for conveyance and endowment of sites for schools. The Acts are applied to board schools by the Elementary Education Act, 1870, s. 20. By s. 6 of 4 & 5 Vict. c. 38, the consent of a majority of the owners and ratepayers of the parish was required for the conveyance of parochial property by trustees, for the purposes of the Act. As to the mode of ascertaining the consent, see 5 & 6 Will. 4, c. 69, s. 3; 4 & 5 Will. 4, c. 76, s. 40.

The Literary and Scientific Institutions Act, 1854.—This Act applies to institutions for the promotion of science, literature, the fine arts, for adult instruction, the foundation of libraries, museums, &c. Its object is similar to that of the School Sites Acts, and s. 6 is a repetition, almost verbatim, of s. 6 of 4 & 5 Vict. c. 38: see the preceding note.

Elementary Education Acts, 1870 and 1876.—By s. 12 of the Act of 1870, where application is made to the Education Department with respect to any "school district" by the persons who, if there were a school board in that district, would elect the school board, the department may, if they think fit (after such inquiry and notice as they think sufficient), cause a school board to be formed for such district. An application for the purposes of the section might be made by a resolution passed by the said electing body after notice, published at least a week previously, and the provisions of the second part of the Second Schedule to the Act with respect to the passing of such resolution were to be observed. By rule 2 in that Part, the resolution was to be passed in like manner, as near as may be, as that in which a member of the school board is elected, and the expenses incurred with reference to such a resolution were to be paid by the overseers out of the poor rate. By Sched. I.

to the same Act, "school districts" consist of the metropolis, boroughs, the district of the local board of Oxford, and parishes not included in any of the before mentioned districts.

Sect. 52.

By s. 41 of the Act of 1876, application for the dissolution of a school board may be made to the Education Department by the like persons and in the like manner as an application under s. 12 of the Act of 1870, "nevertheless by a majority of not less than two-thirds of those who shall vote upon the occasion." No application may be made for the dissolution of a school board except within six months before the expiration of the period for which the school board has been elected.

By s. 11 of the Elementary Education Act, 1873, the provisions of s. 12 of the Act of 1870 are extended to an application, for the formation of an united school district (consisting of two or more adjoining school districts), but a resolution in favour of union must be passed in each district separately.

On the passing of any resolution by the parish meeting for the formation or dissolution of a school board, any one parochial elector may demand a poll: see Sched. I. Pt. I. r. 7.

Consent of justices.—By the Highway Act, 1835, s. 48, lands allotted to a parish under the Inclosure Acts for materials for repairing highways, might be sold by the highway surveyor (with the consent of the vestry, and with the consent in writing of the justices at a special session for highways), to the owner of land adjoining, or, if he refused to purchase, to any other person; and with the money arising from the sale, with the like consent, other lands might be purchased in lieu thereof.

The powers of the surveyor of highways are now vested in the district council: see s. 25 (1), and the notes.

Poor Relief Act, 1819.—The effect of s. 17 of this Act is stated in the note to s. 6 (1) (c), *supra*, p. 27.

Charitable Trusts Acts, 1853 to 1891.—The Acts cited under this collective title are enumerated in Sched. II. to the Short Titles Act, 1892. For the powers of the Chancery Division or the Charity Commissioners to make an order vesting property in "The Official Trustee of Charity Lands," see 16 & 17 Vict. c. 137, s. 48; 18 & 19 Vict. c. 124, s. 15; 23 & 24 Vict. c. 136, s. 2; and 50 & 51 Vict. c. 49, s. 5. Under the section first cited, no vesting order may be made in respect of any land, &c. vested in a corporation, without the consent of the corporation; and it was held that no such order could be made in respect of land vested in the churchwardens and overseers, as a corporation under the Poor Relief Act, 1819, s. 17,

Sect. 52.

without their consent: see *In re Hackney Charities*, [1864] 34 L. J. Ch. 169.

Transfer from vestry or overseers, &c.—See s. 6. The appointment of overseers is transferred from justices by s. 5.

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.

(2.) If the area on the appointed day under any authority under any of the adoptive Acts will not after that day be comprised within one rural parish, the powers and duties of the authority shall be transferred to the parish councils of the rural parishes wholly or partly comprised in that area, or, if the area is partly comprised in an urban district, to those parish councils and the district council of the urban district, and shall, until other provision is made in pursuance of this Act, be exercised by a joint committee appointed by those councils. Where any such rural parish has not a parish council the parish meeting shall, for the purposes of this provision, be substituted for the parish council.

(3.) The property, debts, and liabilities of any authority under any of the adoptive Acts whose powers are transferred in pursuance of this Act shall continue to be the property, debts, and liabilities of the area of that authority, and the proceeds of the property shall be credited, and the debts and liabilities and the expenses incurred in respect of the said powers, duties, and liabilities, shall be charged to the account of the rates or contributions levied in that area, and where that area is situate in more than one parish the sums credited to and paid by each parish

shall be apportioned in such manner as to give effect to this enactment.

Sect. 53.

(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.

Adoptive Acts.—These are the Acts enumerated in s. 7 (1). As to “the appointed day,” see s. 84 (4); and as to the meaning of “rural parish,” see s. 1 (2), (3).

Note that if the area under the authority executing any of the adoptive Acts is co-extensive with a rural parish, the powers, &c. of that authority *shall* be transferred to the parish council: s. 7 (5). If the area under the authority is part only of a rural parish, the powers, &c. of the authority *may* be transferred to the parish council: s. 53 (1). If the area is not within one rural parish, the powers of the authority *shall* be transferred to the parish councils, or to the parish councils and the district council of an urban district: s. 53 (2). If the area of the authority is in any urban district, or part of an urban district, the district council *may* transfer the powers of the authority to the district council: s. 62 (1).

Parish meeting for part of a parish.—This will consist of the parochial electors registered in respect of qualifications in that part: s. 49 (a). As to making up the register for that part, see s. 44 (3).

Transfer to parish council.—In the case of a parish without a parish council (unless it be co-extensive with a rural sanitary district: see s. 36 (4)), it seems that the existing authority under the adoptive Acts will continue to exist, except in the case of an area extending into more than one rural parish: see s. 53 (2). Note that powers under the adoptive Acts are *not* included among those given by s. 19 to the parish meeting, where there is no parish council; but cf. s. 19 (10). Existing officers are transferred by s. 81 (1).

Until other provision is made.—The reference in sub-s. (2) seems to be to s. 36 (8), s. 53 (4), and s. 69.

Joint committee.—Some of the general provisions of s. 57 seem not to apply to a joint committee appointed under s. 53 (2). For

Sect. 53.

instance, it seems that the powers (if any) of the authority under the adoptive Acts, as to borrowing money and making rates, will pass to the joint committee appointed under s. 53 (2), notwithstanding the provisions of s. 57 (2). It will be safer to assume that the members of the joint committee to be appointed under s. 53 (2) by the several councils mentioned must be appointed by those councils "out of their respective bodies," as required by s. 57 (1).

The Act contains no provision for determining the number of representatives of the several parishes on the joint committee appointed under s. 53 (2), in case any difference arises.

Expenses.—It seems that the special provisions of s. 53 (3) will supersede the general provisions of s. 57 (4). See also s. 7 (6) as to the incidence of rates levied under the "adoptive Acts"; and the general provisions of s. 67 as to transfer of property, debts, and liabilities.

It seems that the provisions of s. 58, as to audit, will apply to the accounts of councils or joint committees exercising powers under the adoptive Acts.

Alteration of boundaries.—A copy of the order made by the county council must be sent to the Local Government Board and to the Board of Agriculture : s. 71.

Effect on
parish council
of constitu-
tion of urban
district.

54.—(1.) Where a new borough is created, or any other new urban district is constituted, or the area of an urban district is extended, then—

- (a) as respects any rural parish or part of a rural parish which will be comprised in the borough or urban district, provision shall be made, either by the constitution of a new parish, or by the annexation of the parish or parts thereof to another parish or parishes, or otherwise, for the appointment of overseers and for placing the parish or part in the same position as other parishes in the borough or district, and
- (b) as respects any parish or part which remains rural, provision shall be made for the constitution of a new parish council for the same, or for the annexation of the parish or part to some other

parish or parishes, or otherwise for the government of the parish or part, and Sect. 54.

- (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; 45 & 46 Vict.
c. 50.
- (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; 51 & 52 Vict.
c. 41.
- (c) Where the area of an urban district is extended, by an order of the Local Government Board under section fifty-four, or of the county council under section fifty-seven, as the case may be, of the Local Government Act, 1888.

(3.) Where the area of an urban district is diminished this section shall apply with the necessary modifications.

Creation of new borough.—This is done by a charter from the Crown, granted on a petition of the inhabitants, which petition is referred to a Committee of the Privy Council: see Municipal Corporations Act, 1882, s. 210—212. Notice of such petition must be given to the county council, and to the Local Government Board: L. G. A. 1888, s. 56. By s. 213 of the Act of 1882, a scheme may be settled by the Privy Council for the continuance or abolition of, and adjustment of rights of, any existing local authority, and any officer of that authority; and by s. 214 a scheme, before being settled, must be referred for consideration to the Secretary of State and the Local Government Board, and, if it affects any harbour authority, to the Board of Trade.

Constitution of new urban district.—For the meaning of urban district, see s. 21. The Local Government Board have power to constitute a new local government district (*i. e.*, an urban district under a local board) by an order made in pursuance of a resolution of owners and ratepayers, or by provisional order made without such resolution: see P. H. A. 1875, ss. 271, 272. And the county council have power to constitute a new urban district,

Sect. 54. *not being a borough*, by a provisional order to be submitted to, and confirmed by the Local Government Board, and to be laid before Parliament: see L. G. A. 1888, s. 57 (1) (c), and (3), *infra*, p. 254.

Whether the new urban district be constituted by an order of the Local Government Board, or of the county council, it seems clear that the provisions as to overseers, parish council, &c., referred to in s. 54 of this Act, must be made by an order of the county council.

Extension of area of urban district.—The Local Government Board have power to alter the area of a local government district by provisional order, under P. H. A. 1875, s. 270; and to alter the boundary of a borough by provisional order, under L. G. A. 1888, s. 54, *infra*, p. 253. A county council have power to alter the boundary of any county district *not a borough* by a provisional order, to be confirmed by the Local Government Board, and to be laid before Parliament: see L. G. A. 1888, s. 57 (1) (a), and (3), *infra*, p. 254.

It seems to be intended that in the case of the extension of a borough the order containing provisions as to overseers, &c. is to be made by the Local Government Board; and in the case of an urban district other than a borough, the order is to be made by the authority by whose order the district was extended.

Overseers.—The powers of the parish council (or meeting) in a rural parish to appoint overseers may in other parishes be conferred by the Local Government Board upon other authorities: see ss. 5, 33; but until such an order is made, the overseers (in parishes other than rural parishes) will be appointed as before the Act. For the definition of rural parish, see s. 1 (2), (3). The provision in s. 54 as to the overseers for an entire parish included in an urban district, is, apparently, to deal with the question of the validity of the appointment of the overseers holding office at the date of the enlargement or constitution of the urban district.

Adjustment.—Provision is made for adjustment by agreement, or by arbitration, in s. 68, “*if the adjustment is not otherwise made.*” It does not seem clear whether the operation of that section is excluded by s. 54 (1) (c), or whether an order might be made by the county council, or the Local Government Board, under s. 54, for the determination of questions of amount by arbitration.

Power to
change name

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. Sect. 55.
of district or parish.

(2.) Where a parish is divided by this Act, each parish so formed shall bear such name as the county council direct.

(3.) Any district council may, with the sanction of the county council, change their name and the name of their district.

(4.) Every change of name made in pursuance of this section shall be published in such manner as the authority authorizing 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.

Parish divided, united, or grouped.—Note that there is a distinction in this section, and throughout the Act, between the division of a parish “by the Act” and the division “by an order in pursuance of the Act.” A parish situated partly within and partly without a rural sanitary district, or situated in more than one urban district, is divided by the Act: see s. 1 (3), and s. 36 (2). The county council have power to unite or divide parishes by an order in pursuance of the Act, under s. 36 (8). As to the grouping of small parishes, see s. 1, and ss. 38—40.

Name of parish.—A copy of every order altering a name must be sent to the Local Government Board and the Board of Agriculture: s. 71. It will be necessary for the county council, in some cases, to determine the name before the appointed day fixed by s. 84, and the name will determine the name of the parish council: see s. 3 (9); and cf. s. 83.

Name of district council.—As to the name of the rural district council, see s. 24 (7). As to the name of a local board, and improvement commissioners, see P. H. A. 1875, s. 7. Sub-ss. (3), (4), and (5) of s. 55 of this Act follow very closely the terms of P. H. A. 1875, s. 311, under which any local board, with the sanction of the Local Government Board, may change their name.

Sect. 55.

Note that "district council" includes a borough, not being a county borough: see ss. 21, 35.

Committees
of parish or
district
councils.

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.

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 authorize the committee to institute any proceeding or do any act which the council might have instituted or done for that purpose other than the raising of any loan or the making of any rate or contract.

(2.) Where a parish council have any powers and duties which are to be exercised in a part only of the parish, or in relation to a recreation ground, building, or property held for the benefit of a part of a parish, and the part has a defined boundary, the parish council shall, if required by a parish meeting held for that part, appoint annually to exercise such powers and duties a committee consisting partly of members of the council and partly of other persons representing the said part of the parish.

(3.) With respect to committees of parish and district councils the provisions in the First Schedule to this Act shall have effect.

(4.) This section shall not apply to the council of a borough.

District council.—This term includes boroughs, not being county boroughs: see s. 21, and s. 35. But boroughs are excluded from the operation of s. 56, as the committees of borough councils are regulated by s. 22 of the Municipal Corporations Act, 1882.

Committees.—This section and the First Schedule take the

place of P. H. A. 1875, ss. 200, 201, and “so much of Schedule I.” to that Act “as relates to committees,” all of which enactments are repealed by s. 89 of this Act.

Sect. 56.

Under s. 56 (1) a committee appointed by a parish or district council may consist wholly or *partly* of members of the council; but under s. 57 (1) councils appointing joint committees may appoint “out of their respective bodies” only. But a committee appointed under s. 56 (2) *must* consist in part of persons not members of the parish council; and where a joint committee is appointed under s. 57 (5), each council appointing *must* appoint some persons not members of that council. There is a difference as to the term of office: cf. s. 56 (1) with s. 57 (3).

The accounts of committees will be made up and audited as directed by s. 58.

Annual meeting.—The parish council will hold its annual meeting within seven days after April 15th: s. 3 (7). As to district councils (other than boroughs), see s. 59 (1), which applies P. H. A. 1875, s. 199, and part of Sched. I. to that Act. By r. 11 of that Schedule, *infra*, p. 252, the annual meeting must be held as soon as may be convenient after April 15th.

Purposes of the Public Health Acts.—Compare the provisions of P. H. A. 1875, s. 202, *infra*, p. 242, as to the appointment of parochial committees; and as to their constitution in the future, see s. 15 of this Act.

Highway Acts.—See s. 25 (1).

Recreation ground or property.—See notes to s. 6 (1) (c), *supra*, p. 27, and s. 8 (1), *supra*, p. 44.

Part of a parish.—Compare s. 37; and, as to parishes which are grouped, s. 38 (1). A parish may be divided into parish wards under s. 18. The authority under the adoptive Acts, mentioned in s. 7, may have jurisdiction over only a part of a parish. As to persons constituting the parish meeting for part of a parish, see s. 49; and as to the register for such part, see s. 44 (3). Where the special powers and duties affect parts of two parishes, the parish meetings may require the parish councils to appoint a joint committee under s. 57 (5).

The First Schedule.—Note that only Parts III. and IV. of this Schedule apply to committees.

57.—(1.) A parish or district council may concur with any other parish or district council or councils in appoint- Joint committees.

Sect. 57.

ing 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.

(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.

District council.—This includes a borough, not being a county borough: ss. 21, 35. And it seems that s. 57 applies to joint committees appointed by councils, all or any of which are councils of boroughs other than county boroughs: cf. s. 58 (2); and note the express exemption of boroughs from the operation of s. 56.

Joint committees.—Compare the provisions of s. 56 as to committees, and the notes thereon. With s. 57 (2) compare the similar prohibition contained in L. G. A. 1888, s. 81 (3). Express direction for the appointment of a joint committee to exercise powers under the adoptive Acts is contained in s. 53 (2) of this Act. As to rules for proceedings of joint committees, see Sched. I. Part IV., and note (g) thereon.

Annual meeting.—As to the dates for parish councils and district councils (other than boroughs) see note to s. 56. By the Muni-

cipal Corporations Act, 1882, Sched. II. rr. 1, 2, borough councils are to hold four quarterly meetings in every year; one on November 9, and the other three on such days before the following November 1 as the council determine. It seems to be intended that the meeting on November 9 (at which the mayor and aldermen are elected, and which is the first meeting after the election of councillors), should be regarded for the purposes of this Act as the "annual meeting," though that term is not used in the Act of 1882.

Costs of joint committee.—As to accounts and audit, see s. 58. It seems that if a joint committee is appointed under s. 53 (2) for the execution of any of the adoptive Acts, the special provisions of s. 53 (3) as to rates, &c. will apply to the costs of such joint committee.

Parish council required to appoint a committee.—The reference is to s. 56 (2). Each parish council must appoint as members of the joint committee, under s. 57 (5), some persons who are not members of the council. But a joint committee appointed under s. 57 (1) must be appointed by the councils "*out of their respective bodies.*" A difficulty may arise under s. 57 (5) as the councils are bound to obey the requirements of the parish meetings, but may be unable to agree upon the apportionment of the members of the committee to the several parishes, and the Act contains no provision for deciding the question.

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 a borough council), be audited by a district auditor, and the enactments relating to audit by district auditors of accounts of

Sect. 58.

urban sanitary authorities and their officers, and to all matters incidental thereto and consequential thereon, shall apply accordingly, except that in the case of the accounts of rural district councils, their committees and officers, the audit shall be half-yearly instead of yearly.

(3.) The Local Government Board may, with respect to any audit to which this section applies, make rules modifying the enactments as to publication of notice of the audit and of the abstract of accounts and the report of the auditor.

(4.) Every parochial elector of a rural parish may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the parish council of the parish or parish meeting.

(5.) Every parochial elector of a parish in a rural district may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the district council of the district.

District councils.—These include the councils of boroughs, not being county boroughs: ss. 21, 35.

Parish councils, and parish meetings.—As to payment of expenses out of poor rate, see s. 11 (4), (5).

Accounts and audit.—The accounts of a borough are made out, and audited by borough auditors half-yearly: see Municipal Corporations Act, 1882, ss. 26, 27, 28 (2), and P. H. A. 1875, s. 246. The accounts of urban authorities other than boroughs are made up, and audited by district auditors yearly: see P. H. A. 1875, ss. 245, 247, 250. The accounts of rural sanitary authorities (and of guardians) are made up half-yearly: see P. H. A. 1875, ss. 9, 248; 42 Vict. c. 6, s. 5, and the "General Order for Accounts," (January 14, 1867), Art. 38. See further as to the audit of accounts of urban authorities, P. H. A. 1875, ss. 247, 250, *infra*, p. 247.

District auditors.—They are appointed, and districts are assigned to them, by the Local Government Board, under the District Auditors Act, 1879 (42 & 43 Vict. c. 6), s. 4. Stamp duties are

payable by local authorities according to the scale contained in the schedule to that Act.

Sect. 58.

Joint committee.—As to the appointment of joint committees generally, see s. 57. A borough council might join in appointing a joint committee for the exercise of powers under the adoptive Acts: s. 53 (2).

Notice of audit: abstract of accounts.—See P. H. A. 1875, s. 247 (3), (10).

Parochial elector, rural parish.—These terms are explained in s. 2 (1) and s. 1 (2) respectively.

Inspection of books and documents.—Sub-sect. (4) is adapted from s. 87 of the Elementary Education Act, 1870, which, however, contains in addition a clause imposing a penalty for hindering inspection. As to inspection of accounts, see further P. H. A. 1875, s. 247 (4), *infra*, p. 247, which is applied by s. 58 (2) of this Act. See also as to the custody of documents, &c. belonging to a parish: s. 17 (8).

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.

(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

Sect. 59.

union comprising their district at all reasonable hours, and if any question arises as to what hours are reasonable it may be determined by the Local Government Board.

(4.) Nothing in this section shall affect any powers of the Local Government Board with respect to the proceedings of guardians.

(5.) If any district council, other than a borough council, become unable to act, whether from failure to elect or otherwise, the county council of the county in which the district is situate may order elections to be held and may appoint persons to form the district council until the newly elected members come into office.

20 & 21 Vict.
c. 22.

(6.) Nothing in this Act shall affect any powers of the Secretary of State under the Public Health Supplemental Act for Aldershot, 1857, or the position of persons nominated under those powers.

Public Health Act, 1875.—Sect. 199 and Sched. I. to this Act are set out *infra*, pp. 242, 251. Note that s. 89 of this Act repeals “so much of Sched. I. as relates to committees,” thus leaving untouched Part I. of that schedule which contains “Rules applicable to local boards.” For rules as to committees of district councils, see Sched. I., Pts. III., IV. of this Act.

Urban district other than a borough.—The corresponding provisions, in the case of a borough council, for the election of a mayor, and the appointment by him of the deputy mayor, are to be found in Municipal Corporations Act, 1882, ss. 15, 16; and see Sched. II. to that Act for rules relating to proceedings of the council.

Election of chairman.—The chairman of a district council (whether urban or rural) is *ex officio* a justice of the peace for the county: s. 22. As to the chairman of a board of guardians, see s. 20 (7). The chairman will be elected at the annual meeting for one year: P. H. A. 1875, s. 199, and Sched. I., Pt. I., rr. 3 and 11, *infra*, pp. 242, 251. By r. 3, the chairman could be elected only from among the members of the board. The effect of electing a chairman from outside the councillors or guardians will be to increase the number of the councillors or guardians fixed by the Local Government Board, or the county council: see note to s. 60 (1). As to the position of the chairman of a rural district council, if

elected from outside the councillors, see note to s. 24, *supra*, p. 97. The chairman has a second or casting vote: see P. H. A. 1875, Sched. I., Pt. I., r. 8, *infra*, p. 252.

Vice-chairman.—It appears that the vice-chairman of a district council (other than a borough council) may not be chosen from outside the councillors; but the vice-chairman of a board of guardians may be chosen from outside the guardians: cf. s. 20 (7) with s. 59 (1), (2).

