Session and Chapter.	Short Title of Act.
40 & 41 Vict. c. clxvi.	Clackton-on-Sea Railway Act, 1877.
40 & 41 Vict. c. clx.	Cranbrook and Paddock Wood Railway Act, 1877.
40 & 41 Vict. c. cxii.	Derry Central Railway Act, 1877.
40 & 41 Vict. c. ccxxxi.	Dover and Deal Railway Act, 1877.
40 & 41 Vict. c. clvi.	East London Railway Act, 1877.
40 & 41 Vict. c. ccxv.	Glencairn Railway Act, 1877.
40 & 41 Vict. c. clxxvii.	Golden Valley Railway Act, 1877.
40 & 41 Vict. c. ccxviii.	Lewes and East Grinstead Railway Act, 1877.
40 & 41 Vict. c. clxxix.	Limerick and Kerry Railway Act, 1877.
40 & 41 Vict. c. clxxx.	Loose Valley Railway Act, 1877.
40 & 41 Vict. c. ccxx.	Mersey Railway Act, 1877.
40 & 41 Vict. c. ccxxxiii.	Metropolitan District Railway Act, 1877.
40 & 41 Vict. c. cxcvii.	Penarth, Sully, and Barry Railway Act, 1877.
40 & 41 Vict. c. cxlviii.	Severn Bridge Railway Act, 1877.
40 & 41 Vict. c. cxliv.	Usk and Towy Railway Act, 1877.
40 & 41 Vict. c. ccxxv.	Welshpool and Llanfair Railway Act, 1877.
40 & 41 Vict. c. clxxxv.	Whitland and Taf Vale Railway Act, 1877.
40 & 41 Vict. c. cxcix.	Whitland, Cronware, and Pendine Railway Act, 1877.

CHAPTER 77.

An Act to amend the Law relating to Highways in England and the Acts relating to Locomotives on Roads; and for other purposes.

[16th August 1878.]

24 & 25 Vict. c. 70.
28 & 29 Vict. c. 83.

WHEREAS it is expedient to amend the law relating to highways in England, and to amend the Locomotive Acts, 1861 and 1865:

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

Preliminary.

Short title.

1. This Act may be cited as the Highways and Locomotives (Amendment) Act, 1878.

Application of Act.

2. This Act shall not apply to Scotland or Ireland; and, save as is by this Act expressly provided, Part I. of this Act shall not apply to the Isle of Wight; nor to any part of the metropolis; nor to any part of a county to which the Act passed in the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter sixty-eight, intituled "An Act for the better management and control of the highways in South "Wales," extends.

PART I.

AMENDMENT OF HIGHWAY LAW.

Highway Districts.

Highway districts to be made so far as possible coincident with rural sanitary districts.

3. In forming any highway districts, or in altering the boundaries of any highway districts, the county authority shall have regard to the boundaries of the rural sanitary districts in their county, and shall, so far as may be found practicable, form highway districts so as to be coincident in area with rural sanitary districts, or wholly contained within rural sanitary districts.

Power for rural sanitary authority of district coincident with

4. Where a highway district, whether formed before or after the passing of this Act, is or becomes coincident in area with a rural sanitary district, the rural sanitary authority of such district may apply to the county authority, stating that they are desirous to exercise the powers of a highway board under the Highway Acts within their district.

On such application the county authority may, if they see fit, by order declare that from and after a day to be named in the order (in this Act called the commencement of the order) such rural sanitary authority shall exercise all the powers of a highway board under the Highway Acts; and as from the commencement of the order the existing highway board (if any) for the district shall be dissolved, and waywardens or surveyors shall not hold office or be elected for any parish in the district. highway district to become highway board.

An order made under this section may be amended, altered, or rescinded by a subsequent order of the county authority.

Where a highway district, being coincident in area with a rural sanitary district, is situate in more than one county, an order under this section may be made by the county authority of any county in which any part of such district is situate, but such order, and any order amending, altering, or rescinding the same, shall not be of any force or effect until it has been approved by the county authority or authorities of the other county or counties in which any part of such district is situate.

5. (1.) From and after the commencement of the order declaring a rural sanitary authority entitled to exercise the powers of a highway board within their district, the following consequences shall ensue: Consequences of rural sanitary authority becoming highway board.

