an Act of Parliament which says that nobody shall foul a stream in future; and I have a difficulty in seeing how an indefeasible right of passage through a sewer for such liquids as may be lawfully passed into a stream can be an excuse for passing into the stream offensive liquids which nobody is allowed to put there. Some argument, too, was raised on section 7, which is in part 4. That section enacts that every sanitary or other local authority having sewers under their control shall give facilities for enabling manufacturers to drain into their sewers. I have some difficulty in seeing what this section has to do with the question before your Lordships. The appellants neither asked for nor obtained any facilities from the sanitary authority of the district for admittance to their sewers; and it seems to me that if they had obtained such facilities, and had poured into the sewer poisonous liquid, so as to flow into a stream, there is nothing in the Act to relieve them from the consequences of having committed an offence under part 3. I think that the appeal must be dismissed with costs.

LORD ROBERTSON—I think that this appeal fails, but my judgment is rested on a narrower ground than that which has been adopted in the Courts below. The first point to be remembered is that this is a case, not of sewage, but of manufacturing liquids; and it is necessary to see by what right the appellants get their liquids into the sewer. Now, the appellants have, not avowedly but actually, put forward two inconsistent theories. They say first that they have put their liquids into the sewer for fifty years, and they claim, therefore, a prescriptive right to do so. This, then, is a right as against the local authority—*in invitos*. The other theory is that, as *de facto* the liquids get into the sewer, the local authority must be held to have granted facilities in the sense of section 7 of the Act. It seems to me that, as matter of historical fact, there has been no grant of facilities, and that whether there be a prescriptive right or not the local authority has been entirely passive. It results that the appellants are not in the position of having the local authority interposed (as it were) between them and the stream, as the active recipients and transmitters of the liquids—and the result is that, in my opinion, they are liable just as if they directly sent this stuff into the stream. In adopting this ground of judgment I dissociate myself from the doctrine that a person who sends his household sewage into the sewer is liable because the local authority empties the sewer into a stream. The local authority is the appointed collector, recipient, and disposer of household sewage; and in my opinion the responsibility of the householder ends when he delivers his stuff into the sewer.

LORD CHANCELLOR—My noble and learned friend Lord Collins agrees with the conclusions at which your Lordships have arrived.

Appeal dismissed.

Counsel for Appellants—Sir C. A. Cripps, K.C.—Lowenthal. Agents—Van Sandau & Company, for Mills & Company, Huddersfield.

Counsel for Respondents—Danckwerts, K.C. — Jeeves. Agents — Clements, Williams, & Company, for H. F. Atter, Wakefield.

HOUSE OF LORDS.

Thursday, December 10, 1908.

(Before the Lord Chancellor (Loreburn), Lords Ashbourne, Robertson, and Collins.)

BLAKISTON *v.* COOPER.

(ON APPEAL FROM THE COURT OF APPEAL IN ENGLAND.)

Revenue—Income Tax—Office or Employment of Profit—Profits Accruing by Reason of Office—Clergyman—Voluntary Subscriptions—Income Tax Act 1842 (5 *and* 6 *Vict. c.* 35), *sec.* 146, *Sched. E, rr*, 1-4.

Sums of money collected in a parish by voluntary subscription in order to augment the stipend of a clergyman, when there is a continuity of annual payments to him from such sources apart from any special occasion, are profits accruing to him by reason of his office, and are therefore assessable to income tax under the Income Tax Act 1842, Sched. E, r, 1.

The appellant was the vicar of East Grinstead, and had for some years received "Easter offerings" from voluntary sources described in the judgments of the House. The Court of Appeal (LORD ALVERSTONE, C.J., MOULTON and BUCKLEY, L.JJ.), reversing a judgment of BRAY, J., held that a sum so received was assessable.

Their Lordships gave considered judgment as follows:—

LORD CHANCELLOR (LOREBURN)—I agree with the Court of Appeal. The only question is whether or not a sum given by parishioners and others to the vicar at Easter 1905 is assessable to income tax as being "profits accruing" to him "by reason of such office." In my opinion, where a sum of money is given to an incumbent substantially in respect of his services as incumbent, it accrues to him by reason of his office. Here the sum of money was given in respect of those services. Had it been a gift of an exceptional kind, such as a testimonial, or a contribution for a specific purpose, as to provide for a holiday, or a subscription peculiarly due to the personal qualities of the particular clergyman, it might not have been a voluntary payment for services but a mere present. In this case, however, there was a continuity of annual payments apart from any special

occasion or purpose, and the ground of the call for subscriptions was one common to all clergymen with insufficient stipends, urged by the bishop on behalf of all alike. What you choose to call it matters little. The point is, what was it in reality? It was natural, and in no way wrong, that all concerned should make this gift appear as like a mere present as they could. But they acted straightforwardly, as one would expect, and the real character of what was done appears clearly enough from the papers in which contributions were solicited.