Use of guardians' board-room.—The rural district councillors for any parish will be the representatives of that parish on the board of guardians: s. 24 (3). Compare the provisions as to the use of school-rooms, &c. by a parish council, in s. 4. By s. 61 the holding of meetings in licensed premises is, except in certain cases, prohibited.

Powers of the Local Government Board.—The object of s. 59 (4) is apparently to preserve the validity of the General Orders of the Local Government Board, issued under 4 & 5 Will. c. 76, with regard to the meetings and proceedings of guardians.

Failure to elect.—Very wide powers are given to the county council in the case of any failure at the first elections by s. 80: see also s. 83 and s. 48 (5). A council may become unable to act by not having a sufficient number of members to form a quorum: see P. H. A. 1875, Sched. I., r. 2, *infra*, p. 251. The case of a failure to hold an election in a borough, is provided for by Municipal Corporations Act, 1882, s. 70.

Aldershot.—By 20 & 21 Vict. c. 22, the local board for Aldershot is to consist of twelve persons, nine elected by the ratepayers, and three to be nominated from time to time by the Secretary of State for War, to hold office during his pleasure. One third of the elected members were to go out of office annually, and property qualification was required. As to the elected members, see now s. 23 of this Act.

Miscellaneous.

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

Supplemental provisions as to guardians.

Sect. 60.

relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Local Government Board.

(2.) The council of each county may for the purpose of regulating the retirement of guardians or rural district councillors, in cases where they retire by thirds, and in order that as nearly as may be one third of the persons elected as guardians for the union, and one third of the persons elected as rural district councillors for the district, shall retire in each year, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

(3.) Where a poor law union is situate in more than one county, the power under this section of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of district councillors, shall be exercised by a joint committee of the councils of the counties concerned, but if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee.

Provided that if any order under this sub-section is, within six weeks after the making thereof, objected to by any of the county councils concerned, or by any committee of any of those councils authorized in that behalf, it shall be of no effect until confirmed by the Local Government Board.

(4.) Where under any local and personal Act guardians of a poor law union are elected for districts, whether called by that name or not, the provisions of this Act with respect to the election of guardians shall apply as if each of the districts were a parish.

(5.) The board of guardians of a union elected in pursuance of this Act shall, save as otherwise provided by an order of the Local Government Board, made on the appli-

cation 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.

Order of the county council.—A copy must be sent to the Local Government Board, and, in certain cases, to the Board of Agriculture: s. 71. Note that by s. 75 (2), *infra*, p. 202, “county council” includes the council of a county borough, who may therefore make orders under s. 60 as to guardians elected for parishes within the county borough; or, if the union extends outside the county borough, a joint committee may be appointed under s. 60 (3).

Number of guardians or rural district councillors.—The number of guardians was, before this Act, fixed by the Local Government Board, under 4 & 5 Will. 4, c. 76, ss. 38, 39, 41; and 7 & 8 Vict. c. 101, s. 18. The number of rural district councillors for each parish will be the same as the number of guardians: s. 24 (2). The area of the union may be altered under s. 36 (6).

Adding together or dividing parishes.—For the powers of the Local Government Board, see note to s. 24. The adding of parishes to each other under s. 60 must be distinguished from the grouping of parishes for the election of a parish council, under s. 1 (1). And the division into wards for the election of guardians must be distinguished from the creation of parish wards under s. 18.

Special provision is made as to guardians for parishes “divided by this Act” in s. 79 (2).

Retirement of guardians.—This is provided for by s. 20 (6), and the same provision applies to rural district councillors: s. 24 (4). The retirement of the first elected guardians and rural district councillors is regulated by s. 79 (3)—(5). As to the retirement of the persons who were guardians at the passing of the Act, see s. 79 (8). The county council have a discretion as to the exercise of the power given by s. 60 (2). If exercised, the effect will be to divide the areas for which guardians are elected in each union into three classes, and the representatives of all the areas in one class only will retire in each year.

Note that s. 60 does not apply to the retirement of urban district councillors, as to which see s. 23 (6).

Sect. 60.

Union situate in more than one county.—These words in sub-section (3) must, it seems, be read as meaning “more than one *administrative* county.” Compare s. 36 (1) (a) and (11); in the latter sub-section the word “*administrative*” is again omitted.

Months.—These are calendar months: see note to s. 13 (1).

Joint committee.—The appointment and proceedings of this committee will be regulated by L. G. A. 1888, ss. 81, 82. It seems clear from s. 82 (2) of that Act, and the terms of s. 60 (3) of this Act, that the acts of the joint committee need not be submitted to the councils for their approval; but see also s. 36 (11) of this Act. A county council may delegate their powers under this Act to a committee, by s. 83.

Local and personal Act.—This includes a Provisional Order confirmed by an Act, and the Act confirming the order: s. 75 (2).

Oxford.—As to the guardians, see 17 & 18 Vict. c. cxxix. ss. 2—4, under which of the thirty-three guardians, there were to be three for the University, and eight others elected for colleges and halls. See further, 38 & 39 Vict. c. clxviii. s. 2, and ss. 1, 2 of the Provisional Order thereby confirmed, and s. 27 of the Provisional Order confirmed by 52 Vict. c. xv.

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

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.

The parish council may provide rooms for meetings under s. 6 (1) (c), or s. 8 (1) (a), or use a schoolroom under s. 4: see the note on that section. Every urban sanitary authority is directed to provide offices for transacting its business, by P. H. A. 1875, s. 197. As to the use of offices, &c. of a board of guardians by a rural district council, see s. 59 (3) of this Act.

Note that s. 61 applies to every “district council,” which term includes a borough council (not being the council of a county borough): see ss. 21, 35. For the power of a borough council to provide buildings, see the Municipal Corporations Act, 1882, s. 105.

Permissive transfer to urban district

62.—(1.) Where there is in any urban district, or part of an urban district, any authority constituted under any

of the adoptive Acts, the council of that district may resolve that the powers, duties, property, debts, and liabilities of that authority shall be transferred to the council as from the date specified in the resolution, and upon that date the same shall be transferred accordingly, and the authority shall cease to exist, and the council shall be the successors of that authority.

Sect. 62.

council of
powers of
other autho-
rities.

(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.

Adoptive Acts.—These are enumerated in s. 7.

Urban district.—This will include a borough, not being a county borough: see ss. 21, 35. The transfer of powers to the district council is not compulsory, whether the area of the authority be co-extensive with or included in the area of the urban district. But if the area of the authority under the adoptive Acts is not wholly included in the urban district, by s. 53 (2) “the powers and duties of the authority *shall* be transferred” to a joint committee.

As to the effect of a transfer of powers under the adoptive Acts, on the incidence of rates, &c., see s. 53 (3) and s. 7 (6). See also s. 67; and, as to adjustment of property, &c., s. 68. As to the transfer of the powers of an authority under the adoptive Acts, acting in an area co-extensive with, or part of, a rural parish, see s. 7 (5) and s. 53 (1) respectively.

Appointed day.—See s. 84 (4). It seems that on the adoption of any of the adoptive Acts, after the appointed day, with the approval of the district council, the *execution* of those Acts will be carried out as before this Act, notwithstanding s. 62 (2): compare the terms of s. 7 (1) and s. 7 (7).

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

Sect. 63.

be a debt from the district council to the county council, and shall be defrayed as part of the expenses of the district council in the execution of the Public Health Acts, and the district council shall have the like power of raising the money as for the defraying of those expenses :

- (c) The county council for the purpose of the powers transferred may on behalf of the district council borrow subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the district council might have borrowed for the purpose of those powers :
- (d) The county council may charge the said fund or rate with the payment of the principal and interest of the loan, and the loan with the interest thereon shall be paid by the district council in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on that fund or rate by the district council :
- (e) The county council shall keep separate accounts of all receipts and expenditure in respect of the said powers :
- (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.

(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.

Transfer of powers of district council to county council.—This is done in the following cases:—under s. 16, on a failure to maintain or provide sewers, to provide water supply, or to maintain highways; under s. 26 (4), on a failure to prevent obstructions of rights of way, &c.

Expenses of county council.—The Act contains no special directions as to the mode of recovering the debt due from the district council. The expenses of the district council in the execution of the Public Health Acts may be either general or special expenses: see note to s. 29. Expenses connected with sewers and water supply (which are part of the expenses to which s. 63 may apply) are made special expenses by P. H. A. 1875, s. 229, *infra*, p. 243.

Order of the county council.—With clause (f) compare s. 64. A copy of the order must be sent to the Local Government Board: s. 71.

Rural district in two or more counties.—It seems that the provisions of s. 63 (2) as to such a district do not apply to proceedings under s. 26 (4); for under that section application is to be made to “the council for the county *in which the way or waste is situate.*” It must also be noticed that the words used in s. 63 (2) are “may *complain* to the county council, &c.” The word “complain” is used in s. 16 (1), whereas in s. 26 (4) the word “petition” is used.

Joint committee.—As to joint committees appointed by county councils, see L. G. A. 1888, ss. 81, 82.

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.

There is no definition of “administrative business” in this Act or in L. G. A. 1888; but in s. 3 of that Act a large number of instances of “administrative business” are to be found. The

Sect. 64. county council may also delegate their powers under this Act to a committee: s. 83. An order may be made vesting certain powers in the district council under s. 63 (1) (f).

Saving for
harbour
powers.

65. Where any improvement commission affected by this Act have any powers, duties, property, debts, or liabilities in respect of any harbour, the improvement commission shall continue to exist and be elected for the purpose thereof, and shall continue as a separate body, as if this Act had not passed, and the property, debts, and liabilities shall be apportioned between the district council for the district and the commission so continuing, and the adjustment arising out of the apportionment shall be determined in manner provided by this Act.

Powers, duties, property, liabilities.—These terms are defined in s. 100 of L. G. A. 1888, and the definitions are adopted by s. 75 (1) of this Act: see notes, *infra*, p. 200.

Adjustment.—This is provided for by s. 68.

Improvement commission.—Under P. H. A. 1875, s. 6, improvement commissioners were included among urban sanitary authorities, which under this Act are called urban district councils, and are elected according to the provisions of s. 23.

Saving for
elementary
schools.

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

The term “elementary school” is defined in s. 75 (2), *infra*, p. 202. The provisions of this Act as to the appointment of trustees of parochial charities, &c., are contained in s. 14.

Transfer of
property and
debts and
liabilities.

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

- (1.) All property held by the first authority for the purpose or by virtue of such powers and duties shall pass to and vest in the other authority, subject to all debts and liabilities affecting the same; and
- (2.) The latter authority shall hold the same for the estate, interest, and purposes, and subject to the

covenants, conditions, and restrictions for and subject to which the property would have been held if this Act had not passed, so far as the same are not modified by or in pursuance of this Act; and

- (3.) All debts and liabilities of the first authority incurred by virtue of such powers and duties shall become debts and liabilities of the latter authority, and be defrayed out of the like property and funds out of which they would have been defrayed if this Act had not passed.

Powers, duties, property, liabilities.—See note to s. 65.

Transfer from one authority to another.—The following are the principal transfers effected by this Act:—

- (1) Transfer of powers, &c., of vestries, overseers and churchwardens, and of legal interest in property, to the parish council, by ss. 5, 6.
- (2) Transfer of powers under the adoptive Acts to parish or district councils, by ss. 7, 53: see also s. 62.
- (3) Transfer of powers of rural sanitary authorities, and highway authorities, to rural district councils, by s. 25.
- (4) Transfer of certain powers of justices out of session, and of quarter sessions to district councils, by s. 27.

In the case of all transfers except those included in (4) the existing officers of the authority from whom the powers are transferred will become the officers of the parish or district council: s. 81 (1).

Transfer of debts and liabilities.—With the general provisions of s. 67 (3) compare the special provisions of s. 7 (6) and s. 53 (3) as to the effect of a transfer of powers under the adoptive Acts. And see, as to the discharge of existing debts and liabilities, the general provisions of s. 86.

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,

Adjustment
of property
and liabilities.

Sect. 68.

debts, liabilities, and expenses, so far as affected by this Act, or such scheme, order, or thing, of the parties to the agreement.

(2.) The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or without any conditions, and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board: Provided that where any of the authorities interested is a board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board.

(3.) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in accordance with the Arbitration Act, 1889, and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.

(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.

Adjustment.—This may be necessary (1) in the case of one of the transfers enumerated in the note to s. 67; (2) in the case of an alteration of areas by the county council, under s. 36; (3) where a new borough or other urban district is created or extended: see s. 54; (4) where the harbour powers of improvement commissioners are preserved, under s. 65; (5) in the case of an order made by the county council, under s. 69, in consequence of an alteration of boundaries.

Property and liabilities.—See note to s. 75 (1), *infra*, p. 200.

Officer.—Existing officers (except in the case of a transfer from justices) will become the officers of the parish or district council to which the powers are transferred: s. 81 (1). The word “officer” is defined by s. 100 of L. G. A. 1888, and the definition is adopted by s. 75 (1) of this Act: vide *infra*, p. 200.

Arbitration Act, 1889.—By s. 2 of that Act, a submission (*i.e.*, a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not) shall, *unless a contrary intention is expressed therein*, be deemed to include the provisions in the First Schedule to the Act, by which, if no other mode of reference is provided, the reference is to a single arbitrator. By the same schedule, the costs of the reference and award are in the discretion of the arbitrators or umpire, who may direct to, and by whom, and in what manner the costs or any part thereof, shall be paid, and may tax or settle the amount of the costs, or any part thereof, and may award costs to be paid as between solicitor and client.

It has been held that where an agreement provides for a reference to three arbitrators, one to be appointed by each of the parties, and the third by the two so appointed, and one of the parties refuses to appoint an arbitrator, the Court has no power either under or apart from the Arbitration Act, 1889, to order him to do so: *Smith and Service v. Nelson & Sons* [1890], 25 Q. B. D. 545.

Sect. 68.

Under the Schedule above cited, the amount of the costs to be paid must be ascertained and stated in and by the award itself; otherwise the costs of the reference and award, including the arbitrators' fees, are liable to taxation by a taxing master in the ordinary course: *In re Prebble and Robinson*, [1892] 2 Q. B. 602.

As to the discretion and power of the Court to appoint an arbitrator, see *Wilson v. Eastern Counties Navigation Co.*, [1892] 1 Q. B. 81; *Eyre v. Corporation of Leicester*, [1892] 1 Q. B. 136.

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.

Alteration of area.—There is a distinction between an alteration *by* the Act, and an alteration *under* the Act: cf. s. 55 (1) and (2). In the former case, no order of the Local Government Board or other authority is necessary, and the alteration is effected by the Act itself. Such an alteration is made by s. 1 (3), as to a parish which is partly within and partly without a rural sanitary district; and by s. 36 (2), as to a parish situate in more than one urban district.

So much of s. 59 of the L. G. A. 1888, as is material, is set out in the Appendix, *infra*, p. 256. It may be noticed that some of the provisions of sub-s. (4) overlap the enactments of s. 68 of this Act, as to adjustment.

Summary proceeding for determination of questions as to transfer of powers.

70.—(1.) If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under this Act to any parish council, parish meeting, or district council, or any property is or is not vested in the parish council, or in the chairman and overseers of a rural parish, or in a district council, that question, without prejudice to any other mode of trying it, may, on the application of the council, meeting, or other local authority concerned, be submitted for decision to the

High Court in such summary manner as, subject to any rules of court, may be directed by the Court; and the Court, after hearing such parties and taking such evidence (if any) as it thinks just, shall decide the question.

(2.) If any question arises or is about to arise under this Act as to the appointment of the trustees or beneficiaries of any charity, or as to the persons in whom the property of any charity is vested, such question shall, at the request of any trustee, beneficiary, or other person interested, be determined in the first instance by the Charity Commissioners, subject to an appeal to the High Court brought within three months after such determination. Provided that an appeal to the High Court of Justice from any determination of the Charity Commissioners under this section may be presented only under the same conditions as are prescribed in the case of appeals to the High Court from orders made by the Charity Commissioners under the Charitable Trusts Acts, 1853 to 1891.

(3.) An appeal shall, with the leave of the High Court or Court of Appeal, but not otherwise, lie to the Court of Appeal against any decision under this section.

Question as to transfer.—Sub-section (1) is a reproduction *mutatis mutandis* of s. 29 of L. G. A. 1888. It was held that under that section the jurisdiction of the High Court was consultative only, and not judicial, and that no appeal lay from its decision to the Court of Appeal: *Ex parte County Council of Kent*, [1891] 1 Q. B. 725. In that case, the Court of Appeal held that in the Act of 1888 the legislature did not contemplate an actual determination of an existing dispute in which a private right was involved, and in which the owner of that private right would have all the ordinary rights of a citizen to maintain it in a Court of law, but was solely dealing with the question of which set of authorities should be charged with such and such portions of administration.

The Court of Appeal seem to have been of opinion that, even after a decision under L. G. A. 1888, s. 29 (having regard to the words "without prejudice to any other mode of trying it") it would still be open to any private person interested to contest the same question again by any other mode of procedure.

Sub-section (3) of L. G. A. 1894, s. 70, seems to have been

Sect. 70.

inserted expressly to meet the case above cited; but it is doubtful whether the creation of a right of appeal from the decision of the High Court has given any different effect to that decision.

Rules of Court.—A rule was made under the similar power given by L. G. A. 1888, s. 29, dated August 10th, 1892: see W. N. (1892), Appx. of O. and R., p. 29.

By that rule, the summary proceeding under L. G. A. 1888, s. 29, “shall be by special case to be agreed upon by the parties, or in default of such agreement to be settled by an arbitrator agreed upon by the parties or (if necessary) appointed by a Judge at Chambers, or to be settled by a Judge at Chambers. The special case, when settled, shall be filed at the Crown Office of the Supreme Court by the local authority concerned, within eight days from the settlement thereof, and shall be put into the Crown paper for argument as if it were a case stated by justices under 20 & 21 Vict. c. 43.”

It may be anticipated that until rules are made under L. G. A. 1894, the Court will follow the practice directed by the rule just cited. A form of case, stated before the making of the rule, will be found in *Ex parte the London County Council*, [1892] 1 Q. B. 33.

Trustees or beneficiaries of any charity.—See s. 14. The word “trustees” is defined in s. 75, *infra*, p. 201.

Months.—These are calendar months: see note to s. 13 (1).

Appeal from Charity Commissioners.—See the Charitable Trusts Act, 1860, s. 8, and the Charitable Trusts Act, 1869, ss. 10, 11, by which no petition of appeal may be presented by any person, other than the Attorney-General, before the expiration of twenty-one days after written notice under the hand of the appellant, of intention to appeal, has been given to the Charity Commissioners and the Attorney-General.

It is not clear whether the provisions of s. 8 of the Act of 1860, as to the persons who may appeal, and the matters in respect of which appeals may be presented, apply to appeals under L. G. A. 1894.

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.

Order made by county council.—The Act gives to the county council various powers in connection with which the word “order”

is not used, though the exercise of such powers would be equivalent to making an order. (See, for instance, s. 3 (1) and (9).) It may not be necessary in such cases to send a copy of the resolution, &c., to the boards mentioned in s. 71, but it will, perhaps, be convenient to do so in some instances.

The following is a list of the principal matters with regard to which the county council have power under the Act, to make orders, or to pass resolutions, &c., of the nature of orders:—

(1.) The establishment of parish councils in, or the grouping of, small parishes, or the dissolution of groups: ss. 1, 38, 39.*

(2.) The scale of expenses of a poll consequent on a parish meeting, and of elections: s. 48 (7), (8).

(3.) The fixing of the number of parish councillors: s. 3 (1).

(4.) The determination (in certain cases), of the name of the parish council: s. 3 (9); of the district council: s. 24 (7); s. 55 (3); of parishes grouped, united, or divided: s. 55 (1), (2).

(5.) Transfer to county council of powers of district council as to sewers and water supply, &c.: s. 16; as to rights of way, &c.: s. 26 (4).

(6.) Approval of certain expenditure by parish council: s. 11 (2).

(7.) Division of a parish into parish wards: s. 18.

(8.) The consideration of cases of overlapping boundaries, and the alteration of parishes, unions, &c.: s. 36.

(9.) Special provision for distinct parts of parishes, having defined boundaries: s. 37.

(10.) Removal of disqualifications for parish or district council: s. 46 (2), (3).

(11.) Orders for new elections: s. 47 (5), s. 48 (5), s. 59 (5).

(12.) Alteration of areas under adoptive Acts: s. 53 (4).

(13.) Consequential alterations on creation or extension of urban district: s. 54 (2).

(14.) Fixing of number of guardians, adding together, and dividing parishes for elections of guardians, &c.: s. 60.

(15.) Removal of difficulties at first parish meetings, elections, &c.: s. 80.

(16.) Postponement of operation of s. 25 as to repair of highways.

Joint committee.—For instances in which a joint committee will make orders, &c. see s. 36 (11), s. 60 (3), s. 63 (2).

72.—(1.) The expenses incurred by the Local Government Board in respect of inquiries or other proceedings

Provisions as to local inquiries.

Sect. 72.

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 authorized 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.

Inspectors of Local Government Board.—Under P. H. A. 1875, s. 296, they have in relation to witnesses, production of papers, and inspection of places, &c., similar powers to those possessed by poor law inspectors: as to which, see 4 & 5 Will. 4, c. 76, s. 12; 10 & 11 Vict. c. 109, ss. 19—22.

Local inquiry by county council.—See L. G. A. 1888, s. 57, *infra*, p. 254, which by s. 36 (10) of this Act is made applicable to orders made under Part III. As to inquiries relating to allotments, see s. 9 (19).

County fund.—See L. G. A. 1888, s. 68.

Provision as
to Sundays

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.

Sect. 73.
and bank
holidays.

It may be doubted whether this section applies to the date for holding the annual meeting of the parish council, which, by s. 3 (4), (7), must be held “on or within seven days after” the ordinary day of coming into office of councillors” (*i. e.*, April 15th). But compare *In re Westbury-upon-Severn Union* [1854], 4 E. & B. 314. In that case a general order of the Poor Law Commissioners directed that “whenever the day appointed in this order for the performance of any act relating to the election of guardians shall be a Sunday, such act shall be performed on the day next following,” and that each nomination should be sent after March 14, and “on or before” March 26th. The latter day fell on a Sunday, and it was held that a nomination delivered on Sunday, March 26, might be treated as delivered on the Monday following, and was valid. It will be noticed that, both under L. G. A. 1894, s. 3 (7), and the Order above referred to, Sunday is merely the last of several days on one of which the particular act is directed to be done; note also that if, under L. G. A. 1894, s. 3 (7), the last of the seven days is a Sunday, the “ordinary day of coming into office” is also a Sunday, and it may be that the effect of s. 73 is to delay the coming into office, and so to extend the time for holding the annual meeting. See as to the validity of acts done on a Sunday: *Colvill v. Lewis* [1846], 2 C. B. 60; and *Rawlins v. Overseers of West Derby* [1846], 2 C. B. 72. There is no provision in the Act that Sundays, bank holidays, &c., shall not be counted in computing any number of days.