All such property, real or personal, including all interests easements and rights in to and out of property real and personal and including things in action, as belongs to or is vested in or would but for such order have belonged to or been vested in the highway board, or any surveyor or surveyors of any parish forming part of the district, shall pass to and vest in the rural sanitary authority for all the estate and interest of the highway board, or of such surveyor or surveyors, but subject to all debts and liabilities affecting the same:

All debts and liabilities incurred in respect of any property transferred to the rural sanitary authority may be enforced against that authority to the extent of the property transferred:

All such powers rights duties liabilities capacities and incapacities (except the power of obtaining payment of their expenses by the issue of precepts in manner provided by the Highway Acts, or the power of making, assessing, and levying highway rates) as are vested in or attached to or would but for such order have become vested in or attached to the highway board, or any surveyor or surveyors of any parish forming part of the district, shall vest in and attach to the rural sanitary authority:

All property by this Act transferred to the rural sanitary authority shall be held by them on trust for the several parishes for the benefit of which it was held previously to such transfer.

(2.) If at any time after a rural sanitary authority has become invested with the powers of a highway board in pursuance of this Act, the boundaries of the district of such authority are altered, the powers and jurisdiction of such authority in their capacity of highway board shall be exercised within such altered district; and on the application of any authority or person interested the Local Government Board may by order provide for the adjustment of any accounts, or the settlement of any doubt or difference so far as relates to highways consequent on the alteration of the boundaries of such rural sanitary district.

(3.) All expenses incurred by a rural sanitary authority in the performance of their duties as a highway board shall be deemed to be general expenses of such authority within the meaning of the Public Health Act, 1875. 38 & 39 Vict. c. 55.

6. Any two or more highway boards may unite in appointing and paying the salary of a district surveyor, who shall in relation to the district of each of the boards by whom he is appointed have all the powers and duties of a district surveyor under the Highway Acts. Highway boards may combine to appoint a district surveyor.

7. All expenses incurred by any highway board in maintaining and keeping in repair the highways of each parish within their district, and all other expenses legally incurred by such board, shall, notwithstanding anything contained in the Highway Acts, on and after the twenty-fifth day of March one thousand eight hundred and seventy-nine be deemed to have been incurred for the common use or benefit of the several parishes Expenses of highway boards to be paid out of district fund.

within their district, and shall be charged on the district fund: Provided, that if a highway board think it just, by reason of natural differences of soil or locality, or other exceptional circumstances, that any parish or parishes within their district should bear the expenses of maintaining its or their own highways, they may (with the approval of the county authority or authorities of the county or counties within which their district, or any part thereof, is situate) divide their district into two or more parts, and charge exclusively on each of such parts the expenses payable by such highway board in respect of maintaining and keeping in repair the highways situate in each such part; so, nevertheless, that each such part shall consist of one or more highway parish or highway parishes.

Charge of moneys to be hereafter borrowed.

8. All moneys borrowed by a highway board after the twenty-fifth day of March one thousand eight hundred and seventy-nine, under the Highway Acts, shall be charged on the district fund, but nothing in this Act shall affect the security, chargeability, or repayment of any moneys borrowed before the twenty-fifth day of March one thousand eight hundred and seventy-nine.

Audit of accounts of highway districts and parishes.

9. The accounts of the highway authority of every highway district and highway parish shall be made up in such form as the Local Government Board shall from time to time prescribe, and shall be balanced to the twenty-fifth day of March in each year, and as soon as conveniently may be after such day the said accounts shall be audited and examined by the auditor of accounts relating to the relief of the poor for the audit district in which the highway district or highway parish, or the greater part thereof in rateable value, is situate.

Every such auditor shall (as nearly as may be) have, in relation to the accounts of the highway authority of a highway district or highway parish, and of their officers, the same powers and duties as he has in the case of accounts relating to the relief of the poor; and any person aggrieved by the decision of the auditor shall have the same rights and remedies as in the case of such last-mentioned audit.

The auditor shall receive such remuneration as the Local Government Board direct; and such remuneration, together with the expenses incident to the audit, shall be paid by the highway authority of the highway district or highway parish out of the fund or rate applicable to the repair of highways within such district or parish; and such remuneration and expenses may, in default of payment, be recovered in a summary manner.

5 & 6 W. 4., c. 50. 27 & 28 Vict. c. 101.

Section forty-four of the Highway Act, 1835, is hereby repealed, and section thirty-six of the Highway Act, 1864, is hereby repealed down to the words "to be paid out of the district fund," and the statement of receipt and expenditure by the said section directed to be furnished by every highway board within thirty days after the signature of the accounts by the chairman shall be furnished within thirty days after the completion of the audit under this section.

Nothing in this section shall affect any proceeding commenced before the passing of this Act.

Power of county authority to enforce performance of duty by defaulting highway authority.

10. Where complaint is made to the county authority that the highway authority of any highway area within their jurisdiction has made default in maintaining or repairing all or any of the highways within their jurisdiction, the county authority, if satisfied after due inquiry and report by their surveyor that the authority has been guilty of the alleged default, shall make an order limiting a time for the performance of the duty of the highway authority in the matter of such complaint.

