

The Health Act, 1898.

(62nd Vict., No. 24.)

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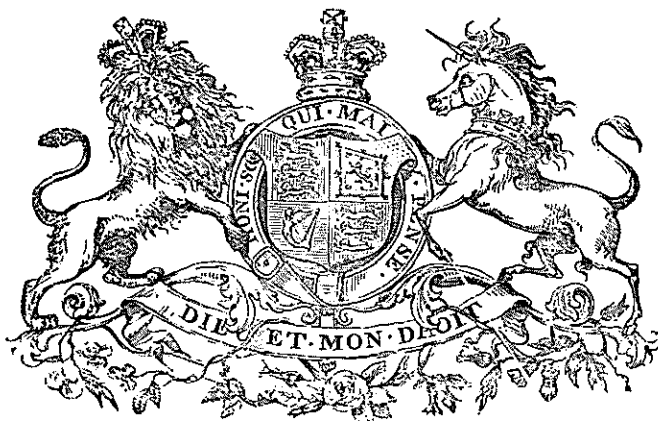
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SCHEDULES.



Western Australia.

ANNO SEXAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. XXIV.

AN ACT to consolidate and amend certain Acts relating to Public Health, and to enlarge the Powers of Boards of Health.

[Assented to, 28th October, 1898.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Health Act, 1898, and is divided into Parts, as follows:— Short title.

PART I.—HEALTH AUTHORITIES, ss. 4–25.

PART II.—FINANCIAL, ss. 26–31.

PART III.—BY-LAWS, ORDERS, ETC., ss. 32–41.

PART IV.—ADULTERATION OF FOOD AND UNWHOLESOME
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PART X.—MISCELLANEOUS SANITARY PROVISIONS, ss.
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PART XI.—ENFORCEMENT OF THIS ACT, ss. 197–218.

PART XII.—LEGAL PROCEEDINGS, ss. 219–246.

Repeal.

2. THE Acts mentioned in the First Schedule hereto are hereby repealed: Provided that such repeal shall not affect—

- (a.) Anything duly done or suffered under any enactment hereby repealed; or
- (b.) Any right acquired or accrued, or liability incurred, under any enactment hereby repealed; or
- (c.) Any security given under any enactment hereby repealed; or
- (d.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or
- (e.) Any investigation, legal proceeding or remedy in respect of any such right, liability, security, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be pursued as if this Act had not passed.

And provided that any By-laws not inconsistent with the provisions of this Act, duly made and published in pursuance of any of the Acts hereby repealed and in force on the passing of this Act, shall continue in force until altered or repealed by By-laws made under this Act.

Interpretation of
terms.

3. IN the construction and for the purposes of this Act, unless the context otherwise requires—

“Abattoir” or “slaughter-house” means and includes the buildings and places commonly called abattoirs or slaughter-houses, and also knackers’ yards, and any building or place used for slaughtering cattle, horses, or animals of any description;

“Article of food” means not only all alimentary substances, whether solids or liquids, but also all eatables and drinkables whatsoever, and all condiments and articles of confectionery;

“Central Board” shall mean the Central Board of Health appointed under this Act;

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- “Cesspool” means any receptacle for nightsoil or for noxious or offensive matter below or above the ground ;
- “Common lodging-house” means a dwelling of any kind and any house, tent, or edifice, building, or other structure, permanent or otherwise, and any part of such premises (not being the licensed premises of a licensed victualler) in which persons are harboured or lodged for hire for a single night, or for less than a week at one time ; and also any such premises and parts thereof aforesaid where more than six persons are boarded or lodged for hire from week to week or for more than a week ;
- “District” shall mean the district for which a Local Board is appointed under this Act or any Act repealed by this Act ;
- “Drain” means any drain of and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating therefrom with a sewer or any like receptacle for drainage into which the drainage of two or more buildings or premises occupied by different persons is conveyed ;
- “Drug” includes medicine for internal or external use ;
- “Earth closet” means a seat similar to the seat of a privy, and having underneath a bucket or other receptacle for excrement, with convenient apparatus for the supply of as much dry powdered earth or other deodorizing material as will completely cover the excrement every time the closet is used by any person ;
- “House” means and includes tents and dwellings of any kind, and churches, schools, hotels, licensed victuallers’ premises, factories, workrooms, common or other lodging-houses, or other buildings or premises, whether temporary or otherwise, and whether erected upon fee-simple lands, reserves, municipal lands, or on Crown lands ;
- “Inspector” includes any acting or assistant inspector ;
- “Land” means and includes messuages, buildings, and hereditaments, also rivers, streams, wells, and waters of every description, also easements of every description in respect of the foregoing particulars ;
- “Local Board” shall mean a Local Board of Health appointed under this Act or any Act repealed by this Act ;
- “Milk” means the natural lacteal fluid, product of the cow, or any manufactured or manipulated article sold as milk, and intended for human consumption ;

- “Minister” means the Minister of the Crown administering this Act ;
- “Officer” includes Inspector ;
- “Owner” means the person who is, for the time being, entitled to receive the rents and profits of the land or premises in connection with which the word is used, and whether on his own account or as the agent or trustee for any other person, or who would be entitled to receive the same if the land or premises were let at a rent ;
- “Person” includes a partnership, company, or corporation.
- “Public House” includes any house which is a common inn.
- “Piggery” means any building, enclosure, or yard in which one or more pigs are kept, bred, reared, or fattened for purposes of trade ;
- “Street” means and includes any highway and any public bridge, and any road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not.

PART I.—HEALTH AUTHORITIES.

The Central Board of Health.

Appointment of
Central Board of
Health.

See 50 Vict., 19, s. 4,
and Victorian
Health Act, 1890,
s. 19.

4. FOR the purpose of carrying out the provisions of this Act the Governor may appoint a Central Board of Health, consisting of five members, one of whom shall be a legally qualified medical practitioner, and shall be appointed as the president, and another shall be a civil engineer, and another a practical builder ; and the Governor may from time to time remove all or any of the persons so appointed, and, on the removal, death, or resignation of any member, may from time to time appoint some other person in his place, provided that the president shall always be a person qualified as aforesaid, and that there shall always be a civil engineer and a practical builder among the members of the Central Board.

The powers and duties by this Act vested in and imposed on the Central Board may be exercised by a quorum of not less than three members thereof.

In the event of the absence of the president from any meeting, the members present shall elect one of their number to be chairman of such meeting ; and at all the meetings of the said Board the president or chairman shall have a vote, and, in case of an equality of votes, shall have a second or casting vote ; and during any vacancy in the Board, whether of the office of president or not, the continuing members may act as if no vacancy had occurred. At all meetings of the Board all questions shall be decided by a majority of the votes of the members present.

5. ON the recommendation of the Central Board, the Governor may from time to time appoint and remove a secretary, inspectors, and such other officers of the Central Board as may be deemed necessary for the purposes of this Act, all of whom shall receive such salaries as the Parliament determines; but all persons who are officers of the Central Board at the commencement of this Act shall be deemed to be appointed under this Act.

Appointment of officers of Central Board.
See 50 Vict., 19, s. 6.

6. THE President and members of the Central Board shall respectively be paid such salaries as the Parliament determines, and, out of moneys from time to time appropriated by the Parliament for the expenses of the said Board, shall be repaid all travelling and other expenses reasonably incurred by them in transacting the business thereof.

Salaries and expenses of Members of Central Board.
See Victorian Health Act, 1890, s. 11.

7. ALL expenses incurred by the Central Board, or incurred with the authority of the Governor by any Local Board, shall be defrayed out of the moneys that may from time to time be appropriated by Parliament for the expenses of the Central Board.

Expenditure of Central Board and certain expenditure of Local Board to be paid out of votes.
Ibid., s. 12.

8. THE Central Board may from time to time cause to be made such inquiries as they think fit in relation to matters concerning the public health in any place, or with respect to any matter to which their sanction, approval, or consent is required by this Act.

Power of Board to direct inquiries.
Ibid., s. 13.
38 & 39 Vict., c. 55, s. 293.

9. WHERE for the purposes of any Act relating to the public health the Governor, or the Minister, or the Central Board shall direct an inquiry to be made by the Board, the Board or any member thereof or the officer directed to hold such inquiry shall, for the purposes of such inquiry, have free access at all reasonable times to all books, plans, maps, documents and other things belonging to any municipality or any contractor, and used in the performance or execution of any laws relating to the public health, and shall have in relation to witnesses and their examination and the production of documents similar powers to those vested in Justices by the Act of the fourteenth year of Her Majesty, numbered five, with power to compel the production of documents, and may enter and inspect any place or building or property, the entry or inspection whereof appears to them or him requisite for the purposes of such inquiry.

Powers of persons directed to hold inquiries.
Ibid., s. 14.

10. IN any emergency or sudden necessity, of the existence of which emergency or necessity the Central Board shall be sole and final judge, or in the case of any district or place which does not lie within the district of a Local Board, the Central Board may exercise and perform any or all of the powers and duties vested in or imposed upon a Local Board by any Act relating to the public health; and may, in case of such emergency or sudden necessity, make any

Power of Board to act in emergencies or where no Local Board exists.
Ibid., s. 15.

regulations for the abatement and prevention of nuisances, for the protection from pollution of water used for domestic purposes and for securing the healthfulness of persons collected in any encampment or otherwise; and where, in carrying out the provisions of this section, any medical certificate may be necessary for any of the purposes of any Act relating to the public health, such certificate may, if there be no health officer, be signed by any two legally qualified medical practitioners, and shall for all such purposes be as effectual as if signed by a health officer also.

Power of police to proceed in certain cases against nuisances.

50 Vict., 19, s. 10.

11. WHERE it is proved to the satisfaction of the Central Board that a Local Board have made default in doing their duty in relation to the abatement of nuisances under this Act, the Central Board, after due notice to such Local Board of their intention, may authorise any officer of police or member of the police force acting within the jurisdiction of the defaulting Board to institute any proceeding which the defaulting Board might institute with respect to the abatement of nuisances.

Proceedings on complaint to Central Board of default of Local Board.

See 50 Vict. 19, s. 11.

12. WHERE complaint is made to the Central Board that a Local Board has made default in enforcing any provisions of this Act which it is their duty to enforce, the Central Board, if it does not proceed under the last preceding section, and is satisfied after due inquiry that such Local Board has been guilty of the alleged default, shall make an order limiting a time for the performance of the duty of the Local Board in the matter of such complaint. If such duty be not performed within the time limited in such order, the performance of such duty may be enforced by writ of mandamus, or the Central Board may appoint some person to perform such duty.

Any person appointed under this section to perform the duty of a defaulting Local Board shall, in the performance and for the purposes of such duty, be invested with all the powers of such Local Board, and the Central Board may from time to time remove any person so appointed, and appoint another in his stead.

Local Boards of Health.

Municipal Council to constitute Local Board for city or town.

See 55 Vict., 22.

13. THE Municipal Council of every city or town to which the provisions of the Public Health Act, 1886, by this Act repealed, have been, or the provisions of this Act shall hereafter, by order of the Governor, be extended, shall constitute the Local Board of such city or town, and shall make by-laws for the better carrying out of the duties of such Local Board under this Act.

Areas outside municipalities.

59 Vict., 35, s. 5.

14. THE Governor may place any area of land outside a municipal district and whether actually adjoining or not under

the jurisdiction of the Local Board of such municipal district for the purposes mentioned in this Act.

15. (1.) THE Governor may appoint any number of persons not exceeding seven to be a Local Board of Health for any district not forming part of a municipal district, and such Local Board when so appointed shall enjoy the same powers and discharge the same duties within the district as are by this Act conferred and imposed on a Municipal Council of a city or town to which the provisions of this Act are extended.

Districts outside and not adjoining municipalities.
59 Vict., 35, s. 8.

(2.) The Governor may, from time to time, remove all or any of the persons so appointed, and on the removal, death, or resignation of any member of a Local Board, may from time to time appoint another person in his place.

(3.) The Local Board so appointed shall appoint one of their number to be chairman of the Board.

(4.) In the event of the absence of the chairman from any meeting of such Local Board, the members present shall elect one of their number to be chairman of such meeting; and at all meetings of the Board the chairman shall have a vote, and, in case of an equality of votes, shall have a casting vote; and during any vacancy in the Local Board, whether of the office of the chairman or not, the continuing members may act as if no vacancy had occurred; and at all meetings of the Local Board all questions shall be decided by a majority of the members present. The Local Board may make, alter, and rescind rules for regulating their own proceedings.

16. IN the event of any district for which a Local Board is appointed by Order in Council as aforesaid, or any part of such district being constituted or included in a municipality, the members of the Board shall thereupon cease to hold office, and all public moneys then in the hands of the Board, or under its control, shall be paid to the municipality.

Effect of inclusion of district in municipality.
Ibid., s. 12, with addition.

17. THE area of any district defined for the purposes of a Local Board, appointed by Order in Council as aforesaid, may from time to time be extended or contracted by the Governor by Order in Council.

District may be extended or contracted.
Ibid., s. 13.

18. EACH Local Board shall appoint, subject to the approval of the Central Board, a legally qualified medical practitioner as officer of health of such Local Board's district; and, subject to such approval, may remove any such officer so appointed, and shall thereupon appoint another in his stead. Such officer of health shall be paid a sum as remuneration for his services (being not less than Ten pounds for any year) as such Local Board may fix; and

Officers of health—appointment, remuneration and duties.
50 Vict., 19, s. 13.

shall perform such duties and in such manner as such Local Board may from time to time direct, and also such as are specially prescribed by any minute or order addressed by the Central Board to such Local Board.

Ibid., Victorian Health Act, 1890, s. 20.

Two or more Local Boards may, with the approval of the Central Board, join in the appointment of an officer of health, and in directing the duties to be performed by such officer, and in remunerating him to an amount not less than that hereinbefore mentioned.

If any Local Board do not appoint or join in appointing an officer of health when requested so to do by the Central Board, or within two months from the occurrence of a vacancy in such office, it shall be lawful for the Governor, upon a recommendation from the Central Board, to appoint an officer of health for the district of such Local Board, and also to fix a sum as the amount of remuneration (not less than that hereinbefore mentioned) which shall be paid to such officer of health by the Local Board.

Power to enforce appointment of officers, inspectors, and analysts to councils.

Victorian Health Act, 1890, s. 21.

19. EVERY Local Board, when required by order of the Central Board, shall appoint officers of health, analysts, and inspectors for the due carrying out of the provisions of this Act.

If any Local Board does not, within two months after it has been required so to do by the Central Board, appoint an officer of health, analyst, or inspector, or if any officer, analyst, or inspector shall have been removed by the Governor under the provisions of this Act, the Governor may appoint an officer of health, analyst, or inspector to such Local Board, and fix the rate of remuneration and travelling expenses which any person so appointed under this or the next following section shall receive from such Local Board.

Such remuneration and travelling expenses may be recovered by the person so appointed from such Local Board before any court of competent jurisdiction.

The Governor may appoint, or the Local Boards of two or more contiguous districts may combine in appointing, any inspector or analyst to act for two or more contiguous districts.

If such last-named appointment is made by order of the Governor, such order shall fix the proportion of remuneration and travelling expenses to be paid by each Local Board of such contiguous districts.

Removal of officers.

20. THE Governor may remove any officer of health, analyst, or inspector of any Local Board.

No officer, analyst, or inspector so removed shall be eligible for re-appointment without previous approval of the Governor.

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When any officer of health, analyst, or inspector is removed under the provisions of this section, the Central Board may, by order, require the Local Board to fill up such vacancy as hereinbefore provided, and failing such appointment by the Local Board within two months, the Governor may appoint a successor to the person so removed.

Ibid., s. 22.

No officer of health, analyst, or inspector so appointed by the Governor shall have the sum payable as remuneration for his services reduced, nor shall he be removed by any Local Board without the previous approval of the Governor.

21. OFFICERS of health are hereby empowered to give to any inspector appointed by the Local Board of their respective districts such directions and instructions as such officers may deem necessary from time to time for the due execution of this Act, and such inspectors are hereby required to faithfully obey and carry out any directions or instructions so given.

Inspectors to carry out instructions of officer of health.

Ibid., s. 23.

50 Vict., 19, s. 14.

22. OFFICERS of health shall, in addition to the powers conferred on such officers by this Act, have all the powers hereby conferred on any inspector appointed by the Local Board of their respective districts, and every inspector of the Central Board shall have all the powers hereby conferred on inspectors appointed by any Local Board, and may attend any meetings of a Local Board when and as directed by the Central Board.

Officers of health to have power of inspectors.

50 Vict., 19, s. 15.

See Victorian Health Act, 1890, s. 24.

23. THE Local Board of Health shall from time to time appoint, subject to the approval of the Central Board, such officers and servants as may be necessary for the due carrying out of the provisions of this Act, and shall make such rules as may be necessary, specifying the duties and conduct of such officers and servants; and may remove such officers or servants as the Board thinks fit; and may direct to be paid to such officers and servants such wages, salaries, or allowances as the Local Board may deem reasonable.

Officers of Local Board.

Ibid., s. 16.

Ibid., s. 25.

24. NO member, officer, or servant of the Central Board, or of any Local Board, shall be concerned or interested directly or indirectly in any bargain or contract entered into by such Central or Local Board respectively; and if any such member, officer, or servant, is so concerned or interested, or if any such member, officer, or servant, under colour of his office or employment, exacts, takes, or accepts any fee or reward whatsoever other than his proper salary, wages, remuneration, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Act, and shall for each such offence incur a penalty not exceeding Fifty pounds.

No officers to be concerned in contract.

Ibid., s. 17.

Ibid., s. 26.

The Minister.

Power of the
Minister.
Victorian Health
Act, 1890, s. 18.

25. ALL the powers, rights, and authorities vested in the Central Board shall, whenever he deems fit, be exercisable by the Minister, and when so exercised shall, if so ordered by the Minister, supersede any act, direction, notice, or order of the Central Board; and every officer, whether a member of the Central Board or not, and every servant of that Board shall at all times obey any order or direction of the Minister, and such officers and servants, for the purpose of carrying out such orders and directions, shall have all the powers of the Central Board, whether conferred on the Board by Act, regulation, by-law, or otherwise.

All orders, directions, authorities, consents, and receipts made or given, or purporting to be made or given by such officer or servant in any way relating to the purpose in respect of which he was authorised by the Minister to act shall, by all courts, officers, and persons whatsoever be deemed and taken to have the same force and effect as if such orders, directions, authorities, consents, or receipts (as the case may be) had been given by the Central Board.

PART II.—FINANCIAL.

Local Boards
to make and levy
Public Health Rate.
50 Vict., 19, s. 18,
and see 60 Vict. 40,
s. 2.

26. EVERY Local Board shall make and levy a special annual rate, to be called the Public Health rate, not exceeding sixpence in the pound, upon the annual ratable value of every house, store, shop, mill, tenement, or other building, piece of land, allotment, garden, or other premises within the limits of the Municipality or District under the jurisdiction of the Local Board, and liable to be rated, as may be deemed necessary for the purposes of this Act.

Certain provisions
of the Municipal
Institutions Acts to
apply to "Public
Health Rate."

Ibid., s. 19.

27. ALL the provisions of "The Municipal Institutions Act, 1895," and of any Act or Acts amending the same, with reference to the making, levying, liability for, payment of, and appeal against a rate or any arrears of the same, shall be applicable to the said Special or "Public Health Rate," to be made under the authority of this Act. And all the provisions of the said Acts or any of them relating to the enforcement and recovery by the Council of a rate made under "The Municipal Institutions Act, 1895," shall apply to the said Special or "Public Health Rate." Provided, however, that all powers, acts, and things whatsoever required or authorised by any of such last-mentioned provisions to be exercised or done by the Council or by the chairman shall or may be exercised or done by the Local Board or the chairman of a Local Board respectively (as the case may be) in respect of the said Special or "Public Health Rate."

Expenses of Central
and Local Boards.

28. ALL expenses incurred by the Central Board shall be defrayed out of the moneys that may from time to time be

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appropriated by the Parliament for the purposes of such Board, and all expenses incurred by any Local Board shall be defrayed out of the "Public Health Rate."

Ibid., s. 20.

29. THE Central Board shall cause accounts to be kept of all moneys received by such Board, and of the expenditure thereof for the purposes of this Act, and shall submit such accounts at least once a year to the examination of the Auditor General.

Accounts to be kept by Central Board and submitted for audit.

Ibid., s. 21.

30. EVERY Local Board shall cause accounts to be kept of all moneys received by such Board, and of the expenditure thereof for the purposes of this Act, and such accounts shall be audited and examined by the auditors of the municipality, or, if the Board has been appointed by Order in Council, by auditors appointed by such Board, at least once a year, and the auditors shall proceed in the audit in the same manner, shall have the like powers and authorities, and perform the like duties as in the case of auditing the municipal accounts. Each of such auditors shall in respect of such audit be paid by the Local Board a fee of not less than One guinea. Within seven days after the completion of every such audit, the auditors shall report on the accounts audited and examined, and shall deliver such report to the clerk or secretary of the Local Board, who shall cause the same to be deposited in the office of such Board, and shall publish an abstract of such accounts in the *Government Gazette*.

Accounts to be kept by Local Board.

Ibid., s. 22.

31. THE accounts of the receipts and expenditure under this Act of a Local Board shall be made up in such form and to such day in every year as the Central Board may appoint.

Form of account.

Ibid., s. 23

PART III.—BY-LAWS, ORDERS, ETC.

32. THE Central Board may from time to time make, alter, and rescind by-laws, directions, orders, and notices in the execution of this Act.

Power to Central Board to make regulations, etc., and provision in case of default of Central Board or Local Board.

If at any time it appears to the Minister that it is desirable that a by-law be made for any of the purposes of, and pursuant to, the provisions of any Act relating to the public health, he may order the Central Board or any Local Board to make such a by-law accordingly. If such order be not complied with to the satisfaction of the Minister within two months, the Governor may exercise all the powers of the Central Board or Local Board, as the case may be, with regard to the making of such a by-law.

Victorian Health Act, 1890, s. 28.

Every by-law so made by the Governor shall have the like force and effect as if the same had been made by the Central Board or Local Board, as the case may be, and it shall be deemed and taken to have been so made; and the Minister, when such

by-law has been made, shall forthwith notify to the Central Board and to any Local Board for which the same is made that such by-law is then in force.

Central Board to
make by-laws as to
dairies, etc.
Ibid., s. 29.