Bank holidays.—These are Easter Monday, Monday in Whitsun-week, the first Monday in August, and December 26 (or, if December 26 is a Sunday, December 27): see 34 & 35 Vict. c. 17; 38 & 39 Vict. c. 13.

74. This Act shall be deemed to be an Act touching local government within the meaning of section forty-nine of the Local Government Act, 1888, and a provisional order for the Scilly Islands may, on the application of the council of the Isles of Scilly, and after such public notice as appears to the Local Government Board sufficient for

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

Sect. 74.

giving information to all persons interested, be made accordingly.

By L. G. A. 1888, s. 49, the Local Government Board have power to make a Provisional Order for regulating the application of that Act to the Scilly Islands, and for providing for the exercise and performance of powers and duties of county councils, and of authorities under the Highway Acts and the Public Health Act, 1875, and for the application to the islands of any provision of any Act touching local government, and such order may provide for the establishment of councils and other local authorities separate from those in the county of Cornwall. See 53 & 54 Vict. c. clxxvi., for the order made under this section.

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.—By L. G. A. 1888, s. 100, parish in that Act means “a place for which a separate overseer is or can be appointed, and where part of a parish is situate within, and part of it without, any county, borough, urban sanitary district, or other area means each such part.” And by the Interpretation Act, 1889, s. 5, “In every Act . . . passed before or after the commencement of this Act, the expression ‘parish’ shall, unless the contrary intention appears, 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.” By L. G. A. 1894, s. 1 (3), where a parish at the passing of the Act is partly within and partly without a rural sanitary district, the part within and the part without are made as from the appointed day separate parishes; and by s. 36 (2), where a parish is at the passing of the Act situate in more than one urban district, the parts in each district are made separate parishes as from the appointed day.

The following expressions defined in L. G. A. 1888, s. 100, are used in this Act (in addition to those already referred to in the notes):—

County—Administrative county.—See note to s. 75 (2), *infra*, p. 203.

Borough.—By L. G. A. 1888, s. 100, this means “any place for

the time being subject to the **Municipal Corporations Act, 1882**, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city." This definition includes a county borough: but see the definition of "county" in s. 75 (2) of this Act: see also ss. 21, 35. Sect. 75 (1).

Quarter sessions.—By L. G. A. 1888, s. 100, this, "as respects any county, riding, division or liberty, means the justices in quarter or general sessions assembled, and includes justices assembled in gaol sessions, annual general sessions and adjourned sessions, and as respects any borough means any court of quarter or general sessions held for the borough, or for any county of a city or town consisting of the borough, whether held by the recorder or by justices, and as respects the City of London, means the Court of the mayor and aldermen in the inner chamber."

Existing.—By L. G. A. 1888, s. 100, this means "existing at the time specified in the enactment in which the expression is used, and if no such time is expressed, then at the day appointed to be for the purpose of such enactment the appointed day." It seems that in reading this definition into L. G. A. 1894, the "appointed day" fixed by s. 84 of this Act must be substituted for the "appointed day" fixed by s. 109 of the Act of 1888.

Guardians.—By L. G. A. 1888, s. 100, this means "guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other bodies of persons performing under any local Act the like functions to guardians under the Poor Law Amendment Act, 1834."

Poor law union.—By L. G. A. 1888, s. 100, this means any parish or union of parishes for which there is a separate board of guardians.

Urban authority.—By L. G. A. 1888, s. 100, this means "until the establishment of district councils, an urban sanitary authority; and after their establishment the district council of an urban county district." [For the meaning of "district council" and "county district," see note to s. 21 (3).] It must be noticed that the expression "urban sanitary authority" as used in P. H. A. 1875, would include the council of a county borough; but that under L. G. A. 1894, a "district council" does not include the council of a county borough: see s. 21 (3), and s. 35, and the definition of "county" and "county council" in s. 75 (2).

Property.—By L. G. A. 1888, s. 100, this "includes all property, real and personal, and all estates, interests, easements and rights,

Sect. 75 (1). whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books and documents; and when used in relation to any quarter sessions, clerk of the peace, justices, board, sanitary authority or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for, or would but for this Act have, on or after that day, belonged to, or been vested in, or held in trust for such quarter sessions, clerk of the peace, justices, board, sanitary authority or other authority." [The remaining words are applicable only to matters referred to in L. G. A. 1888.]

Powers, duties, and liabilities.—By L. G. A. 1888, s. 100, "powers" include rights, jurisdiction, capacities, privileges and immunities; "duties" include responsibilities and obligations; and "liabilities" include liability to any proceeding for enforcing any duty, or for punishing the breach of any duty, and include all debts and liabilities to which any authority are or would but for this Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and include any obligation to carry or apply any money to any sinking fund, or to any particular purpose. And the expression "powers, duties and liabilities" includes all powers, duties and liabilities conferred or imposed by or arising under any local and personal Act.

Expenses and costs.—By L. G. A. 1888, s. 100, "expenses" includes costs and charges, and "costs" includes charges and expenses.

Officer.—By L. G. A. 1888, s. 100, the expression "office" includes any place, situation, or employment, and the expression "officer" shall be construed accordingly.

(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. Sect. 75 (2).

The expression “trustees” includes persons administering or managing any charity or recreation ground, or other property or thing in relation to which the word is used.

The expression “ecclesiastical charity” includes a charity, the endowment whereof is held for some one or more of the following purposes:—

- (a) for any spiritual purpose which is a legal purpose; or
- (b) for the benefit of any spiritual person or ecclesiastical officer as such; or
- (c) for use, if a building, as a church, chapel, mission room, or Sunday school, or otherwise by any particular church or denomination; or
- (d) for the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or
- (e) otherwise for the benefit of any particular church or denomination, or of any members thereof as such.

Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act; and the Charity Commissioners shall, on application by any person interested, make such provision for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to this Act.

The expression shall also include any building which in the opinion of the Charity Commissioners has been erected or provided within forty years before the passing of this Act mainly by or at the cost of members of any particular church or denomination.

Sect. 75 (2).

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.

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.

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.

Parochial elector.—By s. 2 (1) this means, in a rural parish, "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." See, also, as to a parish in a parliamentary borough, s. 44 (2). The expression "parochial electors" is used in s. 20 in relation to the election of guardians; in s. 23 in relation to the election of councillors in an urban district, not being a borough; by s. 30, the provisions relating to guardians apply to the administrative county of London and to every county borough; and by s. 31 the provisions with respect to qualifications of electors of urban district councillors are applied to the elections of the

metropolitan vestries and auditors and the local board of Woolwich. Sect. 75 (2).

Election.—In some of the sections of the Ballot Act, 1872, and of the rules contained in the Schedule thereto, the word “election” is applied to the nomination as distinguished from the taking of the poll: see *Northcote v. Pulsford* [1875], L. R. 10 C. P. 476.

Ecclesiastical charity: affairs of the church.—A saving for elementary schools is contained in s. 66. Compare the definition of “ecclesiastical charity property” in the City of London Parochial Charities Act, 1883, s. 5.

The words used in the definitions are “shall include” not “shall mean”; and the former phrase means “shall have the following meanings in addition to the popular, or ordinary, meaning”: see *Mayor, &c. of Portsmouth v. Smith* [1883], 13 Q. B. D. 184; 53 L. J. Q. B. 92; *Pound v. Plumstead Board of Works* [1871], L. R. 7 Q. B. 183.

Vestry.—The Vestries Act, 1831, might be adopted in a parish by a two-thirds majority, provided that the whole number of persons voting was a clear majority of the ratepayers in the parish; and on the adoption of the Act, a select vestry was to be annually elected, consisting of not less than twelve nor more than 120 householders: see ss. 1, 5, 10, 23. The Act, by s. 43, did not extend to rural parishes in which there were not more than 800 rated householders. The Metropolis Management Act, 1855, s. 1, repeals the Act as to parishes in the metropolis; and s. 89 of L. G. A. 1894, repeals the whole Act “so far as it relates to parish meetings under this Act” except s. 39 [relating to lists of parish charities].

For instances of a select vestry, apart from statute, by local custom, see *R. v. St. Martin's-in-the-Fields* [1832], 3 B. & Ad. 907; *Golding v. Fenn* [1828], 7 B. & C. 765; *R. v. Brain* [1832], 3 B. & Ad. 614.

County.—By L. G. A. 1888, s. 100, “county” does not include a county of a city or county of a town. It seems that this interpretation is adopted in this Act by s. 75 (1). [Note that the interpretation of “county” in the Interpretation Act, 1889, s. 4, applies only to Acts passed *before* the commencement of that Act.] From a reference to the definition of “borough” in L. G. A. 1888, s. 100, *supra*, p. 198, it will appear that a county borough will, for the purposes of this Act, be included in both the terms “borough” and “county.” But a county borough will not under this Act become

Sect. 75 (2). a county district, nor will the council of a county borough be a district council: see ss. 21 and 35.

By L. G. A. 1888, s. 100, the expression "administrative county" means the area for which a county council is elected, but does not (except where expressly mentioned) include a county borough; yet, by s. 31 of the same Act, each of the county boroughs in the Third Schedule "shall be for the purposes of this Act an administrative county of itself." The effect is that under L. G. A. 1888, a county borough on its creation as such does not cease to be a "borough," and it *may* also under that Act be included under the term "administrative county."

Extent of Act.

76. This Act shall not extend to Scotland or Ireland.

See, further, as to the extent of the Act, the notes to s. 1. As to the Scilly Islands, see s. 74.

Short title.

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

PART V.—TRANSITORY PROVISIONS.

First elections to parish councils.

78.—(1.) The overseers of each rural parish shall convene the first parish meeting of the parish at the time fixed by or under this Act for the first election of parish councillors, whether there is or is not a parish council for the parish, and for this purpose the overseers of a parish shall be deemed to be the overseers of every part of the parish.

(2.) The chairman of the parish meeting at which the first parish councillors are nominated, or in his default the clerk of the guardians, shall convene the first meeting of the parish council.

(3.) The first parish councillors and the first chairman of a parish meeting elected under this Act shall retire on the second ordinary day of coming into office of councillors which happens after their election.

Rural parish.—See s. 1 (2), (3), by which a parish partly within

and partly without a rural sanitary district is divided. The parishes which will have a parish council are mentioned in s. 1 (1): but see also s. 36 (4). A large parish may be divided into parish wards for the election of councillors, in which case there will be a separate election for each ward: ss. 18, 84 (3). Rules relating to elections will be made under s. 48 (2).

Sect. 78.

Parish meeting.—This will consist of the parochial electors of the parish, or, where the meeting is held for a part of a parish, of the parochial electors of that part: s. 2 (1), s. 49. The parish meeting will choose their own chairman: s. 2 (4); and as to parishes not having a parish council, see s. 19 (1).

As to the notice to be given of the meeting, and the proceedings thereat, see Sched. I. Pt. I.; s. 51; and s. 2 (2)—(5). As to the summoning of subsequent meetings, see s. 45 (3).

In the event of any difficulty as to the first parish meeting, the county council may exercise the power given by s. 80. As to the date of the first election, see s. 84 (1).

Meeting of parish council.—As to the notices required, see Sched. I. Pt. II. r. 5.

Retirement of first parish councillors.—The “ordinary day of coming into office” will be April 15th, in each year: s. 3 (4). The first chairman of the parish council will, unless re-elected, retire at the annual meeting held within seven days after April 15th in 1896: see s. 3 (7), (8). The chairman of the parish meeting will in years subsequent to 1896 retire on the date of the annual assembly, which will be held on, or within seven days of, March 25th: see s. 19 (1), and Sched. I. Pt. I. r. 1.

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.

First elections of guardians and district councils.

(2.) Where a parish is divided by this Act into two or more new parishes, then, subject to any order made by the county council, there shall be one guardian, and if it is in a rural district, one district councillor for each of such new parishes.

(3.) Of the guardians and urban and rural district

Sect. 79.

councillors first elected under this Act, save as hereinafter mentioned, one third as nearly as may be shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-six, and shall then retire; and one third as nearly as may be shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-seven, and shall then retire; and the remainder shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-eight, and shall then retire.

(4.) The guardians and rural district councillors to retire respectively on the fifteenth day of April one thousand eight hundred and ninety-six and on the fifteenth day of April one thousand eight hundred and ninety-seven shall be the guardians and rural district councillors for such parishes, wards, or other areas, as may be determined by the county council for the purpose of the rotation.

(5.) Where guardians or rural district councillors retire together at the end of the triennial period, the guardians and district councillors first elected under this Act shall retire on the fifteenth day of April one thousand eight hundred and ninety-eight.

(6.) Of the first urban district councillors elected under this Act, the third who are respectively to retire on the fifteenth day of April one thousand eight hundred and ninety-six and one thousand eight hundred and ninety-seven shall be determined according to their place on the poll at the election, those that were lowest on the poll retiring first. If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter shall be determined by ballot conducted under the direction of the council.

(7.) In the case of an urban district divided into wards, the foregoing provisions with respect to retirement shall apply separately to each ward.

(8.) Upon the day on which the first guardians and urban or rural district councillors elected under this Act

come into office, the persons who are then members of boards of guardians, and urban and rural sanitary authorities, shall cease to hold office, but until that day the persons who are at the passing of this Act guardians and members of urban sanitary authorities (for urban districts not being boroughs) and of highway boards shall continue in office notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and, except for the purpose of filling casual vacancies or electing additional guardians, no further elections shall be held.

(9.) The first meeting of each district council elected under this Act shall be convened by the returning officer.

(10.) The foregoing provisions shall apply to the existing members and first members elected under this Act of the local board of Woolwich and of any vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same, and to the existing and first auditors elected under those Acts in like manner as if they were members of urban sanitary authorities or urban district councillors, as the case may require, except that the date of the annual election shall be substituted for the fifteenth day of April.

(11.) The overseers of any parish divided by this Act shall, until the first appointment of overseers next after the appointed day, continue in office as if they were overseers of each part of the said parish, which by reason of such division becomes a separate parish.

Existing.—This means the guardians, &c. existing at the time when the measures necessary for elections are to be taken: but see also the note on the word “existing,” *supra*, p. 199.

Elections.—As to the elections of guardians, see s. 20; as to urban district councillors (other than borough councillors), see s. 23; and as to rural district councillors, see s. 24. The Act contains no provisions as to the elections of borough councillors, and they will be elected as before. Note that district councillors, but not guardians, will be elected for every parish in a rural district: see s. 24 (3).

L. G. B.
Highway Boards
must be elected
full of members
There

Sect. 79.

For general provisions as to elections, and rules relating thereto, see s. 48; and as to returning officers, see specially, s. 48 (2), (vi).

The provisions of s. 79 (1) are applied to elections of the metropolitan vestries, &c. by s. 79 (10).

If any difficulty arises as to the first elections, the county council may make an order under s. 80.

Parish divided by this Act.—See s. 1 (3); s. 36 (2); and the note on s. 36 (3). For parishes in rural districts, guardians as such will not be elected, but the rural district councillors will act as guardians: s. 24 (3). For the powers of the county council in relation to parishes divided by this Act, see s. 36 (1) and (6)—(8): see also s. 60 (1).

Retirement of guardians and rural district councillors.—See s. 24 (4), and the notes to s. 20 (6), *supra*, p. 89. The date of the first elections is fixed by s. 84 (1).

Retirement of urban district councillors.—See s. 23 (6), and note to s. 20 (6), *supra*, p. 89.

Note that the provisions as to retirement are applied to members of the metropolitan vestries, &c. by s. 79 (10).

Ballot.—The ballot directed to be taken by s. 79 (6), seems to be a ballot among the councillors, as it is almost impossible to suppose that it means a ballot of all the electors.

District divided into wards.—See note to s. 23 (3).

Day for entering upon office.—The first guardians and urban and rural district councillors, and the first members of the local board of Woolwich and the metropolitan vestries, &c., elected under this Act will come into office on the second Thursday after their election: see s. 84 (1), (2).

The election of borough councillors is not affected by this Act, and they will come into office on November 1st: see the Municipal Corporations Act, 1882, ss. 13, 52; and cf. s. 84 (4) (c), of this Act.

First meeting of district council.—As to the summoning of subsequent meetings, see s. 59 (1), which applies P. H. A. 1875, Sched. I. Pt. I. r. 1, *infra*, p. 251; and compare r. 12, *infra*, p. 252.

Local boards of Woolwich, vestry, &c.—See s. 31 and the notes thereon. The annual election of vestrymen in the metropolis is held in May: see 18 & 19 Vict. c. 120, s. 7.

Overseers.—As to their appointment, see s. 5 (1) and the notes thereon, pp. 16, 18. The first appointment after the “appointed day” (see s. 84) will be made at the annual meeting of the parish

council in April, 1896; and until then the existing overseers will remain in office. For the meaning of a parish "divided by this Act," see ss. 1 (1), 36 (2), and the note to s. 36 (3).

Sect. 79.

80.—(1.) If any difficulty arises with respect to the holding of the first parish meeting of a rural parish, or to the first election of parish or district councillors, or of guardians, or of members of the local board of Woolwich, or any vestry in the county of London, or of auditors in the county of London, or to the first meeting of a parish or district council, or board of guardians, or such local board or vestry as aforesaid, or if, from no election being held or an election being defective or otherwise, the first parish or district council, or board of guardians, or local board or vestry has not been properly constituted, or there are no auditors under the Metropolis Management Acts, 1855 to 1890, or an insufficient number, properly elected, the county council may by order make any appointment or do any thing which appears to them necessary or expedient for the proper holding of any such first meeting or election and properly constituting the parish or district council, board of guardians, local board, or vestry, or auditors, and may, if it appears to them necessary, direct the holding of a meeting or election, and fix the dates for any such meeting or election, but a parish shall, notwithstanding any such failure to constitute the parish council, be deemed to be a parish having a parish council within the meaning of this Act. Any such order may modify the provisions of this Act, and the enactments applied by or rules framed under this Act so far as may appear to the county council necessary or expedient for carrying the order into effect.

Power of county council to remove difficulties.

(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

Sect. 80.

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.

Power to remove difficulties.—Power to order a new election of parish councillors is given by s. 47 (5); and of district councillors, by s. 59 (5); and see also s. 48 (5). As to the summoning of the first parish meeting, see s. 78 (1): as to the election of parish councillors, s. 3 (5), (6): as to elections of guardians, see s. 20 (3)—(5): as to elections of urban and rural district councillors, see s. 23 (5), and s. 24 (4): as to the local board of Woolwich, and the vestrymen and auditors in the metropolis, see s. 31: as to first elections generally, see ss. 78, 79.

A copy of the order made by the county council under s. 80 must be sent to the Local Government Board: s. 71.

Failure to constitute parish council.—The proviso that a parish in which the failure has taken place shall be deemed to be a parish having a parish council, prevents the application of s. 19 to such a parish.

Rules framed under this Act.—The Local Government Board have power to make rules relating to elections, under s. 48 (2).

Local Government Act, 1888.—Section 57 of that Act (set out *infra*, p. 254) is applied to all orders made by the county council under Part III. of this Act: see s. 36 (10). The regulations made by the Local Government Board under s. 80 (2), are set out *infra*, p. 259.

Prescribed notice.—This means prescribed by order of the Local Government Board: see s. 75 (2); see also L. G. A. 1888, s. 57 (1), *infra*.

Existing
officers.

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.

(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

13 & 14 Vict.
c. 57.

shall not, while such vestry clerk holds office, be the clerk of the parish council.

Sect. 81.

(3.) Any existing assistant overseer in a parish for which a parish council is elected shall, unless appointed by a board of guardians, become an officer of the parish council.

(4.) Every such officer, vestry clerk, and assistant overseer, as above in this section mentioned shall hold his office by the same tenure and upon the same terms and conditions as heretofore, and while performing the same duties shall receive not less salary or remuneration than heretofore.

(5.) Where a parish or rural sanitary district is divided by this Act, any officer for the parish or district so divided shall hold his office as such officer for each parish or district formed by the division, and his salary shall be borne by the respective parishes or districts in proportion to their rateable value at the commencement of the local financial year next after the passing of this Act.

(6.) So much of any enactment as authorises the appointment of assistant overseers by a board of guardians shall be repealed as from the appointed day.

(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

51 & 52 Vict.
c. 41.

Sect. 81.

pursuance of this section shall be paid out of the fund applicable to payment of the salary of the offices affected.

Transfer of officers.—As to the meaning of the word “officer,” see note to s. 75 (1), *supra*, p. 200. Certain powers of justices are transferred to the district council by s. 27. Powers of the overseers and the vestry, &c., are transferred to the parish council by ss. 5 and 6. Powers of the rural sanitary authority, and of highway authorities, are transferred to rural district councils by s. 25. From the notes to that section it will appear that a surveyor of highways is included under the term “highway authority.” The effect of the latter part of s. 81 (1) is—(1) to transfer a paid surveyor to the rural district council as an “existing officer,” and (2), in case of loss, to give him a title to compensation under s. 81 (7).

Powers under the adoptive Acts are in some cases transferred by the Act, and in other cases may be transferred “in pursuance of this Act”: see ss. 7, 53, 62. Whether in the case of a transfer “in pursuance of this Act” existing officers will, or will not, become officers of the parish or district council, it seems clear that they will have a title to compensation in case of loss, under s. 85 (7). The payment of existing officers transferred may be provided for by an agreement or arbitration, under s. 68 (2), (3).

Vestry clerk.—As to his appointment, see note to s. 17, which section provides for subsequent appointments of a clerk of the parish council.

Assistant overseer.—See also s. 17 (2). As to his appointment, see note to s. 5 (1), *supra*, p. 17. In *R. v. Greene* [1852], 17 Q. B. 793, the power of the guardians to appoint an assistant overseer under 7 & 8 Vict. c. 101, ss. 61, was doubted. Note that part of that section is repealed by s. 89 of this Act. As to the appointed day, see s. 84 (4).

In a parish which has no parish council, the appointment of an assistant overseer is vested in the parish meeting: s. 19 (5).