LORD ASHBOURNE—The question in this case is a short one, and naturally it is of much interest to the clergy and to many who are interested in their welfare. Are Easter offerings assessable to income tax as profits accruing by reason of the office of vicar? The Court of Appeal unanimously held in the affirmative, being of opinion that they were made to the vicar as vicar. These offerings had been made for several years to the appellant, the vicar of East Grinstead. They were made in response to a systematic appeal, initiated by the bishop and supported by the churchwardens, to induce collections to eke out slender stipends. People were urged, it is true, to subscribe as a personal freewill gift, the contributions were wholly voluntary, and the amount given was regulated entirely by the discretion of the subscribers. But in what character did the appellant receive them? It was suggested that the offerings were made as personal gifts to the vicar, as marks of esteem and respect. Such reasons no doubt played their part in obtaining and increasing the amount of the offerings, but I cannot doubt that they were given to the vicar as vicar, and that they formed part of the profits accruing by reason of his office. The bishop was naturally anxious to increase the scanty stipends of ill-paid vicars. The whole machinery was ecclesiastical — bishop, churchwardens, church collections—and I am unable to see room for doubt that they were made for the vicar because he was the vicar, and became, within the statute, part of the profits which accrued to him by reason of his office. I can sympathise with the Lord Chief-Justice in arriving at this conclusion, but I think that the appeal should be dismissed.

LORD ROBERTSON—I am clearly of opinion that this judgment is right. When the broader facts of the case are remembered, I confess that to my mind it savours of paradox to say that this money did not accrue to the appellant by reason of his office of vicar of East Grinstead. The reason for the collection of the money was to supplement the legal income of the vicar, and while this is the ordinary history of Easter offerings, in the present instance the thing is set out in black and white in the bishop's letter and the subsequent notices. The money is collected in church, the offertory being part of the service, and it is placed on the altar, the contributions of those unable to attend being handed to the vicar or the churchwardens. As I have said, the bishop's letter makes quite manifest what was sufficiently plain without it. It is, be it observed, a circular letter, and it applies not only to the appellant, but to each and every incumbent in the diocese. Its avowed object is to make up to the clergy the fall in their official incomes. It bases the appeal on the Christian duty incumbent on the people. While written with every desire to protrude the personal element, with a view to the present question, the letter does not conceal, but, on the contrary, demonstrates, that it is in virtue of his office that each clergyman is to take the offering which it was written to advocate.

LORD COLLINS—I am of the same opinion.

Appeal dismissed.

Counsel for Appellant — Danckwerts, K.C.—Austen—Cartmell. Agents—Hare & Company, Solicitors.

Counsel for Respondent — Attorney-General (Sir W. Robson, K.C.)—Solicitor-General (Sir S. T. Evans, K.C.)—W. Finlay. Agent—Sir F. C. Gore, Solicitor of Inland Revenue.

HOUSE OF LORDS.

Monday, December 14, 1908.

(Before the Lord Chancellor (Loreburn), Lords Macnaghten, Robertson, Atkinson, and Collins.)

GREAT EASTERN RAILWAY COMPANY *v.* LORD'S TRUSTEE.

(ON APPEAL FROM THE COURT OF APPEAL IN ENGLAND.)

Right in Security — Lien — Possession — General Lien—Railway Company—Goods of Third Party in Portion of Railway Premises Leased to him—Right of Retention by Railway Company.

A railway company contracted by "ledger agreement" with a coal merchant to allow credit for the carriage of coal. Certain allotments of space within the premises of the railway company were leased by it to the coal merchant. The ledger agreement provided that the railway company should have a continual lien for the balance of freight over the coal in course of being carried and also over coal stored upon the allotments. The allotments were situated within the company's yard, which was regularly locked by the company at night. The coal merchant's account being in arrear, the company locked the gates leading to the allotments and held possession of coal stored there, excluding the coal merchant.

Held (*diss.* Lords Robertson and Collins) that the railway company were in