33. THE Central Board may from time to time make, alter, and revoke by-laws:—

- (a.) For the inspection of all dairy farms and milk stores;
- (b.) For the inspection of the grazing ground of dairy cattle, and for prohibiting the use of the same if likely to be prejudicial to health by affecting the milk or otherwise;
- (c.) For the inspection of cattle in dairies, and for prescribing and regulating the lighting, ventilation, cleansing, drainage, and water supply of houses, dairies, and cow sheds in the occupation of persons following the trade of cowkeepers or dairymen;
- (d.) For prescribing the precautions to be taken for protecting milk against infection or contamination;
- (e.) For cleansing or disinfecting dairies, milk stores, milk shops, or milk yards, and for destroying or removing from any dairy, milk store, milk shop, or milk yard any diseased cows or other animals, or for removing any sick persons from the premises of any such dairy, milk store, milk shop or milk yard;
- (f.) Providing for the registration of plumbers and gasfitters.
- (g.) Prescribing the fees to be paid on such registration.

Ibid., s. 30.

After the making of by-laws for the registration of plumbers and gasfitters, and while such by-laws are in force, all persons, unless registered as plumbers or gasfitters, who shall engage in or undertake any work as plumbers or gasfitters in any city or town shall be guilty of an offence against this Act.

Local Boards may
make orders and
by-laws.

50 Vict., 19, s. 24.

Victorian Health
Act, 1890, s. 31.

34. EVERY Local Board may, and if required by the Central Board shall, from time to time, subject to the provisions herein contained, make by-laws as hereinafter provided for the purpose of carrying this Act into execution within their jurisdiction; and may from time to time repeal, alter, or amend any such by-laws, and that such by-laws shall be confirmed and published in manner hereinafter mentioned. Provided also, that such by-laws may be made to apply to and to have operation in the whole or any part of the place or places within the jurisdiction of the Local Board.

Penalties for
breaches of by-laws.

35. EVERY Local Board, by any by-laws so to be made by them, may impose such reasonable penalties as they think fit not

exceeding Ten pounds for every breach of any such by-law, or a penalty not exceeding Five pounds for each day during which such breach shall be committed or continued; but such by-laws shall be so framed as to allow the justices before whom any penalty imposed thereby is sought to be recovered, to order the whole or part only (not being less than Five shillings) of such penalty to be paid.

Ibid., s. 25.

Ibid., s. 32.

36. NO by-law made by a Local Board under the authority of this Act shall be of any force until it shall have been confirmed by the Central Board, who are hereby empowered to allow or disallow the same as they think fit; and no such by-law shall be confirmed unless notice of the intention to apply for a confirmation of the same has been given in the city, town, or place for which such by-law has been made, fourteen days at least before the making of such application by posting a copy of such by-law in some conspicuous place in or upon the door of the office of such Local Board.

Confirmation of by-laws.

Ibid., part s. 26.

Ibid., s. 33, slightly altered.

37. FOR fourteen days at least previously to any such application for confirmation of any by-law, a copy of the proposed by-law shall be kept at the office of the Local Board, and all persons may at all reasonable times inspect such copy without payment of any fee; and the Local Board shall furnish every person who applies for the same with a copy thereof or of any part thereof on payment of sixpence for every one hundred words so to be copied.

Proposed by-laws may be inspected and copies purchased.

Victorian Health Act, 1890, s. 34, slightly altered.

38. EVERY Local Board may, in the by-laws to be so made, provide for the removal by the occupier or owner, or in case of his default by the Local Board, of dust, mud, ashes, rubbish, filth, blood, offal, manure, dung, or soil collected, placed, or found in or about any house, stable, cow-house, pig-sty, lane, yard, street, or place whatsoever, and preventing the placing or depositing thereof in any place and for requiring the occupiers of houses or premises to provide boxes or other specified receptacles for the temporary deposit of house refuse, and for authorising and directing the placing of such boxes or other receptacles at or between certain specified hours in places at or contiguous to such houses or premises convenient for the discharge and removal of the contents of such boxes or receptacles, and for regulating the times and manner of the cleansing, emptying, and managing of earth-closets, privies, cess-pools, and places for the deposit of nightsoil, offal, blood, or other refuse matter, and for regulating the disinfecting or the deodorising of the nightsoil, offal, blood, or other refuse matter contained therein or removed therefrom, and for the prevention of nuisance or injury to health from the transport, deposit, or use as manure of nightsoil, offal, blood, or other offensive matter, and for the rendering the foundations of any new building and the ground over which such building is to be placed dry, sound, and well-drained, so that no water

By-laws.

50 Vict., 19, s. 27, as amended by 57 Vict., 33, and 59 Vict., 35, s. 3.

See Victorian Health Act, 1890, s. 35.

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soakage shall lodge there from the drainage of buildings, and for the following and any other matters or things specially mentioned in this Act as matters in regard to which by-laws may be made by a Local Board (that is to say):

Requiring all existing cesspools to be cleansed and filled up to the satisfaction of the inspector within a calendar month of notice to that effect being given by the inspector to the owner or occupier ;

Requiring for each closet the supply of a sufficient number of receptacles for excrementitious matter, and to determine the size, shape, style, and materials to be used in the construction of such receptacles, and especially that they be interchangeable with others in the same district ;

Determining the mode and frequency of removal of such receptacles, and the disposal of the contents ;

Fixing the charge which may be made for removing each receptacle and replacing it by a clean one, and for any other sanitary service ;

Fixing the charge for the removal of trade or house refuse ;

Determining to whom and on what conditions licenses to remove nightsoil shall be issued ;

Imposing penalties on licensees for breach of conditions ;

For the mode of carriage of, and precautions to be observed in carrying meat to or from abattoirs or butchers' shops or premises ; also for the mode of carriage of and precautions to be observed in the carriage of bread and fruit.

For the registration annually with the Local Board of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk, and the payment by each such person to the Local Board of a reasonable fee, not exceeding One pound for each such registration ;

For the inspection of the grazing ground of dairy cattle and, if found to be prejudicial to health by affecting the milk or otherwise, to prohibit the use of the same, and for the inspection of cattle in dairies, and the prescribing and regulating of the lighting, ventilation, cleansing, drainage, and water supply of houses, dairies from which milk is supplied to persons residing in a municipality, whether such dairies are or are not within the boundaries of such municipalities, and cow sheds in the occupation of persons following the trade of cowkeepers or dairymen ;

For the securing of the cleanliness of bakeries, milk stores, milk shops, and of milk vessels used for containing milk for sale by such persons ;

- For the prescribing of precautions to be taken for protecting milk against infection or contamination ;
- For prescribing the time of and the precautions to be taken on the removal of pigwash and other filthy matter ;
- For the cleansing of all vehicles and other things used for the carriage of meat to and from abattoirs, butcher shops, and other places ;
- For the precautions to be taken in the carriage of articles of food in vehicles and other things for delivery to purchasers, and the way in which such articles shall be carried ;
- For the prevention of the sale of diseased and unwholesome fruit in markets, warehouses, and shops, and for the destruction of cases and packing materials which have contained or surrounded such fruit ;
- For the prevention of the storage or keeping of bone-dust, or artificial or other manure, so as to be a nuisance or injurious to health ;
- For the prevention of the keeping of animals of any kind so as to be a nuisance or injurious to health ;
- Defining an area within which swine may not be kept, and determining the conditions under which swine may be kept in any part of the Local Board's district ;
- For the prevention of danger to the public from manufactories or places for the storage, keeping, or sale of inflammable materials ;
- For the disinfection of, and the prevention of nuisance or injury to health from poultry yards, rags, or other materials used or stored in marine stores, flock, or bedding, or furniture manufactories ;
- For the regulation of noxious or offensive trades, businesses, or manufactories, whether established before or after the passing of this Act, in order to prevent or diminish the noxious or offensive effects thereof, and to prevent nuisance or injury to health arising therefrom ; the position and manner of construction of privies, earth-closets, and cesspools or urinals ;
- For the prevention of the use of steam whistles at factories or other establishments so as to be a nuisance to any person ;
- Specifying the time which may elapse between the giving of a notice and the doing of a thing required by an inspector ;
- For preventing nuisances arising from any offensive matter in or running out of any manufactory, brewery, slaughter-

house, knacker's yard, butcher's or fishmonger's shop, laundry, or dunghill;

And generally for the abatement and prevention of nuisances not hereinbefore specified, and for securing the healthfulness of the district and of its inhabitants.

Board may supply receptacles.

57 Vict., No. 33, s. 3.

39. WHENEVER a Local Board of Health shall determine by by-law to adopt a system of pans or receptacles for nightsoil, interchangeable or otherwise, or boxes or receptacles for the reception of rubbish or refuse, it shall be lawful for such Board to supply the necessary receptacles, or any portion of them, out of its own funds; and the Board may reserve the exclusive right to sell such pans, and may charge a reasonable price, not exceeding the cost for the same, and may recover the cost of the required number supplied to any owner or occupier who is under obligation to take one or more.

Inspector to prosecute for breach of by-laws.

Ibid., s. 28.

Ibid., s. 37.

40. EVERY inspector of any Local Board shall and is hereby empowered, without any express order or direction of such Local Board, to take proceedings against any person offending against any by-law made by such Local Board.

By-laws to be certified by Law Officer of the Crown.

41. NO By-law made under the authority of this Act shall have any force or effect until a Law Officer of the Crown shall have certified that the same is not contrary to law, and the same shall have been approved by the Governor and published in the *Government Gazette*.

PART IV.—ADULTERATION OF FOOD AND UNWHOLESOME FOOD.

Description of Offences.

Prohibition of the mixing of injurious ingredients and of selling the same.

Victorian Health Act, 1890, s. 40.

42. NO person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain or powder any article of food with any ingredient or material, if such ingredients be injurious to health, with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained, or powdered under a penalty in each case not exceeding Fifty pounds for the first offence. Every offence under this section after a conviction for a first offence hereunder shall be a misdemeanour, for which the person, on conviction, shall be imprisoned for a period not exceeding six months with hard labour.

Prohibition of the mixing of drugs with injurious ingredients and of selling the same.

Ibid., s. 41.

43. NO person shall, except for the purpose of compounding as hereinafter described, mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder any drug with any ingredient or material, whether such ingredient or material injuriously affects the quality or potency of such drug or not, with intent

that the same may be sold in that state, and no person shall sell any such drug so mixed, coloured, stained, or powdered under the same penalty in each case respectively as in the preceding section for a first and subsequent offence.

44. NO person shall be liable to be convicted under either of the two last foregoing sections of this Act in respect of the sale of any article of food or of any drug if he shows to the satisfaction of the Justices before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, coloured, stained, or powdered as in either of those sections mentioned, and that he could not with reasonable diligence have obtained that knowledge.

Exemption in case of proof of absence of knowledge.

Ibid., s. 42.

45. NO person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser under a penalty not exceeding Twenty pounds: Provided that an offence shall not be deemed to be committed under this section in the following cases (that is to say):—

Prohibition of the sale of articles of food and of drugs not of the proper nature, substance, and quality.

Ibid., s. 43.

- (1.) Where any matter or ingredient not injurious to health has been added to the article of food or drug because the same is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the article of food or drug or conceal the inferior quality thereof:
- (2.) Where the drug or article of food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent:
- (3.) Where the article of food or drug is compounded as in this part of this Act mentioned:
- (4.) Where the article of food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation or, being of known instability, has been unavoidably changed.

46. IN determining whether an offence has been committed under the preceding section by selling to the prejudice of the purchaser spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove, except in the case of spirits sold under a trade mark, that such a mixture has not reduced the spirit more than twenty-five degrees under proof for brandy, whisky, or rum, or thirty-five degrees under proof for gin.

Reductions allowed for the several sorts of spirits.

Ibid., s. 44.

42 & 43 Vict., c. 30, s. 6.

Sale of compounded
articles of food and
compounded drugs.

Ibid., s. 45.

Ibid., s. 7.

47. NO person shall sell any compound article of food or compounded drug which is not composed of ingredients in accordance with the details as given on the bottle or the package, under a penalty not exceeding Twenty pounds.

Exemption from
offences by giving
label.

Ibid., s. 46.

Ibid., s. 8.

48. NO person shall be guilty of any such offence as aforesaid in respect of the sale of any article of food, or a drug mixed with any matter or ingredient not injurious to health and not intended fraudulently to increase its bulk or measure, or conceal its inferior quality, if, at the time of delivering such article or drug, he supplies to the person receiving the same a notice by a label distinctly and legibly written or printed on or with the article or drug to the effect that the same is mixed, and stating the nature and composition of such mixture.

Forbidding the ab-
straction of any part
of an article before
sale, and selling
without notice.

Ibid., s. 47.

Ibid., s. 9.

49. NO person shall, with intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance or nature, and no person shall sell any article so altered without making disclosure of the alteration, under a penalty in each case not exceeding Twenty pounds.

No defence that
milk is reduced in
value merely.

Ibid., s. 48.

50. IN any prosecution under the provisions of the last preceding section, it shall not be a good defence to prove that milk has been reduced in value merely by the removal of the whole or a portion of its cream, and such removal shall be deemed to injuriously affect the quality of such milk; but nothing in this section shall prevent the sale of skimmed or separated milk if the vessel containing such milk shall have the words "skimmed milk" legibly marked thereon in some conspicuous place; and no vessel containing milk from which any part of the cream has been taken shall have the word "milk" upon it without the word "skimmed" immediately before the word "milk," printed in type of the same size and character as the word "milk," under a penalty not exceeding Twenty pounds.

No defence to allege
adulterated articles
were purchased for
analysis or are not
defective in three
respects.

Ibid., s. 49.

42 & 43 Vict., c.
30, s. 2.

51. IN any prosecution under this Part of this Act for selling to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, it shall be no defence to any such prosecution to allege that the purchaser having bought only for analysis was not prejudiced by such sale. Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature, or in substance, or in quality, was not defective in all three respects.

Prohibition of sale
of milk of diseased
cows.

Ibid., s. 50.

52. NO person shall sell, offer, keep, or deliver for sale, whether wholesale or retail, or exchange, or authorise, direct, or allow the sale

of any milk that is adulterated with water or any other fluid or substance or milk from cows suffering from anthrax, tuberculosis, or pleuro-pneumonia, or suffering from any disease from time to time declared by the Governor by notice in the *Government Gazette* to come within the meaning of this section. Milk shall be deemed to be adulterated when it contains less than 3 per cent. of butter fats and 8·5 per cent. of solids, not fat; ash, 0·7 per cent.

The Court before whom any person is charged with an offence against this section shall dismiss the charge if it appears to the Court that the defendant took all reasonable and practicable means to inquire and ascertain whether or not the milk so sold by him, or so allowed to be sold, came from cows suffering as aforesaid.

No person shall sell as new or fresh milk diluted condensed milk, or milk with which diluted condensed milk has been mixed.

In any prosecution with respect to the sale or delivery of milk, it shall be no defence that the defendant is only the servant or agent of the owner of such milk, or is only entrusted for the time being with such milk by such owner, but such servant or agent and such owner shall both be liable. Liability of servant.

If such defendant, being a servant or agent, prove that he delivered such milk in the same state in which he received it from his master or employer, and without knowledge that the nature, substance, or quality of such milk was injuriously affected, he may, notwithstanding that such master or employer has himself been convicted and fined, recover in any court of competent jurisdiction from such master or employer the amount of any penalty in which he may have been convicted in respect of such prosecution, together with the costs paid, or to be paid, by him upon such conviction, and those incurred by him in and about his defence thereto. Master's liability to servant.

Where a servant or agent is so convicted, the court may, if it think fit, suspend the operation of such conviction for any period not exceeding three months as it shall consider long enough to enable him to recover the amount thereof from his master or employer. For the purposes of this section "cream" shall be deemed to be "milk."

53. NO person shall make, prepare, or compound for sale, sell, offer, keep, or expose for sale any compound of fats, oils, or similar substances other than the fat of milk, or any article not made exclusively of milk or cream, or both, with or without salt or other preservative, and with or without the addition of colouring matter, and not the legitimate product of the dairy, in imitation of or as a substitute for butter, unless a conspicuous and legible brand or mark indicating the nature of such compound is placed upon each piece Regulation of sale of spurious butters.
Ibid., s. 51.

or pat, and on every jar, parcel, cask, case or package that contains any such compound or article.

Any such compound or article not being genuine butter, and not being branded or marked as herein provided, may be forthwith seized and destroyed or otherwise disposed of by any officer of the Central Board or of any Local Board without any other authority than this Act.

Unwholesome Food or Drugs.

Diseased animals or unwholesome food or drugs may be seized.

50 Vict., 19, s. 31.

Victorian Health Act, 1890, s. 52.

54. ANY officer of the Central Board or of any Local Board, or any member of the police force, may at all reasonable times in the day-time, and with respect to those shops, places, or premises where articles of food or drugs are usually manufactured, prepared, or sold during the night, at any hour of the day or night, enter into and inspect any abattoir or slaughter-house, or any butcher's, poulterer's, or fishmonger's shop, or any shop, store, bakery, dairies, warehouse, bonded or free store, auction room, custom house, shed, or any place or premises, or any part thereof, which he may have reasonable ground for believing is kept or used for the slaughter or for the sale or storage or preparation for sale of any animals or carcasses of animals, or any meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, tea, sugar, or milk, or any articles used or which he may have reasonable ground for believing are intended to be used as food or drugs for human consumption, and may inspect any such animals, carcasses, or articles, and may inspect any articles of food or drugs which are being conveyed through the public streets or roads by any butcher, baker, milkman, grocer, dealer, hawker, or other person, and may examine and cut open any articles or packets or cases of articles contained therein or conveyed thereby, and may remove portions of such articles for examination, or analysis, and may seize any of such animals, carcasses, or articles which are or appear to him to be diseased or deleterious to health or unwholesome, or any meat which has been blown, spouted, greased, stuffed, or pricked, and may destroy such articles or portions thereof as are or as before they are claimed become decayed or putrefied ; And any person claiming any animals, carcasses, or articles so seized may within forty-eight hours after such seizure complain thereof to any justice, and such complaint may be heard and determined before any two justices, who may either confirm or disallow such seizure wholly or in part, and may order the animals, carcasses, or articles so seized, or some, or portion of them, to be restored ; and in the event of no such complaint being made within forty-eight hours after such seizure, or of such seizure being confirmed, the animals, carcasses, or articles as to the seizure of which no complaint has been made, or the seizure of which has been confirmed, shall thereupon become the property of the Local Board of Health, or in case such seizure has been made by an

officer of the Central Board or the Crown, shall be destroyed or otherwise disposed of so as to prevent their being used for human consumption.

55. IF any person sells or imports, or has in his possession or under his control for the purpose of sale or storage or preparation for sale for human consumption, any meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, tea, sugar, milk, or any articles of food of a nature deleterious to health or unwholesome, or any meat which has been blown, spouted, greased, stuffed, or pricked, such person shall be guilty of an offence against this Act, and shall be liable, on conviction thereof, to pay any expenses incurred in the inspection, seizure, and disposition of such articles as hereinbefore provided, and shall also be liable to a penalty not exceeding Twenty pounds, and not less than Five pounds, for every such offence, and for any second or any subsequent offence to a penalty not exceeding Fifty pounds, and not less than Five pounds; and if any person sells or imports, or has in his possession or under his control for the purpose of sale or storage or preparation for sale for human consumption, any diseased animals or carcasses of animals, or if any person exposes or leaves, or causes to be exposed or left in any market or sale yard, or at any auction, or drives or causes to be driven to any market, auction, or sale yard for sale any animal suffering from pleuro-pneumonia, tuberculosis, anthrax, fluke, or any disease or ailment whatsoever to such an extent as to render such animal when slaughtered unfit for human consumption, he shall be guilty of an offence against this Act, and shall be liable, on conviction thereof, to pay any expenses incurred in the inspection, seizure, and disposition of such animals or carcasses, and to a penalty for any such offence not exceeding One hundred pounds, and not less than Five pounds, or to imprisonment for a term not exceeding two years; and no officer of the Local Board nor any member of the police force seizing any article of food or drugs, or any animal, and no inspector of stock or sheep seizing any animal shall be liable for any costs, expenses, or damages on account of such seizure if he acted under a reasonable belief that such article of food or drugs was unwholesome or that such animal was diseased.

Provided that no person shall be convicted under this section if he satisfies the Court or Justices that he offended against the provisions thereof without knowledge that such articles of food or drugs were unwholesome, or such animals diseased, and could not with reasonable diligence have obtained such knowledge.

56. IF in any case under this Part of this Act it appears that the animals, carcasses, or articles as aforesaid are of a kind usually

Penalty on importation or possession of diseased animals or unwholesome food.

Ibid., s. 32.

Ibid., s. 53.

Onus of proof

Ibid., s. 33.

Ibid., s. 54.

used as food for human consumption, the proof that such animals, carcasses, or articles were not intended for human consumption or for sale for human consumption shall be on the party contending that they were not so intended.

Analysts and Analysis.

Appointment of
analysts.

Victorian Health
Act, 1890, s. 55.

38 & 39 Vict., c. 63,
s. 10.

57. THE Local Board of any district may in all cases, as and when vacancies in the office occur, and when required so to do by the Central Board shall, for their respective districts appoint one or more persons (not being persons engaged directly or indirectly in any trade or business connected with the sale of articles of food or drugs within that district) possessing competent knowledge, skill, and experience, as analysts of all articles of food and drugs sold within their districts respectively, and shall pay to such analysts such remuneration as may be mutually agreed upon, and may, as they deem proper, remove him or them; but such appointments and removals shall at all times be subject to the approval of the Central Board, who may require satisfactory proof of competency to be supplied to them, and may give their approval absolutely or with modifications as to the period of the appointment and removal, or otherwise.

One Local Board
may engage analyst
appointed by
another.

Ibid., s. 56.

Ibid., s. 12.

58. ANY Local Board may agree that the analyst appointed by the Local Board of any other district may act for their district during such time as may be thought proper, and shall make due provision for the payment of his remuneration; and, if such analyst consent, he shall, during such time, be the analyst for such districts for the purposes of this Act.

Power to purchaser
of food or drug to
have it analysed.

Ibid., s. 57.

Ibid., s. 12.

59. ANY purchaser of an article of food or of a drug in any place, being a district where there is an analyst appointed under this Act, shall be entitled, on payment to such analyst of a sum not exceeding Ten shillings and sixpence (or, if there be no such analyst then acting for such place, to the analyst of any district where there is an analyst appointed under this Act, on payment of such sum as may be agreed upon between such person and the analyst) to have such article analysed by such analyst, and to receive from him a certificate of the result of his analysis.

Officer of either
Board, or member
of police force may
obtain sample and
submit to analyst.

Ibid., s. 58 (slightly
altered).

Ibid., s. 13.

60. ANY officer of the Central Board, or of a Local Board, and any member of the police force may, at the cost of the Board by which such officer is appointed, or in whose district such member of the police force then is, procure a sample of any article of food or of a drug, and if he suspects that the same was sold to him contrary to any provision of this Act, shall submit the same to be analysed by the analyst of the place, being a district in which the purchase

was made, or, if there be no such analyst then acting for such place, to the analyst of any district where there is an analyst appointed under this Act, and such analyst, upon receiving payment as is provided in the last preceding section, shall, with all convenient speed, analyse the same, and give to such officer or member of the police force a certificate specifying the result of such analysis.