Parish or district divided by this Act.—A parish situated partly within and partly without a rural sanitary district is divided by s. 1 (3); a parish situated in more than one urban district is divided (unless the county council otherwise direct) by s. 36 (2); and a rural sanitary district, situated in more than one county, is divided by s. 24 (5). Note that s. 81 is included among the “transitory provisions” of the Act, and that a division “by this Act” must be distinguished from a division made by the county council, “under or in pursuance of this Act”: see note to s. 36 (3),

and cf. s. 36 (7), (8), and s. 69, which applies L. G. A. 1888, s. 59, *infra*, p. 256. Under that section special provision may be made for existing officers.

In proportion to rateable value.—By s. 75 (2), 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 local financial year seems to mean the year ending March 31st: see s. 58 (1).

Compensation.—Section 120 of L. G. A. 1888, is set out in the Appendix, *infra*, p. 257. For full notes on that section, see “Ryde & Thomas on Local Government,” pp. 347—354.

General expenses of district council.—See note to s. 29. The distinction between general and special expenses applies to *rural* districts only.

Common fund.—As to the mode of raising this fund, see note to s. 11.

82.—(1.) Where before the appointed day the highway expenses were charged on a particular parish or other area and not on a district, the district council may determine that the highways in that parish or area shall be placed in proper repair before the expenses of repairing the same become a charge upon the district, and, failing such highways being placed in proper repair to the satisfaction of the district council, the district council may themselves place the highways in proper repair, and the expense incurred by them of placing those highways in proper repair shall be a separate charge on the parish or area, and any question which arises as to whether any such expenses are properly a separate charge on the parish or area shall be determined by the county council.

Provision as to highways.

(2.) Where in pursuance of an order of a county council a parish continues to maintain its own highways after the appointed day, the highway expenses shall not be deemed to be expenses of the parish council or of the parish meeting within the meaning of this Act.

Expenses charged on parish or other area.—For the areas

Sect. 82. on which expenses were chargeable before this Act, see notes to s. 25.

Parish maintaining its own highways.—The maintenance of highways in a rural district is transferred to the district council by s. 25 (1), but the proviso gives the county council power to postpone the operation of that section for three years after the appointed day. See, as to the meaning of “appointed day,” in case of postponement, the note to s. 84 (4). For the restrictions on the expenditure of the parish council, or parish meeting, see s. 11 (4), and s. 19 (9).

Duty of county council to bring Act into operation.

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.

The duties under this section are, if necessary, to be performed *before* the appointed day, fixed by s. 84 (4): see also s. 84 (3). The county council have exceptional powers for removing difficulties under s. 80; but some of the duties mentioned in the note to s. 71 must be performed in any event.

A copy of the order made by the county council must be sent to the Local Government Board and, in some cases, also to the Board of Agriculture: see s. 71. A county council may employ a district council as their agents: s. 64. As to the appointment of a committee by the county council, see L. G. A. 1888, ss. 81, 82. In certain cases a joint committee must be appointed by two or more county councils: see s. 36 (11) of this Act.

Appointed day.

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.

(2.) The persons elected shall come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be

fixed by or in pursuance of the rules made under this Act in relation to their election.

(3.) Every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election shall, if it affects the parishes or parts for which the registers of parochial electors will be made, be made so far as practicable before the first day of July next after the passing of this Act, and any such division or alteration which after the appointed day may be made on application by the parish council or any parochial electors of any parish, may be made before the appointed day on application by the vestry or a like number of the rate-payers of the parish.

Provided that—

- (a) If any county council having any such division or alteration under consideration so direct, the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered; and
- (b) If the county council making such division or alteration on or after the said day and on or before the last day of August one thousand eight hundred and ninety-four so direct, the clerk of the county council shall make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and in that case the said division or alteration shall be observed in the case of that election.

(4.) Subject as in this Act mentioned, “the appointed day” shall,

- (a) for the purpose of elections and of parish meetings in parishes not having a parish council, be the

Sect. 84.

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.

Elections under this Act.—These include elections of parish councils: s. 3; of guardians in urban and rural parishes, the administrative county of London, and the county boroughs: ss. 20, 30; of district councils in urban districts (other than boroughs) and in rural districts: ss. 23, 24; of the local board of Woolwich, and the vestrymen and auditors elected under the Metropolis Management Acts: s. 31. This Act does not apply to the election of borough councils. In boroughs, the councillors are elected on November 1, and the aldermen and mayor on November 8, under the Municipal Corporations Act, 1882, ss. 52, 60, 61.

The power of the Local Government Board to make rules relating

to elections is given by s. 48 (2) of this Act. As to the date of the first parish meeting, see s. 78 (1).

Sect. 84.

Division into wards.—As to the division of a parish into parish wards for the election of parish councillors, see s. 18; and note that the application under that section may be made before the appointed day on the application of the vestry or one-tenth of the ratepayers: see s. 84 (3). The county council have power to divide parishes into wards for the election of guardians (or rural district councillors) under s. 60: see also the note to s. 24 (3). As to the division of urban districts (other than boroughs) into wards, see s. 23 and the notes.

Alteration of boundaries.—See s. 36 (1), (7), (8).

Registers of parochial electors.—As to making up the registers in parts, see s. 44 (3).

Appointed day.—Compare the definition of the “appointed day” in L. G. A. 1888, s. 109. The county council have power to alter the dates for the first elections, under s. 80 of this Act. The operation of this Act is not delayed until the “appointed day,” as was the case under L. G. A. 1888, s. 109. It will therefore come into force as from the date of the royal assent (see 33 Geo. 3, c. 13), subject to any special provision in any particular enactment. But the date of the first elections is fixed by s. 84 (1); and the date of the first parish meeting by s. 78 (1).

Parishes not having a parish council.—See s. 1 (1), s. 19, and s. 36 (4).

Powers, duties and liabilities.—For the meaning of these terms, see note to s. 75 (1), *supra*, p. 200.

Powers, &c. transferred to borough council.—Certain powers of justices are transferred by s. 27 to the council of every borough, whether a county borough or not: see ss. 21, 32. The council of every county borough also has certain additional powers (as to rights of way, &c.) conferred on district councils, whether boroughs or not: see s. 26 (7). See also, as to allotments, s. 9 (18.)

Highways.—By s. 25 (1), the powers of highway authorities are transferred to the rural district council; but the county council may by order postpone the operation of the section, so far as it relates to highways, “*for three years from the appointed day.*” It seems clear that the use of the term “appointed day” in that section is inconsistent with the use in the proviso to s. 84 (4), which makes the “appointed day” the day on which the postponement *ceases*.

Sect. 84. The term must be understood in s. 25 (1) as referring to the definition in s. 84 (4) (b).

It is also submitted that the proviso to s. 84 (4) must be read as meaning that "the day on which the postponement ceases shall, so far as regards the powers, &c. of highway authorities, be the appointed day."

Current rates,
&c.

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.

(2.) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not passed, but as soon as practicable after the appointed day; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.

(3.) All proceedings, legal and other, commenced before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act.

(4.) Every valuation list made for a parish divided by this Act shall continue in force until a new valuation list is made.

(5.) The change of name of an urban sanitary authority shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act,

whether public general or local and personal, referring to the members of such authority shall, unless inconsistent with this Act, continue to refer to the members of such authority under its new name.

Sub-sections (1), (2), (3) are taken almost verbatim from L. G. A. 1888, s. 110.

Audit of accounts.—As to the future audit of accounts of parish and district councils, see s. 58.

Officers.—Existing officers are transferred to parish or district councils by s. 81.

Legal proceedings.—See also s. 88.

Parish divided by this Act.—This means a parish partly within and partly without a rural sanitary district: s. 1 (3); or a parish situated in more than one urban district: s. 36 (2); see note to s. 36 (3).

Change of name of urban sanitary authority.—See s. 21 (1).

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.

Saving for existing securities and discharge of debts.

(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.

This section is taken almost verbatim from s. 122 of L. G. A. 1888.

Sect. 86. Other general provisions as to the transfer of debts and liabilities, &c., are contained in s. 67, *supra*. See also s. 7 (6), s. 53 (3), and s. 29.

Saving for existing bye-laws.

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.

Compare the similar provisions of L. G. A. 1888, s. 123. The effect of this section will be to preserve the bye-laws (if any) made under the adoptive Acts by the authorities whose powers are transferred to the parish council under s. 7; and bye-laws made under P. H. Act, 1875, by the rural sanitary authority whose powers are transferred to the rural district council, under s. 25.

Saving for pending contracts, &c.

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.

(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.

This section is taken almost verbatim from sub-sections (1) and

(2) of L. G. A. 1888, s. 124. See also s. 85 (3), as to pending proceedings.

Sect. 88.

89. The Acts specified in the Second Schedule to this Act are hereby repealed as from the appointed day to the extent in the third column of that schedule mentioned, and so much of any Act, whether public general or local and personal, as is inconsistent with this Act is also hereby repealed. Provided that where any wards of an urban district have been created, or any number of members of an urban sanitary authority fixed, by or in pursuance of any local and personal Act, such wards and number of members shall continue and be alterable in like manner as if they had been fixed by an order of the county council under this or any other Act. Repeal.

Appointed day.—See s. 84 (4).

Wards of an urban district.—The county council have power to divide a county district (other than a borough) into wards, or to alter the number of members, under L. G. A. 1888, s. 57, *infra*, p. 254.

Local and personal Act.—By s. 75 (2), this expression includes a Provisional Order confirmed by an Act, and the Act confirming the order. The Local Government Board, by a Provisional Order (confirmed by Parliament) constituting a local government district, might divide the district into wards and fix the number of members: see P. H. A. 1875, s. 271; Sched. II. Pt. I. r. 1.

SCHEDULES.

FIRST SCHEDULE (a).

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

Section 2.

PART I.—*Rules applicable to Parish Meetings.*

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

(2.) Not less than seven clear days (c) 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 (d).

(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 (e).

(4.) A parish meeting may discuss parish affairs and pass resolutions thereon (f).

(5.) Every question to be decided by a parish meeting shall, in the first instance, be decided by the majority of those present and

(a) The rules in the first schedule are applied generally to parish meetings by s. 2 (7); to meetings of parish councils by s. 3 (10); and to committees of parish and district councils by s. 56 (3). But the headings of the different parts of the schedule indicate to what bodies respectively the rules are applicable. The proceedings of district councils and guardians are *not* regulated by this schedule: see s. 59 (1), and P. H. A. 1875, Sched. I., *infra*, p. 251.

(b) The parish meeting must assemble at least once every year: s. 2 (3); or twice, if there is no parish council: s. 19 (2).

(c) Seven days must elapse between the day on which the notice is given, and the day on which the meeting is held: *R. v. Hereford J.J.* [1820], 3 B. & Ald. 581; cf. *R. v. Shropshire J.J.* [1838], 8 A. & E. 173. See, as to the manner of giving notice, s. 51 and the note.

(d) The meeting may not begin earlier than 6 p.m.: s. 2 (3). As to the use of a schoolroom for the place of meeting, see s. 4. See also as to the time and place of meeting, s. 45 (1), and r. 7 (i). As to the conveners of the meeting, see s. 45 (3). The first parish meeting will be convened by the overseers: s. 78 (1).

(e) Upon all the matters mentioned in r. 3, any one parochial elector may demand a poll: r. 7. As to the adoptive Acts, see s. 7. As to the other matters, see ss. 38, 39.

(f) Standing orders to regulate proceedings may be made: Sched. I. Pt. III. rr. 5, 6.

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 (*g*).

(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 (*h*);
- (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 (*i*);
- (c) The appointment of an overseer, the appointment or revocation of the appointment or dismissal of an assistant overseer or a parish officer (*k*);
- (d) The appointment of trustees or beneficiaries of a charity (*l*);
- (e) The adoption of any of the adoptive Acts (*m*);
- (f) The formation or dissolution of a school board (*n*);
- (g) The consent or refusal of consent to any act, matter, or thing which cannot by law be done without that consent (*o*);
- (h) The incurring of any expense or liability (*p*);
- (i) The place and time for the assembly of the parish meeting (*q*);
- (k) Any other prescribed matter (*r*);

(*g*) The chairman has a casting vote: r. 8. The poll will be taken by ballot: see ss. 2 (5), 48 (3), (8). The Act does not require the demand of a poll to be made in writing. As to elections of parish councillors, see s. 48 (1)—(3).

(*h*) For some of the matters mentioned in r. 7 (a), fourteen days notice of the meeting must be given: see r. 3. Representations, &c. may be made as to default of district council in providing sewers, water supply, &c. under s. 16 (1) and s. 19 (8); as to creation of parish wards under s. 18 (1); as to grant of powers of a parish council to a parish meeting under s. 19 (10); as to formation or dissolution of parish councils or groups under ss. 38, 39.

(*i*) See s. 19 (1), (3).

(*k*) As to overseers and assistant overseers, see s. 5 (1), s. 19 (5). As to parish officers, see s. 17. Powers under that section may be conferred on the parish meeting under s. 19 (10).

(*l*) As to charities, see ss. 14, 19 (5).

(*m*) The adoptive Acts are enumerated in s. 7. As to the notice to be given of the meeting, see r. 3.

(*n*) See note to s. 52 (2).

(*o*) Instances in which consent is necessary will be found in ss. 1 (1), 8 (2), 13 (1), 14 (5), 19 (8), 38, 39, 52.

(*p*) Compare the restrictions on expenditure in s. 11 (1).

(*q*) See note on r. 2.

(*r*) This means prescribed by order of the Local Government Board: s. 75 (2).

Schedule I.

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 (*s*).

(10.) If the chairman of the parish meeting (*t*) 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.

Section 3.

PART II.—*Rules applicable to Parish Councils.*

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

(*s*) As to elections of parish councillors, see s. 3 (5), (6), and s. 48 (1)—(3). Candidates need not necessarily be parochial electors: s. 3 (1); and only parochial electors may attend a meeting and vote: s. 44 (1).

(*t*) This means the chairman for the year elected under s. 19 (1). In a parish having a parish council, the chairman of the council, if present, will be chairman of the parish meeting: s. 45 (2), but see the note on that section. See further s. 2 (4).

(*a*) No precise form of declaration is prescribed by the Act. The form prescribed by the Municipal Corporations Act, 1882, s. 240, and Sched. VIII. (which may be used by county and borough councillors and aldermen), may be adapted as follows:—

“I, *A. B.*, having been elected [parish councillor] for the [parish] of _____, hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.”

No fine is imposed for non-acceptance of office, and a parish councillor may resign: s. 47 (3). Failure to make the necessary declaration would, it seems, create a casual vacancy, as to which see r. 2; compare Municipal Corporations Act, 1882, s. 40 (3).

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

(3.) The first business at the annual meeting shall be to elect a chairman and to appoint the overseers (*c*).

(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 (*d*) 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 (*e*).

(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 (*f*).

(7.) No business shall be transacted at any meeting of a parish

(*b*) See s. 47 (4). No definition of "casual vacancy" is given in the Act. Note that s. 48 (4) does *not* apply to casual vacancies in the *parish* council.

(*c*) The annual meeting must be held on or within seven days of April 15: s. 3 (4), (7). As to the election of the chairman, see s. 3 (8). The Act contains no special provision as to the mode of election. No penalty is imposed for non-acceptance of office, and a chairman may resign: see s. 47 (3), and the note. As to the appointment of the overseers, see s. 5 (1).

(*d*) Three days must intervene between the day on which the notice is given and the day on which the meeting is held: see note (*f*), *infra*, and note to Pt. I. r. 2, *supra*. The notice must be a written notice. As to the use of a schoolroom for the place of meeting, see s. 4.

(*e*) During the inability of the chairman, the vice-chairman may act: r. 11. As to the first meeting of the parish council, see s. 78 (2). As to the annual meeting, see s. 3 (4), (7).

(*f*) The service of the notice when sent by post will be deemed to be effected by properly addressing, prepaying, and posting a letter containing it, and (unless the contrary is proved) to have been effected at the time at which the letter would be *delivered* in the ordinary course of post: see the Interpretation Act, 1889, s. 26. The three clear days required by r. 5 must therefore intervene between the *delivery* of the letter and the day of meeting.

Schedule I.

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 (*g*).

(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 (*h*).

(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 (*k*).

(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 (*l*).

(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 (*m*).

(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 (*n*).

(*g*) The "full number of members" apparently includes the chairman: see note to s. 3 (1). The existence of casual vacancies does not invalidate the proceedings: r. 12. If the parish council become unable to act by reason of a want of councillors, the county council may order a new election: s. 47 (5), see also s. 48 (5); and as to first elections: s. 80.

(*h*) The votes can be recorded by the clerk, who may be appointed under s. 17 (1)—(3).

(*k*) The chairman of the meeting, even though he be not chairman of the council, will have a casting vote, and will have a vote in the first instance.

(*l*) No special time is prescribed for the election of a vice-chairman. It seems to be intended, but is not expressly provided, that, in the absence of the chairman and vice-chairman, the members of the council present at a meeting should elect their own chairman. Note that the chairman may, but the vice-chairman may not, be appointed from outside the councillors: s. 3 (8). The vice-chairman will, when acting as chairman at a meeting of the council, have a casting vote under r. 10. It seems doubtful whether he will have the right to take the chair at a parish meeting under s. 45 (2), where see the note.

(*m*) This rule follows very closely the terms of r. 9 in P. H. A. 1875, Sched. I. *infra*, p. 252, on which it was held that even though the vacancies had reduced the number of duly elected members below the quorum required by the statute, the acts of the local authority, though irregularly constituted, were valid: *Newhaven Local Board v. Newhaven School Board* [1885], 30 Ch. D. 350.

(*n*) As to the date of the annual meeting, see note (*c*). The dates of

(14.) Every cheque or other order for payment of money by a parish council shall be signed by two members of the council (*o*).

(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 III.—General (*a*).

Sections, 2, 3.

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

(2.) A minute of proceedings at a meeting of a parish council, or of a committee (*b*) 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 (*c*); 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

the other meetings are not fixed by the Act. As to the admission of the public, cf. s. 44 (1).

(*o*) As to the treasurer, see s. 17 (6).

(*a*) Part III. applies to parish councils and committees of parish and district councils, and to parish meetings. As to district councils, see note to s. 59 (1).

(*b*) Committees may be appointed by a parish or district council under s. 56, and, in a parish not having a parish council, by the parish meeting: s. 19 (3). But committees of parish meetings are not expressly mentioned in Sched. I. Pt. III.

(*c*) As to disqualifications, see s. 46. The first clause of r. 3 applies to committee meetings; it is therefore, perhaps, implied that if a member of a parish or district council became disqualified for being a councillor under s. 46 he would also be disqualified for being on the committee. But note that by s. 56 members of a committee need not necessarily be councillors.

Schedule I. members of a parish council or of a parish meeting shall, until the contrary is proved, be deemed to have been duly so executed (*d*).

(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 (*e*).

(6.) Where there is no council for a rural parish, the parish meeting may, subject to the provisions of this Act (*f*), regulate their own proceedings and business.

Section 56.

PART IV.—*Proceedings of Committees of Parish or District Councils (g).*

(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.

(*d*) As to instruments executed by parish councillors, or members of the parish meeting, see s. 3 (9), and s. 19 (11), respectively.

(*e*) The standing orders could not, for example, repeal the provisions of s. 2 (3) as to the hour for holding the parish meeting, or of s. 3 (7) as to the date of the annual meeting of the parish council, or the rules in Sched. I.

(*f*) See ss. 2, 19.

(*g*) See note (*a*) to Pt. I. Committees may be appointed under s. 56, and joint committees under s. 57. The rules in the schedule are, by s. 56 (3), applicable to committees, but there is no direct enactment applying them in terms to joint committees. It seems, however, from the words "council or councils appointing the committee" in Pt. IV. r. 1, that the committees to which the rules in that part apply include joint committees. It appears also that the rules apply to a "parochial committee": see ss. 15, 56 (1), and note that s. 89 repeals "so much of Sched. I." to the Public Health Act, 1875, "as relates to committees."

SECOND SCHEDULE.

Schedule II.

ENACTMENTS REPEALED.

Section 89.

Session and 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>

Schedule II.

Session and 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 Management Act, 1855.	Section six. Sections thirteen to twenty-seven. In section thirty the words "or custom." Section fifty-four. In section two hundred and thirty-five the words "under this Act," where they secondly occur.
19 & 20 Vict. c. 112.	The Metropolis Management Amendment Act, 1856.	Sections six, seven, and eight.
23 & 24 Vict. c. 30.	The Public Improvements Act, 1860.	In section four the words "in value."
25 & 26 Vict. c. 102.	The Metropolis Management Amendment Act, 1862.	Section thirty-six; and section forty from "by rating" to "of such parish."

Schedule II.

Session and Chapter.	Short Title.	Extent of Repeal.
25 & 26 Vict. c. 103.	The Union Assessment Act, 1862.	In section two, the words "consisting partly of ex officio and partly of elected guardians," and from "Provided always" to the end of the section. In section five, the words "ex officio or elected," in both places where they occur, and the words, "as the case may be."
30 & 31 Vict. c. 6.	The Metropolitan Poor Act, 1867.	Section seventy-nine.
30 & 31 Vict. c. 106.	The Poor Law Amendment Act, 1867.	Sections four, five, six, and nine, section ten so far as it relates to elections of guardians, and section twelve.
31 & 32 Vict. c. 122.	The Poor Law Amendment Act, 1868.	Section four, from "and the powers" to the end of the section.
38 & 39 Vict. c. 55.	The Public Health Act, 1875.	Section eight from "and the number" to the end of the section. In section nine, from "Provided that (1) An ex officio guardian" to "situated in an urban district" (being the provisoes); and the words "from owners or occupiers of property situated in the rural district of a value sufficient to qualify them as elective guardians for a union," and from "Subject to the provisions of this Act" to the end of the section. Section two hundred, except so far as it applies to boroughs; sections two hundred and one and two hundred and four, section two hundred and forty-eight, except so far as it relates to overseers, and section three hundred and twelve. So much of Schedule I. as relates to committees, and Schedule II.
39 & 40 Vict. c. 61.	The Divided Parishes and Poor Law Amendment Act, 1876.	Section six, from "The meeting of inhabitants" to the end of the section, so far as it relates to rural parishes. Section eight to "no alteration," except as to cases where a parish is dealt with by order of the Local Government Board.

Schedule II,

Session and 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 guardians."
47 & 48 Vict. c. 70.	The Municipal Elections (Corrupt and Illegal Practices) Act, 1884.	Section thirty-six, from "(h) The Local Government Board" to "validity of any vote."
48 & 49 Vict. c. 53.	The Public Health (Members and Officers) Act, 1885.	Sections three and four.
55 & 56 Vict. c. 53.	The Public Libraries Act, 1892.	Sub-section three of section one. The First Schedule so far as it applies to rural parishes.