If such duty is not performed by the time limited in the order, and the highway authority fail to show to the county authority sufficient cause why the order has not been complied with, the county authority may appoint some person to perform such duty, and shall by order direct that the expenses of performing the same, together with the reasonable remuneration of the person appointed for superintending such performance, shall be paid by the authority in default, and any order made for payment of such expenses and costs may be removed into the High Court of Justice, 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 highway authority shall, in the performance and for the purpose of such duty, be invested with all the powers of such authority other than the powers of making rates or levying contributions by precept, and the county authority may from time to time, by order, change any person so appointed.

Where an order has been made by a county authority for the repair of a highway on a highway authority alleged to be in default, if such authority, within ten days after service on them of the order of the county authority, give notice to the clerk of the peace that they decline to comply with the requisitions of such order until their liability to repair the highway in respect to which they are alleged to have made default has been determined by a jury, it shall be the duty of the county authority either to satisfy the defaulting authority by cancelling or modifying in such manner as the authority may desire the order of the county authority, or else to submit to a jury the question of the liability of the defaulting authority to repair the highway.

If the county authority decide to submit the question to a jury they shall direct a bill of indictment to be preferred to the next practicable assizes to be holden in and for their county, with a view to try the liability of the defaulting authority to repair the highway. Until the trial of the indictment is concluded the order of the county authority shall be suspended. On the conclusion of the trial, if the jury find the defendants guilty, the order of the county authority shall forthwith be deemed to come into force; but if the jury acquit the defendants the order of the county authority shall forthwith become void.

The costs of the indictment, and of the proceedings consequent thereon, shall be paid by such parties to the proceedings as the court before whom the case is tried may direct. Any costs directed to be paid by the county authority shall be deemed to be expenses properly incurred by such authority, and shall be paid accordingly out of the county rate; and any costs directed to be paid by the highway authority shall be deemed to be expenses properly incurred by such authority in maintenance of the roads within their jurisdiction, and shall be paid out of the funds applicable to the maintenance of such roads.

Duration of office of waywarden.

11. Notwithstanding anything in the Highway Acts, waywardens shall continue in office till the thirtieth day of April in the year following the year in which they were elected, and on that day their successors shall come into office.

Repeal of part of s. 7. of 25 & 26 Vict. c. 61.

12. So much of section seven of the Highway Act, 1862, as prohibits the inclusion in a highway district of any parish or place the highways of which were, at the time of the passing of that Act, or within six months afterwards, under the superintendence of a board established in pursuance of section eighteen of the principal Act, unless with the consent of such board, is hereby repealed.

Main Roads.

Disturnpiked roads to become main roads, and half the expense or maintenance to be contributed out of county rate.

13. For the purposes of this Act, and subject to its provisions, any road which has, within the period between the thirty-first day of December one thousand eight hundred and seventy and the date of the passing of this Act, ceased to be a turnpike road, and any road which, being at the time of the passing of this Act a turnpike road, may afterwards cease to be such, shall be deemed to be a main road; and one half of the expenses incurred from and after the twenty-ninth day of September one thousand eight hundeed and seventy-eight by the highway authority in the maintenance of such road shall, as to every part thereof which is within the limits of any highway area, be paid to the highway authority of such area by the county authority of the county in which such road is situate out of the county rate, on the certificate of the surveyor of the county authority, or of such other person or persons as the county authority may appoint, to the effect that such main road has been maintained to his or their satisfaction.

Provided that no part of such expenses shall be included in—

(1.) Any precept or warrant for the levying or collection of county rate within the metropolis, subject and without prejudice to any provision to be hereafter made; or

(2.) Any order made on the council of any borough having a separate court of quarter sessions under section one hundred and seventeen of the Municipal Corporation Act, 1835.

The term "expenses" in this section shall mean the cost of repairs defrayed out of current rates, and shall not include any repayment of principal moneys borrowed, or of interest payable thereon.

Description of highway areas.

14. The following areas shall be deemed to be highway areas for the purposes of this Act; (that is to say,)

(1.) Urban sanitary districts:

(2.) Highway districts:

(3.) Highway parishes not included within any highway district or any urban sanitary district.

Power to declare ordinary highway to be a main road.

15. Where it appears to any highway authority that any highway within their district ought to become a main road by reason of its being a medium of communication between great towns, or a thoroughfare to a railway station, or otherwise, such highway authority may apply to the county authority for an order declaring such road, as to such parts as aforesaid, to be a main road; and the county authority, if of opinion that there is probable cause for the application, shall cause the road to be inspected, and, if satisfied that it ought to be a main road, shall make an order accordingly.