61. WHENEVER any inspector has reason to suspect that any article of food or any drug exposed, kept, or offered for sale is adulterated, unwholesome, or in any way injuriously affected, he shall obtain samples of the same and shall convey or send the same to the analyst of the Local Board for analysis.

Inspector may obtain samples.

Ibid., s. 59.

In any prosecution for selling to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality demanded by such purchaser, if it appears to the Court or the Justices that the offence is sufficiently proved without an analysis, the proof of an analysis shall, notwithstanding anything in any Act, not be necessary to conviction for such offence.

If an analysis is required for the purpose of any such prosecution, it shall be no defence to allege that the person who instituted such prosecution is not the person who caused such analysis to be made.

Any person improperly removing or tampering with the seal or fastening of any wrapper, cover, or vessel containing any sample, or part of a sample taken for the purpose of analysis, under the provisions of any Act relating to the public health, shall be guilty of an offence against this Act.

62. ANY officer of the Central Board, or of any Local Board, or any member of the police force may, at the expense of the Board by which such officer was appointed, or in whose district such member of the police force then is, procure at the place of delivery a sample of any milk in course of delivery to the purchaser or consignee of such milk; and such officer or member of the police force, if he suspects the same to be sold contrary to the provisions of this Act, shall submit the same to be analysed.

Officer or constable may obtain a sample of milk at the place of delivery to submit to analyst.

Ibid., s. 60.

42 & 43 Vict., c. 30, s. 3.

63. THE person purchasing any article with the intention of submitting the same to analysis shall, after the purchase has been completed, forthwith notify to the seller or his agent selling the article his intention to have the same analysed by the analyst, and shall offer to divide the article into three parts to be then and there separated, and each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent.

Provision for dealing with the sample when purchased.

Ibid., s. 61.

38 & 39 Vict., c. 63, s. 14.

He shall afterwards retain one of the said parts for future comparison, and submit the third part, if he deems it right to have the article analysed, to the analyst.

Provision when sample is not divided.

Ibid., s. 62.

Ibid., s. 15.

64. IF the seller or his agent do not accept the offer of the purchaser to divide the article purchased in his presence, the analyst receiving the article for analysis shall divide the same into two parts, and shall seal or fasten up one of those parts, and shall cause it to be delivered either upon receipt of the sample or when he supplies his certificate to the purchaser, who shall retain the same for production in case proceedings are afterwards taken in the matter.

Provision for sending article to the analyst through the post office.

Ibid., s. 63.

Ibid., s. 16.

65. IF the analyst do not reside within two miles of the residence of the person requiring the article to be analysed, such article may be forwarded to the analyst through the post office as a registered letter, subject to any regulations which the Governor may make in reference to the carrying and delivery of such article, and the charge for the postage of such article shall be deemed one of the charges of this Act or of the prosecution as the case may be.

Person refusing to sell any article to any officer liable to penalty.

42 & 43 Vict., c. 30, ss. 4 and 5.

Vict., 1890, sec. 64.

66. IF any such officer or member of the police force as above described applies to purchase any article of food or any drug exposed to sale or on sale by retail on any premises or in any shop or store or in any street or open place of public resort, or to procure any sample of any milk in course of delivery to the purchaser or consignee in pursuance of any contract for the sale to such purchaser or consignee of such milk, and tenders the price for the quantity which he requires for the purpose of analysis not being more than is reasonably requisite, and the person exposing the said article of food or drug for sale refuses to sell the same to, or the seller or consignor or any person or persons intrusted by him for the time being with the charge of such milk refuses to allow the quantity required for the purpose of analysis to be taken by such officer or member of the police force, such person, seller, or consignor shall be liable to a penalty not exceeding Ten pounds.

Form of certificate.
Ibid., s. 65.
38 & 39 Vict., c. 63,
s. 18.
Second Schedule.

67. THE certificate of the analysis shall be in the form set forth in the Second Schedule hereto or to the like effect.

Quarterly report of the analyst.

Ibid., s. 66.

38 & 39 Vict., c. 63, s. 19.

68. EVERY analyst appointed under this Part of this Act shall report quarterly to the Local Board appointing him the number of articles analysed by him under this Act during the foregoing quarter, and shall specify the result of each analysis and the sum paid to him in respect thereof, and such report shall be presented at the next meeting of the Local Board by which such analyst is

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appointed, and every such Local Board shall annually transmit to the Central Board at such time and in such form as the said Board directs a certified copy of such quarterly report.

Proceedings against Offenders.

69. WHEN the analyst, having analysed any article, has given his certificate of the result, from which it may appear that an offence against some one of the provisions of this part of this Act has been committed, the person causing the analysis to be made may take proceedings for the recovery of the penalty herein imposed for such offence.

Proceedings against offenders.

Ibid., s. 67.

Ibid., s. 20.

70. IN any such proceeding the production of the certificate of the analyst shall be sufficient evidence of the facts therein stated, unless the defendant, at his own cost, requires the analyst to be called as a witness, and the parts of the article retained by the person who purchased the article shall be produced, and the defendant and the defendant's wife or husband may be tendered and examined as a witness on the defendant's behalf.

Certificate of analyst *prima facie* evidence, unless he is required to be called.

Ibid., s. 68.

Ibid., s. 21.

71. THE Justices before whom any complaint is made, or the Court before which any appeal is heard under this Act, may, in their discretion, at the request of either party, cause any article of food or any drug to be sent to the Central Board, who shall thereupon direct the Government Analyst to make the analysis and give a certificate of the result thereof to such Justices or Court; and the expense of such analysis shall be paid by the complainant or the defendant, as the Justices or Court by order direct.

Justices or Court may send article to Central Board for analysis at request of either party.

Ibid., s. 69.

Ibid., s. 22.

72. IN any proceedings under this Act where the fact of an article having been sold in a mixed state has been proved, if the defendant desires to rely on any exception or provision contained in this Act, the burden of proof shall lie on the defendant.

Defendant to prove protection by exemption or provision.

Ibid., s. 70.

Ibid., s. 24.

73. IF the defendant in any proceedings under this Act proves to the satisfaction of the Justices or Court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the prosecutor, and with a written warranty to that effect, that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as it was in when he purchased it, he shall be discharged from the prosecution, but may be ordered to pay the costs of the prosecution unless he has given due notice to the prosecutor of an intention to rely on the above defence.

Defendant who succeeds on a certain defence, of which he has not given due notice, may be ordered to pay costs.

Ibid., s. 71.

Ibid., s. 25.

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74. EVERY person who—

Punishment for wilful misapplication of warranty.
Ibid., s. 72.
Ibid., s. 27.

For false warranty.

For false label.

Wilfully applies to an article of food or a drug in any proceedings under this Act a certificate or warranty given in relation to any other article or drug; or who

Gives a false warranty in writing to any purchaser in respect of an article of food or a drug sold by him as principal or agent; or who

Wilfully gives a label with any article sold by him which falsely describes the article sold;

shall be guilty of an offence under this Act, and be liable to a penalty not exceeding Twenty pounds.

Other remedies and contracts not to be affected.

Ibid., ss. 73, 74.
38 & 39 Vict., c. 63, s. 28.

Persons convicted under this Act may bring action against the original vendor.
Ibid., s. 28.

75. NOTHING in this Part of this Act contained shall affect the power of proceeding by presentment, indictment, or information, or take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals and the rights and remedies belonging thereto:

Provided that in any action brought by any person for a breach of contract on the sale of any article of food or of any drug, such person may recover alone, or in addition to any other damages recoverable by him the amount of any penalty in which he may have been convicted under this Act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he prove that the article or drug, the subject of such conviction, was sold to him as and for an article or drug of the same nature, substance, and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it; the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was unreasonable.

PART V.—COMMON LODGING HOUSES.

Registration of common lodging-houses.

Ibid., ss. 79, 80.

3rd Schedule.

76. IN places where a Local Board is already established, within two months after the passing of this Act, and in places where a Local Board shall hereafter be established within two months after the establishment of such Board, the occupying tenant or keeper of any common lodging-house already or hereafter existing within the jurisdiction of such Local Board, shall register such house by filling up and delivering at the proper office of such Local Board the form in the Third Schedule hereto; and such form (subject to the provisions of this Part of this Act) shall be registered by such Local Board on payment of a fee not exceeding Ten shillings, and such registration shall, on payment of the like fee, be annually renewed at such time of each year as the Local Board shall appoint:

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Provided that no common lodging-house shall be registered unless and until the Local Board is satisfied that such house is properly and securely built, that it is properly ventilated and drained, that proper places for common convenience are provided, and that it is in a sanitary state:

Provided also that any Local Board may refuse to register any common lodging-house if, upon inspection or satisfactory evidence, it shall appear to such Board that, from the unhealthiness of the position, the improper character of the applicant, or from other sufficient cause, the registration should not be granted:

Provided also that, upon due notice and unless sufficient cause to the contrary be shown, such Local Board may suspend or cancel such registration for any breach of the regulations in force affecting common lodging-houses, or other sufficient cause.

77. EVERY common lodging-house keeper shall, with such form, deliver a certificate of character, in the form in the Fourth Schedule hereto, signed by six respectable inhabitant householders of the city, town, or Local Board district wherein such lodging-house is situate, and the Local Board may refuse to register any lodging-house the keeper of which fails to produce such certificate.

Certificate of character required.
Ibid., s. 81.
16 & 17 Vict., c. 41, s. 1.
4th Schedule.

78. IN case any person shall object to his house being considered a common lodging-house under this Act, he may apply to the Local Board, who may give their opinion as to whether such house is a common lodging-house, and whether the provisions of this part of this Act should be applied to it.

Exemptions from registration.
Ibid., s. 82.

79. THE Local Board shall keep a register in which shall be entered the names and the residences of the keepers of all common lodging-houses within its jurisdiction, and the situation of every such house and the number of lodgers authorised according to this Part of this Act to be received therein; and such register shall be compiled from the forms to be delivered as aforesaid or such other information as such Local Board shall think fit to use.

A register to be kept.
Ibid., s. 83.
14 & 15 Vict., c. 28, s. 7.

80. THE Local Board may from time to time make by-laws respecting common lodging-houses within its jurisdiction for fixing the number of lodgers who may be received in such houses, for promoting cleanliness and ventilation therein, and with respect to the inspection thereof and the conditions and restrictions under which such inspection may be made, for the well ordering of such houses, for the separation of the sexes therein, and for preventing facilities for the concealment and escape of criminals therein or therefrom.

Regulations to be made respecting lodging-houses.
Ibid., s. 84.
Ibid., s. 9.

See 14 & 15 Vict., c. 28, s. 12.

Means by which they may be disinfected.

The person keeping any such common lodging-house shall give access thereto when required by any person who shall produce the written instructions of the said Local Board or their officer thereunto authorised by writing, for the purpose of introducing or using therein any disinfecting process; and the expenses incurred by the said Local Board in so introducing or using any disinfecting process may be recovered by the Local Board or its officer appointed as aforesaid from the keeper of the lodging-house in which the same shall have been so used or introduced in a summary manner before any two Justices: Provided that the by-laws made under this Part of this Act by the Local Board shall not be in force until they shall have been confirmed by the Governor.

Penalties for breach of regulations.

Ibid., s. 85.

14 & 15 Vict., c. 28, s. 10.

81. THE Local Board shall have the power of imposing by any by-laws penalties on offenders against the same not exceeding the sum of Five pounds for each offence; and in case of a continuing offence, a further penalty of a sum not exceeding Forty shillings for each day during which such offence shall be continued after written notice from such Local Board or their officer appointed as aforesaid of the offence having been committed: Provided that all such by-laws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty; and all such penalties may be recovered in a summary way by the Local Board or their officer before any two Justices; and a copy of the by-laws purporting to be signed by the Governor and also signed by the chairman or sealed with the seal of the Local Board shall be receivable as evidence of such by-laws, and of the duly making and confirming thereof.

Contents of register how to be proved.

Ibid., s. 86.

16 & 17 Vict., c. 41, s. 5.

82. A COPY of an entry made in any register kept under this Part of this Act, or any Act previously in force, certified by the person having the charge thereof to be a true copy, shall be received in all Courts and before all Justices and on all occasions whatsoever as evidence, and be sufficient proof of all things therein registered according to the provisions of this Part of this Act, without the production of the register or of any document, act or thing on which the entry is founded; and every person applying at a reasonable time shall be furnished gratis by the person having such charge with a certified copy of any such entry.

Lodging-house keepers to report deaths to coroner when they occur in the lodging-house.

Ibid., s. 87.

83. UPON any death occurring in any common lodging-house, the keeper or manager thereof shall, within twelve hours after the same shall have taken place or become known, give notice of every such death and the cause thereof and the circumstances attendant thereon to the nearest coroner; and if there shall be no coroner residing within five miles of such lodging-house, then to the Local

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Board within the jurisdiction whereof such house may be situated.

84. THE keeper of a common lodging-house shall, when any person therein is ill of fever, low, colonial, or typhoid fever, or any infectious or contagious disease, give immediate notice thereof to the Local Board or some officer of the Local Board.

Notice of infectious diseases to be given by keeper.
Ibid., s. 88.
14 & 15 Vict., c. 28, s. 11.

85. WHEN any person in a common lodging-house is ill of fever, low, colonial, or typhoid fever, or any infectious or contagious disease, the Local Board may, on the certificate of a medical officer that the disease is infectious or contagious and that the patient may be safely removed, cause such person to be removed to an hospital or infirmary with the consent of the authorities thereof, and may (so far as such Local Board may think requisite for preventing the spread of disease) cause any clothes or bedding used by such person to be disinfected or destroyed, and may in their discretion award to the owners of the clothes and bedding so disinfected or destroyed reasonable compensation for the injury or destruction thereof, the amount of such compensation being first certified in writing upon a list of such articles by such local authority or their officer to be paid out of the rates and moneys aforesaid respectively.

Provisions for preventing the spread of disease.
Ibid., s. 89.
16 & 17 Vict., c. 41, s. 7.

86. THE keeper of a common lodging-house and every other person having or acting in the care or management thereof shall at all times, when required by any Local Board or their officer appointed as aforesaid or by any Justice or any officer of police, give him free access to such house or any part thereof.

Access at all times to be given to officer.
Ibid., s. 90.
14 & 15 Vict., c. 28, s. 12.

87. THE keeper of a common lodging-house shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools, and drains thereof to the satisfaction of, and so often as shall be required by or in accordance with any by-laws of, the Local Board; and shall limewash the walls and ceilings thereof or so much of them as shall be required by such Board in the first week of each of the months of April and October in every year.

Keeper to use sanitary precautions.
Ibid., s. 91.
Ibid., s. 13.

88. THE keeper of a common lodging-house shall from time to time, if required by any order of the Local Board served on such keeper, report to the Local Board or to such person as the Local Board shall direct the name of every person who resorted to such house during the preceding day or night; and for that purpose schedules shall be furnished by the Local Board to the person so ordered to report, which schedules he shall fill up with the information required and transmit to the Local Board.

To make return of lodgers.
Ibid., s. 92.
16 & 17 Vict., c. 41, s. 8.

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Penalties.

89. EVERY keeper of a common lodging-house, or person having or acting in the care and management thereof, who

Ibid., s. 93 (altered in form).

Omits to cause his house to be registered as by this Part of this Act is required ; or

14 & 15 Vict., c. 28, s. 14.

Omits to give notice, as required by this Part of this Act, of a death occurring in his house for twelve hours after it has taken place or become known ; or

Omits for forty-eight hours to give notice, as required by this Part of this Act, of a person in his house being confined to his bed by fever, low, colonial, or typhoid fever, or any contagious or infectious disease ; or

Offends against the provisions of this Part of this Act,

shall be liable to a penalty not exceeding Five pounds, and to a further penalty not exceeding Forty shillings for every day during which the offence continues: Provided that no person shall be exempted by this Part of this Act from any penalty or liability to which he would be subject irrespective of this Part of this Act.

Keeper may be suspended.

Ibid., s. 94 (altered).

16 & 17 Vict., c. 41, s. 12.

90. WHEN the keeper of a common lodging-house, or any person having or acting in the care and management thereof, is convicted on three several occasions of separate offences against this Part of this Act, the Justices before whom the third conviction takes place may, if they think fit, adjudge that he shall not at any time within a period not exceeding five years after such conviction, as the Justices think fit, keep or have or act in the care or management of a common lodging-house without the previous license in writing of the Local Board, which license such Board may withhold or grant, and on such terms and conditions as may seem fit.

Proceedings for offences.

Ibid., s. 96.

91. ALL proceedings under this Part of this Act may be taken and all fines, penalties, and forfeitures may be recovered before two Justices of the Peace, and no conviction under this Part of this Act shall be quashed for want of form or be removed by writ of *certiorari* or otherwise into the Supreme Court.

PART VI.—DWELLING HOUSES.

Houses may be declared unfit for human habitation, and their occupation forbidden.

50 Vict., 19, s. 66.

92. WHENEVER any officer of health or inspector of the Central Board or of any Local Board, or any legally qualified medical practitioner, certifies in writing to a Local Board that any house or building within the jurisdiction thereof, or any part thereof, is unfit or unsafe for human occupation or habitation, such Local Board may, by an order declare that such house or building or such part thereof is not

fit for human occupation or habitation, and direct that such house or building or part thereof shall not, after a time specified in such order, be occupied or inhabited by any person, and may cause such order or a copy thereof to be affixed to some conspicuous part of such house or building before the expiration of the time mentioned in such order.

Victorian Health Act, 1890, s. 98.

Any person who after the expiration of the time mentioned in such order lets or occupies, or knowingly suffers to be occupied, such house or building, or (as the case may be) such part thereof, shall be guilty of an offence against this Act, and shall on conviction thereof be liable to a penalty not exceeding Five pounds nor less than Ten shillings for every day during which such house or building, or (as the case may be) such part thereof, is let, occupied, or knowingly suffered to be occupied by him in contravention of such order.

Penalty.

93. UPON the certificate of the officer of health or any legally qualified medical practitioner that any house or building or any part thereof is so overcrowded as to be dangerous or prejudicial to the health of the inmates or inhabitants or persons employed therein, the Local Board shall cause complaint to be made before any Justice, who may summon before any two Justices the person permitting such overcrowding; and the Justices shall thereupon make such order as they may think fit to abate such overcrowding; and the person permitting such overcrowding shall forfeit a sum not exceeding Five pounds nor less than Twenty shillings.

Overcrowding in houses.

Ibid., s. 67.

Ibid., s. 99.

94. IT shall not be lawful to let or occupy or suffer to be occupied separately as a dwelling any cellar, including for the purposes of this Part of this Act in that expression any vault or underground room.

Prohibition of occupying cellar dwellings.

Ibid., s. 68.

Ibid., s. 100.

95. ANY person who lets, occupies, or suffers to be occupied for hire or rent any cellar, contrary to the provisions of this Part of this Act, shall be liable for every such offence to a penalty not exceeding Twenty shillings for every day during which the same continues to be so let or occupied after notice in writing from the Local Board in this behalf.

Penalty on persons offending against enactment.

Ibid., s. 69.

Ibid., s. 101.

96. ANY cellar in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this Part of this Act.

Definition of occupying as a dwelling.

Ibid., s. 70.

Ibid., s. 102.

97. WHERE two convictions against the provisions of this Part of this Act, relating to the occupation of a cellar as a separate dwelling place, have taken place with respect to the same cellar within

Power to close cellars in case of two convictions.

Ibid., s. 71.

Ibid., s. 103.

three months (whether the persons so convicted were or were not the same), two Justices may direct the closing of the premises so occupied for such time as they may deem necessary, or may empower the Local Board permanently to close the same, and to defray any expenses incurred by them in the execution of this section.

Building not
hitherto used as
dwelling not to be
used without
consent.

Ibid., s. 72.

Ibid., s. 104.

98. NO building not originally built as and for a dwelling-house within the limits of a Municipal District or within the area under the jurisdiction of a Local Board, whether built before or after the commencement of this Act, shall be converted into or used as a dwelling-house without the previous consent of the Local Board, who may grant such consent upon and subject to such conditions as they may see fit, or in their discretion may refuse the same.

Upon any complaint by the Local Board of infringement of any of the provisions of this section, two Justices may, in addition to the imposition of a penalty for an offence against this Part of this Act, declare such dwelling-house a common nuisance, and order such dwelling-house to be removed by the owner thereof and in his default by the Local Board, and the costs of such removal, if effected by the Local Board, to be paid to the Local Board by the owner of such dwelling-house. Provided that before any new building be occupied as a dwelling-house or offices a certificate be obtained from a building surveyor and officer of health declaring such house or offices to be fit for human occupation.

PART VII.—INFANT LIFE PROTECTION.

Houses of persons
receiving infants for
nursing to be
registered.

Victorian Health
Act, 1890, s. 110.
35 & 36 Vict., c. 38,
s. 2.

99. NO person shall retain or receive for hire or reward in that behalf any infant under the age of two years for the purpose of nursing or maintaining such infant apart from its parents for a longer period than twenty-four hours, except in a house which is registered as herein provided.

Register to be kept
by Local Board.

Ibid., s. 111.
35 & 36 Vict., c.
38, s. 3.

100. EVERY Local Board shall cause a register to be kept in which shall be entered the name of every person applying to register any house within the district of such Local Board for the purposes of this Part of this Act and the situation of every such house; and every such Local Board shall from time to time make by-laws for fixing the number of infants who may be received into each house so registered; all such by-laws shall, within two weeks of the making thereof, be published in the *Government Gazette*, and such registration shall remain in force for one year, and no fee shall be charged for such registration. Every person who receives or retains any infant in contravention of the provisions of this Act, or of any by-laws made thereunder, shall be guilty of an offence against this Act.

101. ANY Local Board may refuse to register any house unless they are satisfied that such house is suitable for the purposes for which it is to be registered, and unless they are satisfied by the production of certificates that the person applying to be registered is of good character and able to properly maintain infants proposed to be maintained in such house.

Local Board may refuse to register.

Ibid., s. 112.

Ibid., s. 4.

102. THE person registered as aforesaid shall immediately enter in a register to be kept by him the name, sex, and age of each infant under his care, and the date at which and the names and addresses of the persons from whom they were received, and shall also enter in the said register immediately after the removal of such infant the time of such removal, and the names and addresses of the persons by whom such infant received and retained as aforesaid was removed immediately after the removal of such infant, and shall produce the said register when required to do so by the Local Board; and in the event of his refusing so to produce the said register, or neglecting to enter in a register the name, sex, and age of each of the said infants, and the date at which and the name and addresses of the persons from whom they were received and by whom they were removed respectively, such person shall be liable to a penalty not exceeding Five pounds. The person registered shall be entitled to receive gratuitously from the Local Board a book of forms for the registration of infants; such register may be in the form contained in the Fifth Schedule to this Act.