APPENDIX.

50 & 51 VICT. c. 48.

An Act to facilitate the provision of Allotments for the Labouring Classes (a). [16th September, 1887.]

3.—(1.) For the purposes of the purchase of land by agreement by a sanitary authority for allotments, section one hundred and seventy-eight of the Public Health Act, 1875, and the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, shall be incorporated with this Act, except the provisions with respect to the purchase and taking of land otherwise than by agreement, and with respect to the provision to be made for affording access to the special Act.

Acquisition of land for purpose of Act.
38 & 39 Vict. c. 55.
8 & 9 Vict. c. 18.

(2.) If a sanitary authority are unable by hiring or purchase by agreement to acquire suitable land sufficient for allotments under this Act for any district or parish at a reasonable price or rent and subject to reasonable conditions, such authority may petition the county authority of the county in which the district or parish is situate, and the county authority (after such inquiry and procedure as provided in the sections hereinafter incorporated in this Act) may make a provisional order authorising the sanitary authority to put in force, as respects the land mentioned in the order, the provisions of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same with respect to the purchase and taking of land otherwise than by agreement.

(3.) The Local Government Board, on the application of any county authority, shall introduce into Parliament a Bill confirming provisional orders made under this Act by such county authority, and the sanitary authority petitioning for the order shall be considered as the promoters of such order.

(4.) For the purpose of the purchase of land under this section otherwise than by agreement, sections one hundred and seventy-six, two hundred and ninety-six, and two hundred and ninety-seven of the Public Health Act, 1875, shall, so far

(a) The Allotments Act, 1887, is amended by, and certain sections are incorporated with L. G. A. 1894; see s. 9 (3), *supra*, p. 46; s. 9 (13), (14), *supra*, p. 52; s. 10 (2), (6), *supra*, pp. 55, 57.

as consistent with the tenour of this Act, be incorporated with this Act, and apply as if they were herein re-enacted, with the substitution of "the county authority" for "the Local Government Board," and of "any officer of the county authority appointed for the purpose of an inquiry" for "inspectors of the Local Government Board."

Provided that—

- (a) Any question of disputed compensation shall be referred to the arbitration of a single arbitrator appointed by the parties, or if the parties do not concur in the appointment of a single arbitrator, then, on the application of either of them, by the Local Government Board, and the remuneration to be paid to the arbitrator appointed by the Local Government Board shall be fixed by that Board:
 - (b) If an arbitrator appointed for the purposes of this Act dies or becomes incapable to act before he has made his award, or fails to make his award within two months after he is appointed, his appointment shall determine, and the determination of the compensation shall be referred to another arbitrator appointed in like manner as if no arbitrator had been previously appointed: Provided always, that the same arbitrator may be re-appointed:
 - (c) An arbitrator appointed under this section shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration shall apply accordingly; and, further, the arbitrator, notwithstanding anything in the said Acts, shall determine the amount of the costs and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.
- (5.) In construing for the purposes of this section any section or Acts incorporated with this section, this Act, together with any Act confirming a provisional order under this section, shall be deemed to be the special Act, and the sanitary authority shall be deemed to be the local authority or the promoters of the undertaking, as the case requires, and the word "land" shall have the same meaning as in this Act (b).
- (6.) Where land is purchased by a sanitary authority under

(b) Sub-sections (5), (6), (7) and (8), are applied, whether land is taken for allotments or not, by L. G. A. 1894, s. 9 (13), *supra*, p. 52.

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 (c).

(7.) For the purpose of the hiring of land by a sanitary authority for allotments, any person or body of persons or body corporate authorised to sell land to the sanitary authority for the purposes of this Act may, without prejudice to any other power of leasing, lease land to the sanitary authority, without any fine or premium, for a term not exceeding thirty-five years (c).

(8.) The county authority shall not make a provisional order for purchasing any right to coal or metalliferous ore (c).

* * * * *

5. The sanitary authority may improve any land acquired by them under this Act, and adapt the same for letting in allotments, by draining, fencing, and dividing the same, acquiring approaches, making roads, and otherwise, as they think fit, and may from time to time do such things as may be necessary for maintaining such drains, fences, approaches, and roads, or otherwise for maintaining the allotments in a proper condition (d).

Improvement and adaptation of land for allotments.

6.—(1.) Subject to the provisions of this Act, the sanitary authority may from time to time make, revoke, and vary such regulations as appear to be necessary or proper for regulating the letting of allotments under this Act, and for preventing any undue preference in the letting thereof, and generally for carrying the provisions of this Act into effect; and such regulations may define the persons eligible to be tenants of such allotments, and the notices to be given for the letting thereof, and the size of the allotments, and the conditions under which they are to be cultivated, and the rent to be paid for them. Provided that all such regulations shall make provision for reasonable notice to be given to a tenant of any

Management of allotments.

(c) See note (b).

(d) Sections 5—8 are applied to land hired for allotments: see L. G. A. 1894, s. 10 (6). See also s. 9 (14) as to land purchased by a county council.

38 & 39 Vict.
c. 55.

allotment of the determination of his tenancy. Provided also, that all regulations made under this section shall not be of any force unless and until they have been confirmed by the Local Government Board, in like manner and subject to the like provisions as in the case of byelaws under the Public Health Act, 1875.

(2.) All regulations for the time being in force under this section shall be binding on all persons whatsoever; and the sanitary authority shall cause them to be from time to time made known, in such manner as the sanitary authority think fit, to all persons interested, and shall cause a copy thereof to be given gratis to any inhabitant of the district or parish demanding the same.

(3.) Subject to the provisions of this Act the sanitary authority may from time to time appoint, and when appointed, remove allotment managers of land acquired under this Act for allotments, and such allotment managers shall consist either partly of members of such authority and partly of other persons, or wholly of other persons, so that in either case such other persons be persons residing in the locality and contributing to the rate out of which the expenses under this Act are paid.

(4.) The proceedings and powers of allotment managers shall be such as, subject to the provisions of this Act, may be prescribed from time to time by the sanitary authority; the allotment managers may be empowered by the sanitary authority to do anything in relation to the management of such allotments which the sanitary authority are authorised to do, and to incur expenses to such amount as the sanitary authority prescribe, and any expenses properly so incurred shall be deemed to be expenses of the sanitary authority under this Act (e).

Provisions as
to letting and
use of allot-
ments.

7.—(1.) The rents of the allotments shall be fixed at an amount not less than such as may reasonably be expected to ensure the sanitary authority from loss; but in calculating such loss any expenses incurred in an unsuccessful attempt to acquire land for allotments shall be excluded and, subject as aforesaid, such rents may be from time to time charged as are reasonable, having regard to the agricultural value of the land, and not more than a quarter's rent shall be required to be paid in advance in any case where it is deemed necessary by the sanitary authority to require the payment of rent in advance.

(2.) The sanitary authority shall, for the purposes of all rates, taxes, and tithe rentcharge, be deemed to be the occu-

(e) Sections 5—8 are applied to land hired for allotments by the parish council: see L. G. A. 1894, s. 10 (6), *supra*, p. 57. See also s. 9 (14) as to land purchased by a county council.

piers of the allotments which are let, but they shall cause the sums from time to time paid by way of rates, taxes, and tithe rentcharge in respect of the allotments to be apportioned among them, and cause the sum so apportioned in respect of each allotment to be certified to the tenant thereof, and such sum shall be added to the rent otherwise payable by the said tenant in respect of such allotment, and shall be deemed to be part of such rent, and be recoverable accordingly: Provided always, that for the purposes of the parliamentary franchise, and the municipal and all other local franchises, the tenants shall be deemed to be the occupiers, and such rates to have been paid by them, notwithstanding the provisions herein-before contained.

(3.) One person shall not hold any allotment or allotments acquired under this Act exceeding one acre, and an allotment shall not be sub-let.

(4.) Provided that if at any time any allotment cannot be let in accordance with the provisions of this Act and the regulations, the same may be let to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the sanitary authority to resume possession thereof within a period not exceeding twelve months if it should at any time be required to be let under the provisions aforesaid.

(5.) No building other than a toolhouse, shed, greenhouse, fowlhouse, or pigstye shall be erected on any part of any allotment, and if any building other than as aforesaid is so erected the sanitary authority shall forthwith pull down such building and sell and dispose of the materials thereof, and the proceeds of the sale shall be applicable in like manner as the rent of the allotment. If any building so allowed to be erected is erected upon an allotment, then at the end of the tenancy neither the sanitary authority nor the incoming tenant shall be bound to take any such building or pay any compensation therefor, but the outgoing tenant shall be at liberty, before the expiration of his tenancy, to remove the same, and, if he fails so to do, the sanitary authority may pull down the building and dispose of the materials, and apply the proceeds in like manner as if it were a building prohibited to be erected.

(6.) A tenant of an allotment may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him, for which he has no claim for compensation^(f).

8.—(1.) The rent for an allotment let in pursuance of this Recovery of
rent and

(f) Sections 5—8 are applied to land hired for allotments by the parish council: see L. G. A. 1894, s. 10 (6), *supra*, p. 57. See also s. 9 (14) as to land purchased by a county council.

possession of
allotments.

Act, and the possession of such allotment in the case of any notice to quit, or failure to deliver up possession of the same as required by law, may be recovered by the sanitary authority as landlords, in the like manner as in any other case of landlord and tenant.

(2.) If the rent for any allotment is in arrear for not less than forty days, or if it appears to the sanitary authority that the tenant of an allotment not less than three months after the commencement of the tenancy thereof has not duly observed the regulations affecting such allotment made by or in pursuance of this Act, or is resident more than one mile out of the district or parish for which the allotments are provided, the sanitary authority may serve upon the tenant, or if he is residing out of the district or parish, leave at his last known place of abode in the district or parish, or fix in some conspicuous manner on the allotment, a written notice determining the tenancy at the expiration of one month after the notice has been so served or affixed, and thereupon such tenancy shall be determined accordingly: Provided that in every such case the sanitary authority in default of agreement between the incoming and outgoing tenant shall on demand pay to the tenant whose tenancy is so determined any compensation due to him as an outgoing tenant; and such compensation shall be assessed by an arbitrator appointed by the sanitary authority, or, if the tenant so elect, either by an arbitrator appointed under the Allotments and Cottage Gardens Compensation for Crops Act, 1887, or by a reference under the Agricultural Holdings (England) Act, 1883.

50 & 51 Vict.
c. 26.
46 & 47 Vict.
c. 61.

(3.) Upon the recovery of an allotment from any tenant, the court or justice directing the recovery may stay delivery of possession until payment of the compensation, if any, due to the outgoing tenant has been made or secured to the satisfaction of the court or justice (*g*).

53 & 54 VICT. c. 65.

An Act to provide for an Appeal from a Sanitary Authority failing to carry into effect the Allotments Act, 1887.

[18th August, 1890.]

Standing
committee.

3.—(1). For the purposes of this Act or the principal Act every county council, as soon as is conveniently practicable

(*g*) Sections 5—8 of the Allotments Act, 1887, are applied to allotments hired under L. G. A. 1894, s. 10 (6), *supra*, p. 57. See also s. 9 (14) as to land purchased by a county council.

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.

51 & 52 Vict.
c. 41.

(2.) For the purpose of any business under this Act relating to any district or parish wholly or partly situate in an electoral division, the county councillor representing that division shall, if not already appointed, be an additional member of the committee.

(3.) Any petition under this Act shall as of course, and without any order of the council, be referred to the standing committee, who, on being satisfied of the bona fides of the application, shall forthwith cause a local inquiry into the circumstances to be made, and shall report the result to the council.

(4.) An inquiry under this Act or the principal Act shall be held by such one or more members of the standing committee, or such officer of the county council or other person as the standing committee may appoint to hold the same (*h*).

38 & 39 VICT. c. 55.

An Act for consolidating and amending the Acts relating to Public Health in England. [11th August, 1875.]

9. The area of any union which is not coincident in area with an urban district, nor wholly included in an urban district (in this section called a rural union), with the exception of those portions (if any) of the area which are included in any urban district, shall be a rural district, and the guidance of the union shall form the rural authority of such district :

Description of rural districts and rural authorities.

* * * * *

Where the number of elective guardians who are not by this section disqualified from acting and voting as members of the rural authority is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number and the persons so nominated shall be entitled to act and vote as members of the rural authority but not further or otherwise (*i*).

(*h*) Section 3 of the Allotments Act, 1890, applies whether land is taken for allotments or not: see L. G. A. 1894, s. 9 (13), *supra*, p. 52.

(*i*) The words omitted are repealed by L. G. A. 1894, s. 89.

HIGHWAYS AND STREETS.

As to Highways.

Powers of surveyors of highways and of vestries under 5 & 6 Will. 4, c. 50, vested in urban authority.

144. Every urban authority shall within their district exclusively of any other person execute the office of and be surveyor of highways, and have exercise and be subject to all the powers authorities duties and liabilities of surveyors of highways under the law for the time being in force, save so far as such powers authorities or duties are or may be inconsistent with the provisions of this Act; every urban authority shall also have exercise and be subject to all the powers authorities duties and liabilities which by the Highway Act, 1835, or any Act amending the same, are vested in and given to the inhabitants in vestry assembled of any parish within their district.

All ministerial acts required by any Act of Parliament to be done by or to the surveyor of highways may be done by or to the surveyor of the urban authority, or by or to such other person as they may appoint (*k*).

Inhabitants of urban district not liable to rates for roads without district.

145. The inhabitants within any urban district shall not in respect of any property situated therein be liable to the payment of highway rate or other payment, not being a toll, in respect of making or repairing roads or highways without such district: Provided, that any person who in any place after the passing of this Act ceases under or by virtue of any provision of this Act, or of any order made thereunder, to be surveyor of highways within such place, may recover any highway rate made in respect of such place, and remaining unpaid at the time of his so ceasing to be such surveyor, as if he had not ceased to be such surveyor; and the money so recovered shall be applied, in the first place, in reimbursing himself any expenses incurred by him as such surveyor, and in discharging any debts legally owing by him on account of the highways within his jurisdiction; and the surplus (if any) shall be paid by him to the treasurer of the urban authority, and carried to the fund or rate applicable to the repair of highways within their district (*k*).

Power of urban authority to agree as to making of new public roads.

146. Any urban authority may agree with any person for the making of roads within their district for the public use through the lands and at the expense of such person, and may agree that such roads shall become and the same shall accordingly become on completion highways maintainable and

(*k*) Sections 144—148 of the Public Health Act, 1875, are applied to rural districts by L. G. A. 1894, s. 25 (1), *supra*, p. 99.

repairable by the inhabitants at large within their district; they may also, with the consent of two thirds of their number, agree with such person to pay, and may accordingly pay, any portion of the expenses of making such roads (*l*).

147. Any urban authority may agree with the proprietors of any canal railway or tramway to adopt and maintain any existing or projected bridge viaduct or arch within their district, over or under any such canal railway or tramway, and the approaches thereto, and may accordingly adopt and maintain such bridge viaduct or arch and approaches as parts of public streets or roads maintainable and repairable by the inhabitants at large within their district; or such authority may themselves agree to construct any such bridge viaduct or arch at the expense of such proprietors; they may also, with the consent of two thirds of their number, agree to pay, and may accordingly pay, any portion of the expenses of the construction or alteration of any such bridge viaduct or arch, or of the purchase of any adjoining lands required for the foundation and support thereof, or for the approaches thereto (*l*).

Power of urban authority to construct or adopt public bridges, &c. over or under canals, &c.

148. Any urban authority may by agreement with the trustees of any turnpike road, or with any person liable to repair any street or road, or any part thereof, or with the surveyor of any county bridge, take on themselves the maintenance repair cleansing or watering of any such street or road or any part thereof, or of any road over any county bridge, and the approaches thereto, or of any part of the said streets or roads within their district, and may remove any turnpike gates toll gates or bars which may be situated within their district, and may erect other turnpike gates, toll gates or bars in lieu thereof, on such terms as the urban authority and such trustees or person or surveyor as aforesaid may agree on (*l*):

Power of urban authority to enter into agreements with turnpike trustees as to repair, &c. of roads.

Provided—

That where any mortgage debt is charged on the tolls of any such turnpike road, no agreement shall be made for the removal of any of the toll gates or bars thereon, unless with the previous consent in writing of a majority of at least two thirds in value of the mortgagees; and

That where the terms arranged include any annual or other payments from such urban authority to the trustees of any such turnpike road, then the payments may be secured on any fund or rate applicable by such authority to any of the purposes of this Act in the same manner as other charges on any such fund or rate are authorised by this Act.

(*l*) Sections 144—148, are applied to rural districts by L. G. A. 1894, s. 25 (1), *supra*, p. 99.

Any executors administrators guardians trustees or committee of the estate of any idiot or lunatic, who are as such for the time being entitled to any money charged or secured on the tolls of any such turnpike road, may consent to any such agreement as aforesaid, as fully as if they respectively were so entitled in their own right, discharged of all trusts in respect thereof; and all executors administrators guardians trustees and committees so consenting are hereby severally indemnified for so doing.

* * * * *

PUBLIC PLEASURE GROUNDS, &c.

Urban authority may provide places of public recreation.

164. Any urban authority may purchase or take on lease lay out plant improve and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever.

Any urban authority may make byelaws for the regulation of any such public walk or pleasure ground, and may by such byelaws provide for the removal from such public walk or pleasure ground of any person infringing any such byelaw by any officer of the urban authority or constable (*m*).

* * * * *

Meetings, &c. of urban authority not being the council of a borough.

199. Every urban authority (not being the council of a borough) shall hold an annual meeting, and other meetings for the transaction of business under this Act once at least in each month, and at such other times as may be necessary for properly executing their powers and duties under this Act.

Meetings of local boards shall be held and the proceedings thereat shall be conducted in accordance with the rules as to meetings and proceedings contained in Schedule I. to this Act; and any improvement commissioners may, if they think fit, adopt all or any of such rules (*n*).

* * * * *

Power of rural authority to form parochial committees.

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

(*m*) This section is applied to parish councils by L. G. A. 1894, s. 8 (1).

(*n*) This section now applies 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 the district council or board were a local board: see L. G. A. 1894, s. 59 (1), *supra*, p. 179. Schedule I. is set out *infra*, p. 251.

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 any 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 (o).

* * * * *

EXPENSES OF RURAL AUTHORITY.

229. The expenses incurred by a rural authority in the execution of this Act shall be divided into general expenses and special expenses (p). Expenses of rural authority.

General expenses (other than those chargeable on owners and occupiers under this Act) shall be the expenses of the establishment and officers of the rural authority, the expenses in relation to disinfection, the providing conveyance for infected persons, and all other expenses not determined by this Act or by order of the Local Government Board to be special expenses.

Special expenses shall be the expenses of the construction maintenance and cleansing of sewers in any contributory place within the district, the providing a supply of water to any such place, and maintaining any necessary works for that purpose, if and so far as the expenses of such supply and works are not defrayed out of water rates or rents under this

(o) As to the constitution of parochial committees, see L. G. A. 1894, s. 15.

(p) Sections 229, 230, apply to expenses of rural district councils, see L. G. A. 1894, s. 29.

Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural authority in trust for any contributory place, and all other expenses incurred or payable by the rural authority in or in respect of any contributory place within the district, and determined by order of the Local Government Board to be special expenses.

Where the rural authority make any sewers or provide any water supply or execute any other work under this Act for the common benefit of any two or more contributory places within their district, they may apportion the expense of constructing any such work, and of maintaining the same, in such proportions as they think just, between such contributory places, and any expense so apportioned to any such contributory place shall be deemed to be special expenses legally incurred in respect of such contributory place.

The overseers of any contributory place, if aggrieved by any such apportionment, may, within twenty-one days after notice has been given to them of the apportionment, send or deliver a memorial to the Local Government Board stating their grounds of complaint, and the said Board may make such order in the matter as to it may seem equitable, and the order so made shall be binding and conclusive on all parties concerned.

General expenses shall be payable out of a common fund to be raised out of the poor rate of the parishes in the district according to the rateable value of each contributory place in manner in this Act mentioned.

Special expenses shall be a separate charge on each contributory place (g).

The following areas situated in a rural district shall be contributory places for the purposes of this Act; that is to say,

- (1.) Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the Sanitary Acts or of this Act, or of an urban district; and
- (2.) Every such special drainage district as aforesaid; and
- (3.) In the case of a parish wholly situated in a rural district, and part of which forms or is part of any such special drainage district as aforesaid, such portion of that parish as is not comprised within such special drainage district; and
- (4.) In the case of a parish a part of which is situated within an urban district, such portion of that parish

(g) See L. G. A. 1894, s. 29 (b), *supra*, p. 116.

as is not comprised within such urban district, or within any such special drainage district as aforesaid.

230. For the purpose of obtaining payment from the several contributory places within their district of the sums to be contributed by them, the rural authority shall issue their precept to the overseers of each such contributory place requiring such overseers to pay, within a time limited by the precept, the amount specified in such precept to the rural authority or to some person appointed by them, care being taken to issue separate precepts in respect of contributions for general expenses and special expenses, or to make such expenses respectively separate items in any precept including both classes of expenses (*r*).

Mode of raising contributions in rural district.

Where a contributory place is part of a parish as defined by this Act, the overseers of such parish shall for the purposes of this Act be deemed to be the overseers of such contributory place, and where any part of a contributory place is part of a parish the overseers of such parish shall for the like purposes be deemed to be the overseers of such part of such contributory place.

The overseers shall comply with the requisitions of such precept by paying the contribution required in respect of general expenses out of the poor rate of their respective parishes, and with respect to special expenses by raising the contribution required by the levy (in the case of an entire parish on the whole of such parish, and in the case of a contributory place or part of a contributory place forming part of a parish, by the levy on such place, or such part thereof, exclusive of the rest of the parish) of a separate rate in the same manner as if it were a rate for the relief of the poor, with this exception; (namely,)

That the owner of any tithes, or of any tithe commutation rent-charge, or the occupier of any land used as arable meadow or pasture ground only, or as woodlands market gardens or nursery grounds, and the occupier of any land covered with water, or used as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall, where a special assessment is made for the purpose of such rate, be assessed in respect of one fourth part only of the rateable value thereof, or where no special assessment is made, shall pay in respect of the said property one fourth part only of the rate in the pound payable in respect of houses and other property :

(*r*) Sections 229, 230, are applied to expenses of rural district councils, by L. G. A. 1894, s. 29, *supra*, p. 115.