A copy of the order so made shall be forthwith deposited at the office of the clerk of the peace of the county, and shall be open to the inspection of persons interested at all reasonable hours; and the order so made shall not be of any validity unless and until it is confirmed by a further order of the county authority made within a period of not more than six months after the making of the first-mentioned order.

Power to reduce main road to status of ordinary highway.

16. If it appears to a county authority that any road within their county which, within the period between the thirty-first day of December one thousand eight hundred and seventy and the date of the passing of this Act, ceased to be a turnpike road ought not to become a main road in pursuance of this Act, such authority shall, before the first day of February one thousand eight hundred and seventy-nine, make an application to the Local Government Board for a provisional order declaring that such road ought not to become a main road.

Subject as aforesaid, where it appears to a county authority that any road within their county which has become a main road in pursuance of this Act ought to cease to be a main road and become an ordinary highway, such authority may apply to the Local Government Board for a provisional order declaring that such road has ceased to be a main road and become an ordinary highway.

The Local Government Board, if of opinion that there is probable cause for an application under this section, shall cause the road to be inspected, and if satisfied that it ought not to become or ought to cease to be a main road and become an ordinary highway shall make a provisional order accordingly, to be confirmed as herein-after mentioned.

All expenses incurred in or incidental to the making or confirmation of any order under this section shall be defrayed by the county authority applying for such order.

Turnpike road in several counties.

17. Where a turnpike road subject to one trust extends into divers counties, such road, for the purposes of this Act, shall be treated as a separate turnpike road in each county through which it passes.

Accounts of expenses of maintenance of main roads.

18. Every highway authority shall keep, in such form as may be directed by the county authority, a separate account of the expenses of the maintenance of the main roads within their jurisdiction, and shall forward copies thereof to the county authority at such time or times in every year as may be required by the county authority, and the accounts so kept shall, where the accounts of the highway authority are audited under this Act or under section two hundred and forty-seven of the Public Health Act, 1875, be audited in the same manner as the other accounts of such authority, and where the accounts of the highway authority are not so audited shall be subject to such audit as the county authority may direct.

38 & 39 Vict. c. 55.

If any highway authority makes default in complying with the provisions of this section, or with any directions given in pursuance thereof by the county authority, the county authority may withhold all or any part of the contribution payable by them under

this Act towards the expenses of the maintenance of main roads, by such highway authority for the year in which such default occurs.

Highway district situate in more than one county.

19. Where a highway district is situate in more than one county, the provisions of this Act, with respect to the expenses of the maintenance of main roads, shall apply as if the portion of such district situate in each county were a separate highway district in that county.

Repair of main roads in certain cases.

20. Notwithstanding the provisions of this Act, in the case of any county in which certain of the bridges within the county are repairable by the county at large, and others are repairable by the several hundreds within the county in which they are situate, it shall be lawful for the county authority from time to time, by order, to declare any main road or part of a main road within their county to be repairable to the extent only and in manner provided by section thirteen of this Act, either by the county or by the hundred in which such main road or part is situate, as they think fit; and where a main road or part thereof is declared to be repairable by a hundred, the expense of repairing the same shall, to the extent to which but for this section the expense or any contribution towards the expense of repairing the same would be repayable out of the county rate, be repayable out of a separate rate which shall be raised and charged in the like manner as the expenses of repairing the hundred bridges in the same hundred would have been raised and charged.

Bridges.

Certain existing bridges may be accepted by county authority.

21. Any bridge erected before the passing of this Act in any county without such superintendence as is provided in section five of the statute of the forty-third year of King George the Third, chapter fifty-nine, and which is certified by the county surveyor or other person appointed in that behalf by the county authority to be in good repair and condition, shall, if the county authority see fit so to order, become and be deemed to be a bridge which the inhabitants of the county shall be liable to maintain and repair.

Contribution out of county rates towards erecting bridges.

22. The county authority may make such contribution as it sees fit out of the county rates towards the cost of any bridge to be hereafter erected, after the same has been certified in accordance with the provisions of section five of the statute of the forty-third year of King George the Third, chapter fifty-nine, as a proper bridge to be maintained by the inhabitants of the county; so always that such contribution shall not exceed one half the cost of erecting such bridge.

Extraordinary Traffic.

Power of road authority to recover expenses of extraordinary traffic.

23. Where by a certificate of their surveyor it appears to the authority which is liable or has undertaken to repair any highway, whether a main road or not, that, having regard to the average expense of repairing highways in the neighbourhood, extraordinary expenses have been incurred by such authority in repairing such highway by reason of the damage caused by excessive weight passing along the same, or extraordinary traffic thereon, such authority may recover in a summary manner from any person by whose order such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of the court having cognizance of the case to have been incurred by such authority by reason of the damage arising from such weight or traffic as aforesaid.