Registered persons to keep a register of infants and to produce it.

Ibid., s. 113.

Ibid., s. 5.

Fifth Schedule.

103. IF any person make any false representation with a view to being registered under this Part of this Act, or forge any certificate for the purpose hereof, or make use of any forged certificate knowing it to be forged, or falsify any register kept in pursuance of this Part of this Act, he shall be guilty of an offence against this Act.

Forgery of certificate, etc.

Ibid., s. 114.

Ibid., s. 6.

104. IF at any time it be proved to the satisfaction of the Local Board that any person whose house has been registered as aforesaid has been guilty of serious neglect, or is incapable of providing the infants entrusted to his care with proper food and attention, or that the house specified in the register has become unfit for the reception of infants, the Local Board may strike his name and house off the register.

Local Board may strike off register.

Ibid., s. 115.

Ibid., s. 7.

105. THE person registered as aforesaid shall, within twenty-four hours after the death of an infant so retained or received, cause notice thereof to be given to the Coroner for the district, or to such Justice as may be empowered to hold inquiries touching the death of any person within the district in which such infant died, and the said Coroner or Justice shall hold an inquest on the body of such infant, unless there is produced to such Coroner or Justice a certificate under

Death of infant received for nursing.

Ibid., s. 116.

Ibid., s. 8.

the hand of a legally qualified medical practitioner stating that such practitioner has personally attended or examined such infant, and specifying the cause of its death, and unless the said Coroner or Justice be satisfied by such certificate that there is no ground for holding such inquest. No such infant shall be buried without the production of a certificate under the hand of the said Coroner or Justice authorising such burial. If the person so registered neglects to give notice as aforesaid, or if any person buries, or causes to be buried, any such infant without the certificate of such Coroner or Justice as aforesaid, such person shall be guilty of an offence against this part of this Act.

Punishment for
offences against this
Part of this Act.

Ibid., s. 117.

Ibid., s. 9.

Relatives, etc., of
infant and certain
institutions
exempted.
Ibid., s. 118.
Ibid., s. 13.

106. EVERY person guilty of an offence against this part of this Act, shall, on conviction thereof before two Justices, be liable to imprisonment for not more than six months, with or without hard labour, or to a fine not exceeding Five pounds, and shall, in addition, be liable to have his name and house struck off the register.

107. THE provisions of this part of this Act shall not extend to the relatives or guardians of any infant retained or received as aforesaid, nor to institutions established for the protection or care of infants or children.

PART VIII.—INFECTIOUS DISEASES AND LAND QUARANTINE.

Provisions against Infection.

Local Board to re-
port to Central
Board on sanitary
state of district.

50 Vict., 19, s. 34.

Victorian Health
Act, 1890, s. 119.

108. EVERY Local Board shall make a report to the Central Board in such form and at such times as the Central Board shall from time to time direct in regard to the health, cleanliness, and general sanitary state of the district for which such Local Board is established; and such report shall contain a statement of all works executed and proceedings taken by such Local Board during the period to which the report relates.

Local Board to re-
port epidemic
disease, etc., to
Central Board.

Ibid., s. 35.

Ibid., s. 120.

109. UPON the appearance of any epidemic, endemic, or contagious disease, or of any indication thereof or of any peculiar circumstances or occurrences involving or affecting, or likely to involve or affect the sanitary condition of any district the Local Board of such district shall immediately report the same to the Central Board; and the report shall be accompanied by such remarks or information as such Local Board may possess in regard to the disease, locality, or other facts that may have come to their knowledge, and may tend or appear to tend towards the better and more full comprehension of the disease, indications, occurrences, or circumstances so reported.

110. THE Governor may make orders from time to time directing that the provisions in the next following section contained for the prevention of epidemic, endemic, and contagious diseases be put in force in Western Australia, or in such parts thereof, or in such places therein, as in such orders respectively may be expressed; and may in like manner from time to time revoke, alter, or vary any such order; and also may, in a case of special emergency arising at a distance from Perth, make an order authorising some person or persons named therein to make such orders and give such directions as may seem to him or them necessary. And such orders of the Governor shall continue in force for the times named therein, not exceeding one month, and shall have the like effect as if the provisions therein contained were included in this Act: Provided that such orders shall within one week from the making thereof be published in the *Government Gazette*. Such orders may provide—

Governor may direct enforcement of provisions to prevent disease.

Ibid., s. 37.

Ibid., s. 121.

42 Vict., 5, ss.

2 and 3.

48 Vict., 3.

For the giving of notices to the proper authorities of the presence of any infectious or contagious disease in any house, premises, place, town, or district;

For the entry at all times of houses, buildings, and premises by medical or other officers, or persons for the purpose of carrying out any of the said regulations, or of inquiring into and ascertaining the presence of such disease;

For the destruction or disinfection of infected bedding, clothing, and other infected things;

For the cleansing, purifying, ventilating, and disinfecting of houses, schools, churches, places of assembly or entertainment, and other buildings and premises by the owners or occupiers thereof, or by medical or other officers or persons at the expense of the owners or occupiers, or where necessary, at the public expense;

For the removal of persons suffering from infectious or contagious diseases to hospitals, or other suitable or convenient places, and the keeping of them in such places until they are free from infection or contagion;

For the forbidding and preventing of persons from quitting or entering any house, premises, place, town, or district which may be declared to be infected by the Governor, or other person or persons authorised by him in accordance with the last preceding section, by notice published in accordance with that section;

For the declaring of any house, premises, town, or district to be infected as aforesaid;

For the times, methods, and conditions of the burial of the dead; and

For any matter of the like or other kind which the Governor, or other person or persons as aforesaid, may deem to be necessary as a precaution against the breaking out or spreading of such diseases as aforesaid.

Any such order of the Governor authorising any person or persons as aforesaid, if transmitted by telegraph in accordance with the Telegraphic Messages Act, 1874, shall take effect from the publication thereof, by the persons so authorised, or one of them, affixing a copy of the same to the door of the nearest court house or police station, and any order or direction given by such persons or one of them, shall take effect from the time of such publication.

Every person guilty of disobedience to or non-compliance with any order made by the Governor as aforesaid shall be liable, on conviction, to a fine not exceeding One hundred pounds.

Central Board may make regulations as to disease.

Ibid., s. 38.

Ibid., s. 122.

111. THE Central Board may from time to time after the issuing of such order as is in the last preceding section mentioned, and while the same continues in force, make such regulations as they shall think fit for the prevention, as far as possible, or mitigation of such epidemic, endemic, or contagious diseases, and may from time to time revoke, renew, or alter any such regulations, or substitute such new regulations as may seem to the Board expedient, and may by such regulations provide for a house to house visitation and inspection of the whole or any part of the district; for lessening or regulating the number of inmates and occupants of common or other lodging-houses, work rooms, factories, or public buildings; for causing public and private privies or earth closets to be established and properly constructed, maintained and cleansed; for the speedy removal of nuisances, and for all the remedial and preventive measures, for which, by the last preceding section, the Governor or some person authorised by him, may give order or direction.

The Central Board may, by such regulations, authorise and direct any Local Board or their officers, to superintend and see to the execution of such regulations, and to provide for the dispensing of medicines, and for affording medical aid to persons afflicted by or threatened with any such epidemic, endemic, or contagious disease, and the said Local Board shall comply with every such direction.

Such regulations, save so far as restricted to some parts or places, shall extend to all parts and places included in any order which the Governor shall make under the last preceding section, and shall continue in force while such order is in force in regard to the parts or places to which they apply.

Such regulations shall be published within two weeks from the making thereof, in the *Government Gazette*, and may provide that all regulations or orders made by the Governor, and all orders and directions made and given by any authorised person, under the last preceding section, shall cease to be in force from a date to be stated in such regulations.

112. THE Central Board may order and direct that any regulations made under the provisions of the last preceding section shall apply to particular places, institutions, or persons, whether named as a class or otherwise, and may order and direct that particular Local Boards, persons, or officers shall superintend and see to the execution of such regulations and shall generally enforce the same.

The Central Board may direct application of the last preceding section.

The Central Board may from time to time by notice published in the *Government Gazette* declare what diseases are for the purposes of any Act relating to the public health included in the description of "malignant, infectious, or contagious disease," "dangerous, infectious, and contagious disease," and "dangerous infectious disease," respectively, and such notice shall be binding on all persons and courts.

Definitions of diseases.

Victorian Health Act, 1890, s. 123.

The word "malignant," whether the same occurs in such notice or in any Act relating to the public health, shall mean that the disease is present in such a severe form that it has become necessary to enforce the provisions of section One hundred and seventeen of this Act.

Meaning of "malignant."

113. THE Governor may from time to time, by order published in the *Government Gazette* direct that any suitable place be set apart for the reception and medical treatment of lepers, and may make regulations for the safe custody of such lepers therein. The Central Board may, on the certificate of the health officer of a Local Board and any two legally qualified medical practitioners that any person is suffering from leprosy, and with the consent of the Local Board, direct that such person be removed to and detained in such quarantine station or place until released by order of the Minister; and any person who wilfully refuses or neglects to obey any such order of the Central Board, or escapes, or attempts to escape, from such quarantine station or place, may with such necessary force, as the case may require, be removed or brought back to such station or place. An order of the Central Board under this section may be addressed to such member of the police force or other person as the Central Board may consider expedient; and any person who wilfully disobeys or obstructs the execution of such order of the Board, or who trespasses on such station or place, or communicates or improperly interferes with any person detained therein, shall be guilty of an offence against this Act.

Treatment and custody of lepers.

Ibid., s. 124.

Certain persons to report occurrence of infectious disease in certain districts.

Ibid., s. 125.

114. WHENEVER any place in or part of Western Australia appears to be affected by any dangerous infectious or contagious disease, the Central Board may, by notice published in the *Government Gazette*, require all medical practitioners, deputy registrars, school teachers, and members of the police force residing in such place or part and the occupier or person in charge of any house in which any case of such disease may occur, to report such occurrence by telegraph, or in case there is no telegraphic communication, by letter to the Central Board and Local Board in such form as the Central Board shall in such notice prescribe, immediately on such occurrence coming to his or their knowledge, and all such reports shall be sent free of charge, and such letters shall be in covers open at the sides and shall bear the signature of the person sending the same.

Diseases to be reported to principal teachers of schools.

Whenever any infectious or contagious disease occurs in any house or building in which any child attending any school resides, the parent or guardian of such child, and the owner or occupier of such house or building, shall give the head teacher of such school immediate notice of the occurrence of such disease.

Proof of existence of infectious or contagious diseases.

Whenever it may be necessary to prove that any infectious or contagious disease exists in any part of or place in Western Australia, a copy of a resolution of the Central Board that such disease exists in such place or part purporting to be signed and certified to be a true copy by the secretary of the Board shall be evidence, until the contrary be proved, of the existence of such disease.

Any person failing to comply with the provisions of this section shall, unless he prove that he was aware that such disease had already been reported, be guilty of an offence against this Act. The Governor may by order published in the *Government Gazette* make all regulations necessary for carrying out the provisions of this section and for the payment of fees to such medical practitioners for such reports.

Service for removal of excreta of persons having typhoid fever.

Ibid., s. 126.

115. WHENEVER typhoid fever exists in the district of any Local Board, such Local Board may, and when required by order of the Central Board, shall provide and maintain a separate service for the removal and destruction by fire of the excreta of persons suffering from such fever.

Isolated houses, etc.

50 Vict., 19, s. 39.

Ibid., s. 127.

48 Vict., s. 2.

116. UPON proof by the certificate in writing of any officer of health or of two other duly qualified medical practitioners that smallpox, cholera, or any other malignant, infectious, or contagious disease exists within or without a Local Board's district and that there is danger that the same may spread, and that to prevent the spreading thereof it is necessary to the public safety that power should be given to isolate any tenements, it shall be lawful for the Governor

to make an order empowering and directing such persons as the Central Board may for that purpose appoint to stop the traffic into or through any streets, thoroughfares, or places, whether public or private, which the Central Board shall specify, and to limit or prevent ingress, egress, or regress of any persons to or from any house or premises within the streets, thoroughfares, or places, so specified supplying the inmates with proper and sufficient food and domestic necessities, for so long as shall seem to the Central Board necessary for the public safety; and no proceedings at law or otherwise shall be taken or lie against any person for anything done in conformity with such order and direction.

117. THE Central Board may upon such proof as it thinks sufficient or any Local Board may upon proof by the certificate in writing of the officer of health of such Local Board that any house or building contains any persons suffering from smallpox, cholera, yellow fever, diphtheria, or any other "dangerous, infectious, or contagious disease," order that such house be effectually isolated until such order be revoked or until the issue or refusal of an Order in Council under the provisions of the last preceding section, the inmates being supplied with proper and sufficient food and domestic necessities.

Power of Board or councils to isolate houses temporarily.

Victorian Health Act, 1890, s. 128.

Such order of the Central Board or Local Board shall, until such revocation, issue, or refusal, have for all purposes the same effect, force, and validity as an Order in Council.

118. THE legally qualified medical practitioner in attendance at any house in which there is any person suffering from leprosy, beri-beri, small-pox, cholera, plague, yellow fever, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names: typhus, typhoid, enteric, relapsing, continued, low, colonial, or puerperal, and as respects any particular district any infectious or contagious disease to which this Act has been applied by a Local Board in manner provided by this Act, shall at once report the fact to the nearest Local Board; and the occupier of such house shall also report the existence of such disease in such house to the nearest Local Board not later than twenty-four hours after the same shall come to his knowledge; and if any person fails to comply with the provisions of this section he shall be deemed to be guilty of an offence under this Act, and shall, on conviction thereof, be liable to a penalty not exceeding forty shillings for every such offence.

Infectious diseases to be reported.

50 Vict., 19, s. 40.

59 Vict., 35, s. 3.

Victorian Health Act, 1890, s. 129.

For every such report the medical practitioner shall be paid by the Local Board a fee of two shillings.

No action shall lie against any medical practitioner for any report made by him *bonâ fide* under the provisions of this section.

Any Local Board may, by resolution, order that the provisions of this section shall apply in their district to any infectious disease other than a disease specifically mentioned in this section, and any such order may be permanent or temporary, and, if temporary, the period during which it is to continue shall be specified therein; and any such order may be revoked or varied by the Local Board which made the same.

The Local Board shall send a copy of every such order to each registered medical practitioner whom, after due inquiry, they ascertained to be residing or practising in their district, and shall give public notice thereof by advertisement in a local newspaper.

Duty of local authority to cause premises to be cleansed and disinfected.

50 Vict., 19, s. 41.

Victorian Health Act, 1890, s. 130.

119. WHERE an officer of health, or any two legally qualified medical practitioners, certify in writing to a Local Board that the cleansing and disinfecting of any house or part thereof, or of any articles therein likely to retain infection, would tend to prevent or check infectious or contagious disease, it shall be the duty of such Board to give notice in writing to the owner or occupier of such house or part thereof, requiring him to cleanse and disinfect the same or any articles therein to the satisfaction of the officer of health within a time to be specified in such notice.

Where the owner or occupier of any such house or part thereof is from poverty or otherwise unable, in the opinion of the Local Board, effectually to carry out the requirements of this section, such Board may, without enforcing such requirements on such owner or occupier, enter into, cleanse, and disinfect such house or part thereof, or any articles therein likely to retain infection, and may defray any expenses so incurred.

Destruction of infected bedding, etc.

Ibid., s. 42.

Ibid., s. 131.

120. ANY Local Board may, and when so required by order of the Central Board, shall direct the destruction of any bedding, clothing, or other articles which in their opinion have been exposed to infection from any dangerous, infectious, or contagious disease, and may give compensation for the same.

Provision of means of disinfection.

Ibid., s. 43.

Ibid., s. 132.

121. ANY Local Board may provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding, clothing, or other articles which have become infected, and may cause any articles brought to such place for disinfection to be disinfected free of charge.

Provision of conveyance for infected persons.

Ibid., s. 44.

Ibid., s. 133.

122. ANY Local Board may, and when so required by order of the Central Board, shall provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any infectious or contagious disease, and may pay the expense of conveying therein any person so suffering to a hospital or other place of reception.

123. WHERE any hospital or place for the reception of the sick is provided within the district of a Local Board, or within a convenient distance of such district, any person who is suffering from any dangerous, infectious, or contagious disease, and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, or is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner and with the consent of the superintending surgeon or officer of such hospital or place, be removed by order of any justice to such hospital or place at the cost of the Local Board; and any person so suffering who is lodged in any common lodging-house may, with the like consent and on a like certificate, be so removed by order of the Local Board.

Removal of infected persons without proper lodging to hospital by order of Justice.

Ibid., s. 45.

Ibid., s. 134.

Any order under this section may be addressed to such officer of the Local Board as the Justice or Local Board making the same may think expedient; and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding Ten pounds.

124. ANY Local Board may make by-laws (to be approved of by the Central Board) for removing to any hospital or place to which such Board are entitled as hereinafter provided to remove patients, and for keeping in such hospital or place so long as may be necessary any persons brought within their district by any ship or boat who are infected with a dangerous infectious disease, and such by-laws may impose on offenders against the same reasonable penalties not exceeding Forty shillings for each offence: Provided that such by-laws shall within two weeks from the approval thereof by the Central Board be published in the *Government Gazette*.

Removal to hospital of infected persons brought by ships.

Ibid., s. 46.

Ibid., s. 136.

125. IF any person who knows that he is suffering from any dangerous, infectious, or contagious disease intentionally exposes himself in any street or public place, without taking reasonable precautions against spreading such disease:

Penalty on exposure of infected persons and things.

Or if any person being in charge of any person so suffering knowingly exposes or permits to be exposed such sufferer in the circumstances aforesaid:

Ibid., s. 47.

Ibid., s. 137.

Or if any person who knows that he is suffering from any such disease enters any shop, ware-room, factory, theatre, inn, or place of common resort, or public conveyance:

Or if any such person enters any railway carriage, public conveyance, ship, or vessel, without previously notifying to the owner or the person in charge thereof that he is so suffering:

Or if any person having the charge of any person so suffering causes or permits any such sufferer to enter into any such place, or without the notice aforesaid into any such carriage, conveyance, ship, or vessel:

Or if any person gives, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection from any such disease:

Every person so offending shall be liable to a penalty not exceeding Five pounds, and any person who, while suffering from any such disease, enters any public conveyance without previously notifying to the owner or driver thereof that he is so suffering shall, in addition, be ordered by the court to pay such owner or driver the amount of any loss and expense such owner or driver may incur in carrying into effect the provisions of this Act with respect to the disinfection of such conveyance:

Provided that no proceedings under this section shall be taken against persons transmitting, with proper precautions, any bedding, clothing, rags, or other things for the purpose of having the same disinfected.

Penalty on failing to provide for disinfection of public conveyance.

Ibid., s. 48.

Ibid., s. 138.

126. EVERY owner or driver of a public conveyance shall disinfect such conveyance immediately after it has, to his knowledge, conveyed any person suffering from a dangerous, infectious, or contagious disease. And if he fail to do so to the satisfaction of an inspector of the Local Board, he shall be liable to a penalty not exceeding Five pounds; but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying into effect the provisions of this section.

Infection in schools.

Ibid., s. 49.

Ibid., s. 139.

127. ANY person who knowingly or negligently sends a child to school who within the space of three months has been suffering from any dangerous infectious or contagious disease, or who has been resident in any house in which such disease has existed within the space of six weeks, without a certificate from some legally qualified medical practitioner that such child is free from disease and infection, and unless the clothes of such child have been properly disinfected, shall be liable to a penalty not exceeding Five pounds.

Penalty on letting houses in which infected persons have been lodging.

128. ANY person who knowingly lets for hire any house, room, or part of a house in which any person has been suffering from any dangerous infectious or contagious disease without having such house, room, or part of a house and all the articles therein liable to retain infection disinfected to the satisfaction of a legally qualified

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medical practitioner, as testified by a certificate signed by him, shall be liable to a penalty not exceeding Twenty pounds.

For the purpose of this and the next following section, the keeper of a licensed public-house shall be deemed to let for hire part of a house to any person admitted as a guest into such licensed public-house. *Ibid.*, s. 50.
Ibid., s. 140.

129. ANY person letting for hire or showing for the purpose of letting for hire any house or part of a house who, on being questioned by any person negotiating for the hire of such house or part of a house as to the fact of there being, or within six weeks previously having been, therein any person suffering from any dangerous, infectious, or contagious disease, knowingly make a false answer to such question, shall be liable to a penalty not exceeding Twenty pounds, or to imprisonment with or without hard labour for a period not exceeding one month. *Penalty on persons letting houses making false statements as to infectious disease.*
Ibid., s. 51.
Ibid., s. 141.

Hospitals generally.

130. A LOCAL Board may provide hospitals or temporary places for the reception of the sick, and for that purpose may— *Power of Local Board to provide for reception of sick.*

Themselves build or provide such places of reception ; or *Ibid.*, s. 52.

Contract for the use of any such place of reception ; or *Ibid.*, s. 153.

Enter into any agreement with any persons having the management of any hospital or temporary place for the reception of the sick inhabitants of their district on payment of such annual or other sum as may be agreed on.

Two or more Local Boards may combine in providing a common place for the reception of the sick.

131. IF any Local Board, or Local Boards in combination, fails or fail to comply with any of the provisions of the last preceding section, the chairman of the Central Board, if so directed by an order of such Board, shall proceed to carry out such provisions, and may sue in the Supreme Court or, notwithstanding any limitation of jurisdiction or otherwise in any Act relating to local courts, in any local court, for and recover from such Local Board or Local Boards all costs and expenses incurred in carrying out such provisions, and all medical and other expenses incurred in and about the maintenance of patients in such hospitals or places. *On default by Local Boards chairman may be ordered to provide hospitals, etc.*
Victorian Health Act, 1890, s. 154.

Where such costs and expenses are recoverable from any Local Boards in combination, such costs and expenses shall be paid by each of such Local Boards rateably in proportion to the number

of patients received from the district of each of such Local Boards, and the Central Board shall finally determine in what proportion such payments shall be made. Any Local Board in whose district any such hospital or place shall be situate may, in like manner, recover in either of the Courts aforesaid such costs and expenses from any other Local Board from whose district any patient shall be received into such hospital or place, and such last-mentioned Local Board may, in like manner, recover the costs and expenses so paid from such patient, or from his estate in the event of his death, or from the husband or wife—not being judicially separated—of such patient, or, if such patient is an infant, from any parent, or step-parent, or from the putative father of such infant.