Provided that where the amount required by any precept or precepts from a contributory place in respect of special expenses is less than ten pounds, or is so small that a rate less than one penny in the pound would be required to raise the same, the overseers shall not assess and levy any special rate for the same, but shall pay the amount as if it formed part of the contribution required from them in respect of general expenses (s).

A separate rate under this section shall, as respects the powers of the overseers in relation to making assessing and levying such rate, and as respects the appeal against such rate, and all other incidents thereof except the purposes to which it is applicable, and such exemption as aforesaid, and except the allowance of justices, which shall not be required, be subject to the same provisions as apply in law to a rate levied for the relief of the poor; and the overseers of a parish shall have the same powers of levying such separate rate in a contributory place or part of a contributory place forming part of their parish, as they would have if such contributory place or such part thereof formed the whole of their parish.

Where a contribution for general expenses is required from a contributory place or part of a contributory place which is part of a parish, the overseers shall from time to time levy such increase of rate from the contributory place or such part thereof as may be sufficient to recoup the parish for the sum it has paid on account of the contributory place or such part thereof in respect of general expenses under this Act, and carry the same to the general account of the parish, and such increase of rate shall be raised in such contributory place or part of a contributory place by an addition to the poor rate, or by a separate rate to be assessed made allowed published collected and levied in the same manner as a poor rate. The officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect any separate rate made under this section, and receive out of such separate rate such remuneration for the additional duty as the overseers with the consent of the vestry may determine.

The overseers shall at the expiration of their term of office pay any surplus in their hands arising from any separate rate levied in pursuance of this Act, above the amount for which the rate was made, to the rural authority or to such person as they may appoint, to the credit of the contributory place within which or within part of which such rate was made, and such surplus shall go in reduction of the next call that may be made on such contributory place or such part thereof

(s) See also L. G. A. 1894, s. 29 (b), *supra*, p. 116.

for the purpose of defraying the expenses incurred by the rural authority.

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247. Where an urban authority are not the council of a borough the following regulations with respect to audit shall be observed (*t*); (namely,)

Audit where urban authority are not a town council.

- (1.) The accounts of the receipts and expenditure under this Act of such authority shall be audited and examined once in every year, as soon as can be after the twenty-fifth day of March, by the auditor of accounts relating to the relief of the poor
- (2.) There shall be paid to such auditor in respect of each audit under this Act, such reasonable remuneration, not being less than two guineas for every day in which he is employed in such audit, as such authority from time to time appoint, together with his expenses of travelling to and from the place of audit:
- (3.) Before each audit such authority shall, after receiving from the auditor the requisite appointment, give at least fourteen days' notice of the time and place at which the same will be made, and of the deposit of accounts required by this section, by advertisement in some one or more of the local newspapers circulated in the district; and the production of the newspaper containing such notice shall be deemed to be sufficient proof of such notice on any proceeding whatsoever:
- (4.) A copy of the accounts duly made up and balanced, together with all rate books account books deeds contracts accounts vouchers and receipts mentioned or referred to in such accounts, shall be deposited in the office of such authority, and be open, during office hours thereat, to the inspection of all persons interested for seven clear days before the audit, and all such persons shall be at liberty to take copies of or extracts from the same, without fee or reward; and any officer of such authority duly appointed in that behalf neglecting to make up such accounts and books, or altering such accounts and books, or allowing them to be altered when so made up, or refusing to allow inspection thereof, shall be liable to a penalty not exceeding five pounds:
- (5.) For the purpose of any audit under this Act, every auditor may, by summons in writing, require the

(*t*) Applied to accounts of parish and district councils, and joint committees, by L. G. A. 1894, s. 58 (2), *supra*, p. 177.

production before him of all books deeds contracts accounts vouchers receipts and other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books deeds contracts accounts vouchers receipts documents or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same; and if any such person neglects or refuses so to do, or to produce any such books deeds contracts accounts vouchers receipts documents or papers, or to make or sign such declaration, he shall incur for every neglect or refusal a penalty not exceeding forty shillings; and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury:

- (6.) Any ratepayer or owner of property in the district may be present at the audit, and may make any objection to such accounts before the auditor; and such ratepayers and owners shall have the same right of appeal against allowances by an auditor as they have by law against disallowances:
- (7.) Any auditor acting in pursuance of this section shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person, and on application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made:
- (8.) Any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a writ of certiorari to remove the disallowance into the said Court, in the same manner and subject to the same conditions as are provided in the case of disallowances by auditors under the laws for the time being in force with regard to the relief of the poor; and the said Court shall have the same powers with respect to allowances disallowances and surcharges under this Act as it has with respect to disallowances

or allowances by the said auditors ; or in lieu of such application any person so aggrieved may appeal to the Local Government Board, which Board shall have the same powers in the case of the appeal as it possesses in the case of appeals against allowances disallowances and surcharges by the said poor law auditors :

- (9.) Every sum certified to be due from any person by an auditor under this Act shall be paid by such person to the treasurer of such authority within fourteen days after the same has been so certified, unless there is an appeal against the decision ; and if such sum is not so paid, and there is no such appeal, the auditor shall recover the same from the person against whom the same has been certified to be due by the like process and with the like powers as in the case of sums certified on the audit of the poor rate accounts, and shall be paid by such authority all such costs and expenses, including a reasonable compensation for loss of time incurred by him in such proceedings, as are not recovered by him from such person :
- (10.) Within fourteen days after the completion of the audit, the auditor shall report on the accounts audited and examined, and shall deliver such report to the clerk of such authority, who shall cause the same to be deposited in their office, and shall publish an abstract of such accounts in some one or more of the local newspapers circulated in the district (*u*).

Where the provisions as to audit of any local Act constituting a board of improvement commissioners are repugnant to or inconsistent with those of this Act, the audit of the accounts of such improvement commissioners shall be conducted in all respects in accordance with the provisions of this Act.

* * * * *

250. The accounts under this Act of officers or assistants of any local authority who are required to receive moneys or goods on behalf of such authority shall be audited by the auditors or auditor of the accounts of such authority, with the same powers incidents and consequences as in the case of such last-mentioned accounts (*x*).

Auditor to
audit accounts
of officers.

* * * * *

(*u*) See L. G. A. 1894, s. 58 (3), *supra*, p. 178.

(*x*) See L. G. A. 1894, s. 58 (2), *supra*, p. 177.

Inquiries by Board (z).

Power of Board to direct inquiries.

293. The Local Government Board may from time to time cause to be made such inquiries as are directed by this Act, and such inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction approval or consent is required by this Act.

Orders as to costs of inquiries.

294. The Local Government Board may make orders as to the costs of inquiries or proceedings instituted by, or of appeals to the said Board under this Act, and as to the parties by whom or the rates out of which such costs shall be borne; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein.

Orders of Board under this Act.

295. All orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as that Board may direct.

Powers of inspector of Local Government Board.

296. Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts.

Provisional Orders by Board (z).

As to provisional orders made by Local Government Board.

297. With respect to provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made:—

- (1.) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates:
- (2.) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall

(z) Sections 293—296, and sub-sections (1) and (2) of s. 297, are applied to inquiries held under L. G. A. 1894, s. 9 (8), *supra*, p. 49.

cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections.

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SCHEDULES.

SCHEDULE I.

RULES AS TO MEETINGS AND PROCEEDINGS.

(1.) *Rules applicable to Local Boards (a).*

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

2. No business shall be transacted at any such meeting unless at least one third of the full number of members be present thereat, subject to this qualification, that in no case shall a larger quorum than seven members be required (*c*).

3. Every local board shall from time to time at their annual meeting appoint one of their number to be chairman for one year at all meetings at which he is present (*d*).

4. If the chairman so appointed dies resigns or becomes incapable of acting, another member shall be appointed to be chairman

(*a*) These rules were applied to local boards by P. H. A. 1875, s. 199, *supra*, p. 242, and they will in future 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 the district council or board were a local board: see L. G. A. 1894, s. 59 (1), *supra*, p. 179. The second part of the schedule comprised "rules applicable to committees and to joint boards." The provisions as to joint boards are applicable only to purposes under the Act of 1875, and "so much of Sched. I. as relates to committees" is repealed by L. G. A. 1894, s. 89. Rule 13 in the first part, which related only to the Oxford district, is omitted.

(*b*) The regulations must not transgress the provisions of the Act. See r. 11 as to the date of the annual meeting. By s. 199, *supra*, p. 242, a meeting must be held once a month.

(*c*) The filling up of vacancies is "business" within the meaning of this rule: *Newhaven Local Board v. Newhaven School Board* [1885], 30 Ch. D. 350. See r. 9 as to the validity of proceedings during vacancies. If a district council becomes unable to act, the county council may order elections to be held under L. G. A. 1894, s. 59 (5), *supra*, p. 180.

(*d*) The chairman may now be elected from outside the councillors or guardians: see L. G. A. 1894, s. 59 (1), *supra*, p. 180. No particular form of election is prescribed. As to the time for holding the annual meeting, see r. 11.

for the period during which the person so dying resigning or becoming incapable would have been entitled to continue in office, and no longer.

5. If the chairman is absent from any meeting at the time appointed for holding the same, the members present shall appoint one of their number to act as chairman thereat.

6. The names of the members present, as well as of those voting on each question, shall be recorded, so as to show whether each vote given was for or against the question.

7. Every question at a meeting shall be decided by a majority of votes of the members present, and voting on that question.

8. In case of an equal division of votes the chairman shall have a second or casting vote *(e)*.

9. The proceedings of a local board shall not be invalidated by any vacancy or vacancies among their members, or by any defect in the election of such board, or in the election or selection or qualification of any members thereof *(f)*.

10. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, if purporting to be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

11. The annual meeting of a local board shall be held as soon as may be convenient after the fifteenth of April in each year *(g)*.

12. The first meeting of a local board for a district constituted after the passing of this Act shall be held at such place and on such day (not being more than ten days after the completion of the election) as the returning officer may by written notice to each member of the board appoint; and the members shall appoint one of their number to be chairman at such meeting, and shall also appoint one of their number to be chairman for one year at all meetings at which he is present.

* * * * *

(e) This implies that the chairman will have a vote in the first instance.

(f) This rule has been held to render valid the acts of a local board, where the number of members duly elected was less than the quorum fixed by r. 2: see *Newhaven Local Board v. Newhaven School Board* [1885], 30 Ch. D. 350.

(g) The chairman must be elected at the annual meeting: r. 3. Guardians and urban and rural district councillors come into office on April 15: see L. G. A. 1894, ss. 20 (6), 23 (6), 24 (4).

53 & 54 VICT. c. 59.

An Act to amend the Public Health Acts.

[18th August, 1890.]

44.—(1.) An urban authority may on such days as they think fit (not exceeding twelve days in any one year, nor four consecutive days on any one occasion) close to the public any park or pleasure ground provided by them or any part thereof, and may grant the use of the same, either gratuitously or for payment, to any public charity or institution, or for any agricultural, horticultural, or other show, or any other public purpose, or may use the same for any such show or purpose; and the admission to the said park or pleasure ground, or such part thereof, on the days when the same shall be so closed to the public may be either with or without payment, as directed by the urban authority, or, with the consent of the urban authority, by the society or persons to whom the use of the park or pleasure ground, or such part thereof, may be granted: Provided that no such park or pleasure ground shall be closed on any Sunday or public holiday.

Parks and
pleasure
grounds.

(2.) An urban authority may either themselves provide and let for hire, or may license any person to let for hire, any pleasure boats on any lake or piece of water in any such park or pleasure ground, and may make byelaws for regulating the numbering and naming of such boats, the number of persons to be carried therein, the boathouses and mooring places for the same, and for fixing rates of hire and the qualifications of boatmen, and for securing their good and orderly conduct while in charge of any boat (*h*).

51 & 52 VICT. c. 41.

An Act to amend the Laws relating to Local Government in England and Wales, and for other purposes connected therewith.

[13th August, 1888.]

54.—(1.) Whenever it is represented by the council of any county or borough to the Local Government Board (*i*)—

(a) that the alteration of the boundary of any county or borough is desirable; or

Future
alterations of
boundaries.

(*h*) This section is applied to parish councils by L. G. A. 1894, s. 8 (1).

(*i*) Applications under this section are directed by L. G. A. 1894, s. 36 (5), *supra*, p. 129.

- (b) that the union, for all or any of the purposes of this Act, of a county borough with a county is desirable; or
- (c) that the union, for all or any of the purposes of this Act, of any counties or boroughs or the division of any county is desirable; or
- (d) that it is desirable to constitute any borough having a population of not less than fifty thousand into a county borough; or
- (e) that the alteration of the boundary of any electoral division of a county, or of the number of county councillors and electoral divisions in a county, is desirable; or
- (f) that the alteration of any area of local government partly situate in their county or borough is desirable; the Local Government Board shall, unless for special reasons they think that the representation ought not to be entertained, cause to be made a local inquiry, and may make an order for the proposal contained in such representation, or for such other proposal as they may deem expedient, or may refuse such order, and if they make the order may by such order divide or alter any electoral division.

* * * * *

(3.) Provided that if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any counties or boroughs, or for the division of any county, or for constituting a borough into a county borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(4.) Where such order alters the boundary of a borough, it may, as consequential upon such alteration, do all or any of the following things, increase or decrease the number of the wards in the borough, and alter the boundaries of such wards, and alter the apportionment of the number of councillors among the wards, and alter the total number of councillors, and in such case, make the proportionate alteration in the number of aldermen.

* * * * *

Future alteration of county districts and parishes and wards and future establishment of urban districts.

57.—(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 (*k*); 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;

(*k*) Section 57 is applied by L. G. A. 1894, s. 36 (10), *supra*, p. 131. See also s. 80 (2), *supra*, p. 209, and the Regulations of the Local Government Board, *infra*, p. 259.

- (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 (*l*), 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 (*l*), 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 (*m*); 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.

(4.) If any such petition is not presented, or being presented is withdrawn, the Local Government Board shall confirm the order.

(5.) The Local Government Board, on confirming an order,

(*l*) See Regulations of the Local Government Board, *infra*, p. 259.

(*m*) See L. G. A. 1894, ss. 40, 41, *supra*, p. 138.

may make such modifications therein as they consider necessary for carrying into effect the objects of the order.

(6.) An order under this section, when confirmed by the Local Government Board, shall be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament.

(7.) This section shall be in addition to, and not in derogation of, any power of the Local Government Board in respect of the union or division or alteration of parishes.

Additional
power of
Local Govern-
ment Board
as to unions.

58. The Local Government Board, where it appears expedient so to do with reference to any poor law union which is situate in more than one county instead of dissolving the union may by order provide that the same shall continue to be one union for the purposes of indoor paupers or any of those purposes, and shall be divided into two or more poor law unions for the purpose of outdoor relief, and may by the order make such provisions as seem expedient for determining all other matters in relation to which such union is to be one union or two or more unions (*n*).

Supplemental
provisions as
to alteration
of areas.

59.—(1.) A scheme or order under this Act may make such administrative and judicial arrangements incidental to or consequential on any alteration of boundaries, authorities, or other matters made by the scheme or order as may seem expedient (*o*).

* * * * *

(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 the local authorities therein, and may deal with the powers and duties of any council, local authorities, quarter sessions, justices of the peace, coroners, sheriff, lieutenant, custos rotulorum, clerk of the peace, and other officer therein, and with the costs of any such authorities, sessions, persons, or officers as aforesaid, and may determine the status of any such area as a component part of any larger area, and provide for the election of representatives in such area, and may extend to any altered area the

(*n*) See L. G. A. 1894, s. 36 (6), *supra*, p. 129.

(*o*) So much of this section as appears to be material is here set out : see L. G. A. 1894, s. 69, *supra*, p. 192.

provisions of any local Act which were previously in force in a portion of the area; and

- (b) may make temporary provision for meeting the debts and liabilities of the various authorities affected by the scheme or order, for the management of their property, and for regulating the duties, position, and remuneration of officers affected by the scheme or order, and applying to them the provisions of this Act as to existing officers; and
- (c) may provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the scheme or order, and for determining questions arising from such transfer; and
- (d) may provide for all matters which appear necessary or proper for bringing into operation and giving full effect to the scheme or order; and
- (e) may adjust any property, debts, and liabilities affected by the scheme or order.

* * * * *

(6.) A scheme or order may be made for amending any scheme or order previously made in pursuance of this Act, and may be made by the same authority and after the same procedure as the original scheme or order. Where a provision of this Act respecting a scheme or order requires the scheme or order to be laid before Parliament, or to be confirmed by Parliament, either in every case or if it is petitioned against, such scheme or order may amend any local and personal Act.

* * * * *

120.—(1.) Every existing officer (*e*) 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 acting

Compensation
to existing
officers.

(*e*) This section applies to existing officers affected by L. G. A. 1894: see s. 81 (7), *supra*, p. 211.

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 his 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 compensation, distinguishing the offices in respect of which the same have been received, and accompanied by a statutory declaration under the Statutory Declaration Act, 1835, that the same is a true statement according to the best of his knowledge, information, and belief.

5 & 6 Will. 4,
c. 62.

(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 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 any 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 such 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.

REGULATIONS of the Local Government Board under the Local Government Act, 1894 (a). [22nd March 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:—
[*vide supra*, p. 254.]

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

“Where any matter is authorized 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 (b) 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—[*vide supra*, p. 131.]

(a) These regulations are made under s. 80 (2), *supra*, p. 209, and L. G. A., 1888, s. 57, *supra*, p. 254.

(b) As to inquiries in 1894, see Art. I., *infra*, p. 260.

And whereas by section 41 of the said Act it is enacted that—[*vide supra*, p. 138.]

And whereas by sub-section (2) of section 80 of the said Act it is enacted that—[*vide supra*, p. 209.]

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 (*c*), 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 (*d*), 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.

(*c*) This section is applied to orders made under Part III. of L. G. A. 1894; see s. 36 (10), *supra*, p. 131.

(*d*) For the meaning of county district, see s. 21, *supra*, p. 90.

(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 hereinafter prescribed, and shall be sent to the several Government departments and local or other authorities hereinafter 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 (*e*), 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 if, 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 publica-

(*e*) This section is set out, *supra*, p. 254. Confirmation is rendered unnecessary, in certain cases, by L. G. A. 1894, s. 40, *supra*, p. 138.

tion of the advertisement (*f*) 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 (*f*).

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.

(*f*) By L. G. A. 1894, s. 41, *supra*, p. 138, the period of six weeks after the “first notice” is substituted for the three months fixed as the time for petitioning under L. G. A. 1888, s. 57 (3), *supra*, p. 255. At the close of Art. VII., s. 40, of L. G. A. 1894, is apparently referred to by mistake, instead of s. 41.

(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 (*g*) 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.

(L.S.)

G. SHAW LEFEVRE,
President.

HUGH OWEN, *Secretary.*

(*g*) The county council may delegate their powers to a committee under s. 83, *supra*, p. 214. For the cases in which a joint committee must be appointed, see s. 36 (1), *supra*, p. 131. By s. 75 (2), *supra*, p. 202, “county council” includes the council of a county borough.

INDEX.

ABSENCE FROM MEETINGS, disqualification by, 149, 153.

ACCOUNTS,

- of parish and district councils to be audited, 177—179, 247—249.
- inspection of, 178.
- of receipts and expenditure before the appointed day, 218.
- of parochial charities, 68, 71.

ACT (COMMENCEMENT OF), 2.

ADJUSTMENT OF PROPERTY AND LIABILITIES, 189—191.

ADMINISTRATIVE COUNTY OF LONDON. See *London (Administrative County of)*.

ADOPTIVE ACTS,

- adoption and execution of, 32—34.
- demand of poll on adoption of, 223.
- transfer of powers of authority under, 33, 34, 168, 169.
- transfer of powers under, in urban districts, 185.
- incidence of rates levied under, 33, 34, 168, 170.
- expenses under, to be distinguished on demand note, 60.
- borrowing for purposes of, 62, 63.
- limit of expenditure under, in small parishes, 80, 83.
- alteration of areas under, by county council, 169.

AFFAIRS OF THE CHURCH, meaning of, 202, 203.

Agents - County Council may employ District Councils, 187

AGRICULTURE (BOARD OF),

- orders of county council to be sent to, 194.
- powers of Inclosure Commissioners vested in, 27.
- application to, as to inclosure of common, 41, 43, 104.

ALDERSHOT LOCAL BOARD, 180, 181.

ALIEN (DISQUALIFICATION OF), 147, 149.

ALLOTMENT MANAGERS,

- election of, 30.
- parish councillors substituted for, 31, 32.
- powers of, where allotments hired, 57.

ALLOTMENTS. See also *Allotment Managers*.

- use of schoolroom for meetings relating to, 13, 15.
 - management of, under Inclosure Acts, 21, 27.
 - representation by parish council with respect to, 30, 47, 48.
 - transfer of power of wardens or managers of, 31.
 - of property in, by trustees, 66, 69.
 - letting of, by parish council, 43, 57.
 - compulsory purchase of land for, 46—54.
 - expenses of, to be recouped out of rents, 47.
 - representation to county council as to, 46, 47, 233.
 - petition to Local Government Board as to, 48, 49.
 - minerals not included in compulsory purchase of, 50, 235.
 - appointment of arbitrator on purchase of, 50, 51, 234.
 - on hiring of, 55, 56, 234.
 - no additional compensation for compulsory purchase, 50.
 - for compulsory hiring, 56.
 - standing committee of county council for, 51, 52, 238.
 - superfluous land acquired for, 52.
 - provisions as to, applied to county boroughs, 54.
 - district council may hire, 47, 55.
 - parish council may hire, by agreement, 54.
 - compulsory hiring of, 54—59.
- See Hiring of Allotments.*

ANNUAL MEETING,

- of parish council, 8, 225.
- of parish meeting, 79, 222.
- of district councils and guardians, 252.

APPEAL AGAINST VALUATION LIST AND RATE, transfer of powers of overseers relating to, 20, 23, 24.**APPOINTED DAY,**

- operation of the Act before, 2, 214.
- definition of, 215—217.
- when transfer of highway powers is postponed, 216, 217.
- rates current, and proceedings pending at, 218, 220.

ARBITRATOR,

- to determine compensation for land taken for allotments, &c., 50.
 - for land hired for allotments, 55, 56.
 - for improvement of allotments, 57—59.
- in what cases to hear counsel and expert witnesses, 51.
- award of, to be deposited with parish books, 56.
- adjustment by, of property and liabilities, 189—191.
- powers of, as to costs of arbitration, 190, 191.