Provided that any person against whom expenses are or may be recoverable under this section may enter into an agreement with such authority as is mentioned in this section for the payment to them of a composition in respect of such weight or traffic, and thereupon the persons so paying the same shall not be subject to any proceedings under this section.

Discontinuance of unnecessary Highways.

Unnecessary highways may be declared not repairable at the public expense.

24. If any authority liable to keep any highway in repair is of opinion that so much of such highway as lies within any parish situate in a petty sessional division is unnecessary for public use, and therefore ought not to be maintained at the public expense, such authority (in this section referred to "as the applicant authority") may apply to the court

of summary jurisdiction of such petty sessional division to view by two or more justices, being members of the court, the highway to which such application relates, and on such view being had, if the court of summary jurisdiction is of opinion that the application ought to be proceeded with, it shall by notice in writing to the owners or reputed owners and occupiers of all lands abutting upon such highway, and by public notice, appoint a time and place, not earlier than one month from the date of such notice, at which it will be prepared to hear all persons objecting to such highway being declared unnecessary for public use, and not repairable at the expense of the public.

On the day and at the place appointed, the court shall hear any persons objecting to an order being made by the court that such highway is unnecessary for public use and ought not to be repairable at the public expense, and shall make an order either dismissing the application or declaring such highway unnecessary for public use, and that it ought not to be repaired at the public expense.

If the court make such last-mentioned order as aforesaid, the expenses of repairing such highway shall cease to be defrayed out of any public rate.

Public notice of the time and place appointed for hearing a case under this section shall be given by the applicant authority as follows; that is to say,

(1.) By advertising a notice of the time and place appointed for the hearing and the object of the hearing, with a description of the highway to which it refers in some local newspaper circulating in the district in which such highway is situate once at least in each of the four weeks preceding the hearing; and

(2.) By causing a copy of such notice to be affixed, at least fourteen days before the hearing, to the principal doors of every church and chapel in the parish in which such highway is situate, or in some conspicuous position near such highway.

And the application shall not be entertained by the court until the fact of such public notice having been given is proved to its satisfaction.

If at any time after an order has been made by a court of summary jurisdiction under this section, upon application of any person interested in the maintenance of the highway in respect of which such order has been made, after one month's previous notice in writing thereof to the applicant authority, it appears to the court of quarter sessions that from any change of circumstances since the time of the making of any such order as aforesaid such highway has become of public use, and ought to be maintained at the public expense, the court of quarter sessions may direct that the liability of such highway to be maintained at the public expense shall revive from and after such day as they may name in their order, and such highway shall thenceforth be maintained out of the rate applicable to payment of the expenses of repairing other highways repairable by the applicant authority; and the said court of quarter sessions may by their order direct the expenses of and incident to such application to be paid as they may see fit.

Any order of a court of summary jurisdiction under this section shall be deemed to be an order from which an appeal lies to a court of quarter sessions.

Appointment of Surveyors in certain Parishes.

Removal of doubt as to appointment of surveyors in certain parishes. 5 & 6 W. 4. c. 50.

25. Whereas doubts have arisen whether a surveyor of highways can be appointed, in pursuance of the Highway Act, 1835, for a parish which does not maintain any highway: Be it therefore enacted, that it shall be lawful for the inhabitants in vestry assembled of any parish or place having a known legal boundary (notwithstanding that the inhabitants at large are not for the time being liable to maintain any highway or to contribute to any rate applicable to the maintenance of highways), or, on the neglect or refusal of such inhabitants, for the justices at a special sessions for the highways or in petty sessions assembled, at any time to exercise all the powers of the Highway Acts with respect to the election or appointment of a surveyor of highways with or without a salary for such parish or place; and any surveyor so elected or appointed shall have all the powers and duties (including the power of making, assessing, and levying of highway rates) of a surveyor under the Highway Acts.

Byelaws by County Authority.

Power of county authority to make byelaws.

26. A county authority may from time to time make, with respect to all or any main roads or other highways within any highway area in their county, and when made alter or repeal, byelaws for all or any of the purposes following; that is to say,

(1.) For prohibiting or regulating the use of any waggon wain cart or carriage drawn by animal power and having wheels of which the fellies or tires are not of such width in proportion to the weight carried by, or to the size of, or to the number of wheels of such waggon wain cart or carriage as may be specified in such byelaws; and

(2.) For prohibiting or regulating the use of any waggon wain cart or other carriage drawn by animal power not having the nails on its wheels countersunk in such manner as may be specified in such byelaws, or having on its wheels bars or other projections forbidden by such byelaws; and

(3.) For prohibiting or regulating the locking of the wheel of any waggon wain cart or carriage drawn by animal power when descending a hill, unless there is placed at the bottom of such wheel during the whole time of its being locked a skidpan slipper or shoe in such manner as to prevent the road from being destroyed or injured by the locking of such wheel; and

(4.) For prohibiting or regulating the erection of gates across highways, and prohibiting gates opening outwards on highways; and

(5.) For regulating the use of bicycles.