One half of the costs and expenses incurred by any Local Board in carrying out this and the last preceding section shall be paid out of any moneys voted by the Parliament for carrying this Act into effect.

Hospitals.

Ibid., s. 53.

Ibid., s. 155.

132. THE superintending surgeon or officer of any hospital receiving aid from the State may be required, by an order from the Central Board, to enter into reasonable arrangements with the Local Board or combined Local Boards for the reception into such hospital of sick inhabitants of their district or districts, and of the reasonableness of such arrangements the Central Board shall be judge and shall decide finally.

Recovery of costs of maintenance of patient in hospital.

Ibid., s. 54 (slightly altered).

Ibid., s. 156.

133. ANY costs incurred by a Local Board in maintaining a patient in a hospital or in a temporary place for the reception of the sick (whether or not belonging to such Local Board) shall be deemed to be a debt due from such patient to the Local Board, and may be recovered from him in a summary way before any two Justices at any time within twelve months after his discharge from such hospital or place of reception, or from his estate in the event of his dying in such hospital or place.

Private Hospitals.

Victorian Public Health Act, 1890, s. 158.

134. THE Governor may from time to time make, alter, and revoke regulations for the inspection, drainage, good management, and sanitary regulation of all private hospitals or houses, buildings, or places other than institutions in receipt of aid from the State in which persons are received and lodged for medical or surgical treatment or care.

The Governor may, by such regulations, require the registration of such hospitals, houses, buildings, or places, and may also provide for the cancellation of such registration where necessary.

The Governor may prescribe, by such regulations, the use of a proper register for the registration of all cases admitted into or treated in any such hospital, house, building, or place, and for the

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inspection of such register by the medical inspector or by any officer of the Central Board or by any person expressly authorised thereto by the Board.

After the making of such regulations any person opening, occupying, or conducting any such hospital, house, building, or place without having previously registered the same, or continuing to occupy or conduct any such hospital, house, building, or place after registration thereof has been cancelled, shall be guilty of an offence against this Act.

135. EVERY Local Board may, and, if so directed by the Central Board, shall establish and provide public disinfecting rooms for the use of the ratepayers, and for the use of which rooms (if necessary) a small charge shall be made. At such rooms or elsewhere, Local Boards shall also provide for the sale of such disinfectants and deodorants as they may think fit, notwithstanding anything in any statute.

Public disinfecting
rooms and sale of
deodorants.

Ibid., s. 159.

Private Hospitals.

136. (1.) EVERY Local Board may from time to time, and, if required by the Central Board, shall make, alter, amend, or repeal by-laws for any or all of the following matters (that is to say):

Local Boards may
make by-laws for
private hospitals.

59 Vict., 35, s. 24.

- (a.) Requiring the annual registration of all private hospitals, and specifying the terms and conditions upon which registration shall be granted and continued, and providing for the revocation or cancellation of any such registration:
- (b.) For the inspection, drainage, good management, and sanitary regulation of such hospitals:
- (c.) Requiring the keeping and using of a proper register for the registration of all cases admitted into or treated in any such hospital, and for the inspection of such register by any officer, inspector, or servant of the Local or Central Board:
- (d.) Providing for the separation or removal of any patients suffering from any fever or infectious or contagious disease:
- (e.) Regulating the number of patients to be admitted, and of nurses or assistants to be maintained, or the class or classes of disease or cases to be admitted into or treated at any such hospital:
- (f.) Providing for the qualification of any person or persons keeping, nursing, or assisting in any such hospital.

(2.) Such by-laws may apply to the whole or any part of the district of the Local Board making the same, and all such by-laws may apply to every private hospital whether heretofore or hereafter established.

(3.) "Private hospital" shall mean and include all houses, buildings, or places, or structures, whether permanent or otherwise, in which persons are received and lodged for medical or surgical treatment or care, but shall not include institutions maintained by the Government or controlled by a Board appointed under The Hospitals Act, 1894.

Offence of not registering.

Ibid., s. 25.

137. (1.) AFTER the making of such by-laws no person shall open, occupy, or conduct, or keep open, occupied, or conducted any private hospital as aforesaid, unless the same be duly registered, nor after registration thereof has been revoked or cancelled.

(2.) A fee of Ten shillings shall be paid to the Local Board for each registration.

Offence of conducting or assisting at unregistered private hospital.

Ibid., s. 26.

138. EVERY person offending against the provisions of the last preceding section, and every person nursing, or otherwise assisting at any such private hospital after written notice that the same is opened, occupied, or conducted in contravention of the last preceding section, shall be guilty of an offence against this Act.

PART IX.—NUISANCES.

Nuisances Generally.

Definition of nuisances.

Ibid., s. 61.

Ibid., s. 216.

139. FOR the purposes of this Part of this Act—

- (1.) Any house or premises in such a state as to be a nuisance or injurious to health:
- (2.) Any pool, ditch, gutter, watercourse, stagnant waterhole, privy, urinal, cesspool, earth closet, drain, or ashpit so foul or in such a state as to be a nuisance or injurious to health, or any cesspool or other receptacle for nightsoil which is not perfectly water-tight, or any animal so kept as to be a nuisance or injurious to health:
- (3.) Any accumulation or deposit which is a nuisance or injurious to health:
- (4.) Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family:
- (5.) Any shop, laundry, workroom, or factory not kept in a cleanly state or not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust, or other impurities generated in the course of the

work carried on therein that are a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein :

- (6.) Any street, right of way, lane, passage, yard, land, or premises which is in such a state in regard to drainage as to be a nuisance or injurious to health :
- (7.) Any fireplace or furnace, whether constructed before or after the passing of this Act, which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, or gaswork, or in any manufacturing or trade process whatsoever ; and any chimney (not being the chimney of a private dwelling-house) sending forth smoke in such quantity as to be a nuisance—
- (8.) Any dead animal in any house or premises, or on any land, road, street, or thoroughfare, and which causes an offensive smell :

shall be deemed to be a nuisance, and shall be liable to be dealt with in manner provided by this Part of this Act: Provided—

First.—That a penalty shall not be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on of any business or manufacture, if it be proved to the satisfaction of the Court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best available means have been taken for preventing nuisance or injury to the public health being caused thereby.

Secondly.—That where a person is summoned before any court in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used in such fireplace or furnace, the court shall hold that no nuisance is created within the meaning of this Part of this Act, and dismiss the complaint, if it be satisfied that such fireplace or furnace is constructed in such manner as to consume as far as practicable, having regard to the nature of the manufacture or trade, all smoke arising therefrom, and that such fireplace or furnace has for that purpose been carefully attended to by the person having the charge thereof.

Information of
nuisances to Local
Board.

Ibid., s. 62.

Ibid., s. 217.

140. INFORMATION of any nuisance under this Part of this Act, in the district of any Local Board, may be given to such Local Board by the person aggrieved thereby, or by any two inhabitant householders of such district, or by any officer of such Board, or by any member of the police force of such district.

Local Board to serve
notice requiring
abatement of
nuisance.

Ibid., s. 63.

Ibid., s. 218.

141. ON the receipt of any information respecting the existence of a nuisance, the Local Board shall, if satisfied of the existence of a nuisance or of the likelihood of the recurrence of a nuisance, make an order on the person by whose act, default, or sufferance the nuisance arises or continues, or if such person cannot be found, on the owner or occupier of the premises on which the nuisance arises, requiring him to abate or discontinue the same within a time to be specified in such order, and to execute such works and do such things as may be necessary for that purpose :

Provided that where the person causing the nuisance, or the owner of the premises is not known or cannot be found, and where there is no occupier of the premises, the Local Board may themselves remove or abate the same without further order or notice ; and any expenses incurred by the Local Board in the removal or abatement of such nuisance shall remain a charge upon the premises and be recoverable, as hereinafter provided, by the Local Board from the owner of such premises at any future time.

Power of individual
to complain to
Justice of nuisance.

Ibid., s. 64.

Ibid., s. 219.

142. COMPLAINT may be made to a Justice of the existence of a nuisance under this Part of this Act, on any premises within the district of any Local Board, by any person aggrieved thereby, or by any inhabitant of such district, or by any owner of premises within such district, and thereupon the like proceedings shall be had, with the like incidents and consequences as to making of orders, penalties for disobedience of orders, and otherwise, as in the case of information or complaint relating to a nuisance received by or made to a Local Board :

Provided that the Court may, if it thinks fit, adjourn the hearing or further hearing of the summons for an examination of the premises where the nuisance is alleged to exist, and may authorise the entry into such premises of any constable or other person for the purposes of such examination. Such Court may authorise any constable or other person to do all necessary acts for executing an order made under this section, and to recover the expenses from the person on whom the order is made in a summary manner ; and any constable or other person authorised under this section shall have the like powers and be subject to the like restrictions as if he were an officer of the Local Board authorised under the provisions of this Act to enter any premises and do any act thereon.

Health Act, 1898.

143. WHERE a nuisance under this Part of this Act within the district of any Local Board appears to be wholly or partially caused by some act or default committed or taking place without their district, such Local Board may take or cause to be taken against any person in respect of such act or default any proceedings in relation to nuisances by this Part of this Act authorised, with the same incidents and consequences as if such act or default were committed, or took place wholly within their district; so, however, that summary proceedings shall in no case be taken otherwise than before a Court having jurisdiction in the district where the act or default is alleged to be committed or take place.

Power to proceed where cause of nuisance arises without district.

Ibid., s. 65.

Ibid. s. 220.

144. EVERY person neglecting to keep in such a state in respect of cleanliness as not to be a nuisance or injurious to health any house, premises, garden, yard, passage or way of which he is either the owner or occupier, or placing or depositing or suffering or permitting any refuse, dirt, offal, excreta, urine, stagnant water, or offensive matter to be placed or deposited or to accumulate in or upon such premises, garden, yard, passage or way or to be deposited in holes or pits therein or to lie upon the surface either wholly or in part of any such premises, garden, yard, passage, or way by which act, default, or sufferance effluvia or any nuisance by offensive smell or otherwise is caused, shall be guilty of an offence against this Act.

Penalty for nuisance.

Ibid., s. 221.

145. EVERY person by whose act, default, or sufferance any nuisance within the meaning of section One hundred and thirty-eight of this Act arises or continues, shall be guilty of an offence, and the penalty for such offence may be recovered from such person before any two Justices by any officer of the Central Board or of any Local Board or any member of the police force but not otherwise: Provided that nothing in this section shall prejudice, interfere with or take away the right of any individual or Local Board to take any other proceedings with respect to nuisances.

Nuisance an offence.

Ibid., s. 222.

Offensive Trades.

146. ANY person—

- (1.) Who establishes or carries on within any city or town, without the consent in writing of the Local Board having jurisdiction therein, any of the trades, businesses or occupations usually carried on in or connected with the undermentioned works or establishments (that is to say)—

Offensive Trades.

50 Vict., 19, s. 55.

Ibid., s. 223.

Abattoirs or slaughter-houses;
Bone mills or bone manure depôts;

See 38 & 39 Vict., c. 55, s. 112.

Fellmongeries, tanneries, or wool-scouring establishments ;
Fish-curing establishments, fish shops ;
Glue factories ;
Laundries ;
Manure works ;
Marine stores ;
Piggeries ;
Places for storing, drying, or preserving bones, hides, hoofs, or skins ;
Soap or candle works or factories ;
Works for boiling down meat, bones, blood, or offal, or any trade, business, process or manufacture whatsoever causing effluvia, offensive fumes, vapours, or gases or discharging dust, foul liquid, blood, or other impurity, or any noxious or offensive trade, business or manufacture ; or

- (2.) Who, without such consent, adds to or extends any building or premises used for the purpose of any such trade, business, occupation, process or manufacture :

shall be guilty of an offence and shall on conviction thereof, be liable to a fine not exceeding Fifty pounds nor less than Five pounds in respect of such establishments, carrying on, addition or extension, and shall also be liable to a fine not exceeding Five pounds nor less than Two pounds for every day during which such trade, business, occupation, process or manufacture is carried on after there has been a conviction in respect of such establishment, carrying on, addition or extension.

No such consent to such establishment or carrying on of any trade, business, occupation, process, or manufacture, or to such addition or extension, shall be given or have any force or authority if contrary to the provisions of the sections numbered One hundred and eighty five to One hundred and ninety-two of this Act or any of them.

Prior to the granting of any consent for such establishment or carrying on or to such addition or extension a notice of intention to apply for the same shall be given by advertisement one month previously in any newspaper circulating in the district, and shall also during such month be posted at the post office and police station, respectively, nearest to the proposed works or establishment at the site or place of such proposed works and at the office of the Local Board.

If any person, whether a resident within the district of such Local Board or not, objects to such establishment or carrying on, or to such addition or extension, he may state his objection to the Local Board ; and if, nevertheless, the Local Board decide to grant such consent, such person may appeal to the Central Board, who may

affirm, vary, or rescind such consent, and whose decision shall be final.

147. THE owner or occupier of any place, building, or premises used for the purpose of carrying on any noxious or offensive trade, business, or manufacture, whether established before or after the commencement of this Act, shall register or cause the same to be registered as a "noxious trade establishment" at the office of the Local Board during the first week in January next following the passing of this Act, and shall so register or cause to be registered such establishment thereafter during the first week in January in each year, and shall pay to such Local Board an annual registration fee of Five pounds or such other fee not exceeding Five pounds as such Local Board may decide, of the amount of which fee the Local Board shall give notice to such owner or occupier; and if such owner or occupier fails to comply with the provisions of this section he shall be liable to a penalty not exceeding Two pounds per day for each day during which such provisions shall not be complied with.

Premises to be registered.

Ibid., s. 56.

Ibid., s. 224.

148. WHERE it appears to any Local Board that any place, building, or premises used for the purpose of carrying on any noxious or offensive trade, business, occupation, process or manufacture has become a nuisance or injurious to health, and if there be three convictions for nuisance at any time in respect of such place, building, or premises, such Local Board may, if it think fit, refuse to renew the registration of such place, building, or premises.

Power of Local Board to refuse to register offensive establishments.

Victorian Health Act, 1890, s. 225.

Any person aggrieved by such refusal, or, in case such Local Board renews any registration, any person aggrieved by such renewal, may appeal to the Central Board who may affirm, vary, or rescind such refusal or renewal, and whose decision shall be final.

149. WHERE any noxious or offensive trade, business or manufacture as hereinbefore mentioned, whether established before or after the coming into operation of this Act, or any abattoir or slaughter-house or any manufactory, building or place used for any trade, business, process, or manufacture whatsoever causing effluvia, offensive fumes, vapours or gases or discharging dust, foul liquid, or other impurity is certified to any Local Board by their officer of health or by any legally qualified medical practitioner or by any six inhabitants of the district of such Local Board to be a nuisance or injurious to the health of any of the inhabitants of the district, such Local Board shall cause complaint to be made before a Justice, who may summon the person by or on whose behalf the trade so complained of is carried on to appear before two Justices. The Justices shall inquire into the complaint, and if it appear to them that

Duty of Local Board to complain to Justice of nuisance arising from offensive trade.

Ibid., s. 57.

Ibid., s. 226.

38 & 39 Vict., c. 55, s. 114.

the business carried on by the person complained of is a nuisance, or causes any effluvia, offensive fumes, vapours, or gases or discharges dust, foul liquid, or other impurity which is a nuisance or injurious to the health of any of the inhabitants of the district, the person so offending (being the owner or occupier of the premises or being a foreman or other person employed by such owner or occupier) shall be liable to a penalty not exceeding Five pounds nor less than Forty shillings, and on a second or any subsequent conviction to a penalty double the amount of the penalty imposed on the last preceding conviction, but the highest amount of such penalty shall not in any case exceed the sum of Two hundred pounds: Provided that the Justices may suspend their final determination on condition that the person complained of undertakes to adopt, within a reasonable time, such means as the Justices may deem to be practicable and order to be carried into effect for abating such nuisance or mitigating or preventing the injurious effects thereof.

Power to proceed where nuisance arises from offensive trade carried on without district.

Ibid., s. 58.

Ibid., s. 227.

38 & 39 Vict., c. 55, s. 115.

150. WHERE any noxious or offensive trade, business, or manufacture, or any abattoir or slaughter-house, or any manufactory, building, or place used for any trade, business, process, or manufacture whatsoever causing effluvia, offensive fumes, vapours, or gases, or discharging dust, foul liquid, or other impurity which is certified in pursuance of the last preceding section to be a nuisance or injurious to the health of any of the inhabitants of the district of a Local Board, is situated without such district, such Local Board may take or cause to be taken any proceedings by that section authorised in respect of the matters alleged in the certificate, with the same incidents and consequences as if such manufactory, building, or place were situated within such district; so, however, that summary proceedings shall not in any case be had otherwise than before Justices having jurisdiction and sitting in the district where such manufactory, building, or place is situated.

Offensive fumes to be rendered inoffensive.

Ibid., s. 59.

Ibid., s. 228.

151. THE person carrying on, in, or upon any premises any manufactory, business, or process producing or causing or emitting or discharging offensive or noxious fumes, gases, vapours, dust, liquid, or other impurity, shall provide and use thereon the best and most effective means and appliances for freeing such production, emission, or discharge from offensiveness or noxiousness, and shall intercept and prevent the escape, discharge, or removal of the same from such premises whilst such production, emission, or discharge is offensive or noxious or a nuisance.

Danger to health from premises in a filthy state.

Ibid., s. 60.

Ibid., s. 229.

152. IF upon the certificate of the officer of health, or of any one or more duly qualified medical practitioners, or of any six or more persons residing in the neighbourhood, it appears to any Local Board or to any two Justices that any abattoir or slaughter-house, or any

shop, building, stall, or place kept or used for the sale of butcher's meat, or any place used for carrying on the business of a soap-boiler, tallow-melter, candle-maker, starch-manufacturer, blood-boiler, bone-boiler, tripe-boiler, boiler of refuse or animal matter, tanner, currier, fishmonger, laundryman, fellmonger, or gas manufacturer, or the premises occupied with the same or appurtenant thereto in any city or town or district, is or are in such a filthy state as to be a nuisance or offensive to persons residing in the neighbourhood, or in such an unwholesome condition that the health of any person is likely to be endangered thereby, or that the whitewashing, cleansing, ventilating, or purifying of any such place, premises, or appurtenances would tend to prevent or check infectious, contagious, or epidemic disease, such Local Board or Justices may give or cause to be given notice to the owner or occupier of such place or premises to whitewash, cleanse, ventilate, or purify the same, as the case may require; and such notice may be served by leaving a copy thereof with any person found on the premises, or by fixing a copy thereof on a conspicuous part of the place or premises, directed to be whitewashed, cleansed, ventilated, or purified as aforesaid.

PART X.—MISCELLANEOUS SANITARY PROVISIONS.

Division I.—Public Buildings.

153. WHENEVER it is intended to build, open, or extend any public building, the owner or occupier or the manager, trustees, or other persons by whose authority such public building is intended to be so built or opened or extended, shall give notice to the Central Board, and the Local Board of such intention, and such notice shall be accompanied by a plan and specification or description, showing the proposed mode of constructing, draining, and ventilating such public building, and no such public building shall be built or opened or extended as aforesaid, until the said Local Board have approved thereof in writing.

Theatres, hospitals,
and public build-
ings.

Ibid., s. 232.

Every public building heretofore built or hereinafter to be built, opened or extended, may, from time to time be inspected by any officer of the Central Board, or of the Local Board, within whose jurisdiction such public building is situated, and, in the case of theatres, opera houses, music or assembly halls, circuses, or places of public amusement, such buildings may be inspected by any officer of the Central Board or Local Board, at any time during the day or night, when such building is open, and such Central and Local Board, respectively, may from time to time direct or order such means to be taken by the owner or occupier, or by the trustees of such public building, for the proper or better ventilation and draining thereof, and for the provision of proper privy and urinal accommodation therein, and for the safe and proper construction thereof as to such

Central and Local Boards respectively seem fit, and may, if they so think necessary, from time to time direct or order other or better provision for ingress and egress to be made in any such public building, and may also from time to time direct or order the erection or provision therein of suitable appliances for the extinction of fire, and require and order the employment and attendance of skilled persons sufficient in number for the proper using of such appliances.

Meaning of "public building."

For the purposes of this and the next following section, the words "public building" shall mean and include any hospital or benevolent or other asylum, or any theatre, opera house, concert room, music or assembly hall, whether forming part of or appurtenant to a licensed victualler's premises or not, or any church, chapel, or meeting house, or any building, structure, circus, tent, gallery, or platform in or upon which numbers of persons are usually or occasionally assembled.

If any such public building or addition thereto be opened without the written approval of the Central Board, the owner or occupier or the manager trustees or other persons by whose authority such building or addition has been so opened shall be liable to a penalty not exceeding One hundred pounds and to a further penalty not exceeding Ten pounds for every day or night during which such building or addition thereto remains open without such approval.

After the Central Board have given their approval to the opening of any public building or addition thereto, no alteration shall without the written approval of such Board, be made in the provision therein made for the safety or stability of such building or for drainage, ventilation, means of ingress or egress, or the extinction of fire.

Regulations as to overcrowding, etc., in public buildings.
Ibid., s. 233.

154. THE Central Board may from time to time make, alter and rescind regulations for the prevention of overcrowding and obstruction in gangways, passages, and aisles in any public building and for the prevention of fires in such public buildings and in all common lodging-houses and licensed premises of a licensed victualler, and in all boarding houses or similar establishments in which twenty-five or more persons besides the servants or family of the occupier habitually reside, and generally for securing the public safety and convenience in the same.

Division II.—Streets, Yards, Sewers, and Drains.

Lanes and yards to be paved.
50 Vict., 19, s. 90.
Victorian Health Act, 1890, s. 234.

155. IN case any street, lane, yard, or passage, or other premises formed or set out on private property, or in case any street, lane, or passage formed or set out on public property or land of the Crown in such manner as to afford means of back access to or drainage from property adjacent to such street, lane, or passage is not formed,

paved, levelled, or drained to the satisfaction of the Local Board, the Local Board may from time to time, by notice to the respective owners of the premises fronting, adjoining, or abutting upon such parts thereof as may require to be formed, paved, levelled, drained, or made good require them to form, pave, level, drain, or make good, the same in such manner and according to such levels and specifications as may be approved by the Local Board, and within a time to be named in such notice; and if such notice is not complied with, the persons to whom such notice has been given shall each be liable to a fine not exceeding Ten pounds for each day during which such notice is not complied with, and the Local Board may, if they think fit, subsequently to or in lieu of prosecuting for such non-compliance, execute the works mentioned or referred to in the notice, and the expenses incurred by them in so doing shall be paid by the owners in default, in such proportions as may be fixed by the Local Board, and shall be recoverable as hereinafter provided: Provided, however, that, in the case of lanes or passages, only such owners of premises fronting, abutting, or adjoining upon such lanes or passages as by themselves or their tenants have the right to use or commonly do, without trespass, use any such lane or passage shall, for the purposes of this section, be deemed to be owners of premises. (See 52 V.L.R., 63.)