ASSISTANT OVERSEER,

- appointment of, by parish council, 16.
 - by parish meeting, 79, 82, 223.
 - in urban districts and boroughs, &c., 122, 123.
- disqualification for office of, 17.
- to act as clerk of parish council, 75, 76, 210.

ASSISTANT OVERSEER—*continued.*

- to become officer of parish council, 211.
- disqualified for office of guardian, 87.
- not to be appointed by guardians, 211.

AUDIT. See *Accounts—District Auditors.*

AUDITORS (IN METROPOLIS),

- provisions as to elections applied to, 119, 121.
- rules relating to elections of, 156, 158.
- order by county council for new election of, 157, 162.
- first election of, 207, 209.
- retirement of existing auditors, 207.

See also *Accounts—District Auditors.*

BALLOT, poll consequent on parish meeting to be taken by, 5.

BALLOT BOXES, use of, by returning officer, 157.

BANK HOLIDAY, acts required to be done on, 197.

BANKRUPTCY, DISQUALIFICATION BY, 147, 150.

BASIS OF COUNTY RATE, appeals against, 20, 24.

BATHS AND WASHHOUSES ACTS. See also *Adoptive Acts.*

- adoption and execution of, 32, 33, 36.
- use of buildings acquired under, for meetings, 14, 36.

BOARD OF AGRICULTURE. See *Agriculture, Board of.*BOROUGH. See also *County Borough—Urban District.*

- definition of, 198.
- council of, may obtain additional powers, 122, 123.
- parochial charities in, 122, 123.
- may obtain powers of vestry, as to rating, 124, 125.
- alteration of boundary of, 129, 253.
- creation of, 170, 171.
- committee of council of, 174.
- accounts of joint committee appointed by, 177—179.

BORROWING,

- by county council, for powers transferred from district council, 186.
- under Baths and Washhouses Acts, 36.
- under Burial Acts, 39.
- under Public Libraries Act, 1892...40.
- powers of parish council as to, 62, 63.

BOUNDARIES,

- of parish, alteration of, 4, 126, 130, 131.
- of county or borough, alteration of, 129, 130, 253.
- of union, alteration of, 129, 130.
- of areas under Adoptive Acts, 169.
- matters arising out of alteration of boundaries, 192, 256.
- alteration of, for first election, 215, 217.

BOUNDARY COMMISSIONERS, REPORTS OF, 132, 133.

BRIDGE, contributions to improvements of, 103.

BUILDINGS,

acquisition of, by parish council by agreement, 41, 43.
 sale, letting, or exchange of, by parish council, 42.
 borrowing by parish council for, 62, 63.
 erection of, on allotments, 57, 237.

BURIAL ACTS. See also *Adoptive Acts.*

adoption and execution of, 32—34, 37—39.
 consecrated and unconsecrated burial grounds under, 38.
 mortuaries provided under, 38.
 rating of land acquired under, 39.
 expenses under, 39.

BYE-LAWS,

parish council may make, as to recreation grounds, 41, 44.
 saving for existing bye-laws, 220.

CANDIDATE,

nomination of, 155, 157, 161.
 may speak at a parish meeting, though not a parochial elector,
 224.
 use of schoolroom for meetings called by, 13—15.

CASTING VOTE OF CHAIRMAN,

of parish meeting, 224.
 of parish council, 226.
 of district council or guardians, 252.
 of committee of parish or district council, 228.

CASUAL VACANCY,

in office of overseer, 16, 18.
 in parish council, or chairman thereof, 153, 154, 225.
 in office of chairman of parish meeting, 153, 155.
 in district councils, guardians, metropolitan vestries, &c., 157,
 161.

CEMETERY. See *Burial Acts.*

CHAIRMAN OF GUARDIANS, 85, 90, 179, 180, 251, 252.

CHAIRMAN OF PARISH COUNCIL,

election and powers of, 8—10, 225.
 when entitled to take chair at parish meeting, 7, 146.
 may convene parish meeting, 146.
 woman may be, whether married or single, 7, 10.
 deposit of documents with, 75—77.
 disqualification for office of, 147—153.
 See *Disqualification for Election.*
 resignation of, 153, 155.
 casual vacancy in office of, 153, 154.
 retirement of first chairman, 205.
 service of notice on, 225.
 has casting vote, 226.

- CHAIRMAN OF PARISH MEETING,
 election and powers of, 5, 7.
 demand of poll on appointment of, 223.
 in small parishes, 79, 80, 82, 83, 146.
 casual vacancy in office of, 153, 155.
 resignation of, 153, 155.
 when chairman of parish council is, 146.
 must convene first meeting of parish council, 204.
 retirement of first chairman, 204.
 powers of; as to demand of poll, 224.
 to recover expenses, 60, 61.
 service of notices on, 224.
 has casting vote, 224.
 in absence of, meeting to appoint a chairman, 224.
- CHAIRMAN OF RURAL DISTRICT COUNCIL, 95, 97, 179, 180, 251, 252.
- CHAIRMAN OF URBAN DISTRICT COUNCIL, 179, 180, 251, 252.
- CHAIRMEN OF METROPOLITAN VESTRIES,
 election of, 119.
ex officio justices for the county of London, 119, 121.
- CHARITY. See also *Ecclesiastical Charity—Parochial Charity*.
 appointment of trustees of, in place of overseers, 67, 69, 70,
 80, 83.
 transfer of appointment of trustees, &c. from vestry, 67, 70.
 scheme relating to, to be submitted to parish council or meet-
 ing, 68, 70.
 accounts of, to be laid before parish meeting, 68, 71.
 names of beneficiaries to be published, 68.
 term of office of trustee of, 68, 71.
 trustee of, may not receive benefit from, 69, 72.
 what charities are excepted from the Act, 68, 71.
 appointment of trustees of, in boroughs, urban districts, &c.,
 122, 123.
 in parish divided by the Act, 128.
 in grouped parishes, 134.
- CHARITY COMMISSIONERS,
 approval by, of leases, sales, &c., 42, 44.
 of transfer of property, 66, 67.
 may determine questions as to vesting of powers or property,
 193.
 appeal from, to High Court, 193, 194.
- CHEQUES OF PARISH COUNCIL, 227.
- CHRISTMAS DAY, acts required to be done on, 197.
- CHURCHWARDENS,
 cease to be overseers, 18.
 transfer of property vested in, 18.
 of powers of, to parish council, 20.
 appointment of trustees in place of, 67, 80, 83.
 See *Charity*.
 duty of, as to custody of parish books, 76, 77.
 consent of, to vesting of parish property, 165, 167.

- CHURCHYARDS (CLOSED), 20, 22. See also *Burial Acts*.
- CLERK OF PARISH COUNCIL,
 appointment of, 75—77.
 deposit of documents with, 75—77.
 assistant overseers or vestry clerk to become, 75—77, 210.
 service of notice on, 227.
 parish council may appear by, 227.
- CLERK OF PAROCHIAL COMMITTEE, 75.
- COMMENCEMENT of Local Government Act, 1894...2, 217.
- COMMITTEE. See also *Parochial Committee—Joint Committee*.
 of parish meeting, 79, 82, 223.
 of parish or district council, 174, 175, 228.
 procedure of, 227, 228.
 of borough council, 174.
- COMMON,
 application to Board of Agriculture relating to, 41, 43, 104.
 duty of district council to protect, 104, 105.
- COMMON FUND OF UNION, 61.
- COMMON PASTURE, 53, 55.
- COMPENSATION,
 for compulsory purchase of land, 50.
 hiring of land, 56.
 for improvements or depreciation of land hired, 57—59.
 to existing officers, 211, 257.
- CONTRACT,
 disqualification by interest in, 147, 148, 151, 152.
 saving for contract pending at date of transfer, 220.
- CONTRIBUTORY PLACE,
 meaning of, under Public Health Act, 117, 244.
 charge of special expenses on, 116, 117.
- CONVICTION (DISQUALIFICATION BY), 147, 150.
- COUNCIL, COUNCILLOR. See *Parish Council—District Council—
 Urban District Council—Rural District Council—County
 Council*.
- COUNSEL not to be heard on inquiry or arbitration, 51.
- COUNTY,
 definition of, 202, 203.
 rural parish in more than one, 4, 126, 127.
 rural sanitary district in more than one, 126, 127.
 alteration of boundary of, 129, 130, 253.
- COUNTY BOROUGH,
 not included among urban districts, 90, 125.
 included in term county, 202, 203.

COUNTY BOROUGH—*continued.*

- application to, of Local Government Act, 1894...2.
- compulsory purchase of allotments for, 54.
- council of, has powers of district council as to rights of way, &c., 105.
- provisions as to guardians apply to, 118.
- powers of justices transferred to council of, 121.
- Local Government Board may confer powers on council of, 122.
- parochial charities in, 122, 123.

COUNTY COUNCIL,

- must exercise all powers for bringing the Acts into operation, 214.
- alterations of boundaries and registers by, for first elections, 215.
- inquiries by, as to overlapping boundaries, &c., 125—128.
- joint committee of, 131.
- alteration of union by, 129, 130.
 - of parish by, 130, 131.
- procedure as to orders made by, relating to boundaries, 131, 132.
- powers of, as to boundaries may pass to Local Government Board, 132.
- regulations as to procedure of, in 1894...209, 259.
- powers of as to part of parish with defined boundary, 133.
- time for petitioning against orders of, 138.
- validity of orders of, 138.
- order by, for new election, 154, 157, 180.
- removal of difficulties at first elections by, 209.
- may fix scale of expenses of elections, 158, 160.
- order of, for establishing parish council, 1, 4, 134—136.
 - for grouping small parishes, 1, 4, 134—138. See *Grouping.*
- alteration of parish boundaries by, 4.
- number of parish councillors to be fixed by, 7, 10.
- to determine name of parish council, 8, 12.
 - of rural district council, 96, 99.
- appointment of committee by, under Small Holdings Act, 31, 32.
- compulsory powers of, for purchase of land, 46—54.
- costs of inquiry by, 51, 196.
- standing committee of, as to acquisition of land, 51, 52, 238.
- expenses of, as to compulsory purchase of land, 54, 196.
- order of, for compulsory hiring of allotments, 54—59.
- approval of, for loans to parish council, 60, 62.
- may lend money to parish council, 62, 63.
- complaint to, by parish council, of default of district council, 72—74, 186, 187.
 - by parish meeting, 80, 83.
- transfer to, of powers of rural district council, 73, 74, 185—187.
- inquiry by, as to custody of parish books, registers, &c., 76, 77.

COUNTY COUNCIL—*continued.*

- may confer powers of parish council on parish meeting, 80, 83.
- may determine mode of retirement of guardians, 85, 89, 181—183.
 - of urban district councillors, 93, 95.
- may postpone transfer of highway powers, 99, 216.
- contribution by, to maintenance of highways, 100, 103.
 - to improvements, &c. of bridges, 103.
- powers of, as to rights of way, 104—106.
- may alter areas under adoptive Acts, 169.
- powers of, as to creation, extension or diminution of urban district, 170—172.
 - as to names of parishes and districts, 134, 172, 173.
 - as to matters arising out of alteration of boundaries, 192, 256.
- may employ district council as their agents, 187.
- orders of, to be sent to Local Government Board, 194.

COUNTY DISTRICT, meaning of, 90. See also *Urban District*.

COUNTY FUND, payment of expenses out of, 196.

COUNTY RATE OR BASIS (appeals against), 20, 24.

COURT OF APPEAL, appeal to, on summary proceedings as to transfer of powers, &c., 193.

DEALERS IN GAME, licensing of, 107, 110.

Definition clause 198

DECLARATION OF ACCEPTANCE OF OFFICE, 224.

Difficulties. Removal of 209.

DISQUALIFICATION FOR ELECTION, &c.,

- of alien, 147, 149.
- by receipt of parochial relief, 147, 150.
- by bankruptcy or conviction of any crime, 147, 150.
- by holding paid office, 147, 151.
- by being concerned in bargain or contract, 147, 151, 152.
- by absence from meetings, 149, 153.

DISTRICT AUDITORS,

- appointment of, 178.
- accounts to be audited by, 177—179.

DISTRICT BOARDS IN METROPOLIS,

- qualifications of members of, 119, 120.
- chairmen of, to be *ex officio* justices, 91, 119, 121.

DISTRICT COUNCIL. See also *Urban District Council—Rural District Council—Election—Disqualification for Election*.

- meaning of, 90.
- petition by, to county council as to allotments, 233.
 - to Local Government Board, 48—50.
- chairman of, *ex officio* a justice for the county, 91.
- duty of, to protect rights of way, or of common, 104—106.
- powers of justices and quarter sessions transferred to, 107.

DISTRICT COUNCIL—*continued.*

- transfer of existing officers to, 210, 212.
- change of name of, 173.
- appointment of committee by, 174, 175.
- procedure of committee of, 227, 228.
- appointment of joint committee by, 175—177.
- inspection of books, &c. under control of, 178.
- transfer of powers of, to county council, 185—187.
- may be employed as agents by county council, 187.

DOCUMENTS,

- custody of, by parish council or meeting, 75—77.
- in parish divided by the Act, 128.
- in grouped parishes, 134, 138.

DRAIN, power of parish council to cleanse, 41.

EASEMENT, when included under the term “land,” 45.

ECCLESIASTICAL CHARITY. See also *Charity—Parochial Charity.*

- definition of, 201, 203.
- property held for, not transferred to parish council, 67.

ELECTION,

- definition of, 201.
- date of first elections under the Act, 214.
- registers, and alterations of boundaries for first elections, 215.
- general provisions as to, 155—162.
- rules in relation to, 155, 158.
- poll at, to be taken by ballot, 156, 159.
- hours of polling to be fixed by rules, 156, 159.
- except in case of metropolitan vestries, 119, 121.
- use of schools for nomination and poll at, 156, 159.
- expenses of, 157, 158, 160.
- casual vacancies and resignation, 157, 161.
- order by county council for new election, 154, 157, 180.
- for removal of difficulties at first election, 209.
- of parish councillors, 8, 11, 153, 154.
- first election of parish councillors, 204.
- division of parish into wards for, 78.
- into wards at first election, 215, 217.
- of chairman of parish council, 8, 9, 225.
- of chairman of parish meeting, 79, 82.
- first election of chairman, 204.
- of urban district councillors, 93, 95, 155—162.
- first election of urban district councillors, 205—207.
- of rural district councillors and guardians, 85, 89, 155—162.
- first elections, 205—207.
- of metropolitan vestries and district boards, 119, 120.
- first elections, 207.

ELEMENTARY EDUCATION ACTS, powers under, transferred to parish meeting, 165, 166.

- ELEMENTARY SCHOOL, saving for trusteeship and management of, 188.
- EMIGRANT RUNNERS' LICENCES, 107, 111.
- EXISTING, definition of the word, 199.
- EXISTING OFFICERS,
 transfer of, 210, 212.
 in parish or district divided by the Act, 211.
 may be entitled to compensation, 211, 257.
- FAIRS, abolition or alteration of, 107, 111.
- FIRE ENGINE, provision of, by parish council, 20, 27, 35.
- FOOTPATHS, maintenance of, by parish council, 64, 66.
- GAME, licensing of dealers in, 107, 110.
- GANG-MASTERS (LICENSING OF), 107, 108.
- GOOD FRIDAY, acts required to be done on, 197.
- GREENS, management of, by parish councils, 21, 27.
- GROUPING,
 of parishes not having separate parish council, 1, 3, 4, 134—138.
 contents of order for, 134—136.
 confirmation of order for, 138.
 application for order for, 134—136.
 notice of parish meeting to consider, 222.
 dissolution of group, 134, 136.
 name of group, 134, 173.
- GUARDIANS,
 definition of term, 199.
 application of Act to, in London, county boroughs, &c., 86, 118.
 qualification of, 84, 87.
 disqualifications for office of, 87, 88, 147—153.
 See Disqualification for Election.
ex officio and nominated guardians abolished, 84, 87.
 elected by parochial electors, 84, 89.
 See Election.
 number of, 86, 181—183.
 for parish divided by the Act, 205.
 division of parish into wards for election of, 97, 181—183.
 term of office and retirement of, 85, 89, 182, 183, 206, 207.
 resignation of, 157, 161.
 chairman and vice-chairman of, 85, 90, 179, 180.
 additional members of board, 85, 90.
 rules for proceedings of, 179, 242, 251.
 are not to be elected in rural districts, 95.
 elected under local and personal Act, 182.
 may petition against orders of county council as to boundaries, 131.

GUARDIANS—*continued.*

- powers of, as to appointment of overseers, 163.
- rooms and offices of, may be used by district council, 179.
- meetings of, on licensed premises, 184.
- clerk of, may summon first meeting of parish council, 204.
- first elections of, and retirement of first elected guardians, 205—207, 209.
- not to appoint assistant overseers, 211.
- compensation paid by, to existing officers, 211.

HARBOUR POWERS of improvement commission, 188.

HIGH COURT OF JUSTICE,

- power of, to determine questions as to transfer of powers, &c., 192—194.
- appeal from, to Court of Appeal, 193, 194.
- appeal to, from charity commissioners, 193, 194.

HIGHWAY,

- maintenance of, in urban district, 100, 101.
- transfer of maintenance of, to rural district council, 99, 101—103.
- postponement of transfer by county council, 99, 102, 213, 216.
- repair of, before transfer to rural district council, 213.
- powers of rural district council over, 99, 102.
- repairable *ratione tenuræ*, 100.
- contribution by county council to maintenance of, 100, 103.
- expenses of, in rural district, 116—118, 213.
- sale of land used for repair of, 165, 167.
- may be declared to be unnecessary, 64—66, 80.
- failure of rural district council to maintain, 72—74, 80, 83, 185—187.

HIGHWAY BOARD,

- powers of, transferred to rural district council, 99, 101.
- retirement of existing members of, 207.

HIRING OF ALLOTMENTS,

- by agreement, by parish council, 54.
- by district council, 47, 55.
- compulsory powers for, 54—59.
- compensation and terms of, settled by arbitrator, 55, 56.
- limitations on letting of lands hired, 57.
- erection of buildings, &c., 57, 237.
- powers of allotment managers as to, 57.
- minerals not included in, 58, 59.

HOUSING OF THE WORKING CLASSES ACT, 1890, complaint by parish council under, 29.

IMPROVEMENT COMMISSION, saving for harbour powers of, 188.

INCLOSURE COMMISSIONERS, powers of, vested in Board of Agriculture, 27, 43.

INCUMBENT, power of, as to custody of parish books, 76, 77.

INFANT LIFE PROTECTION ACT, 1872...112.

INQUIRY,

use of schoolroom for purposes of, 13, 14.

as to acquisition of land for allotments by county council, 46—48, 51.

by Local Government Board, 48—50.

hearing of counsel and expert witnesses on, 51.

powers of persons holding, 51.

to be made forthwith by county council in certain cases, 126.

expenses of, by Local Government Board, 195, 196.

by county council, 196.

INSPECTORS (OF LOCAL GOVERNMENT BOARD), 196.

JOINT COMMITTEE,

of county councils, to deal with areas in two counties, 131, 132.

to deal with guardians of unions in two counties, 182, 184.

to deal with complaint by parish council, 186.

to deal with matters arising out of alterations of boundaries, 192, 256.

of parish and district councils, 175—177.

audit of accounts of, 177—179.

of parish councils, to have powers under adoptive Acts, 168, 169.

JUSTICES OF THE PEACE,

chairmen of district councils to be, 91.

of metropolitan vestries, &c., to be, 119, 120.

oaths to be taken by, 92.

disqualifications for office of, 92.

powers of, transferred to district councils, 107.

to councils of county boroughs, 121.

existing officers of, not transferred, 210, 212.

consent of, to sale of land belonging to parish, 165, 167.

KNACKERS' YARDS, licensing of, 107, 113—115.

LAND,

meaning of term, 44, 45.

acquisition of, by parish council, by agreement, 41, 44.

sale, letting, or exchange of, by parish council, 42.

compulsory purchase of, 46—54.

not to be taken compulsorily for water supply or right of way, 42, 53.

borrowing by parish council for purchase of, 62, 63.

- LAND TAX, liability to make good deficiency in, 45.
- LIBRARIES. See *Public Libraries Act*, 1892.
- LICENSING of gang masters, dealers in game, passage brokers, &c., and of knackers' yards, by district councils, 107.
- LIGHTING AND WATCHING ACT, 1833. See also *Adoptive Acts*.
adoption and execution of, 32—35.
provision of fire engine under, 35.
- LITERARY AND SCIENTIFIC INSTITUTIONS ACT, 164, 166.
- LOCAL FINANCIAL YEAR, 60.
- LOCAL GOVERNMENT BOARD,
alteration of parish boundaries by, 4.
powers of, for compulsory purchase of allotments, 48—50.
as to allotments for county borough, 54.
report of, as to proceedings relating to allotments, 59.
consent of, to borrowing by parish council, 62, 63.
complaint to, as to sewers and water supply, 74.
may nominate persons to make up rural district council, 96, 99, 239.
may confer urban powers on rural district councils, 100, 102.
may confer additional powers on borough and urban district councils, 122, 123.
alteration of county or borough by, 129, 130, 253.
of union by, 130, 256.
powers of county council as to boundaries, &c. may pass to, 132.
copy of orders of county council to be sent to, 194.
orders not requiring confirmation by, 138.
validity of orders of, 138.
regulations of, as to procedure in 1894...209, 259.
rules of, relating to elections, 155.
relating to audit of accounts, 178.
powers of, as to scale of expenses at elections, 158, 162.
as to creation of new borough, or creation or alteration of urban district, 170, 171.
as to adjustment of property and liabilities, 190, 191.
expenses of inquiries, &c. by, 195.
powers of inspectors of, 196.
- LOCAL GOVERNMENT REGISTER OF ELECTORS, meaning of, 5. See also *Register of Parochial Electors*.
- LONDON (ADMINISTRATIVE COUNTY OF),
definition of, 118.
application of Local Government Act, 1894, to, 2.
provisions as to guardians apply to, 118.
appointment of overseers in, 122, 123.
- MANAGERS OF ALLOTMENTS, powers of, transferred to parish councils, 31. See also *Allotment Managers*.

MARRIAGE

- does not disqualify for parish council, 7, 10.
- for district council, 93, 96.
- for office of guardian, 84.
- for metropolitan vestries, 119.
- for being on local government register, 139.

MEETINGS,

- use of schoolroom for, 13.
- use of public baths for, 14.
- provision of vestry rooms for, 20, 26, 41.
- transfer by trustees of buildings for, 66, 69.
- use of licensed premises for, 184.