Fines to be recovered summarily may be imposed by any such byelaws on persons breaking any byelaw made under this section, provided that no fine exceeds for any one offence the sum of two pounds, and that the byelaws are so framed as to allow of the recovery of any sum less than the full amount of the fine.

Saving for Minerals.

To whom minerals under disturnpiked roads to belong. 11 & 12 Vict. c. 63. 38 & 39 Vict. c. 55.

27. Notwithstanding anything contained in section sixty-eight of the Public Health Act, 1848, or in section one hundred and forty-nine of the Public Health Act, 1875, all mines and minerals of any description whatsoever under any disturnpiked road or highway which has or shall become vested in an urban sanitary authority by virtue of the said sections, or either of them, shall belong to the person who would be entitled thereto in case such road or highway had not become so vested, and the person entitled to any such mine or minerals shall have the same powers of working and of getting the same or other minerals as if the road or highway had not become vested in the urban sanitary authority, but so nevertheless that in such working and getting no damage shall be done to the road or highway.

This section shall extend to the Isle of Wight and to South Wales, as defined by the said Act of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter sixty-eight, intituled "An Act for the better management and control of the "highways in South Wales."

PART II.

Amendment of Locomotive Acts, 1861 and 1865.

Weight of locomotives and construction of wheels. 24 & 25 Vict. c. 70. 28 & 29 Vict. c. 83.

28. Section three of the Locomotive Act, 1861, and section five of the Locomotive Act, 1865, are hereby repealed, so far as relates to England, and in lieu thereof be it enacted that it shall not be lawful to use on any turnpike road or highway a locomotive constructed otherwise than in accordance with the following provisions; (that is to say,)

(1.) A locomotive not drawing any carriage, and not exceeding in weight three tons, shall have the tires of the wheels thereof not less than three inches in width, with an additional inch for every ton or fraction of a ton above the first three tons; and

(2.) A locomotive drawing any waggon or carriage shall have the tires of the driving wheels thereof not less than two inches in width for every ton in weight of the locomotive, unless the diameter of such wheels shall exceed five feet, when the width of the tires may be reduced in the same proportion as the diameter of the wheels is increased, but in such case the width of such tires shall not be less than fourteen inches; and

(3.) A locomotive shall not exceed nine feet in width or fourteen tons in weight, except as herein-after provided; and

(4.) The driving wheels of a locomotive shall be cylindrical and smooth-soled, or shod with diagonal cross-bars of not less than three inches in width nor more than three quarters of an inch in thickness, extending the full breadth of the tire, and the space intervening between each such cross-bar shall not exceed three inches.

The owner of any locomotive used contrary to the foregoing provisions shall for every such offence be liable to a fine not exceeding five pounds: Provided that the mayor, aldermen, and commons in the city of London, and the Metropolitan Board of Works in the metropolis, exclusive of the city of London, and the council of any borough which has a separate court of quarter sessions, and the county authority of any county, may, on the application of the owner of any locomotive exceeding nine feet in width or fourteen tons in weight, authorise such locomotive to be used on any turnpike road or highway within the areas respectively above mentioned, or part of any such road or highway, under such conditions (if any) as to them may appear desirable. Provided also, that the owner of a locomotive used contrary to the provisions of sub-section two of this section shall not be deemed guilty of an offence under this section if he proves to the satisfaction of the court having cognizance of the case that such locomotive was constructed before the passing of this Act, and that the tires of the wheels thereof are not less than nine inches in width.

Amendment of 28 & 29 Vict. c. 83. s. 3.

29. The paragraph numbered "secondly" of section three of the Locomotive Act, 1865, is hereby repealed, so far as relates to England, and in lieu thereof the following paragraph is hereby substituted; namely,

"Secondly, one of such persons, while the locomotive is in motion, shall precede by at "least twenty yards the locomotive on foot, and shall in case of need assist horses, "and carriages drawn by horses, passing the same."

Steam locomotives to be constructed so as to consume their smoke. 24 & 25 Vict. c. 70.

30. Section eight of the Locomotive Act, 1861, is hereby repealed, so far as relates to England; and in lieu thereof, be it enacted that every locomotive used on any turnpike road or highway shall be constructed on the principle of consuming its own smoke; and any person using any locomotive not so constructed, or not consuming, so far as practicable, its own smoke, shall be liable to a fine not exceeding five pounds for every day during which such locomotive is used on any such turnpike road or highway.