156. IN any proceeding under the last preceding section by any Local Board for the recovery of the cost of executing the works mentioned in that section, it shall not be a good defence that the defendant's premises do not actually touch or abut upon any street, lane, or passage within the meaning of that section, if it appears to the Court or Justices that such street, lane, or passage is for the general advantage or benefit of such defendant, and is or may be used by him as a means of access to such premises, and he has a right of using such road for a period of not less than twenty-one years. All costs, expenses, or moneys due or becoming due to any Local Board under the said section and the section next hereinafter following, whether any judgment or order has been obtained or not, shall be a charge until paid with costs upon such premises, and may be recovered, with interest thereon, at a rate not exceeding Eight pounds per centum per annum, from the date of service of a demand of the same until payment thereof, from any subsequent owner or occupier.

Recovery by Local Board of expenses incurred with respect to private roads.

Victorian Health Act, 1890, s. 235.

157. IN case it is necessary for the formation, completion, or continuance through any private premises from one street to another of any right of way or passage, the Local Board may make an order on the owner or owners of such premises, requiring such owner or owners to permit the formation, completion, or continuance of such right of way, and, after the expiration of one month from the making of such order, the Local Board may form, complete, and continue such right of way through such premises. Where the

Formation of right of way.

Ibid., s. 236.

Local Board have, under the powers conferred by this section, formed, completed, or continued any right of way through private premises, there shall be paid by the Local Board to the owner or owners of such premises such just compensation as is agreed upon between such owner or owners and the Local Board, or as, in the case of dispute or failure to agree, may be awarded on application by either party to the Supreme Court, at the sittings thereof that shall first happen after a month from such dispute or failure to agree. When the amount claimed under this section next following does not exceed One hundred pounds, the Local Court having jurisdiction in the district may, at the suit of either party, award just compensation.

The amount of compensation so paid, and all costs and expenses incurred by the Local Board in connection with the same, together with the cost of forming or making the said right-of-way, shall be repaid to the Local Board by the owners of the premises benefited by the said right-of-way in such proportions as may be fixed by the Local Board, and shall be recoverable by the Local Board from such owners in the manner provided for the recovery of compensation, costs and expenses under the next following section.

Drains or sewers
may be made
through private
premises.

50 Vict., 19, s. 91.

Ibid., s. 237.

158. IN case it is necessary for the proper drainage of any land, street, lane, right-of-way, yard, passage, private premises, or other place, that drains or sewers should be made through or under any one or more private premises, whether occupied or not, it shall be lawful for the Local Board to make an order on the owner or owners of such premises requiring such owner or owners to permit the formation of such drains or sewers through or under such premises, and after the expiration of one month from the making of such order the Local Board may form or make through or under such premises such drains or sewers as may in the opinion of the said Local Board be necessary for the proper drainage of any such land, street, lane, right-of-way, yard, passage, private premises, or other place as aforesaid: Provided that such drains or sewers shall be made and maintained in good order, so as not to be a nuisance or injurious to health.

Where the Local Board have, under the powers conferred by this section, formed or made any drain or sewer through or under private premises, there shall be paid by the said Local Board to the owner or owners of such premises such equitable compensation as is agreed upon between such owner or owners and the said Local Board, or as in case of dispute may be awarded on appeal by either side to the Police, Resident, or Government Resident Magistrate of the district wherein such premises are situate, and the proceedings shall be conducted as if there had been a submission to him as defined by the Arbitration Act, 1895.

The amount of compensation so paid and all costs and expenses incurred by the said Local Board, together with the cost of forming or making any drain or sewer under the provisions of this section, shall in the case of the drainage of any land, yard, passage, or other premises be repaid to the said Local Board by the owner of the land, yard, passage, or other premises for the drainage of which such drain or sewer has been formed or made, or if there be more than one owner then such compensation and expenses shall be repaid to the said Board by such owners in such proportions as may be fixed by the said Local Board; and in the case of the drainage of any street, lane, or right-of-way, such compensation and expenses shall be repaid to the said Local Board, in such proportion as may be fixed by the said Local Board, by the owner or owners of the land or premises fronting, adjoining, or abutting on such street, lane, or right-of-way; and such compensation and expenses shall be recoverable by the said Local Board from such owners in the manner hereinafter mentioned.

159. THE Local Boards within their respective jurisdictions shall cause all sewers and drains to be constructed and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of clearing, cleansing, and emptying the same may construct and erect such works as appear necessary, and may cause all or any of such sewers to communicate with and be emptied into such places as they may deem fit or necessary; and no person shall, without the consent of the Local Board, cause any private drain or sewer to be emptied or flow into any public drain or sewer under the control of such Local Board, nor do any act, matter, or thing which in the opinion of such Local Board tends to the injury or stoppage of any such drain or sewer.

Management of
sewers and drains.
Ibid., s. 239.
38 & 39 Vict., c. 55,
ss. 16 and 19.

160. ALL houses within the jurisdiction of a Local Board shall have such drains leading to such sewers or other places and having such a fall and constructed of such materials and in such manner as such Local Board by notice directs. No drain shall, without the written consent of the Local Board, be made under any house or under the surface of any yard or premises; and such Local Board may, in the case of there not being any sufficient drain to any house or premises within its jurisdiction (whether erected at any time before or after the commencement of this Act), cause an order to be served on the occupier or owner to construct a drain of such a nature and description as such Local Board thinks necessary and describes in such order.

Management of
drains on private
premises.
50 Vict., 19, s. 75.
Ibid., s. 240.
Ibid., ss. 23 and 25.

161. THE Local Board shall cause to be drained, cleansed, covered, or filled up all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature or likely to be prejudicial

Stagnant water-
holes.
50 Vict., 19, s. 78.

Victorian Health
Act, 1890, s. 275.

to health, by making and serving an order upon the person causing any such nuisance, or upon the overseer, owner, or occupier of any premises whereon the same exists, requiring him within a time to be specified in such order to drain, cleanse, cover, or fill up any such pond, pool, ditch, sewer, drain, or place, or to construct a proper sewer or drain for the discharge thereof, as the case may require.

Stagnant water in
cellars, etc.

50 Vict., No. 19, s. 76.

162. NO person shall suffer any waste or stagnant water to remain in any cellar or premises in or about any dwelling house for twenty-four hours after notice given and served upon him by the Local Board or their officer to remove same. If any Local Board has reason to suspect that there is any waste or stagnant water in or about any house or premises, such Local Board, after twenty-four hours' notice, in writing, to the occupier or owner of such house may, by themselves or by any officer of such Local Board, make entry into or upon such house or premises, and may cause any floor or portion thereof to be opened up in order to ascertain whether there is in or about any such house any waste or stagnant water; if there be no waste or stagnant water found underneath any floor so removed, such Local Board shall cause to be repaired and made good any such floor or portion thereof so removed as aforesaid; but if there be found any waste or stagnant water under any such floor, then in such case all expenses incurred in the removal and repair of such floor or portion thereof shall be chargeable to the owner or occupier of the house or premises, and may be recovered from such owner or occupier as hereinafter provided. Before any waste or stagnant water having an offensive smell is emptied from any cellar or other premises the occupier of such premises shall cause such water to be thoroughly deodorised.

Cellars, asphaltting,
etc.

50 Vict., No. 19, s. 77.

163. THE owner or occupier of any house to which there is a cellar shall, if so required by the Local Board, and within a time (being not less than fourteen days) to be specified by the Local Board, cause such cellar to be paved or asphalted in manner directed by and to the satisfaction of the Local Board; and if such cellar be subject to the leakage of water thereinto, and there be no drain for the discharge of such water, such owner or occupier shall likewise, if so required by the Local Board, construct in such cellar where, when, and as directed, and to the satisfaction of the Local Board, a well for the gathering of such leakage, and upon completion of such well shall cause the same to be regularly and periodically emptied at intervals not exceeding twenty-four hours: Provided that in case the occupier of any such house has paved or asphalted any such cellar, or constructed any such well, he may, subject to any agreement previously made between him and the owner of such house recover before any two Justices the moneys expended by him

on such paving or asphaltting, or on constructing such well, or may deduct the same from any rent payable by him to such owner.

164. WHENEVER it appears to the nearest Local Board that the surface of any yard or land, not being a street, is lower than the level of the street sewer or drain into which the water off the said yard or land should in the opinion of the Local Board flow, the Local Board may order the owner or occupier of such yard or land to raise the surface thereof to such height, in such manner, and within such time as the said Local Board may by such order direct. Every Local Board shall enforce, carry out, and comply with any of the provisions of this section when so required by order of the Central Board.

Low-lying land.
Ibid., s. 79 (slightly altered).
Ibid., s. 276.

165. ANY Local Board may, and, when so required by order of the Central Board, shall, by order addressed to the owner or occupier of any land which has been excavated for brickmaking, quarrying, mining, or other purposes, whether before or after the commencement of this Act, direct such owner or occupier to have any excavation so made securely fenced round to the satisfaction of such Board; and may further direct such owner or occupier to take such measures as are in the opinion of such Local Board necessary, and as are specified in such order for preventing any noxious or offensive drainage or other matter from flowing or being thrown or cast into any such excavation.

Brickmaking and other excavations to be fenced in, etc.
Ibid., s. 80.
Ibid., s. 277.

Division 3.—Offensive Matter, Nightsoil, Privies and Cesspools.

166. EVERY Local Board shall from time to time and at all convenient times provide, and shall take such measures as may be necessary to ensure, that all streets within their jurisdiction, including the foot pavements thereof, are properly swept, cleansed, and watered, and that all dust, mud, ashes, rubbish, filth, dung, and soil thereon are collected and removed and so disposed of as not to be a nuisance or injurious to health.

Streets and other places to be cleansed.
50 Vict., 19, s. 95.
Victorian Health Act, 1890, s. 246.

167. THE Local Board may in their discretion, and, when so required by order of the Central Board, shall provide, in proper and convenient situations, boxes or other conveniences for the temporary deposit and collection of dust, ashes, and rubbish, and also fit buildings and places for the deposit of the sewage, soil, dung, filth, ashes, dust, and rubbish collected by or by the permission of such Board; and all sewage, soil, dung, filth, ashes, dust, and rubbish so collected by or by the permission of the said Local Board, or in any conveniency provided as aforesaid, shall be vested in and may be sold or otherwise disposed of by such Board, and the proceeds of such sale shall be carried to account of the moneys applicable to the purposes

Places to be provided for deposit of rubbish, sewage, etc.

50 Vict., 19, s. 96.
Victorian Health Act, 1890, s. 247.

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Health Act, 1898.

Local Board may contract for cleaning cesspits, etc.

See 38 & 39 Vict., c. 55, s. 42.

of this Act. And the Local Board may themselves undertake or contract with any person for the proper cleansing of streets, the removal of house refuse from any premises, the cleansing of cesspools, earth closets, privies, or ashpits, either for the whole or any part of their district; and all matters thus collected by the Local Board or their contractor may be sold or otherwise disposed of, and any profit thus made by the Local Board shall be carried to the account of the moneys as aforesaid. And whosoever deposits or causes to be deposited any filth, dust, ashes, or rubbish in any place except such boxes or conveniences so provided, or, without the consent of the said Local Board, collects or removes any sewage, soil, dung, filth, ashes, dust, or rubbish, or obstructs the Local Board or contractor in removing any such matters (except in cases where such matters are produced on his own premises and are removed for sale, or applied for his own use as manure and are in the meantime kept so as not to be a nuisance or injurious to health), or wilfully or negligently damages such works, buildings, boxes, or other conveniences, shall, for every such offence, be liable to a penalty not exceeding Five pounds, and to repay to the Local Board the cost which such Local Board shall have incurred in the remedying of such wilful or negligent damage.

Penalty on neglect of Local Board to remove refuse, etc.

50 Vict. 19, s. 97.

Victorian Health Act, 1890, s. 248.

See 38 & 39 Vict., c. 55, s. 43.

168. IF any Local Board, having themselves undertaken or contracted with the occupier of any house for the removal of house refuse from premises, or the cleansing of earth closets, privies, urinals, ashpits, or cesspools, fail without reasonable excuse, after notice in writing from such occupier requiring them to remove any house refuse, or to cleanse any earth closet, privy, urinal, ashpit, or cesspool belonging to such house or used by the occupiers thereof, to cause the same to be removed or cleansed, as the case may be, within five days, such Local Board shall be liable to pay to the occupier of such house a penalty not exceeding Five shillings for every day during which such default continues after the expiration of the said period.

Private premises to be cleansed.

50 Vict., 19, s. 98.

Victorian Health Act, 1890, s. 249.

169. ALL private passages, yards, ways, and other premises shall be kept in such a state in respect of cleanliness as not to be a nuisance or injurious to health; and if at any time it appears to any inspector appointed by any Local Board that any stagnant water in any cellar or premises or in, under, or about any dwelling-house, or other offensive or noxious matter, or any accumulation of manure, dung, soil, or filth ought to be removed, or that any drain or any stable, cow-shed, or pigsty, or any earth or other closet or cesspool requires cleansing or is in an offensive condition, he shall, under the authority of this section, and without obtaining an order from such Local Board, give a notice signed by himself to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove or remedy the same; and if at the expiration of the

time named in such notice the same is not complied with, such inspector may cause such person to be summoned before any two Justices, and such person shall on conviction of neglect to comply with such notice be liable to a penalty not exceeding Forty shillings, and to a further penalty not exceeding Five shillings a day for each day during which such notice is not complied with; and such inspector may cause such manure, dung, soil, filth, or other matter to be removed, and the ownership thereof shall be vested in such Local Board; and the same may be sold or otherwise disposed of by such Local Board, and if sold the proceeds thereof shall be applicable by such Local Board for the general purposes of this Act; and such Local Board may depute any officer or person to enter upon the premises for the purpose of removing such manure, dung, soil, filth, or matter.

The expenses of removal by such Local Board of any such accumulation, so far as they are not covered by the sale thereof if sold, may be recovered by such Local Board in a summary manner from the person to whom the accumulation belongs or from the occupier of the premises or (where there is no occupier) from the owner.

170. ANY Local Board may from time to time give notice for the periodical removal of manure or other refuse matter from houses, stables, or other premises within their jurisdiction; and where any such notice has been given any person to whom the manure or other refuse matter belongs who fails so to remove the same or permits a further accumulation and does not continue such periodical removal at such intervals as such Local Board directs, shall be liable, without further notice, to a penalty not exceeding Five pounds for each day during which such manure or other refuse matter is permitted to accumulate.

Periodical removal of manure from houses and other premises.

Ibid., s. 92.

Ibid., s. 250.

38 & 39 Vict., c. 55, s. 50.

171. ANY Local Board may, and, when so required by order of the Central Board, shall provide within their district, or, with the sanction of the Governor without their district, places for the reception, utilisation, or deposit of nightsoil, manure, blood, offal, filth, or other refuse matter produced in the district of such Local Board, and any Local Board may cause any nightsoil, manure, blood, offal, filth, or other refuse matter to be conveyed to any place provided or appointed as aforesaid: Provided that such nightsoil shall be conveyed in carts or other conveyances covered in so as to prevent the escape therefrom of any noxious or offensive effluvia, and that no nuisance shall be caused by the transport, reception, utilisation, or deposit of such nightsoil, manure, blood, offal, filth, or other refuse matter as aforesaid.

Transport of night-soil.

Ibid., s. 94.

Ibid., s. 251.

Obtaining destructors, etc.

Victorian Health Act, 1890, s. 252.

172. ANY Local Board or Local Boards may, and, if so required by order of the Central Board, shall, either within or without the district, provide a site and machine or machinery hereinafter termed destructors or incinerators or desiccators for destroying, or some process for rendering inoffensive, nightsoil, manure, blood, offal, filth, and other refuse matter.

The Local Boards of any two or more contiguous districts may combine in providing such site, machine, machinery or process, and if they do so combine by order of the Central Board, such order shall fix the proportion of the cost of obtaining and maintaining such site, machine, machinery, or process, to be borne by each Local Board.

The obtaining or providing any such site, machine, machinery, or process shall be deemed to be a permanent work or undertaking within the meaning of "The Municipal Institutions Act, 1895."

Power to make sanitary regulations.
Ibid., s. 253.

173. IN the interests of the public health every Local Board may and if so directed by order of the Central Board shall from time to time make, alter, or rescind by-laws and regulations which shall have all the force of law in any district named in such by-laws and regulations or in any specified parts thereof, providing—

That all house, yard, and street refuse be rendered inoffensive or be incinerated in destructors, desiccators, or incinerators provided by the municipalities either singly or in concert ;
or

That rubbish from houses and yards be placed without delay in covered non-absorbent receptacles, into which a sufficient quantity of some efficient deodorant shall be introduced when necessary ;

That at least once a week, or so much more frequently as the council may from time to time direct, the contents of these receptacles be removed and either rendered inoffensive or removed to a destructor ;

That in future the receptacles be not placed in streets or lanes by the householders, but be taken from the yards and replaced by the scavengers ;

That the householders be held responsible for the keeping of the receptacles in an inoffensive condition ;

That the ordinary system of pans for nightsoil be abolished ;

That, instead thereof, every closet be furnished with a double-pan service ;

That at least once a week, or so much more frequently as the Local Board may from time to time direct, the pan in use be closed with a tight-fitting lid, and removed in a suitable cart, and that the Local Board shall have power in lieu of making a rate for the removal of nightsoil and rubbish to make a charge on each owner or occupier for such service, and for pans supplied the amount in default of payment to be recovered in any Court of summary jurisdiction;

That a pan cleansed by superheated steam, or some equally efficient means approved by the Local Board be left in its place;

That the use of a suitable disinfectant or deodorant be made compulsory;

That the nightsoil removed be either rendered inoffensive or treated in a destructor, desiccator, or incinerator or be trenched or ploughed into land;

That, failing the use of a destructor, desiccator, or incinerator, the contractor be compelled to obtain a receipt from the occupier of the land whercon deposit is made or from the manager of some approved dépôt for nightsoil for the number of pans there emptied or delivered;

That stringent supervision be exercised by the Local Board over all such dépôts or places of deposit;

That individual householders shall not contract for the removal of either nightsoil or any other refuse except in accordance with the by-laws and regulations of the Local Board;

That all fowl yards shall, if possible and where necessary for health, be at least twenty-five feet from any dwelling house; or

That all buildings be provided with spouting, downpipes and drains sufficient to carry off all storm or rain water.

174. IN the interests of public health the Central Board may make such orders as it thinks fit either for improving the condition of, or for closing up and prohibiting the further use of, any place used for the reception, utilisation, or deposit of nightsoil, manure, blood, offal, filth, or other refuse matter.

Depôts.

Ibid., s. 254.

Any person who shall deposit any nightsoil, manure, blood, offal, filth, or other refuse matter in such place contrary to such order shall be guilty of an offence against this Act.

Where the Central Board makes an order prohibiting the further use of any such place it may also direct that the surface of

such place be covered with a layer of clean earth, not less than nine inches in depth, and also that no building be erected on such place until the whole surface thereof be rendered impervious by asphalt or other means, and until the Central Board or any Local Board named in such order shall give consent in writing for the erection of such building.

Every person who, without such consent, erects any building on such place, and who fails to remove the same when ordered so to do by the Central Board or Local Board, shall be guilty of an offence, and shall on conviction thereof be liable to a penalty not exceeding Fifty pounds nor less than Five pounds in respect of such building, and shall also be liable to a penalty not exceeding Five pounds nor less than Two pounds for every day during which such building or any part thereof remains on such place after such order without such consent.

Regulation of use
of nightsoil.

Ibid., s. 255.

175. ANY person who places or deposits or spreads, or causes to be placed, deposited or spread, in or upon any land or garden within any district where there is a Local Board any nightsoil or any human urine, whether mixed with other substances or not, or any solution of nightsoil, shall, unless the same has been thoroughly deodorised and disinfected to the satisfaction of the health officer of the Local Board within whose district such land or garden is situated, and unless the written consent of such Local Board, subject to any regulations the Central Board may make, has been obtained, shall be guilty of an offence against this Act.

Punishment for
placing nightsoil in
streets, etc.

Ibid., s. 256.

176. ANY person spilling, casting, throwing, or otherwise putting down or depositing or causing or allowing to be spilt, cast, thrown or otherwise put down or deposited any nightsoil into or upon any road, street, tramway, channel or tunnel, footway, lane or any land or place other than a place or depôt duly authorised for the purpose, shall be guilty of an offence, and shall be liable to a fine not exceeding Fifty pounds nor less than Five pounds, or to imprisonment for a period not exceeding six months.

Punishment for
placing offensive
matter in gutters,
etc.

Ibid., s. 257.

177. EVERY nightman, carter, or other person who, without authority from a Local Board or the owner, removes any closet pan or receptacle from the closet or premises of any person to the closet or premises of any other person, and every person who throws, casts, or discharges, or causes or allows to be thrown, cast, or discharged any filthy or offensive solid or partly solid matter whatsoever into any drain, gutter, or water channel, or so that the same may by any means be carried into any drain, gutter or water channel, shall be liable, on conviction, to a fine not exceeding Twenty pounds, or to imprisonment for a period not exceeding three months.

178. ANY Local Board may from time to time, as occasion may require, make and levy a rate not exceeding Sixpence in the pound on all or any property rated in accordance with this Act within the district of such Local Board, or within such district if authorised by the Governor, for the purpose of providing for the proper removal of nightsoil and other refuse within the district or any part or parts thereof; but such Local Board may direct that the minimum amount payable in respect of any one separate tenement shall not be less than Ten shillings. Such rate shall be subject to the provisions of the Municipal Institutions Act, 1895, as to general rates, and shall be recoverable in like manner.

Rate for the removal of nightsoil.

Ibid., s. 258.

179. NOTWITHSTANDING the last preceding section, a Local Board may provide for the proper disposal of nightsoil or other refuse, whether within the district or not, by making an annual charge, payable in advance, for the removal of the nightsoil or other refuse in respect of each and every place from whence the receptacles for nightsoil have to be removed.

Power to charge a pan rate.

Ibid., s. 259.

Such charge shall be levied on the owner or occupier, as the Local Board may decide, of every tenement in which the nightsoil pans or other receptacles are in use, and may be recovered by the Local Board in the same way as a municipal rate or, in case the receptacles for nightsoil are in an adjoining area as aforesaid, by summons before two Justices.

In the case of houses being erected during the year for which payment is to be made, the charge thereon for the pans shall be such sum as will proportionately represent the period between the occupation of the house and the ending of the year for which payment is made.