MINERALS,

- not included in compulsory purchase of land, 50, 235.
- in compulsory hiring, 58.
- landlord may resume possession of land for working, 58.

MINUTES OF PROCEEDINGS

- of parish council and parish meeting, 227.
- of district council and guardians, 252.

MORTUARIES provided under Burial Acts, 38.**NAME,**

- of parish council, 8, 12.
- of group of parishes, 134, 173.
- of parish divided or united, 172, 173.
- of district council may be changed, 173.
- of rural district council, 96, 99.
- order of county council for change of, 194.

NOMINATION OF CANDIDATE, 155, 157, 161.**NOTICE,**

- by parish council, 163, 164.
- to parish council, or chairman, 225, 227.
- of meetings of parish council, 225.
- of parish meeting, 163, 164, 222.
- to parish meeting, 224.

OBSTRUCTIVE BUILDINGS, complaint by parish council as to, 29.**OFFICER,**

- definition of, 200.
- payment of salary of, on transfer of liabilities, &c., 190, 191.

OFFICES, power of parish council or overseers to acquire land for, 20, 25, 41.**OPEN SPACES, powers of parish council relating to, 41.****ORDINARY DAY OF COMING INTO OFFICE, 7, 11.**

- OVERSEERS.** See also *Assistant Overseer*.
 appointment of, by parish council, 16, 163, 225.
 by parish meeting, 79, 82, 163, 223.
 in urban districts and boroughs, &c., 122, 123, 163.
 qualifications and disqualifications for office, 16, 17.
 appeal against appointment of, 17.
 existing overseers to continue in office, 18.
 of parish divided by the Act, to continue in office, 207.
 casual vacancy in office of, 16, 18.
 transfer of powers of, to parish council, 20.
 appointment of trustees of charity in place of, 67.
 See *Charity*.
 incorporation of, in small parishes, 80, 83.
 consent of, to vesting of parish property, 165, 167.
 provision as to, where new borough or urban district created or extended, 170—172.
 must convene first parish meeting, 204.
- OWNERS,**
 rating of, 124, 125.
 registration of, in parliamentary borough, 140.
- OXFORD,** guardians of, 183, 184.
- PAID OFFICER,** disqualification of, 147, 151.
- PARISH,**
 definition of, 3, 198.
 partly within rural sanitary district, 2, 3, 126, 127.
 in more than one urban district, 128.
 in more than one county, 4, 126, 127.
 alteration of boundaries of, 4, 130, 131.
 vesting of property belonging to, 20, 27, 80.
 sale, exchange, or letting of property of, 21, 28, 165.
 transfer by trustees of property held for, 66, 69.
 custody of books and registers of, 75—77.
 division of, into parish wards, 78.
 into wards for election of guardians, 181—183.
 with population of between 300 and 200...126, 127, 135, 137.
 co-extensive with rural sanitary district, 126, 129.
 parish meeting for part of, 162.
 for part having defined boundary, 133.
 appointment of committee for part of, 174, 175.
- PARISH BOOKS,** provision of, 20, 25.
- PARISH CHEST,** 20, 25.
- PARISH CLERK,** deposit of documents with, 75, 77. See *Clerk*.
- PARISH COUNCIL.** See also *Disqualification for Election*.
 creation of, 1.
 establishment of, by county council in small parishes, 1, 4, 134—136.
 creation or dissolution of, where population alters, 136—138.
 in parish co-extensive with rural sanitary district, 3, 129.

PARISH COUNCIL—*continued.*

- number and qualification of members of, 7, 9, 10.
- election of councillors, 8, 11, 153, 154, 204.
 - See also *Election.*
 - of chairman of, 8, 9, 225.
 - See *Chairman of Parish Council.*
 - of vice-chairman of, 226.
- resignation of chairman or member of, 153, 155.
- annual meeting of, 8, 11, 225.
- declaration to be made on election to, 224.
- first meeting of, 204, 209.
- retirement of first parish councillors, 204.
- proceedings of, 8, 12, 224—228.
 - by whom to be convened, 225.
- notice of meetings of, 225.
- quorum of, 226.
 - may appear in legal proceedings by their clerk, 227.
- minutes of proceedings of, 227.
- incorporation and name of, 8, 12.
- casual vacancies in, 153, 154, 225.
- county council may order new election of, 154.
- execution of instruments by, 8, 12, 227.
- use of schoolroom for meetings of, 13.
- use of licensed premises for meetings of, 184.
- appointment of committee by, 174, 175.
 - of joint committee by, 175—177.
 - of clerk of, 75.
- clerk of, when acting as parochial committee, 75.
- treasurer of, 75, 77.
- signature of cheques of, 227.
- appointment of overseers and assistant overseers by, 16—18, 163.
- transfer of property vested in churchwardens to, 18, 19.
 - of powers of vestry churchwardens and overseers to, 20.
- complaint by, as to unhealthy dwellings, 29.
- representation by, as to allotments, 30, 47, 48.
 - as to election of allotment managers, 30.
- powers of wardens of allotments transferred to, 31.
- execution of adoptive Acts by, 33, 34, 168.
 - See *Adoptive Acts.*
- powers of, for acquisition of land by agreement, 41.
 - may apply to Board of Agriculture as to inclosure of common 41, 43.
- may utilize water supply, 41, 44, 53.
- may cleanse drains, ponds, ditches, &c., 41, 43, 44.
- may acquire right of way by agreement, 42, 53.
- may sell, let, or exchange land or buildings, 42.
- liability of, to make up deficiency in poor-rate on land taken, 45.
- proceedings by, for compulsory purchase of allotments, &c., 46—54.
- may petition county council, as to allotments, 53.
- may hire allotments by agreement, 54.

PARISH COUNCIL—*continued.*

may obtain compulsory powers to hire allotments, 54—59.

See *Hiring of Allotments.*

restrictions on expenditure of, 59—61.

expenses of, not to include highway expenses, 213.

borrowing powers of, 62, 63.

audit of accounts of, 177—179, 247, 249.

consent of, for stopping of right of way, 63, 64.

for declaring highway unnecessary, 64—66.

may complain of stopping of right of way, 104—106.

may undertake maintenance of footpaths, 64, 66.

transfer to, of property held by trustees, 66, 69.

powers of, relating to charities. See *Charity.*

delegation of powers to, by district council, 72.

complaint by, of default of district council, 72—74, 186.

custody of documents, registers, &c., by, 75—77.

powers of, where part of parish has defined boundary, 133.

for parishes grouped, 134.

See also *Grouping.*

may fix days and times for parish meetings, 146.

public notices given by, 163, 164.

inspection of books, &c., under control of, 178.

transfer of existing officers to, 210.

PARISH DIVIDED BY THE ACT,

meaning of phrase, 3, 128.

appointment of trustees, and custody of documents in, 128.

name of, 173.

guardians and rural district councillors for, 205.

overseers of, to continue in office, 207.

existing officers in, 211.

valuation list for, 218.

PARISH MEETING. See also *Poll consequent on Parish Meeting.*

creation of, in every rural parish, 1.

consent of, necessary to grouping order, 1, 4.

may apply for creation of parish council, 1, 134—138.

consists of parochial electors, 5, 6.

only persons registered may vote at, 140, 142, 143.

by whom convened, 146, 162.

first meeting of, 204, 209.

date of annual assembly of, 222.

manner of giving notice of, 163, 164, 222.

time for assembly of, 5, 6, 79, 81, 146, 223.

proceedings of, 5, 6, 222—224, 228.

chairman of, 5, 7, 146.

in small parishes, 79, 80, 82, 83, 146.

See also *Chairman of Parish Meeting.*

taking of poll consequent on, 5.

expenses of, 5, 60, 61.

limitation of expenditure of, in small parishes, 80, 83.

expenses of, not to include highway expenses, 213.

audit of accounts of, 177—179, 247—249.

for parish divided into wards, 6, 78.

for ward or part of a parish, 162.

PARISH MEETING—*continued.*

- notices to, how given, 224.
- may use schoolroom for meetings, 13.
- use of licensed premises for meetings of, 184.
- minutes of proceedings of, 227.
- execution of instruments by, 81, 83, 227.
- adoption of adoptive Acts by, 32—34.
- powers under adoptive Acts transferred to, 168, 169.
- to exercise powers of vestry under adoptive Acts, 33.
- powers of owners and ratepayers of parish transferred to, 164.
- consent of, to sale or exchange of parish property, 42.
 - to certain expenses of parish council, 59, 61.
 - to stopping of right of way, highway, &c., 63, 64.
- powers of, relating to charities. See *Charity.*
- duty of, as to custody of parish books, &c., 76, 77.
- appointment of committee by, 79, 82.
 - of overseers and assistant overseers by, 79, 82, 163.
- powers of vestry transferred to, in small parishes, 79, 82.
- may complain of default of district council, 80, 83.
- powers of parish council may be conferred on, 80, 83.
- powers of, where part of parish has defined boundary, 133, 174, 175.
 - where parishes are grouped, 134.

PARISH WARD,

- creation of, by county council, 78.
 - for first elections, 215, 217.
- parochial electors may not vote in more than one, 156, 158.
- parish meeting for, 162.

PARLIAMENTARY BOROUGH, register of parochial electors in, 140.

PARLIAMENTARY REGISTER OF ELECTORS, meaning of term, 5, 6.
See also *Register of Parochial Electors.*

PAROCHIAL CHARITY, definition of, 202. See also *Charity—Ecclesiastical Charity.*

PAROCHIAL COMMITTEE,

- appointment of, 72, 242.
- powers of, may be delegated to parish council, 72.
- clerk of district council to act as clerk of, 75.

PAROCHIAL ELECTORS,

- definition of term, 5, 6, 200, 202.
- who are, where parish is divided into wards, 6, 162.
- to what offices they will elect, 139.
- only persons registered as, may vote, 140, 142.
See *Register of Parochial Electors.*

PAROCHIAL OFFICE, provision of, by overseers or parish council, 20, 25, 41.

PAROCHIAL RELIEF (DISQUALIFICATION BY), 147, 150.

PASSAGE BROKERS' LICENCES, 107, 111.

PAWNBROKERS, grant of certificates to, 107, 109.

PENALTY for acting when disqualified, 149, 153.

- PETROLEUM, execution of Acts relating to, 107, 112.
- POLL CONSEQUENT ON PARISH MEETING,
when, and by whom to be demanded, 223, 224.
to be taken by ballot, 5, 7, 158.
expenses of, 5, 7, 158, 160.
hours during which it is to be kept open, 156, 158, 159.
use of schools and public rooms for, 156, 158, 159.
- POOR RATE,
powers of overseers as to appeals against, 20, 23.
expenses under "adoptive Acts," when charged on, 33, 34.
liability to make good deficiency in, 45.
on allotments, 236.
expenses of parish council and meeting charged on, 60, 61.
- POPULATION,
to be measured by Census of 1891...200.
alterations as to limits of, in Bill, 127, 135, 137.
provision for increase or decrease of, 136, 137.
- POWERS, DUTIES AND LIABILITIES,
definition of, 200.
provision as to transfer of, 219.
proceedings for determining questions as to transfer of, 192.
- PROPERTY,
definition of, 199.
general provisions as to transfer of, 188.
adjustment of, 189.
- PUBLIC IMPROVEMENT ACT, 1860. See also *Adoptive Acts*.
adoption and execution of, 32, 33, 39.
expenses under, 39.
- PUBLIC LIBRARIES ACT, 1892. See also *Adoptive Acts*.
adoption and execution of, 32—34, 40.
expenditure under, 40, 41.
- PUBLIC WALKS, provision of, by parish council, 32, 39, 41.
- QUARTER SESSIONS,
definition of, 198.
powers of, transferred to district councils, 107.
to councils of county boroughs, 121.
- QUEEN'S BENCH DIVISION. See *High Court of Justice*.
- QUORUM,
of parish council, 226.
of district council, or guardians, 251.
of committee of parish or district council, 228.
- RATE. See *Poor Rate—County Rate*.
made before the appointed day, 218.
levy of, under adoptive Acts, 33, 34, 168, 170.
under Lighting and Watching Act, 1833...35.
under Burial Acts, 39.
under Public Improvement Act, 1860...39.
under Public Libraries Act, 1892...40.
for expenses of parish council, 60, 61.
- RATEPAYERS, powers of, transferred to parish meeting, 164.

- RECREATION GROUNDS,**
 management of, under Inclosure Acts, 21, 27.
 under Public Improvement Act, 1860...39.
 powers of parish council to acquire and manage, 41, 44.
 transfer of, by trustees to parish council, 66, 69.
 appointment of committee for, 174, 175.
- REGISTER OF PAROCHIAL ELECTORS,**
 general provisions as to, 140—145.
 conclusive, as to voting at parish meetings, 140, 142.
 in parliamentary borough, 140.
 to be framed in parts for wards, 140.
 registration in more than one, 140, 144.
 entry in, of persons voting in another polling district at parliamentary elections, 140, 144.
 double entries in, 140, 144, 145.
 formation of, for first elections, 215.
- REGISTERS,**
 custody of, by parish council or meeting, 75—77.
 provision of, by overseers or parish council, 20, 25.
- REGULATIONS** as to proceedings in 1894...209, 259.
- REPEAL** of Acts in second Schedule, 221, 229.
- RESIDENCE,**
 qualification as parish councillor by, 7, 9.
 as guardian by, 84.
 as urban district councillor by, 93.
- RETURNING OFFICER,**
 appointment of, 156, 159.
 for first elections, 205.
 use of ballot-boxes, fittings, &c., by, 157.
 must convene first meeting of district council, 207.
- REVISING BARRISTER,** duties of, as to double entries in register, 140, 144, 145.
- RIGHT OF WAY,**
 parish council may acquire by agreement, 42, 44, 53.
 when included under term, "land," 45.
 proceedings for stopping or diversion of, 63, 64.
 in parishes without parish council, 80.
 protection of, by district council, 104, 105.
- ROADSIDE WASTES,** duty of district council to protect, 104, 105.
- RURAL DISTRICT,** meaning of, 90.
- RURAL DISTRICT COUNCIL.** See also *District Council.*
 meaning of term, 90.
 constitution of, 95, 96.
 name of, 96, 97.
 members of, to act as guardians, 95.
 qualification and election of members of, 95, 98.
 See also *Election.*
 term of office and retirement of, 89, 96, 206.
 disqualification for election to, 96, 149.
 See *Disqualification for Election.*
 division of parishes into wards for election of, 97, 181, 183.
 temporary administration by, of adjoining district, 96.

RURAL DISTRICT COUNCIL—*continued.*

- members of, for parish divided by the Act, 205.
- chairman and vice-chairman of, 95, 97, 179, 251.
- rules for procedure of, 179, 242, 251.
- use of offices for meetings of, 179, 242, 251.
- use of licensed premises for meetings of, 184.
- first meeting of, 207, 209.
- transfer of existing officers to, 210, 212.
- compensation payable by, to existing officers, 211.
- appointment of committee of, 174, 175.
- procedure of committee of, 227, 228.
- appointment of joint committee by, 175—177.
- powers of sanitary authority transferred to, 99.
- transfer of powers of highway authority to, 99, 101, 102.
- See *Highway.*
- urban powers may be conferred on, 100, 102.
- general and special expenses of, 116, 117.
- audit of accounts of, 177—179, 247—249.
- inspection of books under control of, 178.
- powers of, where district co-extensive with parish, 3, 129.
- may delegate certain powers to parish council, 72.
- complaint by parish council of default of, 72—74.
- by parish meeting of default of, 80, 83.
- transfer to county council of powers of, 73, 74, 105, 185—187.
- appointment of parochial committee by, 72, 242.
- clerk of, to act as clerk of parochial committee, 75.
- consent of, to stopping of right of way or highway, 63—66.

RURAL PARISH,

- meaning of, 2, 3.
- to have parish meeting, 1.
- when to have parish council, 1, 3.
- co-extensive with rural sanitary district, 3.
- in more than one county, 4.

RURAL SANITARY AUTHORITY. See also *Rural District Council.*

- duties of, at first elections, 205.
- retirement of existing members of, 207.
- powers of, transferred to rural district council, 99.
- existing officers of, 210—212.

RURAL SANITARY DISTRICT. See also *Rural District Council.*

- meaning of, 3.
- every parish in, is a rural parish, 2.
- division of parish, partly within and partly without, 2, 3, 126, 127.
- division of, when in more than one county, 96, 98, 126, 127.
- existing officers in, 211.
- with less than five elective guardians, 126, 128.

SANITARY AUTHORITIES IN LONDON, Local Government Board may confer additional powers on, 122, 123.

SANITARY DISTRICT. See *Rural Sanitary District—Urban Sanitary District.*

SCHOOL, saving for trusteeship and management of, 188.

SCHOOL BOARD,

- resolution for formation or dissolution of, 165—167.
- demand of poll as to resolution for, 223.

- SCHOOLROOM,
 use of, for meetings, &c., 13—15.
 for taking poll, &c., 156, 159.
- SCHOOL SITES ACTS, 164, 166.
- SCILLY ISLANDS, 197, 198.
- SEAL,
 execution of instrument under, by parish council, 8, 12, 227.
 by parish meeting, 80, 81, 83,
 227.
- SEWERS, failure by district council to provide, 72—74, 80, 83, 185—
 187.
- SMALL HOLDINGS ACT, 1892,
 appointment of committee under, 31, 32.
 land occupied under, not to be hired for allotments, 58, 59.
- STANDING COMMITTEE OF COUNTY COUNCIL, to deal with allot-
 ments, 51, 52, 238.
- STANDING ORDERS, as to proceedings of parish council and meeting,
 228.
- SUMMARY PROCEEDINGS, for determining questions as to transfer
 of powers, &c., 192—194.
- SUNDAY, acts required to be done on, 197.
- SURVEYOR OF HIGHWAYS,
 powers of, transferred to rural district council, 99, 101, 102.
 transferred as an existing officer, 210.
 may be entitled to compensation, 211, 212.
- TIME,
 Greenwich mean time to be observed, 6.
 for holding parish meeting, 5.
- TRANSFER OF PROPERTY, DEBTS, AND LIABILITIES,
 general provisions as to, 188, 219.
 summary proceedings for determining questions as to, 192—194.
- TREASURER, of parish council, 75, 77.
- TRUSTEES. See also *Charity—Parochial Charity*.
 definition of, 201.
 transfer of property by, to parish council, 66, 69.
 of elementary school, 188.
- UNHEALTHY DWELLINGS, complaint by parish council relating to,
 29.
- UNION,
 definition of term, 199.
 alteration of, by county council, 129.
 by Local Government Board, 130, 256.
- URBAN DISTRICT,
 meaning of, 90, 125.
 division of, into wards for elections, 93—95.
 maintenance of highways in, 101.
 parish in more than one, 128.
 creation, extension, or diminution of, 170, 171.

URBAN DISTRICT COUNCILS,

meaning of, 90.

ex officio and nominated members abolished, 93, 94.

qualification of members of, 93, 94.

disqualification for election to, 88, 94, 147—153.

See *Disqualification for Election*.

election of, by parochial electors, 93—95.

See also *Election*.

first meeting of, 207, 209.

retirement, and term of office of members, 89, 93—95, 206.

chairman and vice-chairman of, 179, 180, 251.

expenses of, 115.

audit of accounts of, 177—179, 247—249.

inspection of books under control of, 178.

power to appoint overseers may be conferred on, 122, 123.

powers of vestry to rate owners may be conferred on, 124, 125.

appointment of committee by, 174, 175.

of joint committee by, 175—177.

procedure of committee of, 227, 228.

rules for proceedings of, 179, 242, 251.

meetings of, on licensed premises, 184.

transfer of powers under adoptive Acts to, 185.

transfer of existing officers to, 210, 212.

URBAN SANITARY AUTHORITY. See *Urban District Councils*.

duties of, at first elections, 205.

retirement of existing members of, 207.

effect of change of name of, 218.

saving where number of members of, is fixed by local Act, 221.

URBAN SANITARY DISTRICTS, meaning of, 3, 90.

VALUATION LIST,

transfer of powers as to appeals against, 23.

for parish divided by the Act, 218.

VESTRY. See also *Vestry in Metropolis*.

definition of, 202, 203.

transfer of powers of, to parish council, 20, 22.

to parish meeting in small parishes, 79, 82.

of powers under adoptive Acts to parish meeting, 33.

of powers relating to charities to parish council, 67, 70.

to parish meeting, 79, 80,

83.

See also *Charity—Parochial Charity*.

powers of, as to rating owners in urban districts, 124.

VESTRY CLERK,

appointment of, 77.

not to be appointed by parish council, 75.

when to act as clerk of parish council, 76, 210.

VESTRY IN METROPOLIS,

chairman of, to be *ex officio* justice, 91, 119, 120.

election of chairman of, 119, 121.

provisions as to elections, &c. applying to, 119, 120, 157.

See *Election*.

VESTRY IN METROPOLIS—*continued.*

time for holding meeting of, 119, 121.

disqualification for election to, 149, 153.

See *Disqualification for Election.*

retirement of existing members of, 207.

first elections of, under the Act, 207, 209.

first meeting of, under the Act, 207, 209.

VESTRY ROOM, provision of, by overseers or parish council, 20, 25, 41.

VICE-CHAIRMAN,

of guardians, 85, 90, 179, 181.

of district council, 179, 181.

of parish council, 226.

VILLAGE GREEN, management of, by parish council, 21, 27, 41.

WARDENS OF ALLOTMENTS, powers of, transferred to parish council, 31.

WARDS. See also *Parish Wards.*

formation of, for first elections, 215, 217.

for elections of parish councillors, 78.

of urban district councillors, 93—95.

of rural district councillors and guardians, 97, 181—183.

framing of register for elections in, 140, 143, 144.

WASHHOUSES. See *Baths and Washhouses Acts.*

WASTES, duty of district council to protect, 104, 105.

WATER SUPPLY,

power of parish council to acquire, 41, 44, 53.

failure of district council to provide, 72—74, 80, 83, 185—187.

WOMAN,

whether married or single, may be member of parish council, 7, 10.

of district council, 93, 96.

of metropolitan vestries, &c., 119.

may be guardian, 84.

not to be *ex officio* a justice of the peace, 91.

not disqualified by marriage for being on local government register, 139.

WOOLWICH (LOCAL BOARD OF),

chairman of, *ex officio* a justice, 91, 119, 120.

provisions as to elections, &c. applying, 119, 120.

disqualification for election to, 149, 153.

See also *Election—Disqualification for Election.*

retirement of existing members of, 207.

first election of, under the Act, 207, 209.

first meeting of, 207, 209.

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