Power to local authorities to make orders as to hours during which locomotives may pass over roads. 28 & 29 Vict. c. 83.

31. Section eight of the Locomotive Act, 1865, is hereby repealed, so far as relates to England; and in lieu thereof, be it enacted that the mayor, aldermen, and commons in the city of London, and the Metropolitan Board of Works in the metropolis, exclusive of the city of London, and the council of any borough which has a separate court of quarter sessions, and the county authority of any county, may make byelaws as to the hours during which locomotives are not to pass over the turnpike roads or highways situate within the areas respectively above-mentioned, the hours being in all cases consecutive hours and no more than eight out of the twenty-four, and for regulating the use of locomotives upon any highway, or preventing such use upon every bridge where such authority is satisfied that such use would be attended with danger to the public; and any person in charge of a locomotive acting contrary to such byelaws shall be liable to a fine not exceeding five pounds.

Power of county authority to license ocomotives.

32. A county authority may from time to time make, alter, and repeal byelaws for granting annual licenses to locomotives used within their county, and the fee (not exceeding ten pounds) to be paid in respect of each license; and the owner of any locomotive for which a license is required under any byelaw so made who uses or permits the same to

be used in contravention of any such byelaw shall be liable to a fine not exceeding forty shillings for every day on which the same is so used.

All fees received under this section shall be carried to and applied as part of the county rate.

This section shall not apply to any locomotive used solely for agricultural purposes.

Duration of Part II. of Act. 28 & 29 Vict. c. 83.

33. This part of this Act shall remain in force so long only as the Locomotive Act, 1865, continues in force.

PART III.

Procedure and Definitions.

Confirmation of provisional order.

34. It shall be lawful for the Local Government Board to submit any provisional order made by them under this Act to Parliament for confirmation, and without such confirmation a provisional order shall not be of any validity.

Confirmation of byelaws.

35. A byelaw made under this Act, and any alteration made therein and any repeal of a byelaw, shall not be of any validity until it has been submitted to and confirmed by the Local Government Board.

A byelaw made under this Act shall not, nor shall any alteration therein or addition thereto or repeal thereof, be confirmed until the expiration of one month after notice of the intention to apply for confirmation of the same has been given by the authority making the same in one or more local newspapers circulating in their county or district.

Recovery of penalties and expenses.

36. All offences, fines, and expenses under this Act, or any byelaw made in pursuance of this Act, may be prosecuted, enforced, and recovered before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

The expression "the Summary Jurisdiction Acts" means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace "out of sessions within England and Wales with respect to summary convictions and "orders," inclusive of any Acts amending the same.

The expression "court of summary jurisdiction" means and includes any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts: Provided that the court, when hearing and determining an information or complaint under this Act, shall be constituted either of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty session, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

Form of appeal to quarter sessions.

37. If any party thinks himself aggrieved by any conviction or order made by a court of summary jurisdiction on determining any information or complaint under this Act, the party so aggrieved may appeal therefrom, subject to the conditions and regulations following:

(1.) The appeal shall be made to the next practicable court of quarter sessions for the county or place where the decision appealed from was given holden not less than twenty-one days after the decision of the court from which the appeal is made; and

(2.) The appellant shall, within ten days after the pronouncing by the court of the decision appealed from, give notice to the other party and to the court of summary jurisdiction of his intention to appeal and of the ground thereof; such notice of appeal shall be in writing signed by the person or persons giving the same, or by his, her, or their solicitor on his, her, or their behalf; and

(3.) The appellant shall, within three days after such notice, enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned personally

to try such appeal, and to abide the judgment of the court thereon and to pay such costs as may be awarded by the court, or give such other security by deposit of money or otherwise as the justice may allow; and

(4.) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody:

(5.) The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just, and if the matter be remitted to the court of summary jurisdiction the said last-mentioned court shall thereupon re-hear and decide the information or complaint in accordance with the opinion of the said court of appeal. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

Interpretation.

38. In this Act—

25 & 26 Vict. c. 61. 27 & 28 Vict. c. 101.

"County" has the same meaning as it has in the Highway Acts, 1862 and 1864, except that every liberty not being assessable to the county rate of the county or counties within which it is locally situate shall, for the purposes of this Act other than those relating to the formation and alteration of highway districts, and the transfer of the powers of a highway board, be deemed to be a separate county:

"County authority" means the justices of a county in general or quarter sessions assembled:

"Borough" means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of municipal corporations in England "and Wales," and the Acts amending the same:

25 & 26 Vict. c. 61. 27 & 28 Vict. c. 101.