180. ALL houses shall have attached to them such earth closets or privies with proper doors and coverings and sufficient ventilation and so constructed as, in the opinion of the Local Board, to be sufficient for such houses respectively; and if at any time it appears to any Local Board that any house whether within its jurisdiction or not, whether built before or after the commencement of this Act, has not a sufficient earth closet or privy with proper doors and coverings and sufficient ventilation, and the owner, his agent, or occupier on notice to that effect from such Local Board does not erect such sufficient earth closet or privy with proper doors and coverings, in the time to be named in such notice, such owner, his agent, or occupier shall be liable to a penalty not exceeding Five pounds per day for every day during which such notice is not complied with, and such Local Board may cause a privy or earth closet with proper doors and coverings, and

Houses to have privies.

Ibid., s. 81.

Ibid., s. 260.

38 & 39 Vict., c. 55, ss. 35 and 36.

sufficient ventilation to be erected at the expense of such owner, his agent, or occupier.

Provided that this section shall not apply to occupiers of a monthly or any lesser tenancy at a rent not exceeding Fifteen shillings a week.

Public privies may be provided.

Ibid., s. 82.

Ibid., s. 261.

181. THE Local Board may, if they think fit, provide and maintain in proper and convenient situations, and in proper repair and condition, earth closets, privies, or urinals, and other similar conveniences for public accommodation.

Building in which many persons collected to have privies.

Ibid., s. 83.

Ibid., s. 262.

182. IF it appears to the Local Board that any house is used or intended to be used as a school or a workroom or factory or building in which persons above twenty in number are gathered or employed or intended to be gathered or employed at one time, such Local Board may, by notice to the owner or occupier of such house, require him within a time to be specified in such notice to construct what in the opinion of the Local Board is a sufficient number of earth closets or privies or urinals for the use of such persons, and (if they are of different sexes) separate earth closets or privies for the use of each sex.

Construction and maintenance of drains, cesspools, etc.

Ibid., s. 84.

Ibid., s. 263.

Local Board to ascertain if drains, etc., are nuisances.

183. ALL drains whatsoever, earth closets, privies, cesspools, and ashpits shall be constructed and kept so as not to be a nuisance or injurious to health, and so that there is no overflow or leakage or soakage therefrom; and no cesspool shall have attached thereto or connected therewith any pipe, drain, or other appliance for the discharge of the contents of such cesspool into any drain or sewer. The Local Board (upon the written application of any person showing that any drain, earth closet, privy, cesspool, ashpit, or other matter is a nuisance or injurious to health, or on the report of the inspector or other officer of the Local Board that such drain, earth closet, privy, cesspool, ashpit, or other matter is not constructed or kept according to the provisions of this Act or of any by-law or order in that behalf, and after the time mentioned in such notice, or, in case of emergency without notice, to the occupier of the premises of which complaint is made) may by themselves or by any officer of such board make entry upon and examine such premises, and cause the ground to be opened, or do any other necessary act to examine any drain, earth closet, privy, cesspool, ashpit, or other place: And if such drain, earth closet, privy, cesspool, ashpit, or other place be found to be in proper order and condition, the Local Board shall cause the ground to be closed, and any damage done to be made good as far as can be, at the expense of such Local Board; but if the drains, cesspools, earth closets, privy, ashpit, or other place be found to be in a bad condition or to require alterations or amendment, notice

shall be given by such Local Board to the owner or occupier, requiring him to make such alteration or amendment within a time to be named in such notice.

184. THE owner of land whereon there is a cesspool for the reception of nightsoil, which cesspool in the opinion of the Local Board is in such a condition or position as to be calculated to generate disease or be a nuisance or injurious to health, shall upon being so required by notice from the Local Board fill up the same within a time to be expressed in such notice, not being less than one month from the date thereof, or in default be liable to a penalty not exceeding Fifty pounds, to be recovered before Justices in a summary manner, and to a further penalty of Five pounds for each day such default shall continue.

Cesspools below ground to be abolished.

Ibid., s. 85.

Ibid., s. 264.

185. FROM and after the commencement of this Act no cesspool for the reception of nightsoil below the ground shall be constructed within the limits of any municipality.

New cesspools for nightsoil forbidden.

Ibid., s. 86.

Ibid., s. 265.

186. NO person shall keep any swine or pig-sty within one hundred feet of any house in any municipality, or so as to be a nuisance to any person or injurious to the public health.

Keeping of swine.

Ibid., s. 87.

Ibid., s. 270.

Division IV.—Abattoirs and Slaughterhouses, etc.

187. NO person in charge of any abattoir, slaughter-house, or piggery shall feed or permit to be fed any swine upon any blood or offal, unless cooked, or upon any manure, nightsoil, filth, or any other refuse matter, under a penalty to be recovered in a summary way under this Act.

Prohibition of feeding swine on refuse.

Victorian Health Act, 1890, s. 272.

188. ALL abattoirs, slaughter-houses and other premises, used for the purpose of slaughtering any cattle, sheep or other animal, and all stables, cattle-sheds and pig-sties, and all sheds and stables connected with any abattoir or slaughter-house in which any cattle, sheep, or other animal intended for slaughter is kept; shall be constructed of suitable materials and be paved, wood-blocked, floored, or flagged with brick, stone, cement, asphalt, or other like impervious material, and shall have such impervious drains or receptacles for offal, dung, or other filth or refuse, as the Local Board may by order from time to time direct.

Paving and draining of abattoirs, stables, etc.

Victorian Health Act, 1890, s. 273.

See 50 Vict. 19, s. 89.

If it appears to any Local Board that such abattoirs or slaughter-houses or other premises or such stables, cattle-sheds and pig-sties or such sheds and stables, are not properly built, constructed,

paved, wood-blocked, floored, or flagged, or have not proper drains and receptacles, such Local Board may, by notice specifying the time within which any improvement specified in such notice shall be effected, direct the owner, occupier, or person in possession to make such improvements.

If such owner, occupier, or person in possession fail to comply with such notice he shall be liable to a penalty of Ten shillings for every day he continues to make such default, and such Local Board may cause such improvements to be made at the expense of such occupier or person in possession.

If any Local Board is satisfied that any abattoir or slaughter-house is not kept in accordance with the provisions of this section, or that it is dilapidated or unsuitable in any way, the Local Board shall refuse to re-license such abattoir or slaughter-house, and shall revoke the license if already granted.

If the Central Board are satisfied that any abattoir or slaughter-house is not kept in accordance with the provisions of this section, or that it is dilapidated or unsuitable in any way, or that it is a nuisance or a source of danger to the public health, they may by order direct the municipal council to refuse to re-license such abattoir or slaughter-house until further order, and may also by order declare the license or registration thereof under any Act by-law or regulation to be and the same shall thereupon be null and void.

189. NO swine, sheep, cattle, calves, or lambs shall be slaughtered within a radius of one mile from the town hall of Perth or Fremantle, and any person offending against the provisions of this section shall be liable to a penalty of not more than Fifty pounds.

No live stock to be slaughtered in Perth or Fremantle.

57 Vict., 33, s. 6.

190. IN any proceedings under this Act or any by-law or regulation thereunder, against any person in respect of any offence by or in relation to any animal as belonging to such person, the burden of proof that any such animal does not belong to such person shall after the prosecution has been given *prima facie* evidence of the ownership lie on the defendant.

Burden of proof of ownership of animals.

Victorian Health Act, 1890, s. 274.

Division V.—Pollution of Water.

191. WHENEVER the pollution of any river, stream, water-course, well, or reservoir, the water of which is used for drinking purposes, is injurious to the public health, the Central Board shall have, and the Local Board shall have, within its district, for the

Power to Central or Local Board to prevent pollution of drinking water.

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purpose of preventing such pollution, the rights of a riparian proprietor, and may, in the name of the secretary of the Board, take any proceedings at law or in equity to enforce such rights, and may generally prevent the pollution of rivers, streams, watercourses, wells, or reservoirs within its jurisdiction; and such Local Board may, and when required by order of the Central Board, shall make by-laws for the purpose of carrying out this section within the jurisdiction of such Local Board.

Victorian Health Act, 1890, s. 241.

192. A LOCAL Board may, with the consent of the Central Board, from time to time and, when so required by order of the Central Board shall, direct that any well or other source of domestic water supply which may by an officer of health or by any two legally qualified medical practitioners be certified in writing to be so polluted or unwholesome as to be unfit for human consumption shall forthwith and until the Local Board have given a notice revoking such direction, be closed, or filled up, as may be directed, and that the contents thereof shall not be used for human consumption; and any person so using or causing to be used any such well or other source of water supply as aforesaid while such direction remains in force shall be liable to a penalty not exceeding Five pounds for each day during which such well or other source of water supply shall be so used.

Power to close polluted wells.

See 50 Vict., 19, s. 73.

Victorian Health Act, 1890, s. 242.

38 & 39 Vict., c. 55, s. 70.

193. IF any person throws or casts or causes or allows to be thrown or cast any nightsoil into any river, creek or running stream, channel, lake, lagoon, swamp, or water-hole, or if any person place or cause or allow to be placed any nightsoil on any land whence such nightsoil flows or falls or is liable to flow or fall into any river, creek, or running stream, channel, lake, lagoon, swamp, or water-hole, he shall on conviction forfeit and pay a penalty not exceeding One hundred pounds, or be imprisoned for any period not exceeding six months or both.

Penalty for throwing nightsoil into or placing it near rivers or running streams.

Ibid., s. 74.

Ibid., s. 243.

194. EVERY Local Board may and, if so directed by order of the Central Board in reference to any specified river, creek, or stream, channel, lake, lagoon, swamp, or waterhole, shall from time to time make by-laws providing that no person shall discharge or cause or allow to be discharged any offensive matter or drainage into any river, creek, or stream, channel, lake, lagoon, swamp, or water-hole specified in such by-law.

Drainage into river, etc., may be prohibited.

Victorian Health Act, 1890, s. 244.

195. ANY Local Board may cause to be conspicuously posted up in the neighbourhood of any river, stream, water-course, lake, well, or reservoir, a notice that the water thereof is required for drinking purposes, and that pigs, ducks, and geese are prohibited from trespassing thereon.

Power to seize and destroy pigs, ducks, and geese trespassing on rivers, etc.

Ibid., s. 245.

If after the posting up of such notice any person suffers or permits any pigs, ducks, or geese to trespass on any such river, stream, water-course, lake, well, or reservoir, such person shall be guilty of an offence against this Act.

If any pigs, ducks or geese belonging to such person shall within one month after any conviction of such person under this section trespass on any such river, stream, water-course, lake, well, or reservoir, then the Local Board may cause any pigs, ducks, or geese so trespassing to be destroyed or seized and sold, and the proceeds thereof shall be paid into the funds of such Local Board.

Division VI—Private and Public Morgues.

Board may license public and private morgues.

196. A LOCAL Board may grant a license for any place for the temporary reception of the bodies of the dead, and for keeping such bodies for the purpose of view, examination, identification, or other lawful purpose before burial or cremation, and may license any private premises for the temporary reception and keeping of such bodies awaiting burial at an annual fee to be prescribed by the by-laws.

Penalty for keeping the bodies of dead persons for purposes of business on unlicensed premises.

Every person who, in the course or for the purpose of any business, keeps the body of any dead person awaiting burial on premises for which no such license has been granted shall be guilty of an offence, and shall, on conviction, be liable to a fine not exceeding Fifty pounds nor less than five pounds, and shall also be liable to a fine of Two pounds for every day during which the body of any dead person remains on such unlicensed premises.

PART XI.—ENFORCEMENT OF THIS ACT.

Proceedings on complaint to Central Board of default of Local Board.

Ibid. s. 279.

38 & 39 Vict., c. 55, s. 299.

197. WHERE complaint is made to the Central Board, either by an officer of the Board, or any ratepayer of the district of the Local Board, whose default is the subject of such complaint, that a Local Board has made default in enforcing or carrying out or complying with any provisions of this Act, or any by-law or regulation thereunder, or of any order of the Central Board, which it is their duty to enforce, carry out, or comply with, the Central Board, if satisfied after due inquiry, that such Local Board has been guilty of the alleged default, shall make an order limiting a time for the performance of the duty of the Local Board, in the matter of such complaint. If such duty be not performed within the time limited in such order, the performance of such duty may be enforced by writ of mandamus, or the Central Board may appoint some person to perform such duty, and shall order that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the cost of the proceedings to be paid out of the funds by the Local Board in default; and any

order made for the payment of such expenses and cost, may be removed into the Supreme Court, and be enforced in the same manner as if the same were an order of such Court.

Any person appointed under this section, to perform the duty of a defaulting Local Board, shall, in the performance, and for the purposes of such duty, be invested with all the powers of such Local Board, and the Central Board may, from time to time, remove any person so appointed, and appoint another in his stead.

Any report of the medical inspector or other officer of the Central Board, may be deemed to be a complaint within the meaning of this section.

198. WHERE it is proved to the satisfaction of the Central Board, that a Local Board have made default in doing their duty in relation to the abatement of nuisances under this Act, the Central Board, after due notice to such Local Board of their intention, may authorise any officer of police or member of the police force to institute any proceeding which the defaulting Local Board might institute with respect to the abatement of nuisances, and such officer or member, in case of a conviction of the person causing the nuisance in respect of which such proceedings have been taken, may recover from the defaulting Local Board, any expenses incurred by him and not paid by the person proceeded against.

Power of police to proceed in certain cases against nuisances.

Ibid., s. 280.

199. IT shall be the duty of every Local Board to make from time to time, either by themselves or by their officers, inspection of the district within their jurisdiction, with the view to ascertain what nuisances exist, calling for abatement under the powers of this Act, and to enforce the provisions thereof, and every Local Board is hereby required, on the receipt of any complaint, of the existence of any nuisance or cause of injury to the public health, to forthwith cause inquiry to be made into the matter of such complaint.

Local Boards to make inspections and inquire into complaints.

50 Vict., 19, s. 98.
Victorian Health Act, 1890, s. 231.

200. PERSONS acting in the execution of this Act, under the authority of the Central or any Local Board, may, with such assistance as may be necessary, from time to time, and at all reasonable times in the day-time, or wherein in this Part of the Act specially provided, in the night or other time, or in the case of a nuisance or cause of inquiry or complaint arising in respect of any business then, at any hour when such business is in progress, or is usually carried on, enter and inspect any house, building, or dwelling, and all other places whatsoever, whether private or public, within the jurisdiction of the Local Board, in order to ascertain if any person has recently died of any epidemic, endemic, or contagious disease, in any of the places aforesaid, or if there is any filth or other matter dangerous to health therein or thereupon, or if there is ground for believing that necessity

Persons acting in the execution of this Act, may inspect.

Ibid., s. 99.

Ibid., s. 232.

for such entry and inspection otherwise exists, in relation to the execution of the provisions of this part of this Act.

Penalties for obstructing the execution of this Act.

Ibid., s. 100.

Ibid., s. 283.

201. WHOSOEVER wilfully obstructs any inspector or any member of the Central or Local Board, or any officer or person duly employed in the execution of this Act, or refuses such member, officer, or other person admission to any house, building, or premises for the purpose of carrying out the provisions of this Act, or incites any other person so to do, or destroys, pulls down, injures, or defaces any board, placard, or notice made or published under this Act, shall be liable, for every such offence, to a penalty not exceeding Five pounds nor less than Forty shillings; and if the occupier of any premises or any other person whosoever prevents the owner thereof, or the agent receiving the rent for the same, from obeying or carrying into effect the provisions of this Act or of any order, by-law, regulation, or direction made hereunder, he shall be liable to a penalty not exceeding Five pounds nor less than Forty shillings for every day of such prevention; and if the occupier of any premises, when requested by or on behalf of the Local Board to state the name of the owner of the premises occupied by him, refuse or wilfully omit to disclose or wilfully misstate the same, he shall be liable to a penalty not exceeding Fifty pounds nor less than Five pounds.

Local Board may order works to be done by occupier instead of owner.

Ibid., s. 101.

Ibid., s. 284.

202. IN any case where it is ordered or notified by or under the authority of this Act that the owner of any premises shall do any act, matter, or thing for the removal, abatement, or prevention of any nuisance, or construct any works for the aforesaid purpose, the Local Board may, if they think fit, by the same or any subsequent order or notice, require the person occupying or in possession of the premises, or the agent receiving the rent for the same, to do any such act, matter, or thing, or to construct such works as the said Local Board may deem necessary; and any such owner, and also the person occupying or in possession of premises, or such agent as aforesaid who refuses or neglects to comply with such direction, order, or notice after service thereof, and within a certain specified time to be named therein, shall be liable to a penalty, for each and every day after the expiration of such specified time, of not more than Five pounds and not less than Five shillings:

Provided that any expenses incurred by the person occupying or in possession of the premises, or by such agent, in complying with the said direction, order, or notice of the Local Board shall (unless any nuisance so removed or abated had been caused or created by or by the default of such occupier) be summarily recoverable by the person occupying or in possession of such premises, or by such agent from the owner before two or more Justices as money paid to the

use of such owner, or may be deducted from or set off against the rent then due or thereafter at the time, and from time to time to become due, and the owner from or against whom such expenses are so recovered, deducted, or set off, if he be a tenant to another person of the same premises, may in like manner recover, deduct, or set off the said expenses, any covenant or agreement whatsoever to the contrary notwithstanding :

Provided further, that in the event of the neglect or failure of the person to whom any such order or notice shall be addressed to comply therewith, the Local Board may, if they see fit, carry out the requirements of such order or notice, and may recover in manner hereinafter provided from such person all costs and expenses which such Local Board shall thereby have incurred :

Provided also, that when the owner or occupier of any premises is, from poverty or otherwise, unable, in the opinion of the Local Board, effectually to carry out the requirements of any order or by-law or of any of the provisions of this Act relating to the removal, abatement, or prevention of any nuisance, or the construction of any works or the doing of any matter or thing for the aforesaid purpose, the Local Board may, without enforcing such requirements on such owner or occupier, enter the said premises, and out of the moneys applicable to the execution of this Act, remove, abate, or prevent such nuisance or construct such works.

203. ANY expenses incurred under this Act by any Local Board in the removal, abatement, or discontinuance of any nuisance or other cause of offence shall (except when otherwise ordered by the Local Board under the last proviso of the next preceding section) be payable by and recoverable from the person occupying or in possession of the premises whereon such nuisance or other cause of offence existed, or by and from the agent for the said property; and in all cases in which it is provided by this Act that any works which may be necessary for the removal, abatement, or discontinuance of any nuisance or other cause of offence may be done at the expense of the occupier of premises in which such works are necessary, such expenses shall be recoverable by him or by such agent from the owner as money paid to his use, or the same may be deducted by the occupier from or set off against the rent then due or thereafter at any time and from time to time to become due, any covenant or agreement whatsoever to the contrary notwithstanding.

Expenses recoverable.

Ibid., s. 102.

Ibid., s. 285.

204. WHERE any duty or obligation with regard to any land, house, building, or premises is imposed upon any person by any Act relating to the public health or by any by-law or regulation or order of the Minister or the Central Board or of any Local Board, and such person fails to perform such duty or obligation to the satisfaction

Enforcement of duty with regard to land, etc.

Victorian Health Act, 1890, s. 286.

of the Minister or the Central Board or the Local Board of the district in which such land, house, building, or premises is situated (as the case may be), the Minister or the Central Board or such Local Board may by order cause such duty or obligation to be performed by officers and servants of the Local Board or Central Board (as the case may be) or any other persons, and such officers, servants, and persons are hereby authorised to carry out such order, and if necessary to enter any land, house, building, or premises for the purpose.

The full costs and expenses of so performing such duty or obligation and all other costs and expenses heretofore or hereafter lawfully incurred by the Minister or Central Board or Local Board in respect of any land, house, building, or premises whether any judgment or order has been obtained or not shall be and remain a charge upon such land, or the land upon which such house or building is situate or such premises, and (together with interest at the rate of eight per centum per annum from the time of incurring such costs and expenses until the payment thereof) may at any time be recovered from the owner or after demand from the occupier for the time being to the extent of the amount of rent due at the time of demand from such occupier to the owner before any Justice or by an action of debt in any Court having jurisdiction.

Local Board may abate nuisances or execute works where owner cannot be found.

50 Vict., 19, s. 103.

Victorian Health Act, 1890, s. 287.

205. WHENEVER it appears that the person by whose act, default, permission, or sufferance a nuisance arises, or the owner or the occupier of the premises whereon a nuisance exists, or the owner of any land or premises in respect of which an order has been made by the Local Board to do or to permit the Local Board to do any matter or thing, is not known or cannot be found, then the Local Board may execute such works or do such matter or thing as may, in the opinion of such Local Board, be necessary in order to remove, abate, or discontinue the nuisance, or as may be mentioned in any order made as aforesaid; and any costs or expenses incurred by the Local Board in the removal, abatement, or discontinuance of such nuisance, or the execution of such works, shall be defrayed out of the moneys applicable to the execution of this Act, but shall remain a charge upon such premises, and be recoverable at any future time from any owner thereof.

Power of Local Board to enter and abate nuisances on unoccupied land or where order to abate has been neglected.

Victorian Health Act, 1890, s. 288.

206. WHERE any nuisance exists on unoccupied land, the owner of which or his agent is unknown to the Local Board, or in case an order to abate a nuisance on any land has been neglected by the owner or occupier of such land, the Local Board may enter and take steps to abate such nuisance, and may do all things that may be necessary for such abatement whether such land is wholly or partly in the district of such Local Board, or is surrounded by such district or is partly abutting thereon.

During the time that any Local Board continues to take steps for the abatement of such nuisance, it shall not be competent for any other Local Board to enforce the provisions of this section.

207. WHERE any lands or premises are unoccupied and any expenses incurred by any Local Board in respect of such land or premises under the provisions of this Act, or of any Act repealed by this Act, have been unpaid for three years, such Local Board may take possession of such land or premises and may hold the same as against any person interested therein, and from time to time grant leases of the same subject to the provisions hereinafter contained.

Power to take possession of and lease property on which expenses are due.

50 Vict., 19, s. 104.

Victorian Health Act, 1890, s. 289.

208. NO Local Board shall take possession of any such land or premises until one month after a notice in writing setting forth that expenses incurred by such Local Board in respect of such property are unpaid and demanding payment thereof, and stating that, in default of such payment, such Local Board will take possession thereof under the provisions of this Act, has been served on every person in Western Australia entitled to an estate of freehold in possession in such land or premises, or to the possession of such land or premises under any lease, whose name and address is known to such Local Board, or, if there is no such person whose name and address is so known, has been fixed to some conspicuous place on such land or premises; and every such notice served on any person shall contain a sufficient description of the land or premises to identify the same; but every lease granted by any Local Board otherwise in accordance with the provisions of this Act shall be valid notwithstanding the non-compliance with any of the provisions of this section, unless all expenses incurred by such Local Board and due in respect of such land or premises are paid and a release demanded from such Local Board within twelve months after the Local Board take possession.

Notice to be given before taking possession.

Ibid., s. 105.

Ibid., s. 290.

209. WITHIN three months after demand by any person who but for the provisions of this Act would be entitled to the possession of any such land or premises made within twelve years after the taking possession thereof on the part of the Local Board, and after payment of all expenses incurred by the Local Board and due in respect thereof and interest upon all arrears of such expenses at the rate of Eight pounds per centum per annum, the Local Board shall execute a release of such land or premises from all such expenses due in respect thereof; and if the Local Board makes default in executing such release the Supreme Court in its equitable jurisdiction may at the suit of any person interested in that behalf compel them so to do, and upon the execution of such release, subject to any lease theretofore lawfully granted by the Local Board under the provisions of this Act, such person or persons shall be entitled to such land or premises

Release of property after demand and payment of expenses.

Ibid., s. 106.

Ibid., s. 291.

and the possession thereof as would have been so entitled if this Act had not passed, and any tenant of such land or premises under any such lease shall attorn to such person or persons accordingly.

Lease.

Ibid., s. 107.

Ibid., s. 292.

210. EVERY such lease shall be for such term not exceeding seven years as to the Local Board may seem fit, and shall reserve the best rent which can be reasonably gotten for such land or premises, and shall contain and be subject to such other reservations and such exceptions, covenants, and conditions as to the Local Board may seem fit.

Application of rents.

Ibid., s. 108.

Ibid., s. 293.

211. ALL rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned or the expiration of twelve years from the Local Board taking possession whichever shall first happen, be received by the Local Board and shall be applicable—

- (1.) In defraying the expenses of and incidental to the execution of such lease and the collection of the rents.
- (2.) In payment to the Local Board of all expenses incurred by the Local Board and due in respect of such land or premises, together with interest on all such expenses at the rate of Eight pounds per centum per annum, from the time such expenses have become due respectively and in payment of all rates and other payments accruing due thereon.

And the residue of any such moneys shall belong to such person or persons as would, when the same respectively were received, have been entitled to receive the rents and profits of such land or premises if this Act had not passed; and such Local Board shall deposit such residue in some bank at such interest as can from time to time be gotten for the same.

After twelve years property to vest in Crown.

Ibid., s. 109.

Ibid., s. 294.

212. UNLESS some person entitled in that behalf performs the conditions entitling him to demand a release of any land or premises of which any Local Board has taken possession under the foregoing provisions within twelve years after such taking possession, such land or premises and all accumulations of rent and other moneys on account thereof shall vest absolutely in the Crown.

Notice to be affixed on taking possession.

Ibid., s. 110.

Ibid., s. 295.

213. ON taking possession of any land or premises as aforesaid, such Local Board shall cause to be affixed upon some conspicuous part thereof a notice that such land or premises has been taken possession of by such Local Board, under the provisions of this Act, and is to let on lease.

Costs and expenses recoverable in any Court.

214. WHERE any costs or expenses are recoverable by any Local Board from the owner of any land in respect of works executed on or to improve such land or any street or road, public or private,

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adjoining thereto, such costs and expenses shall be recoverable in any Court having jurisdiction.

Ibid., s. 111.
Ibid., s. 296.

215. WHERE any Local Board is empowered to recover any costs or expenses of any works from the owner of any land, any money expended in the purchase of any land necessary for such works, or in compensation in respect of any land injuriously affected by such works, shall be deemed to be included in such costs and expenses.

Costs and expenses of works to include purchase money and compensation.
Ibid., s. 112.
Ibid., s. 297.

216. IT shall be the duty of the Minister of Crown Lands whenever required in writing so to do by the Local Board of any city or town to cause to be put into a sanitary condition Crown lands within the jurisdiction of such Local Board.

Crown lands to be put into sanitary condition.
Victorian Health Act, 1890, s. 298.

217. EVERY letter or notice sent to the Central Board or to any Local Board under the provisions of any Act relating to the public health by the chairman or clerk of any Local Board, or by any medical practitioner, officer of health, inspector, head teacher of a state school, public vaccinator, or deputy registrar or secretary of any public hospital or asylum shall, if marked on the outside with the words "On health business only," and with the signature and address of the person sending the same, be forwarded by post free of charge.

Letters on health business to be free.
Ibid., s. 299.

218. ANY officer of the Central Board, municipal clerk or officer of health may at all reasonable times inspect any register of births and deaths and may obtain extracts therefrom free of charge, and the registrar of births and deaths shall permit such inspection and supply such extracts.

Power to inspect register of births and deaths.
Ibid., s. 300.

PART XII.—LEGAL PROCEEDINGS.

219. NOTHING in this Act contained shall be held to affect the power of proceeding by indictment or information, or to take away any other remedy against any offender against any of the provisions of this Act.

Other proceedings not affected.
Ibid., s. 113.
Ibid., s. 301.

220. ANY notice or order under this Act may be in printing or in writing or partly in printing and partly in writing, and where under this Act any notice or order is required to be given to the owner or occupier of any house, building, or land, such notice or order addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of such house, building, or land, or left with some inmate of his abode or if there is no occupier may be put up on some conspicuous part of such house, building, or land; and it shall not be necessary in any such order or notice to name the occupier or the owner of such house, building, or land:

Service of notices.
Ibid., s. 114.
Ibid., s. 302.

Provided that when the owner of any such house, building, or land, and his residence are known to the Local Board it shall be the duty of the Local Board, if such owner is residing within the district of such Local Board, to cause every notice or order required to be given to the owner to be served on such owner or left with some inmate of his abode, and if such owner is not resident within the district to send every such order or notice by the post addressed to the residence of such owner.

The service of notices.

Victorian Health Act, 1890, s. 303.

221. ANY notice or order to any Local Board, or officer or person which is required for the purposes of any Act relating to the public health may be served by post by registered letter addressed to the office or place of business of such Local Board or officer or person or to the residence of such person. Any notice or order from any Local Board to any person may be served by post by registered letter with a like address, and in proving such service it shall be sufficient to prove that such notice or order was properly addressed and was put into the post.

Continued operation of notices and orders.

50 Vict., 19, s. 115.
Victorian Health Act, 1890, s. 304.

222. ALL notices or orders required under this Act or any Act relating to public health, to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or under such owner or occupier, and all subsequent owners or occupiers, to the same extent as if such order or notice had been served on such last-mentioned persons respectively.

Proceedings where nuisance is caused by two or more persons.

Ibid., s. 116.
Ibid., s. 305.

223. WHERE any nuisance under this Act appears to be wholly or partially caused by the acts or defaults of two or more persons, it shall be lawful for the Local Board within whose district such nuisance is caused, or for any other complainant, to institute proceedings against any one of such persons or to include all or any two or more of such persons in one proceeding; and any one or more of such persons may be ordered to abate such nuisance so far as the same appears to the Court having cognisance of the case to be caused by his or their acts or defaults, or may be prohibited from continuing any acts or defaults which in the opinion of such Court contribute to such nuisance, or may be fined or otherwise punished, notwithstanding that the acts or defaults of anyone of such persons would not separately have caused a nuisance; and the costs may be distributed as to such Court may appear fair and reasonable.

Proceedings against several persons included in one complaint shall not abate by reason of the death of any one among the persons so included, but all such proceedings may be carried on as if the deceased person had not been originally so included.

Whenever in any proceeding under the provisions of this Part of this Act, whether written or otherwise, it becomes necessary to mention or refer to the owner or occupier of any premises, it shall

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be sufficient to designate him as the "owner" or "occupier" of such premises without name or further description.

224. IN any proceeding instituted by or against a Local Board under this Act, it shall not be necessary for the plaintiff or complainant to prove the constitution or limits of the district of the Local Board, nor the appointment of the members thereof.

Name or limits of
sanitary authority
need not be proved.
Ibid., s. 118.
Ibid., s. 306.

225. ANY Local Board may appear before any Court or in any legal proceeding by their secretary or by any officer or member authorised generally or in respect of any special proceeding by resolution of such board, and their secretary or any officer or member so authorised shall be at liberty to institute and carry on any proceeding which such Local Board is authorised to institute and carry on under this Act, and any such proceeding may be instituted and carried on in the name of the Local Board as if such Board were incorporated by such name.

Appearance of local
authorities in legal
proceedings.
Ibid., s. 119.
Ibid., s. 308.

226. NO order, conviction, or thing made or done in, or relating to the execution of this Act shall be vacated, quashed, or set aside for want of form, or (unless otherwise expressly provided by this Act) be removed or removable by *certiorari* or any other writ or process whatsoever into the Supreme Court: Provided that nothing in this section shall prevent the removal of any case stated for the opinion of such Court or of any order, conviction, or thing to which such special case relates.

Proceedings not to
be quashed for want
of form.
Ibid., s. 120.
Ibid., s. 309.

227. ANY person who, on examination on oath under any of the provisions of this Act, wilfully and corruptly gives false evidence, shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury.

False evidence
punishable as per-
jury.
Ibid., s. 121.
Ibid., s. 310.

228. NO matter or thing done and no contract entered into by the Central Board or any Local Board, and no matter or thing done by any member of any such Board, or by any officer of any such Board or other person whomsoever acting under the direction of any such Board shall, if the matter or thing were done or the contract were entered into *bona fide* for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever; and any expense incurred by any such Board, member, officer, or other person acting as last aforesaid shall be borne and repaid out of the moneys applicable by such Board to the general purposes of this Act.

Protection of sani-
tary authority and
their officers from
personal liability.
Ibid., s. 122.
Ibid., s. 311.
38 & 39 Vict., c. 55,
part s. 265.

229. WHERE under this Act it is directed that any by-law, order, or regulation shall be published in the *Government Gazette*, the production of a copy of the *Gazette* containing a copy of such

Evidence.
Ibid., s. 117.
Ibid., s. 315.

by-law, order, or regulation shall be evidence in all legal proceedings of the due making and approval of such by-law, order, or regulation without further or other proof, unless the contrary be shown.

Documents signed
by secretary to be
evidence.

Ibid., s. 8.

Ibid., s. 316.

230. ALL documents whatever, purporting to be issued or written by or under the direction of the Central Board, and purporting to be signed by the secretary of the said Board, shall be received as evidence in all courts of law, and shall be deemed to be issued or written by or under the direction of the said Board without further proof, unless the contrary be shown.

The word "documents" in this section shall include all regulations, orders, directions, and notices.

Simplification of
proof in certain
cases.

Victorian Health
Act, 1890, s. 312.

231. IN any prosecution or other legal proceeding under the provisions of any Act relating to the public health, instituted by or under the direction of the Central Board, or any Local Board, or by any inspector or other officer of such Central or Local Board or by any member of the police force, no proof shall be required—

- (1.) Of the persons constituting or the extent of the jurisdiction of the Board;
- (2.) Of any order to prosecute, or of the particular or general appointment of any such inspector, officer, or member of the police force;
- (3.) Of the authority of any such inspector, officer, or member of the police force to prosecute;
- (4.) Of the appointment or of the residence within the district of any council of any officer of health or any analyst to such council;
- (5.) Of the presence of a quorum of the Central Board or Local Board making any order at the making thereof until evidence is given to the contrary;
- (6.) Of the use by the person purchasing any article for analysis pursuant to the provisions of section sixty-one of this Act of the exact words of such section so long as it appears to the Justices that the seller was substantially informed of such person's intention to have such article analysed; nor
- (7.) Of the fact that the Board has not consented to the opening of any public building if such consent is denied in the summons, but the defendant may prove such consent.

Power of officers of
Boards to prosecute.

Ibid., s. 313.

232. ANY inspector or other officer of the Central Board, or of any Local Board, or any member of the police force may prosecute for any breach of or offence against any Act relating to the public health, or any by-law, regulation, or order made under the provisions of any such Act. No fee shall be payable on the issue of any summons under this section.

233. ANY person whatsoever without warrant may apprehend any person found offending against any of the provisions of Sections One hundred and twelve, One hundred and twenty-four, One hundred and seventy two, One hundred and ~~seventy three~~, One hundred and seventy-four, or One hundred and ninety of this Act, and may forthwith take and convey such person so found offending before some justice to be dealt with according to law, or may deliver him to any constable or other peace officer to be so taken and conveyed, and such constable or peace officer shall take and convey him accordingly.

Power to arrest without warrant in certain cases.

Ibid., s. 314.

234. WHEN by the provisions of any Act relating to the public health any papers, documents, or notices are required to be signed by the secretary to the Central Board or to the Local Board of any district, such papers, documents, or notices may be signed by any person whom the Central Board or the Local Board authorises and directs to act for and in the place of such secretary, and shall when so signed be as good, valid, and effectual for all purposes as if signed by such secretary.

Power of Board to authorise person to sign for secretary.

Ibid., s. 317.

235. ALL courts and all persons having by law or by consent of parties authority to hear, receive, and examine evidence shall take judicial notice of the signature of the secretary of the Central Board and of the secretary of a Local Board, provided such signature be attached for the purpose of verifying any document, regulation, by-law, order, or official certificate under any Act relating to the public health.

Signature of secretary of Board judicially recognised.

Ibid., s. 318.

236. A COPY of any order, authority, consent, or notice made or given by a Local Board and signed and certified by the secretary of such Local Board to be a true copy and to have been duly made, confirmed, or given, and a copy of any notice given by or under the authority of this Act and so signed and certified by an inspector of the Local Board shall, unless the contrary is shown, be evidence in all legal proceedings of the due making, existence, confirmation, or giving of such order, authority, consent, or notice without further or other proof.

Evidence of by-laws, notices, etc.

Ibid., s. 319.

50 Vict., 19, s. 29.

237. THE making, confirmation, or existence of any by-law or regulation of a Local Board may be proved in the same manner as the making, confirmation, existence, or giving of any order, authority, consent, or notice of such Local Board under the last preceding section. Any original by-law, regulation, order, notice, authority, or consent of any Local Board may be given in evidence before any Court or before Justices if certified by the secretary of such Board

Evidence of existence of by-laws, regulations, etc.

Ibid., s. 320.

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to be true and to have been duly made, confirmed, given, or passed as the case may be. Such certificate shall, until the contrary be shown, be evidence of the facts therein stated.

238. IN any legal proceedings under the provisions of this
Proof of ownership. Act—

Ibid., s. 321.

- (1.) Evidence that the person proceeded against is rated in respect of any land or premises to any general rate for the municipality within which such land or premises are situated; and
- (2.) Evidence by the certificate of the registrar of deeds or his substitute that any person appears from any memorial of registration of any deed conveyance or other instrument to be the owner or proprietor of any land, and evidence by a certificate signed by the registrar of titles or any assistant registrar and authenticated by the seal of the office of titles that any person's name appears in any register book kept under the Transfer of Land Act, 1893, as owner or proprietor of any land—

shall, until the contrary is proved, be evidence that such person is owner, proprietor, or occupier (as the case may be) of such land or premises.

All Courts and all persons having by law or by consent of parties authority to hear, receive, and examine evidence shall, for the purposes of any Act relating to the public health, take judicial notice of the signatures of such registrars, substitute, and assistant registrars whenever such signature is attached to such certificate.

If the person appearing to be the owner of any land is absent from Western Australia, or cannot after reasonable inquiries, be found, any occupier, or any agent, or person, advertising or notifying himself by placard or otherwise, as authorised to deal with such land in any way shall, for the purposes of any legal proceedings under this Act, be deemed to be such owner: Provided that such occupier, agent, or person, who has on conviction under this Act paid any penalty, or has under this Act been compelled to bear any expenses, or to pay any costs in respect of such lands, whether under compulsion of legal process or not, may recover from such owner such penalty, expenses, and costs; and provided also that nothing in this section shall exclude or take away existing methods of proof.

Complaint before
justices.

50 Vict., 19, s. 123.

239. ALL complaints of offences under this Act shall (save as is herein otherwise provided) be heard and determined, and all moneys, costs, and expenses made payable or recoverable hereby may

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be recovered in a summary way before two or more Justices of the Peace.

Victorian Health Act, 1890. s. 322

240. ANY persons who feels himself aggrieved by any conviction or order of any Justices under this Act may appeal from such conviction or order to the Supreme Court: Provided that notice of such appeal be given in writing by or on behalf of the appellant to the convicting Justices, or one of them, and to the complainant within three days after such conviction, exclusive of the day on which such conviction was made, and provided that such notice shall state the grounds of appeal, and every such appeal shall be entered for hearing within one month after such conviction.

Appeal.

Ibid., s. 124.

241. NOTWITHSTANDING anything hereinbefore contained, any Local Board may, if in their opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in the Supreme Court to enforce compliance with any order given under this Act, or the abatement or prohibition of any nuisance under this Act, or for the recovery of any penalties or expenses from or for the punishment of any persons offending against the provisions of this Act, and may order the expenses of and incident to all such proceedings to be paid out of the fund or moneys applicable by them to the general purposes of this Act.

Sanitary authority may take proceedings in superior court for abatement of nuisances.

Ibid., s. 126.

Ibid., s. 325.

38 & 39 Vict. c. 55, s. 107.

242. WHERE anything is by this Act, or by any by-law, regulation, notice, order, or direction of the Central Board, or by any order, notice, direction, or by-law of any Local Board made under the authority of this Act, directed to be done or forbidden to be done, or where any authority is given to the Central Board or any Local Board, or any officer of theirs, to direct anything to be done or to forbid anything to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case the person making default as to such direction and prohibition respectively shall be deemed guilty of an offence against this Act.

Penalties for disobedience of this Act.

Ibid., s. 127.

Ibid., s. 326.

And every person guilty of an offence against this Act not otherwise specially provided for, by or under the authority hereof, shall be liable for every such offence, besides any costs or expenses which may be incurred in the taking of proceedings against such person guilty of such offence, as well as any costs or expenses which may be incurred in remedying such default, as particularly provided for in this Act, to a penalty not exceeding the sum of Twenty pounds, and to a penalty not exceeding Five pounds nor less than Twenty shillings for each day during which such offence is continued by such person, and such penalty or penalties shall be recoverable

notwithstanding that the Local Board may not have chosen to exercise any power given to Local Boards by this Act to remedy such default.

Execution by Local Board.

Victorian Health Act, 1890, s. 327.

243. IN any case in which any Local Board obtains an order or recovers judgment for the payment of any money either in respect of abatement of nuisance or work executed on any land, or the cost of forming, making, or improving any street, lane, or passage upon any private land, such Local Board may remove such order or judgment, together with all costs awarded into the Supreme Court and may sign judgment thereon, and upon such final judgment or order execution may issue against the land in respect of which the expenditure was incurred in the same manner as if the same were a judgment or order of such Supreme Court.

Proceedings by Minister in Supreme Court.

Ibid., s. 328.

244. THE Minister may by any proceeding in the Supreme Court, in the name of the Crown, compel any person or any Local Board to comply with any order given or made under the provisions of any Act relating to the public health, or to abate or prohibit any nuisance, or may restrain any person or Local Board from committing any nuisance, or committing or continuing to commit any offence against any such Act, or may recover any penalties from or for the punishment of any Local Board or person offending against the provisions of this Act relating to nuisances.

Penalties unpaid to be enforced by distress or imprisonment.

50 Vict., 19, s. 128.

Victorian Health Act, 1890, s. 329.

245. WHENEVER any penalty, forfeiture, costs, expenses, or other payment has been imposed, directed, or awarded to be paid under the provisions of this Act, and the person convicted or against whom an order for the payment of such penalty, forfeiture, costs, expenses, or other payment has been made does not pay the same within such time as the Justices or Court by whom the same has been imposed, directed, or awarded, direct, such Justices or Court may order that the same be levied by distress and sale of the goods and chattels of such person, or may in default of such distress or in the discretion of such Justices or Court, without ordering any such distress, direct such person to be imprisoned with or without hard labour, as they think fit, for a period not exceeding one month if the penalty, forfeiture, costs, expenses, or payment do not exceed Twenty pounds, and for a period not exceeding three months if the penalty, forfeiture, costs, expenses, or payment be above Twenty pounds; and such person shall be imprisoned accordingly unless such respective penalties, forfeitures, costs, expenses, and payments shall be sooner paid.

Application of penalties.
50 Vict., 19, s. 129.

246. WHERE the application of a penalty under this Act is not otherwise provided for, one half thereof shall go to the person on whose complaint or information of an offence against this Act such

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penalty has been inflicted, and the remainder to the Local Board of the district in which the offence was committed: Provided that if the Local Board or their officer be the informer, the Local Board shall be entitled to the whole of the penalty recovered.

Victorian Health Act, 1890, s. 331.
38 & 39 Vict., c. 55, s. 254.

Except where it is herein otherwise expressly directed, the moneys arising from fines, penalties, and forfeitures imposed by this Act shall, when recovered, be paid and applied towards defraying the expenses of carrying this Act into execution in such manner as the Local Board within whose jurisdiction such fines, penalties, or forfeitures may have been recovered, directs.

Express words giving right of recovery to any person.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Governor's Deputy.

SCHEDULES.

Section 2.

First Schedule.

REPEALS.

42 Vict., No. 5.
48 Vict., No. 3.
50 Vict., No. 19.
55 Vict., No. 22.
57 Vict., No. 33.
59 Vict., No. 35.
60 Vict., No. 40.

Section 67.

Second Schedule.

FORM OF CERTIFICATE.

To*

I, the undersigned public analyst for the do hereby certify that I
received on the day of 18 , from† a sample
of for analysis (which then weighed‡), and have analysed the
same, and declare the result of my analysis to be as follows:—

I am of opinion that the same is a sample of genuine

Or,

I am of opinion that the said sample contained the parts as under, or the
percentage of foreign ingredients as under:—

Observations.§

As witness my hand this day of

A.B.,
at

* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample.

‡ When the article cannot be conveniently weighed this passage may be erased or the blank left unfilled.

§ Here the analyst may insert, at his discretion, his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable or of preserving it or of improving the appearance or was unavoidable, and may state whether in excess of what is ordinary or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

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Third Schedule.

Section 76.

FORM OF REGISTER OF COMMON LODGING-HOUSE.

Name of proprietor, keeper, and manager.	An accurate description of locality of common lodging-house.	Of what material house built, how many rooms used as sleeping apartments and what other accommodation in the house.	The number of lodgers intended to be accommodated.

Fourth Schedule.

Section 77

We, the undersigned, being inhabitant householders within [*here state the city, town, district, or place in which the lodging-house applied to be registered is situated*] do certify that we know [*here state the name of the keeper or manager of the common lodging-house*] and believe him to be a fit and proper person to keep and have the management of a common lodging-house.

(Signed)

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Fifth Schedule.

Section 102.

REGISTER OF INFANTS.

Date at which received.	Name.	Sex.	Age.	Name and Address of person by whom received.	Date at which removed.	Name and Address of person by whom removed.