"Highway district" means a district constituted in pursuance of the Highway Act, 1862, and the Highway Act, 1864, or one of such Acts:

"Highway board" means the highway board having jurisdiction within a highway district:

25 & 26 Vict. c. 61. 27 & 28 Vict. c. 101.

"Highway parish" means a parish or place included or capable of being included in a highway district in pursuance of the Highway Acts, 1862 and 1864, or one of such Acts:

"Highway authority" means as respects an urban sanitary district the urban sanitary authority, and as respects a highway district the highway board, and as respects a highway parish the surveyor or surveyors or other officers performing similar duties:

"Rural sanitary district" and "rural sanitary authority" mean respectively the districts and authorities declared to be rural sanitary districts and authorities by the Public Health Act, 1875:

38 & 39 Vict. c. 55.

"Urban sanitary district" and "urban sanitary authority" mean respectively the districts and authorities declared to be urban sanitary districts and authorities by the Public Health Act, 1875, except that for the purposes of this Act no borough having a separate court of quarter sessions, and no part of any such borough, shall be deemed to be or to be included in any such district, and where part of a parish is included in such district for the purpose only of the repairs of the highways such part shall be deemed to be included in the district for the purposes of this Act:

38 & 39 Vict. c. 55.

"The metropolis" means the parishes and places mentioned in the Schedules A., B., and C., annexed to the Metropolis Management Act, 1855, and any parish to which such Act may be extended by Order in Council in manner in the said Act provided; also the city of London and the liberties of the said city:

18 & 19 Vict. c. 120.

"Quarter sessions" includes general sessions:

"Petty sessional division" means any division for the holding a special sessions formed or to be formed under the provisions of the Act of the ninth year of the reign of His late Majesty King George the Fourth, chapter forty-three, or any Act amending the same; also any division of a county, or of a riding, division, parts, or liberty of a

county, having a separate commission of the peace, in and for which petty sessions or special sessions are usually held, whether in one or more place or places, in accordance with any custom, or otherwise than under the said last-mentioned Act; but does not include any city, borough, town corporate, or district constituted a petty sessional division by the Act of the session of the twelfth and thirteenth years of the reign of Her present Majesty, chapter eighteen, intituled "An Act for the holding of petty "sessions of the peace in boroughs, and for providing places for the holding of such "petty session in counties and boroughs:"

"Locomotive" means a locomotive propelled by steam or by other than animal power:

"Person" includes a body of persons corporate or unincorporate.

CHAPTER 78.

An Act to further amend the provisions of the Law of Scotland on the subject of Education, and for other purposes connected therewith.

[16th August 1878.]

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

Short title. 35 & 36 Vict. c. 62.

1. This Act may be cited as the Education (Scotland) Act, 1878, and this Act and the Education (Scotland) Act, 1872, (in this Act referred to as the principal Act,) may be cited together as the Education (Scotland) Acts, 1872 and 1878.

Extent of Act.

2. This Act shall extend to Scotland only.

Commencement of Act

3. This Act shall, except in so far as herein-after provided, come into operation on the first day of October one thousand eight hundred and seventy-eight (which day is in this Act referred to as the commencement of this Act).

Construction of Act.

4. This Act shall be construed as one with the principal Act, and the expression "this Act" in the principal Act shall be construed to include this Act.

Regulation as to employment of child under 10, and certificate of knowledge being condition of employment of child over 10.

5. A person shall not, after the commencement of this Act, take into his employment (except as herein-after in this Act mentioned) any child—

(1.) Who is under the age of ten years; or

(2.) Who, being of the age of ten years, and not more than fourteen years, has not obtained a certificate of ability to read and write, and of a knowledge of elementary arithmetic in terms of section seventy-three of the principal Act, unless such child being of the age of ten years or upwards is employed and is attending school in accordance with the provisions of any Act of Parliament regulating the education of children employed in labour, or of any minute of the Scotch Education Department fixing the standard of education to be required for the partial exemption of children from the obligation to attend school.

Restriction on casual employment of children.

6. After the commencement of this Act no child under the age of ten years shall, save as herein-after mentioned, be employed in any casual employment, and no child who is above the age of ten years but under the age of fourteen years, shall, save as aforesaid, unless he has obtained a certificate of ability to read and write, and of a knowledge of elementary arithmetic in terms of section seventy-three of the principal Act, be employed in any casual employment after nine o'clock at night, from the first day of April to the first day of October, and after seven o'clock at night from the first day of October to the first day of April.

Casual employment shall mean employment for purposes of gain in streets or other places in vending or exposing for sale any article whatsoever, and also employment of any other kind, outside the child's own home, not being employment the lawful period whereof is regulated by any Act of Parliament.